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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEMETRIUS DEON THOMPSON,

APPELLANT

APPELLATE CASE NO. 2021-001254

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #2 (PHOTO)**

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	
	)	2020-GS-07-02336
	)	2021-GS-07-01405
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DEMETRIUS DEON THOMPSON,	)	
DEFENDANT.	)	
_____	)	

October 20-21, 2021
 Beaufort, South Carolina

B E F O R E:

THE HONORABLE CARMEN MULLEN, JUDGE.

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

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I N D E X

(PW) - Denotes Plaintiff's Witness

(DW) - Denotes Defense Witness

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
1	CD of 911 Call	6	44
2	Photograph	6	48
3	Photograph	6	53
4	Photograph	6	53
5	Photograph	6	55
6	Photograph	6	55
7	Photograph	6	55
8	Photograph	6	55
9	Photograph	6	55
10	Photograph	6	63
11	Photograph	6	63
12	Miranda Form	6	82
13	Photograph	6	87
14	Photograph	6	87
15	Photograph	6	87
16	Photograph	6	87
17	Photograph	6	87
18	Photograph	6	87
19	Photograph	6	87
20	USB Thumb Drive	6	85
21	Photograph	6	130
22	Photograph	6	130
23	Photograph	6	132
24	Photograph	6	132
25	Photograph	6	132
26	Photograph	6	132
27	Photograph	6	132
28	Photograph	6	132
29	Photograph	6	132
30	Photograph	6	132
31	Photograph	6	132
32	Photograph	6	132
33	Photograph	6	132
34	Photograph	6	136
35	Photograph	6	143
36	Photograph	6	143
37	Photograph	6	143
38	Photograph	6	143
39	Photograph	6	143
40	Photograph	6	145
41	Photograph	6	145
42	Photograph	6	145
43	Photograph	6	145
44	Photograph	6	176

E X H I B I T S
(Cont'd)

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
45	Joelette's Clothing	6	146
46	Hoodie	6	141
47	NFL Jacket	6	141
48	Seven Swabs	6	164
49	Swabs from Jacket	6	172
50	Knife	6	148
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All Exhibits were retained by the Clerk of Court for Beaufort County.

P R O C E E D I N G S

(State's Exhibit Nos. 1 - 52 were marked prior to trial for identification.)

THE COURT: So let's go ahead and take up the pretrial. I appreciate y'all forwarding -- I don't know who forwarded me everything, but I know it wasn't expected to be me, so I appreciate it.

So the charges are attempted murder and possession of a weapon during the commission of a violent crime.

How many witnesses are you calling?

MR. GOURLEY: 14, Judge.

THE COURT: Okay. All right. So I guess let's go ahead and start with the pretrial motions. We'll wait on the Jackson V. Denno until the officer gets here. So let's go to the next if we can.

MR. GOURLEY: Judge, Ms. Rogers and I have gone through the photographs. The only objection She has is what is marked as State's Exhibit No. 2.

THE COURT: Okay.

MR. GOURLEY: I do have additional photographs of the injuries.

THE COURT: Can you put them all out so I can see what they are in total because I think that's always necessary to see if this is necessary to what you all have agreed on?

MR. GOURLEY: You want all of my photographs, Judge?

1 THE COURT: That you're going to use.

2 MR. GOURLEY: Okay. Judge, give me just one second. I
3 can run through on Power Point --

4 THE COURT: Or you can lay them across the bar if you'd
5 like to, either way, whichever is quickest for you.

6 So this is marked as State's Exhibit No. 2. What is
7 your basis for excluding this, Ms. Rogers?

8 MS. ROGERS: My basis for excluding it is that, you
9 know, the wound looks bad. We think the facts will show
10 that the wound isn't as bad as it looks. I think that it
11 could be inflammatory for the jury. They can see that and
12 just, you know, be totally done and not want to listen
13 to any further testimony.

14 THE COURT: Are you bringing a medical witness in?

15 MR. GOURLEY: I am not.

16 THE COURT: Okay.

17 MR. GOURLEY: Judge, obviously, I have State V. Collins
18 I can hand to Your Honor. I'm sure you're familiar with it.
19 But I've got to prove specific intent, my argument being
20 that going to the neck and not any other area on the body
21 supports that argument. It's an injury as a result of his
22 actions. I don't think that it's overly prejudicial. It is
23 what it is, Judge. It's a neck wound.

24 THE COURT: Let me just look at them.

25 MR. GOURLEY: But, obviously, under Collins with the

1 pre-autopsy photographs of the dog case, Judge, under a 403
2 analysis, I think it's more beneficial to the jury, more
3 probative for them to understand what type of injury she
4 suffered. I have additional photographs I'm happy to show
5 to the Court.

6 THE COURT: I actually think this is the least, I hate
7 to say the word bloody, but, you know, there's not as much
8 blood dripping off the side. The elements of attempted
9 murder, what do you have to prove?

10 MR. GOURLEY: Specific intent --

11 THE COURT: Specific intent, and I'm assume you're also
12 arguing the depth of the cuts as well. That's what you were
13 talking about -- it shows the length; is that correct?

14 MR. GOURLEY: Correct. I will add the investigators
15 will testify to what they observed at the scene.

16 THE COURT: Anything else, Ms. Rogers?

17 MS. ROGERS: I would just like to reiterate that I
18 think that it's more prejudicial than probative under Rule
19 403, especially in light of the fact that Mr. Gourley is not
20 bringing in a medical doctor to testify as to the severity
21 of the wound.

22 Again, it looks extremely severe. I'm not trying to
23 downplay it at all, but my concern is that, you know, the
24 jury is not going to be able to hear the doctor testify as
25 to that actually wasn't that severe.

1 THE COURT: Well, that's why I was asking for the
2 elements of attempted murder. But I do think he does have
3 to show, obviously, intent and he does have to show malice.
4 And I tend to agree with him, that, obviously, trying to cut
5 someone in the neck, I would say, you know, referring to
6 possibly being able to sever the jugular vein. I think
7 that goes to intent. And I do think it's more probative
8 than prejudicial. And if you're only using one, I think
9 it's definitely the best.

10 So respectfully, I'm going to deny that motion. And
11 that's State's Exhibit No. 2 I'm allowing in just for the
12 record.

13 And I will try, Ms. Rogers, very hard, but this one
14 does come in. I'll renew your objection just so we can
15 protect the record.

16 MS. ROGERS: Thank you.

17 THE COURT: All right. Absolutely.

18 MR. GOURLEY: Thank you, Judge.

19 THE COURT: All right. What's next?

20 MR. GOURLEY: Judge, I intend to use a couple of
21 demonstrative exhibits. It's my understanding Ms. Rogers
22 has an objection to those. One of which is a jail call,
23 which I have had transcribed.

24 Mr. Thompson speaks very quickly and very quietly. To
25 the best of my ability, we had it professionally

1 transcribed. I also listened to it and tried to transcribe
2 it. I intend to play that at some point in time during the
3 trial. I believe that would aid the jury in their
4 understanding of what was being said.

5 I've provided that to Ms. Rogers in advance for her to
6 review to make sure there were no errors on my part. But I
7 do believe she has an objection to that.

8 THE COURT: All right.

9 MS. ROGERS: Your Honor --

10 THE COURT: Well, first, what is the subject of the
11 jail call?

12 MS. ROGERS: So the subject of the jail call is that he
13 is talking to his father about what he did to the victim.

14 THE COURT: Okay.

15 MS. ROGERS: It is after the fact, of course, but it's
16 not great. And it doesn't -- I feel like it doesn't put him
17 in a good light, extremely inflammatory to the jury just
18 based off of the -- it's kind of graphic.

19 MR. GOURLEY: Judge, he says he slit her neck, that it
20 felt good. That it was potentially self-defense, but that
21 he had his razor blade on him; he used his hands and that he
22 split her open like a Vienna sausage.

23 THE COURT: Well, if something is inflammatory against
24 him, but it's his own statement, it isn't necessarily
25 objectionable. I always call that the Jim Ross (ph)

1 objection, which it's like it just isn't good for my case.
2 He says that all the time and I always laugh, because you're
3 right, it isn't, but that's what it is.

4 So what's your other basis?

5 MS. ROGERS: I believe that it's bolstering. You know,
6 obviously, it's a jail call and it's his own statement, but
7 the actual words superimposed onto the jail call, I believe
8 is unnecessary. Mr. Gourley says he speaks very low. You
9 can't understand. When he had that professionally
10 transcribed, that's exactly what I heard and I think the
11 jury can listen to it themselves. I don't think that the
12 jury needs to read those words.

13 THE COURT: How long is that jail call?

14 MS. ROGERS: I think it's about ten minutes.

15 THE COURT: Can you forward it to me?

16 MR. GOURLEY: Certainly.

17 THE COURT: You're not going to play it, obviously, in
18 your opening --

19 MR. GOURLEY: Oh, no.

20 THE COURT: -- or in your first few witnesses?

21 MR. GOURLEY: No, Judge.

22 THE COURT: Let me listen to it and see. If it's clear
23 enough -- let me see what I hear.

24 MR. GOURLEY: Judge, in addition, I've got a Power
25 Point I'm going to be putting up the photographs and will be

1 introducing them onto the big screen, I feel like it's more
2 efficient. I don't know if Ms. Rogers has any objection to
3 that, but they're the same photographs I'm going to be
4 introducing, just through Power Point.

5 THE COURT: Obviously, you're not going to publish them
6 until you've asked to publish them?

7 MR. GOURLEY: Absolutely, Judge.

8 THE COURT: And have introduced them?

9 MR. GOURLEY: Yes, ma'am.

10 THE COURT: So there's nothing to object to.

11 MS. ROGERS: Yes, ma'am.

12 THE COURT: What else do we have?

13 MR. GOURLEY: Judge, the Defendant does have a prior
14 record. I don't know if you want to take that up now or
15 wait until after the DV.

16 THE COURT: Do you want to take that up later if he
17 decides to testify?

18 MS. ROGERS: Yes, ma'am.

19 THE COURT: This case is going to move very quickly --

20 MS. ROGERS: Yes.

21 THE COURT: -- and so, I just want to make sure that
22 we're ready.

23 What else do we have?

24 MR. GOURLEY: Judge, we will have to do a Council
25 hearing with the DNA. I expect to do that in-camera before

1 he testifies. It will be very quick.

2 THE COURT: Before the DNA expert testifies?

3 MR. GOURLEY: Yes, ma'am.

4 THE COURT: Who's testifying?

5 MR. GOURLEY: Tim French.

6 THE COURT: Tim French, okay. And when do you expect
7 to put him up?

8 MR. GOURLEY: He'll be second to last, Judge, so this
9 afternoon.

10 THE COURT: Okay.

11 MR. GOURLEY: And then we also have David Swinehamer
12 who will be testifying. I do plan on qualifying him as an
13 expert in dog tracking. That should be very -- five or ten
14 minutes, Judge.

15 THE COURT: What was the dog tracker used for in this
16 case?

17 MR. GOURLEY: Initially, it was an article search for
18 the knife that was used. Mr. Thompson tossed it in the
19 woods. They were not able to find it, but then subsequently
20 went on tracking. They went down Effendi Road about 100
21 feet, 200 feet from where the incident had occurred, alerted
22 to some trash bags where the Defendant actually stashed his
23 overcoat and hoodie and gloves in the trash bag. And that's
24 what was found.

25 THE COURT: So the knife was not found?

1 MR. GOURLEY: The knife was eventually found the next
2 day. Investigator Byrd went out the following day and
3 conducted a wider sweep of the general area and located it
4 and found it.

5 THE COURT: What about sequestering witnesses?

6 MR. GOURLEY: The State has no objection other than the
7 victim and the lead investigator, Judge.

8 THE COURT: All right. The lead investigator will
9 stay. Anyone else?

10 MR. GOURLEY: No, Your Honor.

11 THE COURT: Anything else from you?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: We can do the Council hearing right before
14 Mr. French testifies. And as far as the Jackson V. Denno,
15 I'm not going to hear argument on it until we need to. And
16 we can put testimony up, obviously, when he gets here.

17 MR. GOURLEY: Investigator Byrd is here, Judge,
18 whenever you're ready.

19 THE COURT: Why don't you just go ahead and bring him
20 up and we'll swear him in.

21 Yes, ma'am?

22 MS. ROGERS: And, Your Honor, I know you just asked if
23 there's anything else other than the Denno, I do have a
24 couple other brief motions.

25 THE COURT: Sure.

1 MS. ROGERS: Motion in limine to exclude reference to
2 prior bad acts. There's actually a written motion for that.

3 THE COURT: What prior bad acts are we talking about?

4 MS. ROGERS: You know, his driving charges. There are
5 some forgery charges. There's an A&B third on there.

6 THE COURT: Well, we're not getting into that unless he
7 testifies and they are relevant in some way. Obviously, we
8 can take that up before he testifies.

9 MR. GOURLEY: Judge, the only thing I will request, a
10 little bit abnormal, when Ms. Holloway gets on the stand, I
11 have instructed her not to testify to anything that she
12 should not testify to regarding the Defendant's prior
13 history. If I may just very briefly in-camera with Your
14 Honor just reinstruct her not to go into any sort of
15 details.

16 THE COURT: Is she here?

17 MR. GOURLEY: She is not here yet, Judge.

18 THE COURT: I think you really need to send someone
19 from your office to go talk to her and explain to her in
20 depth what that means.

21 MR. GOURLEY: I will, Your Honor. I've done it myself
22 multiple times.

23 THE COURT: I mean, I guess most would be any
24 combativeness, you know, that kind of thing.

25 MR. GOURLEY: Yes, ma'am. Just out of an abundance of

1 caution, but I have made it crystal clear.

2 THE COURT: Anything else, Ms. Rogers?

3 MS. ROGERS: I just wanted to make a motion to prevent
4 the State from using the word victim. I just wanted to put
5 that on the record.

6 THE COURT: Right now, I don't know of any case law
7 that say they can't. I don't know that we are going to be
8 so concerned about that. They can use the word victim or
9 they can state her name, Ms. Holloway.

10 MR. GOURLEY: I'm not going to get up there and parade
11 around the word victim, Judge. I will probably say it. I'm
12 not going to tell the Court that I won't, but I'm not going
13 to emphasize it over and over and over again.

14 THE COURT: Okay.

15 MR. GOURLEY: If that eases the Court.

16 THE COURT: I appreciate it.

17 Okay, anything else, Ms. Rogers?

18 MS. ROGERS: No, Your Honor.

19 THE COURT: Come on up.

20 If you will go ahead and swear him in for me. This is
21 for the Jackson V. Denno hearing.

22 THE CLERK: Place your left hand on the Bible, and
23 raise your right hand.

24 ROBERT BYRD

25 after being duly sworn, testified as follows:

1 THE WITNESS: I do.

2 THE COURT: Mr. Gourley, feel free whenever you're
3 ready, sir.

4 MR. GOURLEY: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. GOURLEY:

7 Q Investigator Byrd, where are you currently employed?

8 A I'm sorry, what was that?

9 Q Where are you currently employed?

10 A Beaufort County Sheriff's Office.

11 Q And how long have you been with BCSO?

12 A Six years.

13 Q And were you involved in the arrest of Mr. Demetrius
14 Thompson?

15 A I was.

16 Q And did you happen to take any statements from him?

17 A I did.

18 Q What was the date and place where the statements were
19 taken? December 5th, 2020?

20 A December 5th and it was at the northern investigations
21 office of Beaufort County Sheriff's Office.

22 Q And who was present for that statement?

23 A I was, Mr. Thompson and it was audio/video recorded.

24 Q How long did the questioning last?

25 A Approximately an hour.

1 Q Did you offer him any food or water?

2 A I did.

3 Q Was he under arrest at this time?

4 A He was in investigative detention at the time.

5 THE COURT: He was where?

6 THE WITNESS: Investigative detention.

7 THE COURT: He was in detention?

8 THE WITNESS: He was in detention.

9 THE COURT: He was under arrest, okay. Sorry.

10 THE WITNESS: Yes, ma'am.

11 BY MR. GOURLEY:

12 Q Was he advised of his rights pursuant to Miranda prior
13 to any questioning?

14 A He was.

15 Q I'm going to hand you what has been marked as Court's
16 Exhibit No. 1. Do you recognize that form?

17 A I do. It's the Beaufort County Sheriff's Office
18 Miranda Warning form. The location is northern
19 investigations office. Mr. Demetrius Thompson, he was
20 advised of his rights. He initialed each right. He stated
21 that he would talk to me.

22 Q All right. And did he, again, sign and initial each
23 one of those?

24 A He did. He signed at the bottom with his signature and
25 the date and the time.

1 Q Did he appear to have any trouble understanding?

2 A He did not. He was asked if he understood them.

3 Q Did he appear to be under the influence of any alcohol
4 or drugs?

5 A He did not.

6 Q Did you make any promises in exchange for any
7 statement?

8 A I did not.

9 Q Did he ask for an attorney?

10 A He did not.

11 THE COURT: What date was this interview given?

12 THE WITNESS: It was on December 5th at 1429, at 2:29
13 p.m.

14 THE COURT: And allegedly, what time do you think this
15 occurred?

16 MR. GOURLEY: I believe it was dispatched around 11:30,
17 Judge.

18 THE COURT: In the late morning?

19 MR. GOURLEY: Yes, ma'am. Mr. Thompson voluntarily
20 turned himself into law enforcement.

21 THE COURT: Okay.

22 BY MR. GOURLEY:

23 Q Corporal Byrd, to the best of your knowledge, was the
24 Defendant's statement freely and voluntarily given?

25 A It was.

1 Q And did you record the statement?

2 A I did. It was audio and video recorded.

3 Q I'm going to show you what's been premarked as State's
4 Exhibit No. 20. Do you recognize that USB thumb drive?

5 A I do.

6 Q How do you recognize it?

7 A It's the audio/video recording of the interview. I
8 watched it, initialed it on 9/20/21.

9 Q And is that true and accurate?

10 A It is.

11 MR. GOURLEY: Your Honor, for the purpose of this
12 proceeding, the State moves State's Exhibit No. 20 and, I
13 guess, Court's Exhibit No. 1 into evidence.

14 THE COURT: You intend on playing that for the jury; is
15 that correct?

16 MR. GOURLEY: I do, Judge.

17 THE COURT: Okay.

18 (State's Exhibit No. 20 was admitted into evidence.)

19 BY MR. GOURLEY:

20 Q Investigator Byrd, did Mr. Thompson provide a written
21 statement as well?

22 A He did.

23 BY MR. GOURLEY:

24 Q Investigator Byrd, I am handing you what has been
25 marked as Court's Exhibit No. 2. Do you recognize that

1 document?

2 A I do.

3 Q And what is that?

4 A It is the handwritten statement of the incident that
5 was given by Mr. Thompson in the northern investigations
6 office on December 5th.

7 Q Is that a true and accurate copy?

8 A Yes, sir.

9 MR. GOURLEY: At this time, the State would move into
10 evidence Court's Exhibit No. 2, Mr. Thompson's written
11 statement.

12 THE COURT: Okay.

13 MR. GOURLEY: Your Honor, that's all the questions that
14 I have of Corporal Byrd.

15 THE COURT: Ms. Rogers, whenever you are ready.

16 CROSS-EXAMINATION

17 BY MS. ROGERS:

18 Q Investigator Byrd, when you brought Demetrius to
19 interrogate him on this, did he tell you multiple times that
20 he had been partying all night and that he was under the
21 influence of drugs and alcohol?

22 A He did state that he had been drinking the night
23 before, but that he had slept.

24 Q That he had not slept?

25 A That he had slept. He stated that he had.

1 Q I think Mr. Thompson had stated that he slept for maybe
2 an hour, he had stayed up all night. Joelette didn't --
3 there weren't any other suspects in this case, right?

4 A I was just there for the interview of Mr. Thompson.

5 Q But Mr. Thompson was the only one that was being
6 interviewed directly after the incident?

7 A Correct.

8 Q Right. So at any point, did you have -- would you have
9 had a chance to maybe let him sober up and get some sleep
10 before asking him questions?

11 A He was sobered up. He did not appear to be impaired.

12 Q But he had told you multiple times that he didn't sleep
13 and that he had drank, you know, a full bottle of alcohol
14 and he had stopped drinking right before that incident and
15 that he was doing drugs that night?

16 A No, ma'am. Right before the incident, he had walked
17 over to my --

18 MS. ROGERS: I would like to play the statement for
19 Investigator Byrd to refresh his recollection.

20 THE COURT: Absolutely. And I've got to tell you, I've
21 got to see the video. Because if there's an allegation that
22 he's intoxicated, I need to see the entire thing, okay?

23 MR. GOURLEY: I can put it on the screen, Judge.

24 THE COURT: Okay.

25 (Interview was played for the Court.)

1 THE COURT: You've got to turn it up. I'm sorry.

2 MR. GOURLEY: I've got a speaker, Judge. Judge, I'm
3 just going to start it over if that's all right.

4 THE COURT: All right.

5 MR. GOURLEY: Is that loud enough?

6 THE COURT: Yeah, I can hear it.

7 MR. GOURLEY: I'm sorry, Judge.

8 THE COURT: That's okay. I heard he said that he
9 smoked crack all night. Is that what I heard?

10 THE WITNESS: Yes, ma'am.

11 (Interview continued to be played for the Court.)

12 THE COURT: Did anyone ask him any questions while he's
13 writing his statement?

14 MR. GOURLEY: No, Your Honor.

15 THE COURT: How long does it take him to write his
16 statement?

17 MR. GOURLEY: Approximately ten minutes. And then at
18 that point, Investigator Byrd comes in and takes photographs
19 of him. Then they depart and go back to the incident
20 location where he attempts to show them where he tossed the
21 knife.

22 THE COURT: Do I need to keep watching?

23 MS. ROGERS: No, Your Honor.

24 THE COURT: Anything else?

25 MR. GOURLEY: No, Your Honor. I'm happy to make an

1 argument.

2 THE COURT: Do you have any questions for him in
3 regards to the video?

4 MS. ROGERS: Yes, it's very brief.

5 BY MS. ROGERS:

6 Q Investigator Byrd, just to get it on the record, you've
7 heard on the video just now that he told you he drank a
8 whole bottle of Vodka, correct?

9 A The night before he had started drinking.

10 Q All night?

11 A All night.

12 Q And you also heard him say that him and the victim were
13 smoking crack all night, too, right?

14 A I did.

15 Q Okay.

16 MS. ROGERS: Nothing further, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. GOURLEY:

19 Q Investigator Byrd, were you with Mr. Thompson that
20 night?

21 A I was not.

22 Q Do you know if he drank a whole bottle of Vodka?

23 A I do not.

24 Q Do you know if he did crack?

25 A I do not.

1 Q When you interviewed him, did he appear to be under the
2 influence of anything?

3 A No.

4 MR. GOURLEY: Thank you.

5 THE COURT: Anything else?

6 MS. ROGERS: No, Your Honor.

7 THE COURT: Argument?

8 MR. GOURLEY: Judge, obviously, you've watched the
9 video now. You've heard Investigator Byrd testify as to the
10 condition that Mr. Thompson was in. According to Mr.
11 Thompson's own statements, he quit drinking and doing drugs
12 around 9:00 something that morning. This interview occurred
13 at 2:29 that afternoon after he had walked approximately two
14 miles from the Super 8 Motel to Rue Du Bois Lane where he
15 slit Ms. Holloway's throat. So, certainly, that's a
16 significant amount of time to sober up. He coherently and
17 intelligently responded to every single question that
18 Investigator Byrd asked him. He showed emotion. He was
19 sympathetic.

20 He also wrote a very well-written statement, Judge. I
21 mean, this is exactly a recount of exactly what he just told
22 Investigator Byrd. He actually puts in the dollar amount
23 that Joelette was going to pay for a room. This is not an
24 individual who's intoxicated, who's falling over, who can't
25 respond coherently to anything.

1 THE COURT: Okay. Thank you.

2 Ms. Rogers.

3 MS. ROGERS: Your Honor, I understand that he might
4 have appeared like he wasn't intoxicated to Investigator
5 Byrd. I understand Mr. Gourley's argument. But at the same
6 time, obviously --you know, I don't know a whole lot about
7 that, but people react differently to alcohol and drugs,
8 especially if they, you know, are active drug users and they
9 drink often, like Mr. Thompson was doing at the time.

10 I'm concerned that it's an involuntary statement. You
11 know, even if he wasn't intoxicated, he had lack of sleep.
12 He was tired. And, you know, it's not only intoxication,
13 it's the totality of the circumstances law enforcement,
14 Investigator Byrd knew. Again, he said he smoked crack all
15 night. Even Joelette doesn't disagree that they were
16 partying all night.

17 So my thing is that, you know, he didn't have any food.
18 He was offered food, but it's not like he had a whole lot of
19 time to eat it. And then, you know, again, there's no
20 urgency in getting the statement from him. He's in custody.
21 There's one suspect.

22 THE COURT: All right. Well, I do think the confession
23 was voluntary. I think that he followed the conversation
24 back and forth very well. He, certainly, shook his head and
25 acknowledged and understood certain things that the

1 detective said.

2 I think Detective Byrd was extraordinarily kind to him.
3 I mean, certainly, there was no coercion or threats
4 involved. I think he got the story and the client did write
5 what I consider to be --

6 I agree with you, Mr. Gourley, probably one of the best
7 witness statements I have ever seen. And he wrote it
8 himself and unprompted.

9 So with that said, I do find it was voluntary and I'm
10 going to let it in.

11 MR. GOURLEY: Thank you, Your Honor.

12 THE COURT: Thank you.

13 What else do you have? I know the jury is all here and
14 ready to go?

15 MS. ROGERS: Your Honor, I apologize, I would just like
16 to have a ruling on whether the Miranda waiver was invalid
17 as well.

18 THE COURT: Clearly, he was Mirandized in this case.
19 Clearly, he didn't invoke his right to an attorney. He
20 waived his right, no question.

21 Anything else?

22 MR. GOURLEY: No, Your Honor.

23 THE COURT: We're going to go ahead and bring the jury
24 in. Do y'all need about five minutes before we do that? I
25 know y'all have been here since 8:30.

1 MR. GOURLEY: Yes, please. Thank you.

2 THE COURT: We'll take about five minutes and then
3 we'll bring the jury in.

4 (Court's Exhibit Nos. 3 and 4 were marked for
5 identification.)

6 (Short break.)

7 MS. ROGERS: Your Honor, before the jury comes in?

8 THE COURT: Yes.

9 MS. ROGERS: I apologize for not doing this before
10 break, but I would like to get my exhibits marked as Court's
11 Exhibits. I'd like to get them on the record.

12 THE COURT: For what?

13 MS. ROGERS: For my pretrial motions, I'm sorry.

14 THE COURT: You need to give them to me so I can look
15 at them and consider them before I rule.

16 MS. ROGERS: Okay.

17 THE COURT: Okay. So I guess go ahead and put them in
18 now. Let me look at them.

19 MS. ROGERS: All right.

20 THE COURT: Just for the record, Court's Exhibit, it
21 says No. 11, it's titled Supplemental Motion for Discovery
22 and Brady. I'm assuming you're renewing that motion at the
23 beginning of the trial.

24 Is there anything further you need to supplement with,
25 Mr. Gourley?

1 MR. GOURLEY: No, Your Honor.

2 THE COURT: Court's Exhibit No. 4 is an amended
3 proposed witness list.

4 Ms. Rogers, this is your witness list?

5 MS. ROGERS: Yes, Your Honor.

6 THE COURT: I don't know why you gave that to me for
7 pretrial. I am seeing on one of the documents you just gave
8 me, which I did not see before -- and I don't know if this
9 is how you copied it, but it's the statement of Tiffany
10 Thompson, something. What is that?

11 MS. ROGERS: Your Honor, I apologize, I can make you a
12 new copy that doesn't have that on the back of it.

13 THE COURT: We already introduced his statement that
14 was testified to in the Jackson V. Denno hearing. The last
15 motion is the motion to exclude evidence of prior bad acts.
16 Obviously, we haven't taken that up yet.

17 Will you proffer it first?

18 MR. GOURLEY: Yes, Your Honor.

19 THE COURT: You told me you wanted me to caution her,
20 but I think the best thing we can do is to do a proffer to
21 make sure she understands.

22 MR. GOURLEY: Sure.

23 THE COURT: It's fact witness testimony, so what I'm
24 going to do is while y'all are -- I'm going to read the
25 Motion just to see what she's telling me she anticipates.

1 Obviously, I can't rule anything I haven't heard yet.

2 What I would just do if I were you, do this, just make
3 this whole packet defense -- Court's Exhibit and just put it
4 all together as one exhibit.

5 Anything further?

6 MR. GOURLEY: Nothing from the State, Judge.

7 THE COURT: Anything, Ms. Rogers?

8 MS. ROGERS: Nothing from the defense, Judge.

9 THE COURT: So I don't know if you both have tried
10 cases, do you know that we're not going to get too close to
11 the jury, obviously. We've kind of put like a marking line
12 where that podium is, like draw a line there and don't get
13 too close. You're welcome to pull the podium back if you
14 need to use it as well.

15 MR. GOURLEY: Yes, Your Honor.

16 MS. ROGERS: Okay.

17 THE COURT: Let's bring the jury in.

18 THE BAILIFF: The jury is entering the courtroom, Your
19 Honor.

20 THE COURT: Thank you.

21 (The jury enters the courtroom.)

22 THE BAILIFF: The jury is seated, Your Honor.

23 THE COURT: Thank you.

24 Good morning, ladies and gentlemen. It is a pleasure
25 to see you all. I was not expecting to be here this

1 morning, but I am the one who's here trying this case.

2 Judge Bonds, who was expected to start this trial, is up in
3 Georgetown still trying another case, so I am back.

4 My name is Carmen Mullen. I am the resident circuit
5 court judge here in Beaufort County. I'm also the chief
6 administrative judge for the 14th Judicial Circuit for
7 criminal matters. So it's my pleasure, ladies and
8 gentlemen, to be here trying this case with you.

9 Ladies and gentlemen, at this time, we are going to go
10 ahead and begin the trial of this case. I was told that --
11 I believe you were told that this case would last a day, and
12 that's what I understand roughly. It could go a little over
13 that, so I just wanted to let you all know that to start
14 with. Hopefully, it doesn't, but, again, it's always a
15 possibility. We just never know based on the witnesses.

16 So with that said, ladies and gentlemen, we are going
17 to go ahead and begin the trial of the case. We're going to
18 first swear you in. I am going to make just some very brief
19 comments and then the attorneys are going to make their
20 opening arguments.

21 Whenever you're ready.

22 THE CLERK: Please stand and raise your right hand.

23 (The jury was sworn.)

24 THE COURT: Ladies and gentlemen, what I'm now going to
25 say to you is intended to serve as an introduction to the

1 trial of this case. These remarks are not a charge on the
2 law. I'm going to instruct you on the law that's applicable
3 to this case at the end of the trial, ladies and gentlemen.
4 This is merely an explanation of the procedure that we're
5 going to follow so you can better understand what's
6 happening.

7 Now, ladies and gentlemen, in this case, the Defendant,
8 Demetrius Thompson, has been charged by indictments filed in
9 this court with the offenses of attempted murder and
10 possession of a weapon during the commission of a violent
11 crime.

12 Now, ladies and gentlemen, an indictment is simply the
13 charge by which a case is brought into the courtroom and it
14 is not in any sense evidence of the allegations that it
15 contains.

16 Now, in this case, the Defendant, Mr. Thompson, has
17 pled not guilty to these indictments. Therefore, the State
18 has the burden of proving each of the elements of each of
19 the indictments beyond a reasonable doubt. It's your duty
20 as jurors to accept and decide whether or not the State has
21 met that burden.

22 Now, your purpose as jurors is to find and determine
23 the facts. You, the jury, are the sole judge of all facts
24 in this case. If at any time, I make any comment regarding
25 the facts of this case, you must disregard it. Now, please

1 understand that it is especially important that you perform
2 your duty of determining the facts diligently and
3 conscientiously because, ordinarily, there's no way to
4 correct an erroneous determination of the facts by a jury.

5 On the other hand, and with equal emphasis, the same
6 law that makes you, the jury, the judge of the facts makes
7 me the judge of the law. The law as given by the Court is
8 the only law you may consider. I cannot tell you what the
9 facts of this case are and you cannot disagree with me about
10 what the law is or what you think the law ought to be. Your
11 job at the end of this trial is to take the law as I give it
12 to you and apply it to the facts as you find the facts and
13 from there render a true and just verdict.

14 Now, until I tell you to begin your deliberations, you
15 must not discuss this case with anyone and that includes
16 your fellow jurors. And not until you have heard the
17 closing arguments from the lawyers, I've charged you on the
18 law that is applicable to this case and we send the case to
19 you.

20 Now, I also want you to know that coming and going from
21 the courthouse over the day or the next day and a half or
22 so, you may run into the lawyers or some parties or
23 witnesses in this case. I want you to understand something,
24 they've been instructed not to speak to you. Again, the
25 reason is, even an innocent conversation out in the parking

1 lot can be misconstrued and that means I'm going to have to
2 ask you about it out of an abundance of caution, so they're
3 just instructed not to speak with you.

4 Also, ladies and gentlemen, I'm instructing you -- I
5 don't know if there's going to be anything in the newspaper
6 or the news about this case, but out of an abundance of
7 caution, I'm required to tell you that you are not to watch,
8 read, or listen to anything in regards to this case, nor are
9 you allowed to do any independent research about this case.

10 I remind you, and you're going to hear me say this
11 repeatedly, you're going to have everything you need to
12 decide this case here in the courtroom and it would be
13 highly inappropriate for anyone to influence you or any
14 outside source to influence you.

15 Please understand that it is important for you to keep
16 an open mind and not decide any issue in this case until all
17 the evidence has been presented, the parties have made their
18 closing arguments and I've instructed you on the law.

19 Now, in just a moment, ladies and gentlemen, the
20 solicitor is going to make what is called an opening
21 statement, in which he is going to explain to you issues in
22 this case or what he believes the issues are in this case.
23 And then the attorney for the defendant, also, is going to
24 make an opening statement, although she is not required to
25 do so.

1 Please understand that what these lawyers tell you in
2 opening arguments is not evidence in this case. Again, it
3 is only their contention as to what they believe the
4 evidence will be. Evidence in this case comes from the
5 testimony of the witnesses as well as any other evidence
6 that's introduced during the trial of this case.

7 Ladies and gentlemen, I also would like you to know
8 from time to time, you may hear the lawyers say something
9 like Your Honor, there's a matter of law we need to take up
10 or I may ask them to approach the bench or I may motion them
11 forward to come talk to me on a sidebar. But you should
12 understand something, we're not hiding anything from you.
13 Oftentimes when I have to rule as a matter of law whether or
14 not certain testimony is admitted, I may make a comment on
15 the facts of the case. And because I would never want
16 anything I do to influence you in your determination of
17 facts, out of an abundance of caution, we just do it outside
18 of your presence.

19 Now, in determining what the true facts are in this
20 case, you must decide whether or not the testimony of a
21 witness is believable. It's my responsibility to rule as a
22 matter of law whether certain testimony is admitted. Once
23 it is admitted, whether or not you believe it is for you to
24 determine.

25 In deciding whether to believe a witness, you have the

1 right to consider the interest of the witness, the bias, the
2 prejudice of any witness. You can also look at the
3 opportunity that witness has had to have seen the matters
4 and things about what the witness is testifying to. And you
5 can also look or watch the way the witness acts on the
6 witness stand. You have the right to use anything in the
7 record that will help you evaluate the testimony of that
8 witness.

9 Therefore, ladies and gentlemen, I ask you to carefully
10 pay attention to the lawyers and the witnesses' testimony.
11 Again, so at the end of the case, you can accurately
12 remember what you heard.

13 Also, ladies and gentlemen, because this case is very
14 short, I am not going to permit you to take notes at this
15 time. I'm going to simply ask that you sit back -- if at
16 any point, the jury would like to take notes, if they would
17 ask me, then we will provide you a pencil and paper, but at
18 this point, based on the length of the trial, I think we
19 should just all sit tight and just listen to the witness
20 testimony.

21 Any exceptions or additions from the State?

22 MR. GOURLEY: None from the State, Your Honor.

23 THE COURT: Any exceptions or additions from the
24 defense on my comments?

25 MS. ROGERS: None from the defense, Your Honor.

1 THE COURT: Thank you.

2 Ladies and gentlemen, we are now going to begin the
3 trial of this case. Please give Mr. Gourley your attention.

4 MR. GOURLEY: Thank you, Your Honor. May it please the
5 Court?

6 THE COURT: Yes, sir.

7 OPENING STATEMENT BY THE STATE

8 MR. GOURLEY: Good morning, ladies and gentlemen.
9 Actions speak louder than words. That's what my dad always
10 told me whenever I would get in trouble. That's what kept
11 coming back to me as I was preparing the case for trial.
12 You're going to hear about from the witness stand the
13 Defendant's actions, Demetrius Thompson.

14 On December 5th, 2020, he spent the night with Joelette
15 Holloway, the victim. That morning, he woke up, gave
16 Joelette some money to book another night. She didn't do
17 that. Instead, she got a ride from a friend, went back home
18 to her mother's residence.

19 Well, the Defendant didn't like that. He woke up,
20 learned that she had left, walked from the Super 8 Motel to
21 ■ Rue Du Bois Lane, approximately an hour, hour and a half.
22 He walked clenching his razor blade, angry, mad, upset at
23 Joelette for not doing what she told him she was going to
24 do. He got to Rue Du Bois Lane, he confronted her, an
25 altercation occurred. He cut her on the back of her head

1 and he cut her on her neck.

2 After he sliced her neck, he casually walked down Rue
3 Du Bois Lane, folded up the knife, tossed it in the woods
4 and went down Effendi Road, took off his jacket, took off
5 his hoodie, stashed it in some trash bags, walked to his
6 sister's residence and asked to get on Facetime. It was
7 only when he realized that law enforcement was present, fire
8 and EMS were present that he decided to get out of the car
9 and turn himself in.

10 Now, ladies and gentlemen, the Judge has already
11 instructed you and you've already heard, the Defendant is
12 charged with attempted murder and possession of a weapon
13 during a violent crime. Attempted murder simply means that,
14 ladies and gentlemen, he intended to kill Joelette Holloway.
15 How will I prove that to you? Well, I have to prove that to
16 you beyond a reasonable doubt. I have to prove to you that
17 he had the specific intent to kill her.

18 Well, ladies and gentlemen, that's where I go back to
19 actions speak louder than words. What other intention can
20 be gleaned from slicing somebody's neck with a razor blade?
21 Up close, personal, vicious attack, ladies and gentlemen.

22 Furthermore, he's been charged with possession of a
23 weapon during a violent crime. Ladies and gentlemen,
24 attempted murder is a violent crime. The Judge is going to
25 instruct you of that. If you find that he is guilty of

1 attempted murder, if you find that he did, in fact, have a
2 razor blade, a knife, that is possession of a weapon during
3 a violent crime.

4 Ladies and gentlemen, at the close of this case, I do
5 feel confident that you will find that Demetrius Thompson
6 is, in fact, guilty of both attempted murder and possession
7 of a weapon during a violent crime.

8 Thank you.

9 THE COURT: Thank you, sir.

10 MS. ROGERS: May it please the Court?

11 THE COURT: Yes, ma'am.

12 OPENING STATEMENT BY THE DEFENSE

13 MS. ROGERS: Counsel.

14 Ladies and gentlemen of the jury, have you ever been
15 down a rabbit hole? This usually only happens when we have
16 something else that we're supposed to be doing, some task,
17 some project with a point. And instead, we end up Googling
18 things that have nothing to do with what we're supposed to
19 be doing and then, all of a sudden, we look up and two hours
20 have gone by. And all that we're left with is frustration
21 and conspiracy theories.

22 You will find yourselves going down rabbit holes in
23 this case. Rabbit holes created by Joelette Holloway. They
24 will probably frustrate you. They will probably give you a
25 headache. But you won't have to go down it alone, we're

1 going to go down the rabbit holes with you so that we can
2 pull you right back out and bring you back to the truth.

3 On the morning of December 5th, 2020, my client,
4 Demetrius Thompson, was intoxicated. He was exhausted and
5 he had not slept all night. He had been partying with
6 Joelette Holloway at the Super 8 Motel. He fell asleep in
7 the room for a brief period of time believing that Joelette
8 was going to take the money that he gave her and use it to
9 get a room for that night. But, instead, she leaves and he
10 wakes up to housekeeping telling him he has to leave and the
11 realization that somebody that he made the mistake of
12 trusting had done this to him.

13 Now, Demetrius didn't have a vehicle and he didn't have
14 somebody to come pick him up, so he walked. And yeah, it
15 was an over-an-hour walk, but Demetrius knew this route well
16 because his sister, Tiffany Thompson, basically, lived on
17 the same property as Joelette's mother lives. And that's
18 where Joelette had gone.

19 So when he gets there, he ask where his money is,
20 because that's all he wants to know, where is my money? He
21 called Joelette a couple of times before that and asked her,
22 Where is my money? And she hung up on him and made excuses,
23 so he just wants to know where his money is. And so he ask
24 her again and then she hits him in the face. And so he gets
25 mad and he cuts her in the neck and on the back of the head.

1 Demetrius, after that happened, he was in a daze. It
2 was like he was having an out-of-body experience. He
3 couldn't believe what had happened. So he walks away and he
4 drops the box cutter very close to the scene on the side of
5 the road.

6 Not too long after that, the police find him walking
7 through a field behind his sister's house. He didn't get
8 very far. And once they find him, he's extremely
9 cooperative. They take him to the police station and he
10 tells them what happened. He's tearful. He feels really
11 bad. I shouldn't have done that to that girl.

12 The facts of this case will show you that Demetrius did
13 not intend to kill Joelette Holloway. At the conclusion of
14 this case, you will see that it has been made unnecessarily
15 complicated by Joelette's lies. There's no need to go down
16 rabbit holes because this case is extremely straightforward.

17 You aren't here today because Demetrius is trying to
18 avoid responsibility. In fact, that is the exact opposite
19 of what Demetrius is trying to do. He just isn't guilty of
20 attempted murder. And we believe that by the end of this
21 case, you will see what we see and find him not guilty.

22 THE COURT: Call your first witness.

23 MR. GOURLEY: The State calls Allyson Moreira.

24 THE CLERK: Place your left hand on the Bible, raise
25 your right hand, please.

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ALLYSON MOREIRA

after being duly sworn, testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. GOURLEY:

Q Good morning, Ms. Moreira.

A Good morning.

Q Please state your name and spell your last name for the record.

A Allyson Moreira, M-O-R-E-I-R-A.

Q Ms. Moreira, where are you employed?

A The Beaufort County Sheriff's Office.

Q And how are you employed at the Beaufort County Sheriff's Office?

A I deal with the 911 requests.

Q And so what is your title there with the sheriff's office?

A I receive 911 requests for evidence.

Q And so you would be considered a 911 custodian?

A Yes, sir.

Q And what does a custodian do? What is your job?

A I receive 911 requests and I locate the 911 call and pull it for evidence.

Q Did you receive a request from the solicitor's office in this case or law enforcement to review or burn a 911 call

1 that occurred on December 5th, 2020, on [REDACTED] Rue Du Bois Lane
2 here in Beaufort County?

3 A I did.

4 Q And did you review that disk and did you review that
5 911 tape?

6 A Yes.

7 Q And was it true and accurate as the 911 call that came
8 in on December 5th, 2020?

9 A It was.

10 Q And if I showed you a copy of that disk, would you
11 recognize it?

12 A I would.

13 MR. GOURLEY: Permission to approach, Your Honor?

14 THE COURT: You may.

15 BY MR. GOURLEY:

16 Q Ms. Moreira, do you recognize that CD?

17 A I do.

18 Q How do you recognize it?

19 A It's the disk I made and it has my initials on it.

20 Q And is that -- does it look like it's been altered in
21 any way?

22 A No.

23 MR. GOURLEY: Your Honor, the State moves what's been
24 previously been marked as State's Exhibit 1 into evidence
25 and request to publish.

1 THE COURT: Any objection?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: You may publish it.

4 (State's Exhibit No. 1 was admitted into evidence and
5 published for the jury.)

6 BY MR. GOURLEY:

7 Q Does that accurately reflect the 911 call that my
8 office asked you to review?

9 A Yes.

10 MR. GOURLEY: No further questions at this time, Your
11 Honor.

12 Please answer any questions Ms. Rogers may have.

13 CROSS-EXAMINATION

14 BY MS. ROGERS:

15 Q You weren't present at the scene, correct?

16 A No.

17 Q And you didn't see what happened?

18 A I did not.

19 Q And the person on the phone was not Joelette Holloway?

20 A I'm not sure.

21 MS. ROGERS: Beg the Court's indulgence.

22 THE COURT: Okay.

23 (Pause.)

24 MS. ROGERS: No further questions.

25 Thank you.

1 MR. GOURLEY: No redirect. We ask that Ms. Moreira be
2 excused.

3 THE COURT: Without objection, you're excused. Thank
4 you.

5 MR. GOURLEY: Your Honor, the State calls Katie Foskey.

6 THE CLERK: Place your left hand on the Bible, raise
7 your right hand, please.

8 KATIE FOSKEY

9 after being duly sworn, testified as follows:

10 THE WITNESS: I do.

11 DIRECT EXAMINATION

12 BY MR. GOURLEY:

13 Q Ms. Foskey, where are you currently employed?

14 A Beaufort County EMS.

15 Q And what do you do with Beaufort County EMS?

16 A I'm a paramedic.

17 Q Ma'am, you can take your mask off. Speak up real loud,
18 okay?

19 A I'm a paramedic.

20 Q And how did you become a paramedic?

21 A I went to school for about a year --

22 Q I still need you to speak real loud, okay? I can
23 barely hear you.

24 What's the difference between a paramedic and an EMT?

25 A So an EMT is basic life support and a paramedic is

1 advanced life support, pharmaceuticals and we interpret
2 cardiac.

3 Q So paramedic is a higher certification?

4 A Yes.

5 Q Keep talking loud, okay?

6 A Okay.

7 Q Were you working on December 5th, 2020?

8 A Yes.

9 Q Were you dispatched out to an incident location?

10 A Yes.

11 Q Do you recall what that incident location was?

12 A No.

13 Q Does [REDACTED] Rue Du Bois Lane sound familiar?

14 A Yes.

15 Q And do you recall what time you arrived on scene?

16 A No.

17 Q Would your report help refresh your recollection?

18 A Yeah. Yeah.

19 THE COURT: You need to say yes or no for the record.

20 Thank you.

21 THE WITNESS: Yes, ma'am.

22 MR. GOURLEY: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MR. GOURLEY:

25 Q Ms. Foskey, is that your report?

1 A Yes.

2 Q Do you recall what time you arrived on scene? Take
3 your time.

4 A I arrived on scene at 1347.

5 Q And when you arrived on scene, what did you observe?

6 A The patient was laying in front of the house holding
7 her neck with fire department personnel surrounding her.

8 Q And when you say patient, can you describe the patient
9 for me?

10 A I'm sorry, just what she looked like?

11 Q Yes, ma'am, please. What race was she?

12 A Caucasian.

13 Q Was she male or female?

14 A Female.

15 Q Okay. And what did you do when you arrived on scene?

16 A I immediately had her remove her hand from her neck to
17 observe the wound.

18 Q Okay.

19 MR. GOURLEY: Your Honor, may I approach?

20 THE COURT: You may.

21 BY MR. GOURLEY:

22 Q Ms. Foskey, I am handing you what has previously been
23 marked as State's Exhibit No. 2. Do you recognize that?

24 A Yes, I do.

25 Q And what is that?

1 A The patient's wounds.

2 MR. GOURLEY: Your Honor, at this time, I would move to
3 admit State's Exhibit No. 2.

4 MS. ROGERS: Objection, Your Honor.

5 THE COURT: Overruled.

6 MR. GOURLEY: Your Honor, permission to publish?

7 THE COURT: You may.

8 (State's Exhibit No. 2 was admitted into evidence and
9 published to the jury.)

10 BY MR. GOURLEY:

11 Q Ms. Foskey, what exactly are we looking at there?

12 A About a four-inch laceration to the patient's neck.

13 Q And when you say a laceration, what do you mean by a
14 laceration?

15 A A cut.

16 Q What, if anything, did you observe about this
17 laceration?

18 A It was deep and I was able to see her gross anatomy.

19 Q And what is gross anatomy?

20 A Just what you can see with your eyes.

21 Q Can you describe specifically what gross anatomy you
22 were able to observe?

23 A Yes. I was able to see her veins and carotid.

24 Q Following your observation of her neck injury, what, if
25 anything, did you do next?

1 A We changed the dressing out from what the fire
2 department gave her to a more appropriate bandage and had
3 her hold pressure and we also held pressure.

4 Q Then what did you do next?

5 A We transported the patient to Beaufort Memorial
6 Hospital and we did insert an IV.

7 Q And was that the extent of your assistance in this
8 case?

9 A Yes.

10 MR. GOURLEY: Thank you. Please answer any questions
11 Ms. Rogers may have.

12 CROSS-EXAMINATION

13 BY MS. ROGERS:

14 Q You weren't present at the scene when it happened,
15 right?

16 A No, ma'am.

17 Q So you didn't see what happened?

18 A No.

19 Q There was no trauma activation when you responded?

20 A No.

21 Q Patient was in a moderate level of distress?

22 A Yes.

23 Q Her oxygen levels were good the whole time, she
24 maintained her airway?

25 A Yes.

1 Q She was alert?

2 A Yes.

3 Q She denied drug use?

4 A Yes.

5 MS. ROGERS: Beg the Court's indulgence, Your Honor.

6 (Pause.)

7 MS. ROGERS: Nothing further.

8 Thank you.

9 THE COURT: Anything further?

10 MR. GOURLEY: No, Your Honor. That's all for this
11 witness.

12 THE COURT: You're excused. Thank you. You can give
13 those documents back unless they were yours brought in.

14 Call your next witness.

15 MR. GOURLEY: The State calls Trooper Michael Gargiulo.

16 THE CLERK: Raise your right hand, please.

17 MICHAEL GARGIULO

18 after being duly sworn, testified as follows:

19 THE WITNESS: I do.

20 DIRECT EXAMINATION

21 BY MR. GOURLEY:

22 Q Trooper Gargiulo, where are you currently employed?

23 A South Carolina Highway Patrol.

24 Q How long have you been with the Highway Patrol?

25 A Since February of this year.

1 Q And where were you before Highway Patrol?

2 A Beaufort County Sheriff's Office.

3 Q And how long were you with Beaufort County Sheriff's
4 Office?

5 A June of 2016 through January 31st of this year.

6 Q And what were you doing with Beaufort County Sheriff's
7 Office?

8 A At the sheriff's office, I was assigned to the northern
9 patrol division, so, basically, just working the roads,
10 handled any kind of calls that came in, 911 calls, activate
11 alarms, traffic accidents, anything that people called in
12 for.

13 Q Were you working on December 5th of 2020?

14 A I was.

15 Q And did you respond out to an incident location
16 involving a stabbing?

17 A I did.

18 Q Do you recall where you responded out to?

19 A I believe it was [REDACTED] Rue Du Bois.

20 Q And is that in Beaufort County?

21 A I'm sorry?

22 Q Is that in Beaufort County?

23 A Yes, sir.

24 Q What were you dispatched out to?

25 A It came out as either an assault or a stabbing. There

1 was a female victim that got stabbed in the neck.

2 Q And what did you or what happened when you arrived on
3 scene?

4 A So when I arrived on scene, I was the first one on
5 scene. I pulled up, I looked at a couple of individuals at
6 the house prior to the incident location. They directed me
7 to the house behind them where I, ultimately, found the
8 victim, Joelette Holloway.

9 When I arrived there, she was laying on her right side.
10 She had a pretty substantial neck wound on the left side of
11 her neck. At that point, I just advised her to keep putting
12 pressure on it. I did a protective sweep of the house,
13 inside the house where they were located at as well as the
14 exterior of the residence. Once the scene was secure, I
15 called for EMS and fire to come in and render aid.

16 MR. GOURLEY: Your Honor, may I approach?

17 THE COURT: You may.

18 BY MR. GOURLEY:

19 Q Trooper, I'm going to hand you what's been premarked as
20 State's Exhibit No. 3 and No. 4. Do you recognize those
21 images?

22 A I do, sir.

23 Q And what are those images?

24 A These are images of the victim laying in front of her
25 house.

1 MR. GOURLEY: Your Honor, at this time, I move to
2 introduce State's Exhibit No. 3 and No. 4.

3 THE COURT: Without objection?

4 MS. ROGERS: Without objection, Your Honor.

5 THE COURT: These are in evidence. You may publish
6 them.

7 (State's Exhibit Nos. 3 and 4 were admitted into
8 evidence.)

9 MR. GOURLEY: Thank you, Your Honor. Permission to
10 publish State's Exhibit No. 3.

11 BY MR. GOURLEY:

12 Q Trooper Gargiulo, what are we looking at here?

13 A Right here is the victim, Ms. Joelette Holloway, laying
14 in front of the house.

15 Q Is that what you observed when you arrived at the
16 scene?

17 A Yes, sir, per my body camera.

18 Q Okay. And who else was present at the scene with you?

19 A The only other person there initially was her mother,
20 Claudia.

21 Q Did you speak with her mother?

22 A I did briefly.

23 MR. GOURLEY: We can move on to State's Exhibit No. 4.

24 Q Again, who is that identified in this picture?

25 A That's the victim, Joelette Holloway.

1 Q And that's how you saw her when you arrived?

2 A Correct.

3 Q Did Ms. Holloway say anything to you?

4 A Which one?

5 Q Joelette Holloway, I apologize.

6 A Again, I initially gathered that the person that
7 allegedly did this was an individual called Meech. That was
8 what Claudia told me, her mother. I asked for further
9 questions from Joelette. She was able to identify the other
10 person involved. That was about the only information I was
11 able to get out of her. I understood the state she was in
12 that she wasn't able to talk a whole lot.

13 Q And when you say what kind of state she was in, can you
14 describe that for me?

15 A Well, again, lying on the ground there covered in
16 blood. I mean, she had a lot of active blood -- active
17 bleeding coming from her neck area.

18 Q And you stated earlier that at that point in time, you
19 also secured the residence for fire and EMS to arrive?

20 A Correct, yes.

21 Q Following the residence being secured, did you
22 photograph the scene?

23 A I did.

24 Q I'm going to hand you what's been premarked as State's
25 Exhibit 5 through 9. Look through those and see if you can

1 identify them for me.

2 A Yes, sir.

3 Q Are those true and accurate reflections of the images
4 that you took absent the placards?

5 A Yes.

6 MR. GOURLEY: Your Honor, at this time, I move to
7 introduce State's Exhibit 5 through 9.

8 THE COURT: Without objection?

9 MS. ROGERS: Without objection, Your Honor.

10 THE COURT: Without objection, they are admitted.

11 (State's Exhibit Nos. 5 through 9 were admitted into
12 evidence.)

13 MR. GOURLEY: Permission to publish, Your Honor?

14 THE COURT: Yes.

15 MR. GOURLEY: If you can go to State's Exhibit No. 5.

16 BY MR. GOURLEY:

17 Q Trooper, what are we looking at here?

18 A These are placards taken there on Rue Du Bois Road with
19 various pieces of evidence down there at the base of the
20 road.

21 Q And that evidence, was that blood?

22 A To the best of my recollection, yes.

23 Q And then kind of going looking down the road, is that
24 13 Rue Du Bois Lane?

25 A Yes, sir. All the way at the end tucked in at the

1 corner on the left-hand side.

2 MR. GOURLEY: Okay. Let's move to State's Exhibit No.
3 6.

4 Q What are we looking at here?

5 A Same thing, just from a different angle there on Rue Du
6 Bois Lane.

7 Q And this is allegedly where the actual stabbing
8 occurred; is that correct?

9 A Yes.

10 MR. GOURLEY: All right. State's Exhibit No. 7.

11 Q Again, covering where the incident occurred, correct?

12 A Correct. And that's Lady's Island Drive there.

13 Q So where that white law enforcement vehicle is, that's
14 Lady's Island Drive?

15 A Correct.

16 MR. GOURLEY: And then moving to State's Exhibit No. 8.

17 Q What are we looking at here?

18 A That's the front of the house where Ms. Holloway was
19 laying.

20 Q So, obviously, Ms. Holloway is gone at this time?

21 A Correct.

22 Q And placard P, what is that identifying?

23 A A large blood stain.

24 MR. GOURLEY: And State's Exhibit No. 9.

25 Q What is that?

1 A Same thing as prior photo, just closer up.

2 MR. GOURLEY: Thank you, sir. Please answer any
3 questions Ms. Rogers may have.

4 CROSS-EXAMINATION

5 BY MS. ROGERS:

6 Q You weren't there when the incident occurred, correct?

7 A No, ma'am.

8 Q When you got to the scene, did you see a man named
9 Virgil when you first arrived?

10 A I do not recall.

11 MS. ROGERS: Beg the Court's indulgence. I'm sorry,
12 Your Honor.

13 (Pause.)

14 BY MS. ROGERS:

15 Q If I were to show you your report, would it refresh
16 your recollection on whether Virgil was at the scene?

17 A Sure.

18 MS. ROGERS: Your Honor, may I approach?

19 THE COURT: You may.

20 THE WITNESS: Go ahead.

21 BY MS. ROGERS:

22 Q And you didn't write anything about seeing Virgil in
23 your report, correct?

24 A I've got a note here at the bottom stating that there
25 might have been a second victim named Virgil Howard. I

1 personally had no contact with him. That was information I
2 gathered from other deputies out there.

3 Q Okay. But if he had been at the scene, you would have
4 written that in your report, correct?

5 A Yes.

6 MS. ROGERS: No. Further questions. Thank you.

7 MR. GOURLEY: No additional redirect, Your Honor. I
8 would just ask that Trooper Gargiulo be excused.

9 THE COURT: Any objection?

10 MS. ROGERS: No objection.

11 THE COURT: You are excused, sir. Thank you.
12 Call your next witness.

13 MR. GOURLEY: Yes, Your Honor. The State calls
14 Sergeant Daniel Mooney.

15 THE CLERK: Raise your right hand.

16 DANIEL MOONEY

17 after being duly sworn, testified as follows:

18 THE WITNESS: I do.

19 DIRECT EXAMINATION

20 BY MR. GOURLEY:

21 Q Sergeant Mooney, where are you currently employed?

22 A Beaufort County Sheriff's Office.

23 Q I'm going to ask you to take your mask off and talk
24 real loud for me, okay? Where are you employed?

25 A Beaufort County Sheriff's Office.

1 Q How long have you been with BCSO?

2 A 16 years.

3 Q And what is your role at BCSO?

4 A I'm currently an investigator with the violent crimes
5 task force.

6 Q And were you working on December 5th of 2020?

7 A Yes, I was.

8 Q And were you dispatched out to an incident location
9 with regard to a stabbing?

10 A I was responding as backup.

11 Q And do you recall where you responded to?

12 A Yes, the call I believe was on Rue Du Bois. And I
13 responded to Effendi Road in relation to looking for the
14 suspect.

15 Q And is Rue Du Bois in Beaufort County?

16 A Yes, it is.

17 Q And you were out there to assist in the search of the
18 suspect?

19 A Yes.

20 Q So at that time when you dispatched out, the suspect
21 had not been apprehended?

22 A No, he had not.

23 Q What, if anything, did you observe while you were
24 present on the scene?

25 A When I got to the area, it was me and Sergeant Thomas.

1 We had responded to the area of Effendi Road because we
2 thought he might be in the wooded area or leaning towards
3 that direction. As we were sitting there, we observed a
4 black sedan coming down Mr. Douglas Lane and a black male
5 exited the vehicle.

6 Q At that time, had you been given a description of the
7 suspect you were looking for?

8 A A black male that was wearing a green sports-like
9 jacket.

10 Q And did the individual getting out of the black sedan
11 match that description?

12 A We weren't sure if it was him, but through a spotting
13 scope, they said the descriptors matched. And he actually
14 walked towards our direction; and at that point, Sergeant
15 Keener, Staff Sergeant Morris and myself and Sergeant Thomas
16 went towards him. I believed he raised his hands and he was
17 detained at that point.

18 Q Do you see the individual that you detained here today?

19 A Yes, sir, sitting over there.

20 Q Okay. Can you identify him for me, whatever clothing
21 he's wearing?

22 A Yes, he's sitting next to the lady with the curly hair.

23 Q And who is that individual?

24 A I believe that's Mr. Thompson.

25 MR. GOURLEY: Your Honor, please let the record reflect

1 that Sergeant Mooney has identified Mr. Thompson.

2 BY MR. GOURLEY:

3 Q Investigator Mooney, following the detaining of Mr.
4 Thompson, what, if anything, did you do?

5 A Because he had arrived in a car, I was trying to tell
6 the deputies that they needed to go stop the car because if
7 there was a weapon in the car, we needed to have her respond
8 back to the scene. I'm not sure exactly who it was, but we
9 had talked to somebody and that gentleman had called her
10 back to the scene. I believe Staff Sergeant Morris
11 conducted an interview with her.

12 Q And when you say her, who is her?

13 A I believe the lady's name was Tiffany. I don't
14 remember her last name, but that's who he was in the car
15 with him.

16 Q Do you recall any type of relationship that she may
17 have had with Mr. Thompson?

18 A No, I don't.

19 Q Did she, ultimately, return to the incident location?

20 A Yes, she did.

21 Q Did she give consent to search her car?

22 A I don't know. I wasn't there for that part of it.

23 Q What else, if anything, did you do that day?

24 A I assisted Sergeant Swinehamer with the canine search.
25 At that point, his dog had alerted to the black trash bag

1 that was Effendi Road. And inside the bag, there was a
2 jacket that he had located. And I believe that was what the
3 suspect had been wearing earlier that day.

4 Q Okay.

5 MR. GOURLEY: Your Honor, may I approach?

6 THE COURT: Yes.

7 BY MR. GOURLEY:

8 Q Sergeant Mooney, I'm going to hand you what's been
9 marked for identification as State's Exhibit No. 10 and No.
10 11. Do you recognize those two images?

11 A Yes, sir, I do.

12 Q What are they?

13 A The first one is the jacket they believe he was wearing
14 and a pair of pants.

15 MS. ROGERS: Objection, Your Honor, calls for
16 speculation.

17 THE COURT: He found them, correct?

18 MR. GOURLEY: He did.

19 THE COURT: Okay. Overruled.

20 MR. GOURLEY: Your Honor, at this time, I move State's
21 Exhibit No. 10 and State's Exhibit No. 11 into evidence.

22 THE COURT: Subject to the prior objection, it is
23 admitted.

24 (State's Exhibit Nos. 10 and 11 were admitted into
25 evidence.)

1 MR. GOURLEY: Your Honor, if I may publish State's
2 Exhibit No. 10?

3 THE COURT: You may.

4 BY MR. GOURLEY:

5 Q All right. So Investigator Mooney, you said that you
6 found two pieces of clothing items in a trash bag on Effendi
7 Road, correct?

8 A Yes.

9 Q Where is Effendi Road in relation to this incident,
10 where it occurred, how many feet away approximately?

11 A Maybe three or 400 yards.

12 Q So fairly close?

13 A Yes, it is.

14 Q And you said that these items were in a trash bag?

15 A Yes, they were.

16 Q Were there several trash bags there?

17 A I believe there were two trash bags.

18 Q So who is in this photograph?

19 A That's Sergeant Thomas.

20 Q And he was with you that afternoon?

21 A One more time?

22 Q He was with you that afternoon?

23 A Yes, he was.

24 Q And this is the still shot from your body camera?

25 A Yes, it is.

1 Q And what is he holding up, is that a black hoodie?

2 A I believe so. There were several items inside the bag
3 and a bunch of trash. We took the bag and at some point, we
4 were pulling stuff out. And we got to the point where we
5 just dumped the entire bag on the ground.

6 Q And you said that Canine Jag was the one that alerted
7 to these bags?

8 A Yes.

9 Q And he was run by Deputy Swinehamer?

10 A Yes, he was.

11 MR. GOURLEY: If we can move on to State's Exhibit No.
12 11.

13 Q And what is that?

14 A That's like a starter jacket, a football jacket. I
15 know it had an emblem on the back of it.

16 Q Okay. And that was also recovered out of the trash
17 bag?

18 A Yes, it was. That was the first thing that was
19 actually pulled out of the trash bag.

20 Q Was it visible at the time that y'all approached or was
21 it fairly well hidden?

22 A Whenever the dog goes into alert, at that point, his
23 dog -- I can't remember if it was a sit or a lay down, he
24 said hey, man, the dog keeps going back to the trash bag.
25 So at that point, we went and started looking inside the

1 trash bag. And because they said he had been wearing a
2 sports-type coat, green in color, we believed this was the
3 coat he had been wearing.

4 Q Okay. And again, you said this was found about three
5 or 400 yards away from where the incident location happened?

6 A Yes, sir.

7 MR. GOURLEY: Beg the Court's indulgence.

8 (Pause.)

9 MR. GOURLEY: Thank you, Investigator Mooney. Please
10 answer any questions Ms. Rogers may have.

11 CROSS-EXAMINATION

12 BY MS. ROGERS:

13 Q You were not present at the scene when it happened,
14 correct?

15 A No, ma'am, I wasn't.

16 Q So you didn't see what happened?

17 A No, ma'am.

18 MS. ROGERS: Beg the Court's indulgence, Your Honor.

19 (Pause.)

20 MS. ROGERS: No further questions. Thank you.

21 MR. GOURLEY: Nothing further, Your Honor. I would
22 just ask that Investigator Mooney be excused for the day.

23 THE COURT: You're excused, sir.

24 Next witness.

25 MR. GOURLEY: Your Honor, the State calls Tiffany

1 Thompson-Betanco.

2 THE CLERK: Raise your right hand, please.

3 TIFFANY THOMPSON-BETANCO

4 after being duly sworn, testified as follows:

5 THE WITNESS: I do.

6 DIRECT EXAMINATION

7 BY MR. GOURLEY:

8 Q Ms. Thompson, how are you doing?

9 A Fine.

10 Q Where do you reside?

11 A ■ Mr. Douglas Lane.

12 Q And where is that at? Is that in Beaufort County?

13 A Yes.

14 Q Is that off or near Rue Du Bois Lane?

15 A Yes.

16 Q And where is Rue Du Bois Lane at?

17 A At the end of the road.

18 Q How long have you lived at ■ Mr. Douglas Lane?

19 A Since 2003.

20 Q And who lives there with you?

21 A Me, my kids and brother.

22 Q And you said your brother, who's your brother?

23 A Demetrius Thompson.

24 Q Is he here today?

25 A Yes, right there.

1 Q What's he wearing?

2 A A suit and tie and has a white mask on.

3 MR. GOURLEY: Your Honor, I would just like the record
4 to reflect Ms. Thompson has identified her brother,
5 Demetrius Thompson.

6 THE COURT: Okay.

7 BY MR. GOURLEY:

8 Q Does Mr. Thompson live with you full time?

9 A Yes.

10 Q And was he -- were you at the house on December 5th of
11 2020?

12 A Yes.

13 Q And what were you doing?

14 A I was with the kids watching TV and stuff.

15 Q Did Mr. Thompson come to your house?

16 A Yes.

17 Q And what happened when he came to your house?

18 A He came in saying that he fucked up. I said, What did
19 you do? He was like, I don't want to tell you. I just
20 fucked up, that's all you need to know.

21 Q And he's your brother?

22 A He is.

23 Q Did he ask you to do anything for him?

24 A He asked me to take him to the Burton area.

25 Q Okay. Do you have a car?

1 A Yes.

2 Q What color is your car?

3 A Black, Ford Taurus.

4 Q And were you willing to take him to the Burton area?

5 A I was.

6 Q So did y'all get in the car?

7 A Uh-huh.

8 Q Did y'all leave?

9 A Yes.

10 Q And at any point in time, did y'all exit Lady's Island?

11 A No.

12 Q Why not?

13 A Because when we saw the ambulances and stuff, he was

14 like, Just don't worry about it. I fucked up. I'm just

15 going to turn myself in or whatever. So he got out the car

16 and I still left because I was going to get my kids from

17 school anyway.

18 Q Okay. Did anybody call you to ask you to return to the

19 incident location?

20 A Yes.

21 Q And did you?

22 A Yes.

23 Q And did you give consent to search your car?

24 A Yes.

25 Q And did you also give a written statement?

1 A Yes.

2 Q Ms. Thompson, again, your brother asked you to get him
3 to Burton, correct?

4 A Yes.

5 MS. GOURLEY: Thank you, Ms. Thompson. I don't have
6 any further questions. Please answer anything Ms. Rogers
7 may have.

8 CROSS-EXAMINATION

9 BY MS. ROGERS:

10 Q You weren't present at the scene when it happened,
11 correct?

12 A No.

13 Q And when Demetrius came up to you and you got in the
14 car, you were at your residence, correct?

15 A Correct.

16 Q And that's really close to where Joelette's house is?

17 A Yes.

18 Q Demetrius seemed really -- is it fair to say that
19 Demetrius seemed really upset to you?

20 A Yes.

21 Q Was he tearful or anything like that?

22 A He was upset, yes.

23 Q And when he saw the ambulance and he said he was going
24 to get out, he also said something to the effect that he was
25 going to be cooperative?

1 A Yes.

2 MS. ROGERS: Beg the Court's indulgence, Your Honor.

3 (Pause.)

4 BY MS. ROGERS:

5 Q You've got a close relationship with your brother,
6 correct?

7 A Yes.

8 Q So is it fair to say you've seen him when he is under
9 the influence?

10 A Yes.

11 Q Did he seem under the influence to you at the time?

12 A Yes.

13 MS. ROGERS: Thank you.

14 MR. GOURLEY: I have no further questions, Your Honor.

15 THE COURT: All right. You may step down. Thank you.

16 MR. GOURLEY: Your Honor, may we have just a brief
17 recess?

18 THE COURT: Certainly.

19 MR. GOURLEY: Thank you.

20 THE COURT: Ladies and gentlemen of the jury, we're
21 going to take a brief recess. I'm going to ask you to go
22 back to your jury room. I tell you not to discuss this
23 case. It would be inappropriate to do so. You haven't
24 heard all the evidence.

25 Ladies and gentlemen, get a cup of coffee or a Coke and

1 we'll bring you right back out. I intend on running till
2 about one o'clock, which is when we normally break for
3 lunch. Based on if we have enough witnesses to keep us
4 going till then. So I will just let you all know that.

5 Thank you. You're excused.

6 (Jury exits the courtroom.)

7 THE BAILIFF: The jury is clear, Your Honor.

8 THE COURT: Thank you.

9 Yes, Mr. Gourley.

10 MR. GOURLEY: My next witness is going to be Ms.

11 Holloway. She does have a little bit of a prior record I do
12 believe she can be impeached with if Your Honor would like
13 to go over that --

14 THE COURT: Please.

15 MR. GOURLEY: -- if you want to proffer her testimony.

16 THE COURT: Please.

17 MR. GOURLEY: Your Honor, reviewing NCIC, she does have
18 a 2011 financial transaction card fraud; a 2012, forgery
19 less than 10,000; a 2014, forgery less than --

20 THE COURT: 2000 what, I'm sorry?

21 MR. GOURLEY: 2012.

22 THE COURT: No, I heard the '12.

23 MR. GOURLEY: 2014.

24 THE COURT: Okay.

25 MR. GOURLEY: Another forgery, less than 10,000.

1 THE COURT: Okay.

2 MR. GOURLEY: And a 2019 financial transaction card
3 fraud, a 2019 habitual traffic offender and a 2019
4 shoplifting enhanced. All those carry more than a year and
5 are within the ten-year period, Your Honor, and I don't feel
6 that I have any good faith basis to keep them out.

7 THE COURT: Okay. So you can cross-examine her on
8 those convictions.

9 One other thing before she comes in, do I need to
10 caution her or talk about what is the subject and the motion
11 to exclude evidence of prior bad acts? I think defense
12 counsel raised a few things in here.

13 MR. GOURLEY: I would ask Your Honor to do that. I
14 will go outside and talk to her and reemphasize that, but it
15 may carry a little bit more weight coming from Your Honor.

16 THE COURT: Okay. So why don't we go ahead and just
17 bring her in.

18 MR. GOURLEY: Okay.

19 THE COURT: And after I talk to her, we'll take about a
20 five-minute break or so.

21 MR. GOURLEY: Thank you, Judge. I'll go grab her.

22 (Pause.)

23 MR. GOURLEY: Your Honor, it's my understanding Ms.
24 Holloway is not here yet. She's on her way. I can call
25 another witness while we wait for her.

1 THE COURT: Okay. Let's go ahead and take a break for
2 about ten minutes or so.

3 (Short recess.)

4 THE COURT: Let's bring the jury in.

5 THE BAILIFF: The jury is entering the courtroom, Your
6 Honor.

7 (The jury enters the courtroom.)

8 THE BAILIFF: The jurors are in the courtroom, Your
9 Honor.

10 THE COURT: Thank you.

11 Welcome back, ladies and gentlemen.

12 At this time, the State may call its next witness.

13 MR. GOURLEY: Thank you, Your Honor. The State calls
14 Ernest Holmes.

15 THE CLERK: Raise your right hand, please.

16 ERNEST HOLMES

17 after being duly sworn, testified as follows:

18 THE WITNESS: I do.

19 DIRECT EXAMINATION

20 BY MR. GOURLEY:

21 Q Mr. Holmes, how are you doing?

22 A I'm doing all right.

23 Q Where do you live at?

24 A ■ Yemassee.

25 Q How long have you lived in and around

1 Beaufort/Yemassee?

2 A Been here all my life.

3 Q So you're a local?

4 A Yes, sir.

5 Q What do you do for a living?

6 A I'm a firefighter.

7 Q Where are you a firefighter at?

8 A Lady's Island.

9 Q How long you been a firefighter?

10 A 24 years.

11 Q Do you know Joelette Holloway?

12 A Yes.

13 Q How do you know Joelette?

14 A Long time friends.

15 Q Long time friends?

16 A Yeah. I kind of raised her.

17 Q Kind of raised her?

18 A Yeah.

19 Q How does she act towards you? Does she treat you like

20 a brother?

21 A Yeah.

22 Q Do you have any kind of nickname?

23 A Pumpkin.

24 Q Pumpkin. And you said you grew up with Joelette, kind

25 of raised her?

1 A Yeah.

2 Q Did you pick her up on December 5th, 2020, from the
3 Super 8 Motel?

4 A Yes, sir.

5 Q And what kind of condition was she in at that time?

6 A She was all right.

7 Q Was it normal course of y'all's relationship for you to
8 give her rides?

9 A Yes.

10 Q When you picked her up, you said she looked all right?

11 A Yeah.

12 Q Where did you take her?

13 A A church across the road from her house.

14 Q And where is her house? On Rue Du Bois Lane?

15 A Yeah. Yeah.

16 Q Does her mom live there, too?

17 A Yes. Yes.

18 Q What time did you pick her up on December 5th of 2020,
19 morning hours, afternoon?

20 A It was in the morning. I had just got off of work.

21 Q And did she ask you for anything or did y'all have any
22 kind of discussions about anything?

23 A We ain't had no discussion. She just asked me about a
24 couple of dollars and I told her no. I told her I was
25 trying to make it back home.

1 Q But you were happy to give her a ride?

2 A When she needs me to give her a ride, I pick her up and
3 drop her off home.

4 Q So you said you'd drop her off near her house?

5 A Yes.

6 Q Did you ever see her again after you dropped her off?

7 A No, sir.

8 MR. GOURLEY: Thank you, Mr. Holmes. Please answer any
9 questions Ms. Rogers has.

10 CROSS-EXAMINATION

11 BY MS. ROGERS:

12 Q You've known Joelette for a long time, correct?

13 A Yes, ma'am.

14 Q And she's like a sister to you?

15 A Yes.

16 Q She calls you when she needs a ride somewhere, right?

17 A Yes.

18 Q You saw Joelette briefly on Friday, the 4th of
19 December, the day before the incident, correct?

20 A Yes, ma'am.

21 Q During the day when you took her -- did you take her to
22 her boyfriend's -- you took her to her boyfriend's house --

23 A No.

24 Q -- and then back home? But you never took her there?

25 A No.

1 Q But on the 4th, you didn't have time for anything other
2 than giving Joelette her ride?

3 A Right.

4 Q And you made that clear to Joelette when you picked her
5 up?

6 A Yes, I did.

7 Q So you didn't spend any time cleaning her mother's gun?

8 A No.

9 Q You just picked Joelette up and dropped her back off at
10 home during the day?

11 A That was it.

12 Q You didn't pick her up again on Friday night?

13 A No.

14 Q And you didn't have any idea where she went or who she
15 was with?

16 A No.

17 Q Didn't talk to her on Facebook that night?

18 A No, ma'am.

19 Q So you didn't speak to her until Saturday morning when
20 she called you to come pick her up from the Super 8 Motel?

21 A Yes, ma'am.

22 Q And you never said I don't feel comfortable leaving you
23 here?

24 A I was ready to get home. I dropped her off at the
25 church and I left.

1 Q And you showed up to pick her up because she called you
2 to pick her up?

3 A Yes, ma'am.

4 Q She didn't ask you to bring money?

5 A She asked me for a couple dollars and I told her I
6 didn't have any.

7 MS. ROGERS: Beg the Court's indulgence, Your Honor.

8 (Pause.)

9 BY MS. ROGERS:

10 Q I want to go back briefly about the gun. Joelette
11 never asked you to clean her mother's gun the day before the
12 incident?

13 A No, ma'am.

14 Q And all you did that day was pick her up and that's it?

15 A Yes, ma'am.

16 Q Didn't have time for anything else?

17 A No, ma'am.

18 Q And you wouldn't have cleaned her momma's gun if she
19 had asked you to?

20 A No, ma'am.

21 Q And you've never cleaned her momma's gun?

22 MR. GOURLEY: Your Honor, I'm going to object to asked
23 and answered.

24 MS. ROGERS: No further questions.

25 THE COURT: Anything further?

REDIRECT EXAMINATION

BY MR. GOURLEY:

Q Mr. Holmes, do you know Joelette to carry a weapon?

A Sir?

Q Do you know Joelette to carry a gun?

A No.

Q You've raised her?

A Right.

Q She doesn't carry a gun?

A Not that I know of, no, sir.

Q Do you know if her mom has a gun?

A Yes, her mom has a gun.

Q But Joelette's not known to carry a gun?

A No.

MR. GOURLEY: Thank you.

No further questions, Your Honor. I would ask that Mr. Holmes be excused.

THE COURT: Any objection?

MS. ROGERS: No objection, Your Honor.

THE COURT: All right. You're excused, sir. Thank you.

Call your next witness.

MR. GOURLEY: The State calls Corporal Robert Byrd.

THE CLERK: Raise your right hand, please.

ROBERT BYRD

1 after being duly sworn, testified as follows:

2 THE WITNESS: I do.

3 DIRECT EXAMINATION

4 BY MR. GOURLEY:

5 Q Corporal Byrd, where are you currently employed?

6 A Beaufort County Sheriff's Office.

7 Q I'm going to need you to speak way up, okay?

8 A Beaufort County Sheriff's Office.

9 Q Thank you. How long have you been with BCSO?

10 A Six years.

11 Q What is your job duties with BCSO?

12 A I'm a criminal investigator with northern
13 investigations Beaufort County.

14 Q So you were working on December 5th of 2020?

15 A I was called into work that day.

16 Q Okay. And on December 5th, 2020, you were an
17 investigator?

18 A Yes, sir.

19 Q Did you interview anybody that day?

20 A I did.

21 Q Who did you interview?

22 A Mr. Demetrius Thompson.

23 Q Do you see him in the courtroom here today?

24 A I do.

25 Q Can you identify him for me?

1 A He's sitting at the table.

2 Q What, if anything, is he wearing?

3 A He's got a mask on.

4 Q What color is his tie?

5 A Like a cream, off-white and a blue shirt.

6 MR. GOURLEY: Let the record reflect Corporal Byrd has
7 identified Demetrius Thompson.

8 BY MR. GOURLEY:

9 Q Corporal Byrd, when and where was the statement taken?

10 A The statement was taken at northern investigations
11 office, 1925 Duke Street.

12 Q And who was present?

13 A Myself, I was present, Mr. Thompson, he had been
14 transported there by Sergeant Keener.

15 Q And how long did the questioning last?

16 A Approximately an hour.

17 Q Was he detained at that point in time?

18 A He was under investigative detention, he wasn't
19 detained.

20 Q Did you offer him any food or water?

21 A I did.

22 Q Was he advised of his rights, Miranda?

23 A He was. He was advised of his Miranda Rights. He
24 signed the Beaufort County Sheriff's Office Miranda Warning
25 form.

1 MR. GOURLEY: Your Honor, may I approach?

2 THE COURT: You may.

3 BY MR. GOURLEY:

4 Q Corporal Byrd, I'm handing you what's been premarked
5 for identification as State's Exhibit No. 12. Do you
6 recognize that form?

7 A I do. This is the Beaufort County Sheriff's Office
8 Miranda Warning form that Mr. Thompson signed, he initialed
9 and signed. And it was witnessed by myself.

10 Q And that's the form that y'all filled out, correct?

11 A It is.

12 MR. GOURLEY: Your Honor, at this time, I move to
13 introduce State's Exhibit No. 12, the Miranda form.

14 THE COURT: Without objection?

15 MS. ROGERS: Yes.

16 THE COURT: Without objection, it's admitted in
17 evidence.

18 (State's Exhibit No. 12 was admitted into evidence.)

19 MR. GOURLEY: Your Honor, if we may publish State's
20 Exhibit No. 12?

21 THE COURT: You may.

22 BY MR. GOURLEY:

23 Q And Corporal Byrd, if you can, just read everything on
24 that form for me, okay?

25 A All right. It starts with the case number -- well, of

1 course, it starts with Beaufort County Sheriff's Office. It
2 identifies it as the Miranda Warning form. It has the case
3 number for this particular case, which is 20S270118. The
4 location where the Miranda was issued was, of course, the
5 northern investigations office. The name of the person who
6 was given the Miranda, which is Mr. Demetrius Thompson, and
7 his date of birth.

8 It says, Statement of Rights: You have the right to
9 remain silent. Anything you say can and will be used
10 against you in a court of law. You have the right to have
11 an attorney present before or during questioning. If you
12 cannot afford an attorney, one will be appointed for you
13 before any questioning if you wish.

14 Mr. Thompson initialed each of these rights after I
15 advised him. It says: Waiver of Rights, do you understand
16 each of these rights as I have explained to you? Yes. He
17 checked it and then initialed it. Having these rights in
18 mind, do you wish to talk to us now? There's a check for
19 yes. It's signed by Mr. Demetrius Thompson, the date of
20 12/5/2020 at 2:29 p.m. I witnessed it with my signature,
21 then I printed my name beside it with the same date, and the
22 time of 1429, which is military time for 2:29 p.m.

23 Q Thank you, sir. Corporal Byrd, did Mr. Thompson have
24 any trouble understanding your questions?

25 A He stated he did not.

1 Q Did he appear to be under the influence of any kind of
2 alcohol or drugs at that time?

3 A He did not.

4 Q And you've been in law enforcement how long?

5 A Six years.

6 Q You've been around people that were under the influence
7 of drugs or alcohol?

8 A I have.

9 Q Did he appear to have any kind of physical or mental
10 disability that would impair him or his ability to
11 understand?

12 A He did not.

13 Q Did you make any promises or threats in exchange for
14 his statement?

15 A I did not.

16 Q Did he ask for an attorney?

17 A He did not.

18 Q Did he agree to talk to you without an attorney?

19 A He did.

20 Q To the best of your knowledge, was his statement freely
21 and voluntarily given?

22 A Yes, sir.

23 Q Was the statement audio and video recorded?

24 A It was.

25 MR. GOURLEY: Your Honor, may I approach?

1 THE COURT: You may.

2 BY MR. GOURLEY:

3 Q I hand you what's been marked as State's Exhibit No.
4 20. Do you recognize that thumb drive?

5 A I do. It contains the audio and video recording of the
6 interview of Mr. Thompson. I initialed and dated it when I
7 verified the video.

8 Q Yes, sir. Is that a true and accurate video of what
9 took place that day?

10 A It is.

11 MR. GOURLEY: Your Honor, at this time, I would move to
12 introduce State's Exhibit No. 20, a copy of the video
13 statement.

14 THE COURT: Subject to prior objections. And you may
15 go ahead and publish it.

16 MR. GOURLEY: Thank you.

17 (State's Exhibit No. 20 was admitted into evidence and
18 published for the jury.)

19 MR. GOURLEY: Your Honor, I apologize. I seem to be
20 having technical difficulties with the audio.

21 (State's Exhibit No. 20 was played for the jury.)

22 BY MR. GOURLEY:

23 Q Investigator Byrd, you listened to the statement,
24 correct?

25 A I did.

1 Q And Mr. Thompson told you he walked about an hour and a
2 half, almost two hours from the Super 8 Motel to Rue Du Bois
3 Lane, correct?

4 A Yes.

5 Q And he was clenching the razor blade at that time?

6 A Yes, sir.

7 Q And he was angry?

8 A Yes, sir.

9 Q And that walk wasn't enough time to calm him down?

10 A No, sir.

11 Q And Mr. Thompson wrote a statement, correct?

12 A Yes, sir.

13 Q I'll hand you what's been marked as State's Exhibit No.
14 52 for identification. Corporal Byrd, is that the statement
15 that Mr. Thompson wrote?

16 A Yes, sir.

17 Q Fair and accurate?

18 A Yes, sir.

19 MR. GOURLEY: Your Honor, at this time, I move to
20 introduce State's Exhibit No. 52.

21 MS. ROGERS: Objection.

22 THE COURT: Subject to prior objection, thank you.
23 Overruled.

24 (State's Exhibit No. 52 was admitted into evidence.)

25 BY MR. GOURLEY:

1 Q Corporal Byrd, I'm going to hand you what's been marked
2 as State's Exhibit No. 13 through 19. Can you look at those
3 for me real quick?

4 A Yes.

5 Q All right. What are those photographs taken of?

6 A The first couple of pictures are pictures that I took
7 at northern investigations of Mr. Thompson.

8 Q Okay.

9 A His face, hands, took a picture of his mouth.

10 Q Just keep them down for me until we introduce them,
11 okay?

12 A Then the last two are from the scene.

13 MR. GOURLEY: Your Honor, at this time, I would move to
14 introduce State's Exhibits 13 through 19.

15 THE COURT: Without objection, they're in evidence.

16 (State's Exhibit Nos. 13 through 19 were admitted into
17 evidence.)

18 MR. GOURLEY: Your Honor, permission to publish?

19 THE COURT: You may.

20 MR. GOURLEY: If you'll go to State's Exhibit No. 13.

21 BY MR. GOURLEY:

22 Q Corporal Byrd, before we gut the video off, you were
23 getting ready to take pictures of Demetrius Thompson?

24 A Yes, sir.

25 Q Why were you doing that?

1 A He stated that she hit him.

2 Q Okay.

3 A Based on his statement, I was trying to document if
4 there were any injuries or anything.

5 Q Let me just ask you this, did you observe any injuries
6 to Mr. Thompson?

7 A I did not.

8 MR. GOURLEY: Let's go to State's Exhibit No. 14,
9 please.

10 Q That's just an overshoot of Mr. Thompson?

11 A Correct.

12 Q Any marks on his hands, arms, face, legs?

13 A Not that I observed.

14 MR. GOURLEY: State's Exhibit No. 15, please.

15 Q Any cuts, abrasions, anything like that on his hands?

16 A No, sir.

17 MR. GOURLEY: State's Exhibit No. 16.

18 Q Any busted lip, any kind of fresh cut, laceration,
19 anything like that on his face?

20 A Not that I observed.

21 MR. GOURLEY: State's Exhibit No. 17.

22 Q Any kind of lacerations, cuts, bruises or abrasions on
23 his face?

24 A No, sir.

25 Q Corporal Byrd, did Mr. Thompson go out to the scene

1 with you after y'all got done interviewing?

2 A He did.

3 Q And what was the purpose of him going out to the scene?

4 A He stated that he had thrown the box cutter, razor
5 blade and he said he would give us the area he had thrown
6 it, identify the area.

7 Q And he said he threw it, correct?

8 A Correct.

9 Q Didn't drop it?

10 A No.

11 Q Tossed it in the woods?

12 A Right.

13 Q Did you find it that day?

14 A I did not.

15 Q And he gave you and identified a particular area of the
16 search, correct?

17 A He did.

18 Q Did you go out the next day?

19 A I did. He had given a general area, which was real
20 thick brush, wooded area. That was December we had been out
21 there. We searched on the 5th a little bit -- or a lot. It
22 had started getting dark. I assisted Investigator Snider
23 with the evidence that she had processed and all. And then
24 because of the light situation, we decided we would attempt
25 to do it another day.

1 Q Okay. So you said you searched real well for the knife
2 on December 5th, correct?

3 A Correct.

4 Q Had Mr. Thompson out there identifying the area?

5 A Correct.

6 Q Had Deputy Swinehamer out there with the dog looking
7 for it?

8 A Yes, sir.

9 Q Weren't able to find it that day?

10 A No, sir. And I went on that Sunday, the 6th.

11 Q You went back out the next day, December 6th?

12 A Yes, sir.

13 Q Were you able to locate the knife then?

14 A I was.

15 Q How did you find it?

16 A Did a line search out there.

17 Q When you say a line search, what do you mean a line
18 search?

19 A Walk a line, turn around, walk a straight line,
20 identify the point and just keep walking lines. Conducted a
21 search of the area. The area that they concentrated on had
22 been thoroughly checked. I went down a little bit further
23 because he had identified a tree when we were out there in
24 the area. I advanced down a little bit further and the
25 first pass as I was walking, I observed a white and black

1 handled box cutter.

2 Q And that was identified in State's Exhibit No. 18,
3 correct?

4 A It is.

5 MR. GOURLEY: Can you publish State's Exhibit No. 18
6 for me?

7 A That's it.

8 MR. GOURLEY: If we could zoom in.

9 Q I know it's a little hard to see, but that little black
10 kind of speck right there at the bottom of the screen; is
11 that correct?

12 A Correct.

13 Q And how far approximately from the road is this knife?

14 A Twelve --

15 Q To the best of your recollection?

16 A Twelve to 15 feet.

17 Q Okay. Was the knife folded up? Was it closed?

18 A It was.

19 MR. GOURLEY: If we could move to State's Exhibit No.
20 19.

21 Q That's a picture of that knife as you found it?

22 A It is.

23 Q And it is closed?

24 A It is.

25 Q Did you notify Investigator Snider about finding the

1 knife?

2 A When I found it -- she was the duty investigator that
3 day. And when I found it, I didn't have my camera and all.
4 These pictures are Investigator Snider's. I immediately
5 contacted her. I stood to protect that area until she
6 arrived. We photographed, documented it and she collected
7 the knife.

8 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

9 (Pause.)

10 MR. GOURLEY: No further questions.

11 Please answer anything Ms. Rogers has.

12 CROSS-EXAMINATION

13 BY MS. ROGERS:

14 Q You weren't present at the scene when it happened,
15 correct?

16 A I was not when it happened.

17 Q And did you transport Demetrius to the --

18 A I did not.

19 Q Okay. But you were the one that interviewed him,
20 correct?

21 A I was.

22 Q At that time, there were no other suspects?

23 A Investigator Snider was investigating the case. She
24 contacted me and asked me to interview him.

25 Q But Demetrius had -- once you started asking him

1 questions, he had told you multiple times that he had -- he
2 had been up all night. He had had an hour of sleep. There
3 wasn't any rush to ask him questions, was there?

4 A Investigator Snider had asked me to conduct an
5 interview. At which time, I conducted the interview.

6 Q Demetrius, again, told you that he did drugs and he was
7 up all night? In fact, he said that he was smoking crack
8 all night, correct?

9 A He did say that.

10 Q He hadn't had anything to eat. There wasn't time for
11 him to eat. He didn't have any water. And --

12 MR. GOURLEY: Your Honor, I just ask that there be a
13 question asked.

14 THE COURT: Okay. This is cross-examination. She can
15 go ahead.

16 Go ahead and ask.

17 BY MS. ROGERS:

18 Q And when you were talking to Demetrius, he was
19 distraught?

20 A At the beginning, yes.

21 Q He was --

22 A Upset.

23 Q -- very back and forth?

24 A Upset.

25 Q All over the place? In fact, you had to get him back

1 on track he was so upset?

2 A Remorseful.

3 Q Yes, he was apologetic. I hope she's okay. He was
4 crying. You brought him a box of tissues, correct?

5 A I did.

6 Q He was hanging his head. Again, clearly upset,
7 correct?

8 A Yes.

9 MS. ROGERS: Your Honor, I would like to pull up
10 State's Exhibit No. 17 if I can. Can I approach?

11 THE COURT: Yes.

12 BY MS. ROGERS:

13 Q Earlier, you testified that he didn't have any visible
14 injuries, correct?

15 A Not that I know of.

16 Q You're not a physician?

17 A I am not.

18 Q Demetrius' right eye appears to be swollen there, do
19 you see that?

20 A I see his right eye.

21 MS. ROGERS: Beg the Court's indulgence.

22 (Pause.)

23 Q Again, you are not a physician, so you don't actually
24 know if he got punched or not?

25 A Correct.

1 MS. ROGERS: Beg the Court's indulgence, Your Honor.

2 THE COURT: Okay.

3 (Pause.)

4 MS. ROGERS: Can you pull up State's Exhibit 17 one
5 more time, please?

6 It's actually his left eye that looks a little bit
7 swollen. I just wanted to get that on the record, Your
8 Honor.

9 No further questions, Your Honor.

10 THE COURT: Thank you.

11 REDIRECT EXAMINATION

12 BY MR. GOURLEY:

13 Q Corporal Byrd, did Demetrius complain of any injuries
14 to you?

15 A He did not.

16 Q Did you observe any injuries to him?

17 A I did not.

18 Q Was he coherent during your interview?

19 A He was.

20 Q Did he respond to the questions appropriately?

21 A He did.

22 Q Did he write a statement?

23 A He did.

24 Q Was it coherent?

25 A It was.

1 Q Did he appear to be under the influence of any alcohol
2 or drugs at that time?

3 A No, I did note anything at the time.

4 Q And as a matter of fact, during your interview while he
5 was writing the statement, you stopped him, correct?

6 A Correct.

7 Q And then he continued to write his statement?

8 A Correct.

9 Q And then he called for you a couple of times after he
10 was done to go over it?

11 A Correct.

12 Q And you offered him food?

13 A Correct.

14 Q You offered him water?

15 A Correct.

16 Q He didn't want any of that?

17 A He accepted the water.

18 Q And this was an investigation, correct?

19 A Yes, sir.

20 Q He wasn't under arrest at this time?

21 A Not at that time.

22 Q And you were just doing your job?

23 A Yes, sir.

24 MR. GOURLEY: Thank you, sir.

25 No further questions.

1 THE COURT: Anything further?

2 MS. ROGERS: Nothing further, Your Honor.

3 THE COURT: Any objection to him being excused?

4 MR. GOURLEY: No objection, Your Honor.

5 THE COURT: Thank you. You may step down.

6 MR. GOURLEY: Your Honor, may we approach?

7 THE COURT: You may.

8 (Sidebar conference.)

9 THE COURT: Ladies and gentlemen, we were just talking
10 scheduling. We're trying to find the most efficient way to
11 use our lunch break. There is a matter of law I need to
12 take up with the attorneys, so what I'm going to do is break
13 for lunch early today. By the clock in the back of the
14 room, it is a little after 12:15. I am going to ask you be
15 back in your jury room at 1:30. So be back in your room
16 ready to go. At 1:30, we will bring you back in.

17 I need to caution you again not to discuss this case
18 with anyone, including each other. You haven't heard all
19 the evidence. Don't talk about it if you talk to any family
20 members over the lunch hour, friends or colleagues. When
21 you come back, I'll let you know where we're going and how I
22 expect the rest of the day to progress.

23 I will see you all back in your jury room at 1:30.
24 Thank you. Don't be late. I'll be looking for you.

25 (The jury exits the courtroom.)

1 THE BAILIFF: The jury is clear, Your Honor.

2 THE COURT: Thank you.

3 Do you want to go ahead and do the proffer and take a
4 break, is that fine?

5 MR. GOURLEY: Yes, Your Honor.

6 THE COURT: Okay. Bring him up.

7 MR. GOURLEY: Your Honor, we'd call Sergeant David
8 Swinehamer.

9 THE CLERK: Place your left hand on the Bible and raise
10 your right.

11 DAVID SWINEHAMER

12 after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. GOURLEY:

15 Q Afternoon, Deputy. Please state your name and spell
16 your last name for the record, please.

17 A David Swinehamer, S-W-I-N-E-H-A-M-E-R.

18 Q And is it Deputy Swinehamer?

19 A Yeah, deputy.

20 Q Are you a sergeant now?

21 A Yes.

22 Q Sergeant Swinehamer, how long have you been with
23 Beaufort County Sheriff's Office?

24 A About three and a half years.

25 Q Are you attached to or are you assigned to a specific

1 unit?

2 A I'm with the southern enforcement branch.

3 Q And do you have any other duties other than patrol?

4 A Canine handler.

5 Q So you have a canine. What kind of dog do you use?

6 A I have a Belgian Malinois.

7 Q What's the name?

8 A Jag.

9 Q Could you spell Malinois for the Court, please?

10 A M-A-L-I-N-O-I-S.

11 THE COURT: And what's his name?

12 THE WITNESS: Jag, J-A-G.

13 THE COURT: Jag, okay. Thank you.

14 BY MR. GOURLEY:

15 Q When were you paired with, or how did you receive Jag?

16 A As far as?

17 Q Did you buy him yourself?

18 A No, he's owned by the sheriff's office.

19 Q Did you go to pick up Jag somewhere? How did that
20 happen?

21 A No, he was owned and previously handled before I was
22 hired here.

23 Q Do you know where Jag was trained and what he was
24 trained in?

25 A Okay, so as far as what he is trained in is narcotics,

1 tracking, apprehension, handler protection, article searches
2 and narcotic searches.

3 Q Is he certified in those disciplines?

4 A Yes. Both Jag and I are both certified through the
5 American Society of Canine Trainers.

6 Q And when was the last time you and Jag were certified
7 together?

8 A Our last certification was issued February 1st of this
9 year.

10 Q Prior to December of 2020, when was the last time you
11 and Jag were certified together?

12 A The previous year certification was February 1st of
13 2020 and 2021 and May 14th of 2019.

14 Q So you and Jag were certified together when you got a
15 call in December of 2020?

16 A Yes, sir.

17 Q And that was -- where was that call to? Where did you
18 get called to?

19 A I don't have the exact address in front of me.

20 Q Was it on Rue Du Bois? Does that help you?

21 A Yes, sir, Rue Du Bois in the Lady's Island area.

22 Q And do you remember what the purpose of you and Jag
23 going out there was? Was it drugs, was it tracking? What
24 was it for?

25 A I was called for an article search for a knife.

1 Q Let's go back to you and Jag for a second. Do you do
2 continuous training with your canine, Jag?

3 A Yes, sir.

4 Q And what does that entail? Is it weekly training,
5 daily training? What do you do?

6 A I do training, typically, on my work days and then we
7 have weekly unit training with other canine handlers.

8 Q On average, how many hours do you spend with Jag a day?

9 A Well, he's with me all the time.

10 Q How many hours do you spend training him a day?

11 A It varies between, say, 30 minutes and an hour any day
12 that I work and eight hours on our weekly training.

13 Q So you do upwards of eight plus hours of training
14 weekly?

15 A Yes, sir.

16 Q So can you explain what that training is specific to --
17 do you do tracking or trailing?

18 A Tracking.

19 Q Can you explain to the Court what tracking is?

20 A As far as? I'm sorry.

21 THE COURT: Why don't you ask him to explain the
22 difference between tracking and trailing.

23 BY MR. GOURLEY:

24 Q Can you explain the difference between tracking and
25 trailing, if you can?

1 A No, sir. I don't have any idea what trailing is.

2 Q And tracking, does that involve the actual dog sniffing
3 the ground?

4 A Well, it's not the ground as much as it's the scent of
5 a person. Typically, it's believed that that person leaves
6 a scent behind.

7 Q And so how do you train for someone who leaves a scent
8 behind?

9 A It's either through handler laid or decoy laid tracks.

10 Q So you put people out for Jag to find and he does that?

11 A Correct.

12 Q And does he do that routinely with reliability in your
13 opinion?

14 A Yes, sir.

15 MR. GOURLEY: And Your Honor, I think at this time, we
16 would move to qualify Deputy Swinehamer as an expert in dog
17 tracking and article searches, Your Honor.

18 MS. ROGERS: No objection, Your Honor.

19 THE COURT: Okay. All right, so that's pretty much
20 what we'll do, right?

21 MR. GOURLEY: That's it, Your Honor.

22 THE COURT: And you're just going to ask what he did in
23 this case, correct?

24 MR. GOURLEY: Yes, Your Honor.

25 THE COURT: All right. So you said no objection.

1 All right. Anything else?

2 MR. GOURLEY: Your Honor, can I hand up a bench warrant
3 order for Ms. Holloway?

4 THE COURT: Sure.

5 MR. GOURLEY: She has been properly subpoenaed. It is
6 my understanding that she has received some threats and is
7 not going to be cooperative at the moment. I have not
8 gotten real time updates on that yet, Judge.

9 THE COURT: Okay. I need -- who's your victim's
10 advocate? Who's the one that's been getting these messages?

11 MR. GOURLEY: Judge, I will say, she was ready to go
12 last term of court. She was present that morning to be
13 picked up by our office. I actually met with her personally
14 that morning, re-served her with a subpoena.

15 For this term of court, we talked to her on Friday. We
16 talked to her on Monday. We talked to her on Tuesday.

17 THE COURT: Do you have her under subpoena?

18 MR. GOURLEY: She is properly under subpoena, Your
19 Honor.

20 THE COURT: Okay. Your bench warrant order does not
21 say that, so what I think you need to do is get this copied.
22 I will try to get it if you need me to because I need a copy
23 of your subpoena. Make sure it's proper.

24 MR. GOURLEY: Judge, I have a copy of the proof of
25 service. I did not do the front copy.

1 THE COURT: This says for 9/21/21.

2 MR. GOURLEY: That's when we served her, Judge. We
3 were meeting with her to pick her up that morning to bring
4 her to court before the jury panel got disqualified. We
5 re-served her again that day for the next available term.

6 THE COURT: Where is that?

7 MR. GOURLEY: I don't have a front copy of that sheet,
8 Judge. I just made a copy -- I kept a copy of the proof of
9 service.

10 THE COURT: I need a front copy of the sheet.

11 MR. GOURLEY: That's the subpoena I gave her, Judge.
12 That's my fault. I just did not make a copy.

13 THE COURT: Okay.

14 MR. GOURLEY: I can have Mr. Phillips, who is my
15 investigator, come in and testify.

16 THE COURT: Yes, I need him to testify that he properly
17 served her. How far away is he?

18 MR. GOURLEY: I believe he's in the courthouse. He'll
19 be here, Judge.

20 THE COURT: Is he in the building?

21 MR. GOURLEY: I'm not sure, Judge.

22 THE COURT: You want to step out and call him?

23 MR. GOURLEY: Yes, ma'am. Thank you.

24 (Pause.)

25 MR. GOURLEY: He's coming up now, Judge.

1 THE COURT: Okay.

2 MR. GOURLEY: We have had contact with Ms. Holloway
3 this morning.

4 THE COURT: Your victim's advocate or --

5 MR. GOURLEY: Victim's advocate.

6 THE COURT: And what did she say? Do we need to put
7 her on the record and have her testify?

8 MR. GOURLEY: She's been receiving text messages back
9 and forth from Ms. Holloway.

10 THE COURT: Raise your right hand.

11 JILLIAN ROWLINS

12 after being duly sworn, testified as follows:

13 THE COURT: Place your name on the record.

14 THE WITNESS: Jillian Rowllins.

15 THE COURT: And what is your title? What do you do?

16 THE WITNESS: Victim's advocate at the solicitor's
17 office.

18 THE COURT: All right. And it's my understanding --

19 Mr. Gourley, go ahead and ask her the questions --

20 But you've been in contact with the alleged victim in
21 this case?

22 THE WITNESS: Yes.

23 THE COURT: Joelette Holloway; is that correct?

24 THE WITNESS: Yes.

25 THE COURT: So what can you tell the Court?

1 THE WITNESS: So I talked to her yesterday afternoon,
2 she confirmed that she would be here at 9:00 a.m. I let her
3 know if she didn't have a ride to let us know. She told us
4 she was still staying in Williston. Then this morning, I
5 tried calling her around 8:30, she didn't answer. I sent
6 her a text message asking her to let me know if she had any
7 issues, if she was on her way. Did not receive a response.
8 Kept calling. I sent her another text message. I let her
9 know that she was under subpoena and there would be a bench
10 warrant issued if she did not show. That was about 9:30.
11 Then I received a text message back from her --

12 THE COURT: At what time?

13 THE WITNESS: About 10:18 this morning that said she
14 had just gotten her phone working, that her ride had bailed.
15 And we were telling her that -- the defendant had attempted
16 to take her life and she was going to go to jail --

17 THE COURT: Say that again. I'm sorry. You have to be
18 a little louder.

19 THE WITNESS: You want me to read it word-for-word?

20 THE COURT: Yes.

21 THE WITNESS: Okay. I just got my phone working and my
22 ride bailed and now you're telling me Demetrius Thompson
23 attempted to take my life and I'm going to jail. What a
24 justice system we have. This is not the land of the free,
25 this is the land of do as I say, die or go to jail.

1 And I texted her back letting her know that we can have
2 someone come get you, we just need to know where to pick you
3 up. Again, I called her, she will not answer any of my
4 calls. I let her know that we started the trial and our
5 investigator who she met with before would come get her.
6 There would be no bench warranted issued, we just have to
7 have her here.

8 I texted her again, asked her if she would give me
9 call. Texted her again and asked her if she wanted to talk
10 to someone from our office. When I let her know that we
11 needed her to come, nothing back. I tried calling her
12 again.

13 THE COURT: Can you read -- I don't quite understand
14 where she started saying --

15 THE WITNESS: You want me to read her response?

16 THE COURT: Yeah, I don't know why I can't hear it
17 completely. Can you just try to enunciate -- or let Mr.
18 Gourley, someone read it just so I can hear it, all of it.

19 MR. GOURLEY: I just got my phone working and my ride
20 bailed and now you're telling me Demetrius Thompson has
21 attempted to take my life and I'm going to jail. What a
22 justice system we have. This is not the land of the free,
23 this is the land of do as I say, die or go to jail.

24 Judge, we have --

25 THE COURT: I don't take that as a threat by anybody, I

1 just take that as -- I mean, I don't take that as a threat
2 by him.

3 MR. GOURLEY: No.

4 THE COURT: So --

5 MR. GOURLEY: That's not what I was asserting was a
6 threat, Judge. I'm still working on that. I've just got
7 messages that she was feeling she had been threatened. I
8 don't believe that was the context of the threat.

9 THE COURT: Okay.

10 MR. GOURLEY: And if I misrepresented that, I apologize
11 to the Court. I'm still getting information as I'm up here
12 trying this case.

13 THE COURT: I understand.

14 MR. GOURLEY: With that being said, we talked with Ms.
15 Holloway Friday afternoon. We talked to her Monday
16 afternoon. We talked to her Tuesday afternoon. She was
17 ready, willing and able to come.

18 THE COURT: So is your investigator here?

19 Come on up. Take a seat if you would.

20 THE CLERK: Raise your right hand.

21 THE COURT: Name, job.

22 INVESTIGATOR PHILLIPS

23 after being duly sworn, testified as follows:

24 EXAMINATION

25 BY MR. GOURLEY:

1 Q Investigator Phillips, where are you currently
2 employed?

3 A The 14th Circuit Solicitor's Office.

4 Q And you're an investigator with the 14th Circuit
5 Solicitor's Office?

6 A I am.

7 Q Did you and I meet with Joelette Holloway on September
8 21st at the tattoo parlor?

9 A We did.

10 Q And did we also serve her with a subpoena for this
11 court term?

12 A We did.

13 Q And that was for the October 18th through the 23rd; is
14 that correct?

15 A That's correct.

16 THE COURT: And you served that subpoena when?

17 THE WITNESS: On the --

18 BY MR. GOURLEY:

19 Q September 21st that morning?

20 A Yes.

21 Q She was there, prepared to be picked up for trial?

22 A She was there. She was with Mr. Doug Edwards.

23 Q And she was ready to be given a ride to court that day?

24 A Yes.

25 THE COURT: Okay. Make a copy of this. We will attach

1 it. I need to have it clocked. I need you to run to the
2 clerk of court's office. I need you to clock it and I need
3 to have a copy of it for the file.

4 I'm sorry. I misunderstood you when you said you
5 actually served the subpoena for this term of court,
6 September 21st. I'm sorry, I didn't understand that. Now,
7 I see what you're saying.

8 Okay. So we're just going to get copies, we're going
9 to get it clocked. I think you can go ahead and safely tell
10 the sheriff's office that there is a bench warrant that has
11 been issued by Judge Mullen. It's on the record here.
12 Again, we're getting you a copy of it. I think you can tell
13 them yes, there is.

14 What would you like to do? We can certainly be at ease
15 until -- I know they need to take him back and get Mr.
16 Thompson fed. So be back about 15 after, 20 after.

17 Gentlemen, does that give you enough time?

18 Okay. Anything else we need to put on the record?

19 MR. GOURLEY: Nothing from the State, Your Honor.

20 MS. ROGERS: Your Honor, I'm sorry. If Joelette is
21 unable to come --

22 THE COURT: We're not talking about what ifs at this
23 point. We're on a break. We'll see what happens.

24 MS. ROGERS: Okay.

25 THE COURT: Anything else?

1 MS. ROGERS: No, Your Honor.

2 THE COURT: We're at ease in this case until about 20
3 after or as soon as they can bring Mr. Thompson back.

4 (Short recess.)

5 THE COURT: Any luck locating your witness?

6 MR. GOURLEY: No, Your Honor, not at the moment.

7 THE COURT: So what are we going to do, just keep going
8 on?

9 MR. GOURLEY: Just try it without her, Judge. Can't do
10 anything else.

11 THE COURT: Well, I think we'll keep going until the
12 end, but I have a few concerns about -- you can try it
13 without her.

14 Your defense is self-defense, correct?

15 MS. ROGERS: Your Honor, I was going to ask to move for
16 a mistrial. The Defendant has a Constitutional right to
17 confront the witness. If she's not even going to be found,
18 that's --

19 THE COURT: I can tell you, in most of our domestic
20 violence cases, they refuse to testify. And if there's an
21 independent witness who has seen the injuries and know, my
22 only concern is how do we get in all the information as to
23 who did it?

24 MR. GOURLEY: Judge, there is ample DNA evidence. DNA
25 evidence of him on the knife, DNA evidence of her on the

1 knife.

2 THE COURT: What about the mom, is the mom here?

3 MR. GOURLEY: No, I'm not calling the mom, Judge.

4 THE COURT: Okay.

5 MR. GOURLEY: There was no one else that observed it --

6 THE COURT: Did she tell any of the officers that it
7 was the Defendant?

8 MR. GOURLEY: We have the 911 call where she identified
9 Demetrius Thompson. She also told Trooper Gargiulo, who
10 testified that she identified Demetrius Thompson to her as
11 well as the person who did it. And she also told
12 Investigator Snider.

13 I would submit to the Court there's substantial
14 corroborating evidence, the confession coupled with the
15 images of the laceration, the 911 call, the DNA evidence,
16 the independent witnesses who observed the actual scene
17 itself. We've got the jacket and the hoodie that has his
18 DNA --

19 THE COURT: Do y'all have -- do you have any case law
20 based on the right to be able to confront your witnesses?
21 What has come out so far is that she said it was him?

22 MR. GOURLEY: Yes, Your Honor. It came out through the
23 911 call that it was Meech and then it came out through
24 Trooper Gargiulo that Meech was --

25 THE COURT: The 911 call, was that the mother talking?

1 MR. GOURLEY: Yes, Your Honor. And you can hear --

2 THE COURT: That could be an excited utterance and that
3 could be contemporaneous, so okay.

4 MR. GOURLEY: Correct. And that's why I was also
5 relying on Trooper Gargiulo's testimony of identifying
6 Demetrius Thompson as an excited utterance because that's
7 what she told him at the scene while holding her neck trying
8 to prevent from bleeding out. Coupled with the DNA evidence
9 --

10 THE COURT: How can you disprove self-defense?

11 MR. GOURLEY: Judge, I don't think that we've even
12 gotten to self-defense. I don't think that the fact that
13 she may or may not have struck him qualifies for a
14 self-defense charge.

15 THE COURT: Not if he gets on the stand and says that
16 she had a gun somehow, which is I thought where you were
17 going when you kept asking her brother whether or not he
18 cleaned a gun for her the day before. I don't know, that's
19 what I thought you were doing. Is that what you were trying
20 to do?

21 MR. GOURLEY: And he can certainly take the stand,
22 Judge. He's never once mentioned a gun. He's given a
23 30-minute confession, he wrote a statement and making jail
24 calls. He's never once mentioned a gun. A gun is just,
25 basically, a red herring and I would argue to the jury

1 exactly that. If you're going to sit there and you're going
2 to say it was truly self-defense, you're going to tell the
3 officer while you're sitting there writing a confession
4 after you've turned yourself in that Joelette Holloway had a
5 gun.

6 THE COURT: What about the confrontation clause?

7 MR. GOURLEY: Judge, you have a right to confront any
8 witnesses. You don't have a right to select which witnesses
9 get called by the State. I don't have to put her up, Judge.
10 I would like to, candidly, but I'm fine, in my opinion,
11 respectfully.

12 THE COURT: No, that's okay. Does someone want to do a
13 little bit of research and see what you can find?

14 MR. GOURLEY: Yes, ma'am.

15 THE COURT: I guess the jury could weigh whether or not
16 he had the specific intent to kill based on the acts and
17 conduct of the defendant.

18 Let's go ahead and do this. Let's just keep going
19 maybe they can find her.

20 MR. GOURLEY: Thank you.

21 THE BAILIFF: Bring them in?

22 THE COURT: Yes, sir, bring them on in.

23 Who's your next witness going to be?

24 MR. GOURLEY: Deputy Swinehamer.

25 THE BAILIFF: The jury is entering, Your Honor.

1 (The jury enters the courtroom at 1:40 p.m.)

2 THE BAILIFF: The jury is seated, Your Honor.

3 THE COURT: You can call your next witness.

4 Welcome back, ladies and gentlemen. Y'all okay?

5 Everyone's fine?

6 (Jury indicated affirmatively.)

7 THE COURT: Very good.

8 Call your next witness, sir.

9 MR. GOURLEY: The State calls Sergeant David Swinehamer
10 with Beaufort County Sheriff's Office.

11 THE CLERK: Place your left hand on the Bible, raise
12 your right.

13 DAVID SWINEHAMER

14 after being duly sworn, testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: Please directly into the microphone. State
17 your name and spell your name for the record.

18 THE WITNESS: David Swinehamer, D-A-V-I-D,
19 S-W-I-N-E-H-A-M-E-R.

20 DIRECT EXAMINATION

21 BY MR. GOURLEY;

22 Q Thank you, Deputy Swinehamer. Is it deputy or
23 sergeant?

24 A Sergeant now.

25 Q And you're employed at the Beaufort County Sheriff's

1 Office, how long have you been there?

2 A Three and a half years.

3 Q And what area? Are you assigned to a specialty unit?

4 A I'm a canine handler and the southern enforcement
5 division.

6 Q So do you answer 911 calls or do you specifically work
7 with your canine partner?

8 A I answer both.

9 Q And were you working for the Beaufort County Sheriff's
10 Office on December 5th, 2020?

11 A Yes.

12 Q At that time, were you with the canine unit on that
13 day?

14 A Yes.

15 Q So you have a canine, what's your dog's name?

16 A Jag, J-A-G.

17 Q So Jag is a patrol dog, correct?

18 A Correct.

19 Q What does that mean?

20 A He's dual purpose as far as can detect odor of
21 narcotics, human tracking as far as suspects, apprehension,
22 handler protection, article search and drug searches, things
23 of that nature.

24 Q Okay. What kind of dog is Jag?

25 A A Belgian Malinois.

1 Q Let's go back to what he does. You said he looks for
2 drugs; is that correct?

3 A He detects the odor of narcotics, correct.

4 Q And then you said that he looks for people?

5 A Correct. He does suspect tracking for people.

6 Q How does he do that?

7 A Through the odor, scent, odor that the person leaves
8 behind.

9 Q And are you trained to recognize Jag smelling things?
10 Are you trained to recognize that?

11 A Correct. I'm certified with Jag as his handler for the
12 various purposes that he's used for.

13 Q So are you certified for tracking suspects and people?

14 A Correct, Jag is, yes.

15 Q And are y'all certified as a team to look for articles?

16 A Correct.

17 Q What does that mean? What does looking for articles
18 mean? What do you do with Jag?

19 A As far as what do I do with him?

20 Q Yeah, how do you get Jag to do his job going to look
21 for an article?

22 A He's given a search command.

23 Q And then, is he on lead, off lead?

24 A Typically, on lead, but it can be done either way.

25 Q And so you say that y'all are certified. Where do

1 y'all get certified?

2 A We're certified through American Society of Canine
3 Trainers.

4 Q And are you certified together or just the dog and just
5 you?

6 A We're certified together as a handler/dog pair.

7 Q And were y'all certified prior to December 5th of 2020?

8 A Yes.

9 MR. GOURLEY: Your Honor, at this time, we would tender
10 Sergeant Swinehamer as an expert in canine tracking and
11 article searches.

12 THE COURT: Any objection?

13 MS. ROGERS: No objection, Your Honor.

14 THE COURT: Ladies and gentlemen, this officer is being
15 qualified as an expert witness in the area of canine
16 tracking and article searches. That allows him to give his
17 opinion and the reasons for his opinion. And that's for use
18 as you see appropriate as compared to other evidence in this
19 case.

20 BY MR. GOURLEY:

21 Q I want to go back. You were dispatched to a location
22 on December 5th, 2020; is that correct?

23 A Yes, sir.

24 Q Do you remember where that was?

25 A The area of Rue Du Bois on Lady's Island.

1 Q And what was that in reference to?

2 A It was for an article search.

3 Q And do you know -- were you told what you were looking
4 for at the time?

5 A I was told I was looking for a knife.

6 Q Okay. And tell us, how do you do that? How are you
7 putting Jag to go look for this knife?

8 A Typically, given an area to search, you know, whether
9 either -- typically, it's going to be a responding officer,
10 investigator, whoever happens to be in charge of the scene
11 has reason to believe whatever article in question may be
12 located or where it could be located at.

13 Q And prior to your arrival, are you aware did other
14 officers secure that area or is it left open? How does that
15 work?

16 A Typically, the area would be secured if they believe
17 that an article is in that particular area.

18 Q To your knowledge, do you know if that happened in this
19 case?

20 A To the best of my knowledge, they gave me the area and
21 it was somewhat secured.

22 Q What do you mean by somewhat?

23 A I mean, there was no crime scene tape or anything like
24 that, but they had several officers in the area that was
25 somewhat restricting traffic, vehicle or pedestrian traffic

1 through the area.

2 Q I'm assuming Jag was in the vehicle with you and he
3 stays with you all day?

4 A Correct.

5 Q Take us to how you get Jag to work. How do you do
6 that? Do you open the car door, get him out? Do you use a
7 leash?

8 A As far as specifically with the article search?

9 Q Right.

10 A He's already in the vehicle with me because it was just
11 a regular workday for me, so we had already been at work.
12 For an article search, he's, typically, put on a 30-foot
13 leash.

14 Q Did you put him on a 30-foot leash that day?

15 A Yes.

16 Q And so you conducted this article search. Tell me what
17 Jag does to look for this search. What does he do?

18 A Typically, he's on lead. I mean, it depends on the
19 terrain. In this case, the area that I was given was a
20 thick, heavy-wooded area, so it's pretty slow, but it's --
21 there's not a lot of ground to cover. So he's in and around
22 the trees or back and forth through the trees and brush.

23 Q And did he find the article you were looking for?

24 A No, he did not find the knife.

25 Q Okay. And what did you do next?

1 A He was kind of given a little freedom. Again, I was
2 told to look for a knife. All I was told was it was thrown
3 out in this one area. He continued down the road a little
4 bit tracking where the -- where I was told was the last,
5 basically, known location of where the suspect had traveled
6 on foot.

7 Q And by he, you mean Jag?

8 A Correct.

9 Q What kind of dog is Jag again?

10 A Belgian Malinois.

11 Q Is that like a German Shepard?

12 A It's kind of like a cousin. They're a little smaller,
13 typically, a little smaller. The coloration is a little
14 different.

15 Q So Jag is going down the road. Now, are you following
16 him on a leash or what's going on?

17 A Correct, I'm connected to him through the leash, so I'm
18 behind him.

19 Q So did you locate anything?

20 A We did. He alerted to a trash bag that was on the side
21 of the road a good bit down from the brushy area.

22 Q And when you say alert, what do you mean by alert?

23 A Well, in this case, it was a behavior change and what I
24 call a nose press reaction. He put his nose on the trash
25 bag that was on the side of the road.

1 Q Okay. Explain to us what a behavior change is.

2 A It could be a change in their breathing, their body
3 language, and their general behaviors.

4 Q And you saw that in this case?

5 A Correct.

6 Q Did he sit down -- what did you say, he sat or put his
7 nose on it?

8 A He just put his nose on it. He didn't sit down with
9 this.

10 Q Is Jag trained to sit down when he finds things or is
11 he trained to put his nose on it?

12 A Well, it depends. With Jag, a sit is, typically, his
13 final alert on narcotics. It's not always going to be
14 something that you see with articles.

15 Q Okay. So you guys work together and you learn to
16 recognize his behavior; is that fair?

17 A Correct.

18 Q And so did you do anything with this bag that he put
19 his nose on?

20 A The other officers that were -- typically, we refer to
21 them as security. There was two other officers that were
22 with me that actually investigated the bag.

23 Q Okay. And are you aware of anything that was in that
24 bag?

25 A I believe they recovered a jacket.

1 Q And as a canine handler, what would that then tell you?
2 What would you learn from that jacket inside? How does that
3 relate to Jag?

4 A Well, after the fact, it confirms that his alert was
5 correct. There was an article recovery.

6 MR. GOURLEY: No further questions at this time.
7 Please answer any questions that defense counsel may have.

8 THE COURT: Ms. Rogers.

9 MS. ROGERS: No questions, Your Honor.

10 THE COURT: Any objection to this witness being
11 excused?

12 MR. GOURLEY: No, Your Honor.

13 THE COURT: You're excused, sir. Thank you.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Call your next witness.

16 MR. GOURLEY: Thank you, Your Honor. The State calls
17 Deputy Thomas.

18 THE CLERK: Place your left hand on the Bible and raise
19 your right.

20 NICHOLAS THOMAS

21 after being duly sworn, testified as follows:

22 THE WITNESS: I do.

23 THE CLERK: Please speak into the microphone. State
24 your name and spell your name for the record.

25 THE WITNESS: Sergeant Nicholas Thomas,

1 N-I-C-H-O-L-A-S, T-H-O-M-A-S.

2 MR. GOURLEY: May it please the Court, Your Honor?

3 THE COURT: Yes.

4 DIRECT EXAMINATION

5 BY MR. GOURLEY:

6 Q Sergeant Thomas, where are you current employed?

7 A Beaufort County Sheriff's Office, northern enforcement.

8 Q And how long have you been with BCSO?

9 A Nine and a half years.

10 Q What is your current job duties with BCSO?

11 A I'm a road deputy for the northern enforcement
12 division.

13 Q And were you working with BCSO on December 5th, 2020?

14 A I was.

15 Q Did you respond out to an incident location regarding a
16 stabbing?

17 A I did.

18 Q And do you recall specifically what address that was?

19 A I do not.

20 Q ■ Rue Du Bois Lane sound familiar?

21 A Yes, sir.

22 Q Is that in Beaufort County?

23 A It is.

24 Q What were your duties that day regarding the incident?

25 A We were called in reference to a stabbing. We

1 responded to the area. My duties, I'm one of the road
2 deputies responding to calls, taking reports for incidents.

3 Q Did you assist Deputy Swinehamer with Jag looking for
4 various articles?

5 A I did.

6 Q Did you recover anything?

7 A I did.

8 Q I'm going to hand you what's been previously introduced
9 as State's Exhibit No. 10 and No. 11. Is that you in those
10 photographs?

11 A Yes, sir, it is.

12 Q What are you holding up in those two photographs?

13 A A jacket and I believe it's another dark jacket or a
14 hoodie.

15 MR. GOURLEY: Your Honor, permission to publish State's
16 10 and 11?

17 THE COURT: Yes, sir.

18 BY MR. GOURLEY:

19 Q Sergeant Thomas, that's you in that photograph?

20 A Yes, sir.

21 Q And I know it's very blacked out, but what are you
22 holding up in that photograph?

23 A A jacket, it's a dark jacket.

24 Q And where was that jacket recovered from?

25 A It was recovered, I believe it was on Effendi Lane. It

1 was in some trash bags.

2 Q How many trash bags were on the side of that road?

3 A If I recall, it was two or three. I don't recall right
4 offhand.

5 Q And I'm going to show you what's been introduced as
6 State's Exhibit No. 11. What's that?

7 A I believe it's an Eagles jacket, I believe it was.

8 Q NFL jacket?

9 A Yes, sir.

10 Q And that was also recovered from where?

11 A In the trash bag.

12 Q Okay. When you recovered the jackets, what did you do
13 with them?

14 A I collected them, put them in an evidence bag and took
15 them down to Investigator Snider.

16 Q I'm going to hand you what's been marked by
17 notification as State's Exhibit No. 46 and 47. State's
18 Exhibit 46, can you identify that for me?

19 A This would be the black hoodie with gold logos.

20 Q And that's the hoodie you recovered from the trash bag?

21 A Yes.

22 Q And did you put it in that bag?

23 A Yes.

24 Q Did you seal it?

25 A I did.

1 Q And that has your name on it?

2 A It's my name, chain of custody to Sergeant Snider.

3 Q All right. And I'm going to hand you what's been
4 marked as State's Exhibit No. 47. Can you identify that for
5 me?

6 A It's a black and teal NFL Jacksonville Jaguars jacket.

7 Q And is that the same Jacksonville Jaguars jacket that
8 you recovered from the trash bag?

9 A Yes.

10 Q And did you put it in that bag?

11 A Yes.

12 Q Did you seal it?

13 A Yes, I did. And it's also my name and the chain of
14 custody to Sergeant Snider.

15 MR. GOURLEY: Thank you, sir. No further questions.

16 MS. ROGERS: No questions for this witness.

17 THE COURT: All right. You may be excused, sir. Thank
18 you.

19 Call your next witness.

20 MR. GOURLEY: Yes, Your Honor. The State calls
21 Investigator Snider.

22 THE CLERK: Place your left hand on the Bible and raise
23 your right.

24 JENNIFER SNIDER

25 after being duly sworn, testified as follows:

1 THE WITNESS: I do.

2 THE CLERK: Please speak into the microphone. State
3 your name and spell your name for the record.

4 THE WITNESS: Jennifer Snider, J-E-N-N-I-F-E-R,
5 S-N-I-D-E-R.

6 MR. GOURLEY: May it please the Court, Your Honor?

7 THE COURT: Yes, sir.

8 DIRECT EXAMINATION

9 BY MR. GOURLEY:

10 Q Investigator Snider, where are you currently employed?

11 A I'm employed with the Beaufort County Sheriff's Office.

12 Q And how long have you been with BCSO?

13 A Just over 12 years.

14 Q And what is your role at BCSO?

15 A I work in the northern investigations section as an
16 investigator.

17 Q And were you working in investigations on December 5th
18 of 2020?

19 A Yes.

20 Q And were you dispatched out to an incident location?

21 A Yes.

22 Q Where was that at?

23 A [REDACTED] Rue Du Bois.

24 Q And is that in Beaufort County?

25 A Yes, it is.

1 Q And why were you dispatched out there?

2 A That weekend happened to be my lead weekend as an
3 investigator. It was on a Saturday afternoon. I was
4 called, I believe I was dispatched to respond to a stabbing.
5 Instead of responding to the scene first, I responded to
6 Beaufort Memorial Hospital where the victim had been taken.

7 Q So you said you went straight to BMH?

8 A That's correct.

9 Q I'm going to hand you what's been marked for
10 identification as State's 21 and 22. Do you recognize those
11 photos?

12 A Yes, I do.

13 Q And what are those photos of?

14 A These two photographs are of the back of the victim,
15 Joelette Holloway's neck.

16 Q And are those true and accurate representations of what
17 you took that day?

18 A These were actually taken the next day.

19 Q The next day. Yes, ma'am.

20 MR. GOURLEY: Your Honor, at this time, I move to admit
21 State's Exhibit No. 21 and 22 into evidence.

22 MS. ROGERS: No objection, Your Honor.

23 THE COURT: Without objection admitted into evidence.

24 (State's Exhibit Nos. 21 and 22 were admitted into
25 evidence.)

1 MR. GOURLEY: Permission to publish, Your Honor?

2 THE COURT: You may.

3 BY MR. GOURLEY:

4 Q Investigator Snider, what are we looking at here?

5 A So that's Joelette. I had her sitting up. I had gone
6 to speak to her the following day on Sunday morning when she
7 was still in the hospital. As I was talking to her, I found
8 out she had an additional injury to the back of her head.
9 So I asked her to sit up if she could, which she did. She
10 showed me the cut that was on the back of her head. It was
11 a pretty good-sized laceration that had been stitched up by
12 the doctor.

13 Q I'm going to show you what's been introduced as State's
14 Exhibit No. 22. That's just a closer-up photo of the
15 laceration; is that correct?

16 A That's correct, yes.

17 Q In addition to those two injuries, Ms. Holloway also
18 suffered one additional injury, correct?

19 A Yes, to her neck, the left side of her neck.

20 Q And that's been introduced as State's Exhibit No. 2,
21 correct?

22 A Correct. And that photograph, I took at the emergency
23 room on Saturday, December 5th.

24 Q Following your photographing of Ms. Holloway, what, if
25 anything, did you do as far as this investigation goes?

1 A After I interviewed her very briefly, because they were
2 working on her at the ER, I called my supervisor to let him
3 know I had a road shut down over on Rue Du Bois where the
4 deputies had found some blood in the roadway and whatnot.
5 So I called my supervisor and I learned a suspect was in
6 custody.

7 So Investigator Byrd, that's when he came in to conduct
8 an interview with Mr. Thompson and I responded out to Rue Du
9 Bois. Typically, when I get out to a scene, I like to kind
10 of walk around and see what I have. Obviously, we're not
11 there when this occurs, so we don't always know what we have
12 until we get out there.

13 So I got out there and there were some blood droplets
14 in the roadway. Rue Du Bois is off of Lady's Island Drive.
15 Lady's Island Drive is a main thoroughfare, four-lane
16 highway that comes onto Lady's Island from Port Royal and
17 Rue Du Bois is off of that to the left if you were heading
18 onto the island. I had that shut down.

19 There is an office park that sits off of Rue Du Bois,
20 kind of on the corner of Lady's Island Drive. And there was
21 blood kind of in the roadway, what I suspected to be blood,
22 just behind that -- where that office building was. So I
23 followed that down. The trail led back towards where
24 Joelette lived with her mother, Claudia, and then up on the
25 steps of the porch where she was located by deputies and

1 taken care of by EMS.

2 Q Investigator Snider, I'm going to hand you a group of
3 photos, State's Exhibit Nos. 23 through 34 for
4 identification. Can you look through those and see if you
5 recognize them?

6 A Yes.

7 Q What are those photographs?

8 A These are all photographs of the suspected blood that I
9 had located in the roadway on Rue Du Bois and following the
10 roadway down towards the house.

11 Q Are those true and accurate representations of what you
12 observed that day?

13 A Yes, they are.

14 MR. GOURLEY: Your Honor, at this time, I move State's
15 Exhibit 23 through 34 into evidence.

16 MS. ROGERS: No objection.

17 THE COURT: Without objection.

18 (State's Exhibit Nos. 23 through 34 were admitted into
19 evidence.)

20 BY MR. GOURLEY:

21 Q Investigator Snider, I'm going to show you what's been
22 previously introduced as State's Exhibit No. 7. What are we
23 looking at here?

24 A So that's taken from the roadway of Rue Du Bois and
25 that's looking out towards Lady's Island Drive. So the

1 white car, which is the patrol car, that's blocking coming
2 into Rue de Bois from Lady's Island Drive. And then to the
3 right, that's the office park I was talking about. I
4 believe it was called Woodland Office Park. And you can see
5 the placards to the right near the back driveway. All those
6 placards are marking suspected blood in the roadway.

7 Q All right. I'm going to show you what's been
8 introduced as State's Exhibit No. 5. What are we looking at
9 here?

10 A So this is looking back towards Rue Du Bois, towards
11 Joelette's house, so Lady's Island Drive is actually to my
12 back. Looking down, you can see, obviously, the placards a
13 little bit better. It appeared to me that that's where the
14 incident actually occurred, right there.

15 Given my experience with victims, dealing with victims
16 with any type of traumatic injury that causes them to bleed,
17 they tend to walk around, I guess just from the pure shock.
18 So that kind of led me to believe that that happened there
19 because there was so much blood right there. And then it
20 just went down towards the house --

21 Q And when you're saying -- I'm sorry to interrupt. When
22 you're saying the house, are you talking about this area
23 right here?

24 A Yes, from here, it looks white, but I believe there was
25 a yellow house off to the left. And that's my car on the

1 right.

2 Q And that's whose residence?

3 A That is Claudia Holloway's and Joelette Holloway's
4 residence.

5 Q And was that, ultimately, where she was found by law
6 enforcement?

7 A Yes, that's correct.

8 Q I'm going to show you what's been introduced and
9 published as State's Exhibit no. 23. What are we looking --
10 what is A and B identifying for you?

11 A A and B are identifying blood droplets on the ground.
12 A, it looks like it's directly there in front of the
13 placard. I believe there is some to the left and some to
14 the right.

15 Q All right. State's Exhibit No. 24, what about C?

16 A C is just kind of sitting in the middle, some suspected
17 blood droplets.

18 Q All right. State's Exhibit No. 25, D?

19 A D is the same thing. You can see suspected blood
20 droplets to the left in front of it.

21 Q State's Exhibit No. 26?

22 A E and F are also markings of suspected blood droplets.

23 Q State's Exhibit No. 27?

24 A G as well, that is suspected blood droplets off to the
25 right down in the lower corner.

1 Q State's Exhibit No. 28?

2 A H, I, and J, same thing, there are several blood
3 droplets in and around each placard.

4 Q State's Exhibit No. 29?

5 A K, same thing, it looks to be two blood droplets just
6 above the K.

7 Q And State's Exhibit No. 30?

8 A L, that's a lot of blood in one area.

9 Q Investigator Snider, we're going to go back to State's
10 Exhibit No. 5. So those photographs that we just went
11 through, those were all kind of, if you will, a cluster of
12 -- within a common area; is that fair to say?

13 A Yes.

14 Q Did you identify any other blood walking towards Rue Du
15 Bois Lane or ■ Rue Du Bois Lane?

16 A I did.

17 Q All right. I'm going to show you what's been
18 introduced as State's Exhibit No. 31. What is that?

19 A It's a blood droplet. And you can see it off to the
20 left of the M, right next to the M.

21 Q And where was that located in relation to the other
22 cluster of placards?

23 A I would roughly estimate maybe 75 feet down the road.

24 Q Okay. And then State's Exhibit No. 32?

25 A N, also marked as a blood droplet. And that was

1 probably within ten feet of the N.

2 Q State's Exhibit No. 33?

3 A O, same thing, there was a blood droplet.

4 Q And actually, in O, you can actually see the driveway
5 to 13 Rue Du Bois Lane; is that correct?

6 A That's correct, yes.

7 Q So we're getting closer to the driveway?

8 A That's correct.

9 Q And then again, State's Exhibit No. 34, that's blood
10 that was identified?

11 A Yes, to the left of the O.

12 Q All right. I'm going to show you State's Exhibit No.
13 9. That's placard what?

14 A Placard P, and that's also marking a pool of suspected
15 blood on the steps. And you can see that it goes down into
16 the concrete sidewalk as well. It's also on the side of the
17 railing.

18 Q Investigator Snider, what, if anything, did you do with
19 the blood droplets that you found?

20 A After I had photographed all of those, I took what we
21 call touch DNA swabs of the suspected blood. We have little
22 Q-tips that we put a little sterile water on and I swabbed
23 the blood droplets from all the placards.

24 MR. GOURLEY: Your Honor, may I approach?

25 THE COURT: You may.

1 BY MR. GOURLEY:

2 Q I show you what's been marked as State's Exhibit No.
3 48. Do you recognize that?

4 A Yes, I do.

5 Q What is that?

6 A This is an envelope with touch DNA swabs, and I
7 collected seven touch DNA swabs with suspected blood and
8 sealed it and placed it in an envelope to send it to our
9 lab.

10 Q And when you say out lab, whose lab is that?

11 A It's the Beaufort County Sheriff's office forensic lab.

12 Q So that's -- you did turn it over to BCSO forensics?

13 A Yes.

14 Q For examination?

15 A Yes.

16 Q You said you collected seven touch DNA swabs?

17 A That's correct.

18 Q Do you have a copy of your report up there?

19 A I do.

20 Q Can you tell us specifically which swabs went to what?

21 A Yes.

22 Q And I'll walk you through it, just give me one second.
23 So the first swab that you took, that was collected from?

24 A The first swab was collected from placards A, B and C.

25 Q Okay. So A and B are identified in State's Exhibit No.

1 23 and C is identified in State's Exhibit No. 24, correct?

2 A Correct.

3 Q So you took DNA swabs from those three blood droplets?

4 A Correct.

5 Q Moving on to the second blood swab?

6 A That's going to be collected from placard D.

7 Q All right. And that's identified in State's Exhibit
8 No. 25; is that correct?

9 A That's correct.

10 Q Moving on to the third swab?

11 A The third swab was collected from placards E, F, G, H,
12 I, J.

13 Q So E and F were identified in State's Exhibit No. 26,
14 correct?

15 A Correct.

16 Q G is identified in State's Exhibit No. 27, correct?

17 A Correct.

18 Q And H, I and J are identified in State's Exhibit No.
19 28, correct?

20 A Correct.

21 Q Moving on to the next blood swab?

22 A The next swab was collected from placards K and L.

23 Q Okay. So K is identified in State's Exhibit No. 29?

24 A Correct.

25 Q And L is identified in State's Exhibit No. 30?

1 A Correct.

2 Q Moving on to the fifth swab?

3 A The fifth swab was collected from placards M and N.

4 Q So M is identified in State's Exhibit No. 31?

5 A Correct.

6 Q And then N is identified in State's Exhibit No. 32,
7 correct?

8 A Correct.

9 Q Moving on to the sixth swab?

10 A The sixth swab was collected from placard O.

11 Q And that placard was heading towards 13 Rue Du Bois
12 Lane, correct?

13 A Correct.

14 Q And then the final swab, Investigator Snider?

15 A Was collected from placard P.

16 Q And that was collected at the front porch of Ms.
17 Holloway's residence?

18 A That's correct.

19 Q Investigator Snider, why did you do, what I'm going to
20 call a group of swabs, A, B and C, you took one swab, why is
21 that?

22 A They were fairly close together, so I just collected
23 due to them being closer together. When they spread out a
24 little bit more, I switched to another swab.

25 Q All right. Did you have the opportunity to collect any

1 items for Sergeant Thomas?

2 A Yes. I was informed that they had found a bag with a
3 couple of clothing items in it over on Effendi Road, which
4 is a dirt road a little bit past where Joelette and her
5 mother lived on the left-hand side. It's an area where
6 there's woods, a thick wooded area. I would say roughly a
7 couple of hundred feet down from where her mother's house
8 was. There's a little dirt road called Effendi. And Jag
9 had alerted to a bag. There was apparently a couple of
10 clothing items. I had Sergeant Thomas turn them over to me.
11 I collected an Eagles jacket and a hooded sweatshirt. And I
12 took those back to the office to process them.

13 Q I hand you what has been identified as State's Exhibit
14 No. 46. Do you recognize that item?

15 A Yes, I do.

16 Q What is it?

17 A This is the black hoodie with gold logo. And I located
18 two blue and gray gloves in the pockets. So those items are
19 in this bag.

20 Q All right. And did you seal that bag?

21 A Yes.

22 Q Did you also take any DNA swabs from those items?

23 A I believe I did.

24 MR. GOURLEY: Your Honor, at this time, I'd move to
25 introduce State's Exhibit No. 46.

1 THE COURT: Without objection?

2 MS. ROGERS: No objection, Your Honor.

3 THE COURT: Without objection.

4 (State's Exhibit No. 46 was admitted into evidence.)

5 BY MR. GOURLEY:

6 Q Investigator Snider, I'm going to hand you what's been
7 marked as State's Exhibit No. 47 for ID. Do you recognize
8 that item?

9 A Yes. This is the black and teal Jaguars jacket that
10 was located. And this actually had a couple of stains on it
11 that I wasn't certain what it was. I thought it might be
12 suspected blood. This is what I processed.

13 Q And you collected that from Sergeant Thomas?

14 A Yes.

15 MR. GOURLEY: At this time, I'd move to introduce
16 State's Exhibit No. 47, the Jaguar jacket.

17 THE COURT: Without objection?

18 MS. ROGERS: No objection.

19 THE COURT: Without objection.

20 (State's Exhibit No. 47 was admitted into evidence.)

21 BY MR. GOURLEY:

22 Q Investigator Snider, did you process this item -- when
23 I say process, what do I mean by that?

24 A With that one, I did some touch DNA swabs because there
25 was a couple of areas that I thought might be blood, so I

1 swabbed it with sterile swab for touch DNA.

2 Q I'm going to hand you what's been marked for
3 identification as State's Exhibit No. 49. Do you recognize
4 this item?

5 A Yes, I do.

6 Q What is it?

7 A This is two touch DNA swabs that I collected there on
8 the Jacksonville Jaguar jacket on the sleeve and the pocket.

9 Q And did you submit those for forensic testing?

10 A Yes, I did.

11 Q Did you also photograph those clothing items?

12 A Yes, I photographed the sweatshirt, the jacket and the
13 gloves.

14 Q I'm going to show you what's been marked for
15 identification as State's Exhibits 35 through 39. Do you
16 recognize those photographs?

17 A Yes, I do.

18 Q And what are those?

19 A They're photographs that I took of the jacket and the
20 hooded sweatshirt and the gloves.

21 MR. GOURLEY: Your Honor, at this time, the State would
22 move to introduce State's Exhibit 35 through 39.

23 THE COURT: Without objection?

24 MS. ROGERS: Without objection, Your Honor.

25 THE COURT: Admitted without objection.

1 (State's Exhibit Nos. 35 through 39 were admitted into
2 evidence.)

3 MR. GOURLEY: Permission to publish?

4 THE COURT: You may.

5 BY MR. GOURLEY:

6 Q Investigator Snider, I'm showing you State's Exhibit
7 35. Is this the Jacksonville Jaguars jacket that was
8 recovered?

9 A Yes, it is.

10 Q And this is the jacket that you processed?

11 A That's correct.

12 Q I'm showing you State's Exhibit No. 36, again, the same
13 jacket?

14 A Same jacket, just the reverse side.

15 Q All right. State's Exhibit No. 37. What are we
16 looking at here?

17 A That is a photograph of the right sleeve where I saw
18 the stain and you see it in the top of the photograph.

19 Q So right here?

20 A Yes.

21 Q And did you swab that for DNA?

22 A Yes, I did.

23 Q State's Exhibit No. 38?

24 A That is the gold and black hoodie.

25 Q State's Exhibit No. 39?

1 A Those were the gloves that I found inside the pocket of
2 the jacket.

3 Q Investigator Snider, following your processing of those
4 clothing items, what, if anything, did you do else?

5 A I also had Joelette's clothing from the ER. I
6 photographed that, which consisted of a shirt, a hoodie and
7 a bra. After I had processed the jacket for the suspect's
8 clothing, everything was sealed up and placed into evidence.

9 Q I'm going to hand you what's been premarked for
10 identification as State's Exhibit 40 through 43. Do you
11 recognize those photographs?

12 A Yes, I do.

13 Q What are those?

14 A These are pictures of Joelette's clothing and a picture
15 of the knife that was recovered.

16 MR. GOURLEY: Your Honor, at this time, I would move to
17 introduce State's Exhibits 40 through 43.

18 THE COURT: Without objection, they're in evidence; is
19 that correct?

20 MS. ROGERS: Yes, Your Honor.

21 (State's Exhibit Nos. 40 through 43 were admitted into
22 evidence.)

23 MR. GOURLEY: Permission to publish.

24 THE COURT: You may.

25 BY MR. GOURLEY:

1 Q Investigator Snider, what are we looking at here,
2 State's Exhibit No. 40?

3 A That was the sweatshirt that Joelette was wearing that
4 I collected from the hospital.

5 Q State's Exhibit No. 41?

6 A That's a T-shirt that she was wearing underneath the
7 hooded sweatshirt that was also collected from the hospital.

8 Q State's Exhibit No. 42?

9 A That's another picture of the T-shirt, the back side.

10 Q Investigator Snider, I know this may sound like a silly
11 question, but what are the red stains in your opinion?

12 A In my opinion, it's blood.

13 Q Did you also collect those clothes?

14 A I did, yes.

15 Q I hand you what's been marked for identification as
16 State's Exhibit No. 45.

17 A This is the clothing that I collected from the hospital
18 of Joelette.

19 Q And did you put them in the bag?

20 A I did, yes.

21 Q Did you seal it?

22 A Yes, I did.

23 Q Did you do any kind of forensic processing?

24 A No.

25 Q Why not?

1 A Because it came from her body. Nobody else was in
2 there.

3 Q Okay.

4 A I didn't see the need.

5 MR. GOURLEY: Your Honor, at this time, the State moves
6 to introduce State's Exhibit No. 45.

7 THE COURT: Without objection?

8 MS. ROGERS: No objection.

9 (State's Exhibit No. 45 was admitted into evidence.)

10 BY MR. GOURLEY:

11 Q Investigator Snider, what, if anything, else did you do
12 as part of your investigation?

13 A So after I processed all the clothing and I tried to
14 call a few people that I thought would be talking to me.
15 The following day, I came in and was working on that. I
16 went and spoke to Joelette again at the hospital. That's
17 when I found out about the injury to her head.

18 After that, I was informed by Investigator Byrd that he
19 had gone out and looked for the knife again and he found it.
20 So I went back to Rue Du Bois and I photographed -- I used
21 some video and I videoed the area where the knife was found.
22 I brought it back to the office and photographed that as
23 well.

24 Q You said you photographed where the knife was found?

25 A Yes.

1 Q Investigator Snider, I'm showing you what has been
2 introduced as State's Exhibit No. 18. Do you recognize this
3 location?

4 A Yes, I do.

5 Q And I know it's hard to see, but is the knife
6 identified in this picture?

7 A Yes, it is.

8 Q Basically, right here, correct?

9 A Yes.

10 Q And I'm going to show you a close-up, State's Exhibit
11 No. 19, is that the knife that you recovered?

12 A Yes, it is.

13 Q Investigator Snider, I'm going to hand you what's been
14 identified as State's Exhibit No. 50. Do you recognize
15 this?

16 A Yes, I do.

17 Q What is that?

18 A This is the black and white folding knife that was
19 located on the side of Rue Du Bois.

20 Q And did you process that knife?

21 A I did.

22 Q Did you put it in that bag?

23 A I did.

24 Q Did you seal it?

25 A I did.

1 Q And then turned it into evidence?

2 A That's correct.

3 MR. GOURLEY: Your Honor, at this time, the State would
4 move to introduce State's Exhibit No. 50.

5 THE COURT: Without objection?

6 MS. ROGERS: No objection.

7 (State's Exhibit No. 50 was admitted into evidence.)

8 BY MR. GOURLEY:

9 Q Investigator Snider, you said you processed that item,
10 how did you process it?

11 A I brought it back to the office. I had bagged it at
12 the scene. I had gloves on so I wouldn't contaminate it.
13 When I got back to the office, I put down a puppy pad, for
14 lack of a better term, that was sterile on the table. I
15 photographed it in place and then I opened it up and
16 photographed it again. And I noticed when I opened it up,
17 with the blade out, there was blood on it and there was also
18 hair, pieces of black hair.

19 So at that time, after photographing it, I took some
20 DNA swabs again. I wet them with the sterile liquid and I
21 processed the entirety of the knife. I processed the blade,
22 I processed the handle. And I also collected the hairs that
23 I found on the knife.

24 Q I'm going to show you what's been previously introduced
25 as State's Exhibit No. 43. Is this an image of the knife?

1 A Yes, it is.

2 Q And when you're saying there's blood, where was that
3 blood identified?

4 A So in this picture, it's pretty clear on the white
5 plastic portion, right here behind the blade.

6 Q And where is the hair?

7 A The hair was on the blade and I believe right there on
8 the plastic.

9 Q Okay. And you've got a -- I guess, a measurement; is
10 that correct?

11 A Yes, that's just a little ruler.

12 Q And you said this knife folded up?

13 A It did.

14 Q And when you recovered the knife, was it folded up?

15 A It was folded. It wasn't opened, it was closed.

16 Q Investigator Snider, you said you processed this knife
17 and took DNA swabs?

18 A Yes.

19 Q I hand you what's been marked as State's Exhibit No.
20 51. Can you identify that for me?

21 A Yes. These are the DNA swabs that I collected from the
22 knife. I note on there that one was from the handle and the
23 button. And then there were two swabs collected from the
24 actual blade as suspected blood.

25 Q So three swabs in total?

1 A Yes.

2 Q And did you put those in that bag?

3 A I did.

4 Q Did you seal it?

5 A I did.

6 Q And did you turn it into forensics?

7 A Yes, I did.

8 Q When I say forensics, BCSO forensics lab?

9 A Correct.

10 MR. GOURLEY: Beg the Court's indulgence.

11 (Pause.)

12 MR. GOURLEY: No further questions, Your Honor.

13 Please answer anything Ms. Rogers has.

14 MS. ROGERS: No questions from the defense, Your Honor.

15 THE COURT: You may step down. Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: Call your next witness.

18 MR. GOURLEY: Your Honor, may we approach?

19 THE COURT: You may.

20 (Sidebar conference.)

21 THE COURT: Ladies and gentlemen, there is a quick
22 matter I need to take up with the attorneys. I'm going to
23 send you back to your jury room. Do not discuss this case,
24 it would be inappropriate to do so. We will be back with
25 you shortly. Thank you.

1 (The jury exits the courtroom.)

2 MR. GOURLEY: Thank you, Your Honor, the State would
3 call Mr. Tim French.

4 THE COURT: Is this for purposes of a Council hearing;
5 is that correct?

6 MR. GOURLEY: That's correct, Judge.

7 THE COURT: Thank you.

8 THE CLERK: Place your left hand on the Bible and raise
9 your right.

10 TIMOTHY FRENCH - (IC)

11 after being duly sworn, testified as follows:

12 THE WITNESS: I do.

13 THE CLERK: Have a seat and speak into the microphone.
14 Please state your name and spell your name for the record.

15 THE WITNESS: Timothy French, F-R-E-N-C-H.

16 DIRECT EXAMINATION

17 BY MR. GOURLEY:

18 Q Mr. French, where are you currently employed?

19 A I'm employed by Beaufort County Sheriff's Office in the
20 forensic service laboratory.

21 Q And what do you do for the forensic laboratory?

22 A DNA analyst.

23 Q And how long have you been a DNA analyst?

24 A Going on 14 years.

25 Q Going back, if you will just briefly go over your

1 education, undergraduate education?

2 A I have a Bachelor of Science Degree from the State
3 University of New York in Portland. I majored in biology
4 and minored in chemistry and math. Since becoming employed
5 with forensics, I've had additional training at the FBI
6 Academy in Quantico, Virginia in conventional forensic
7 serology, training at the Serological Research Institute in
8 San Francisco in the blood stain analysis system. And I've
9 had DNA training at Marshall University in West Virginia.

10 Q Do you hold any specialized training to analyze DNA?

11 A Sir?

12 Q Do you hold any specialized training to analyze DNA?

13 A Just what I listed.

14 Q Do you have any continuing education requirements?

15 A We're required to have additional training every year.

16 Q And are you up to date on those?

17 A Yes.

18 Q Have you had any experience doing DNA comparisons?

19 A Yes.

20 Q For how long?

21 A The whole time I've been working at the Beaufort County
22 Sheriff's Office.

23 Q And Mr. French, have you previously been qualified as
24 an expert in DNA analysis?

25 A I have.

1 Q Can you just briefly tell the Court what is DNA?

2 A It's an hereditary molecule found in all the biological
3 cells in living creatures.

4 Q Other than identical twins, is DNA different from
5 person to person?

6 A Yes.

7 Q Does DNA stay the same throughout a person's life?

8 A Most of the time.

9 Q How long has DNA technology and forensic testing been
10 around?

11 A Close to 30 years.

12 Q What type of clothing and substances can be tested for
13 DNA?

14 A Any type of bodily fluids, even some that are not
15 fluids, such as like skin or hair.

16 Q Are you familiar with the term standard as applied to
17 DNA testing? Standard sample?

18 A Yes, sir.

19 Q What does that mean?

20 A That means it's a known sample taken from an individual
21 representing their DNA.

22 Q Relating the lab, does the lab meet national testing
23 standards?

24 A Yes.

25 Q And who accredits the lab?

1 A We have ANAB and that stands for ANSI, A-N-S-I,
2 National Accreditation Board, and ANSI is America National
3 Standards Institute.

4 Q What's required for the lab to meet these standards?

5 A They look at physical aspects of the lab, the facility
6 of the lab, storage of documents, making sure that we
7 document our processes and making sure that we follow what
8 we have documented, making sure that everyone is qualified
9 to work in the lab and that they maintain their annual
10 proficiency testing and training.

11 Q Are there quality assurances inside the lab itself?

12 A Yes.

13 Q What are those?

14 A There's a lot of things, some simple things like not
15 having the questioned samples and known samples open at the
16 same time, also, positive and negative controls that we run
17 along with every sample to make sure that all the steps are
18 being performed properly and working properly.

19 Q When was the last time the lab was certified?

20 A Earlier this year, this spring.

21 Q Regarding the DNA that was tested in this case, was
22 TrueAllele used?

23 A It was.

24 Q And can you please explain that process to the Court?

25 A TrueAllele is a software program that helps separate

1 our mixtures of DNA into possible contributors in that
2 mixture and then assigns statistical data for those
3 different profiles.

4 Q And how long has TrueAllele been used by BCSO?

5 A Five years.

6 Q Was it validated before it came to BCSO?

7 A By the manufacturer, and we also validated it ourself.

8 Q And has TrueAllele gained acceptance in the scientific
9 community and been found scientifically reliable?

10 A Yes.

11 Q Does the lab have specific protocol in conducting DNA
12 analysis, specifically, receipt of items for testing?

13 A Yes.

14 Q And what's that protocol?

15 A We receive the evidence -- we receive a request from an
16 officer or investigator that such and such an item is
17 requested for examination. We then request for that to be
18 brought to the laboratory. The items are sealed in some
19 type of a package when we receive it. We proceed with
20 analysis once it's logged into our system.

21 THE COURT: Your Honor, at this time, I'd move to
22 qualify Mr. French as an expert in DNA, specifically,
23 TrueAllele.

24 MS. ROGERS: No objection, Your Honor.

25 THE COURT: All right. Without objection.

1 MR. GOURLEY: And Your Honor, I believe the appropriate
2 factors have been met under State V. Jones as being the
3 publication peer reviews, prior application of the method,
4 quality control procedures and consistency of the method,
5 it's recognized scientific law under 403 analysis.

6 THE COURT: I have already previously found that
7 TrueAllele use is reliable and, also, I have heard Mr.
8 French testify as to TrueAllele before. And the testimony
9 is reliable if he testifies like he always does.

10 So with that said, anything else anyone needs?

11 MS. ROGERS: Your Honor, I would like to take up
12 another brief matter with you before the jury comes back in.

13 THE COURT: Sure.

14 Do you want Mr. French to step down and you can call
15 him?

16 MR. GOURLEY: He can step down, Judge.

17 THE COURT: Yes, what would you like to address?

18 MS. ROGERS: Your Honor, we would like to make a motion
19 to exclude the demonstrative jail call that we were talking
20 about in pretrial. I don't know if Your Honor has had a
21 chance to watch it.

22 THE COURT: I haven't.

23 MS. ROGERS: Okay.

24 THE COURT: And what's your basis for excluding it?

25 MS. ROGERS: It's unnecessary, it's cumulative. It's

1 more prejudicial than probative and they don't need it. I
2 think earlier, Mr. Gourley was saying that it was difficult
3 to hear; that you couldn't understand what he said. But
4 what was transcribed onto that is what I heard and so I
5 think that the jury is perfectly capable of listening to
6 that call as well without those words superimposed on it.
7 They don't need it.

8 MR. GOURLEY: Judge, with all due respect to Ms.
9 Rogers, the acoustics in this courtroom are horrible. It's
10 just simply aiding the jury. It's exactly what was said to
11 the extent that we could hear it. What we couldn't hear, we
12 have inaudible. So it's not any kind of interpretation on
13 our part. I've invited Ms. Rogers to alert me to any kind
14 of inconsistencies that she found, which from what I've
15 heard, there are none. It's simply there to aid the jury.
16 They're not getting the demonstrative back in the jury room.
17 They'll have a clean copy. They can listen to it back in
18 the jury room and make a determination on what they heard or
19 did not hear.

20 THE COURT: All right. Respectfully, I will deny your
21 motion.

22 Anything else?

23 MR. GOURLEY: Judge, if I could just have five minutes
24 to run to the restroom?

25 THE COURT: Absolutely.

1 (Short recess.)

2 THE COURT: Ready to go?

3 MR. GOURLEY: Yes, Your Honor.

4 THE COURT: Let's bring them in.

5 THE BAILIFF: Your Honor, the jury is entering the
6 courtroom.

7 (The jury enters the courtroom.)

8 THE BAILIFF: Your Honor, the jury is seated.

9 THE COURT: Thank you.

10 Welcome back, ladies and gentlemen.

11 Call your next witness.

12 MR. GOURLEY: Thank you, Your Honor.

13 The State calls Tim French.

14 THE COURT: Thank you.

15 THE CLERK: Place your left hand on the Bible and raise
16 your right.

17 TIMOTHY FRENCH

18 after being duly sworn, testified as follows:

19 THE WITNESS: I do.

20 THE CLERK: Please speak directly into the microphone.
21 State your name and spell your name for the record.

22 THE WITNESS: Timothy French, F-R-E-N-C-H.

23 MR. GOURLEY: May it please the Court, Your Honor?

24 THE COURT: Yes, sir.

25 DIRECT EXAMINATION

1 BY MR. GOURLEY:

2 Q Mr. French, where are you currently employed?

3 A I'm employed by the Beaufort County Sheriff's Office in
4 the forensic services laboratory.

5 Q And what do you do for the forensic laboratory?

6 A I'm a DNA analyst.

7 Q And how long have you been a DNA analyst?

8 A Going on 14 years.

9 Q Sir, if you will please briefly go over your education
10 and background?

11 A I have a Bachelor of Science degree from the State
12 University of New York in Portland. I majored in biology,
13 minors in chemistry and math.

14 Q Do you have any specialized training to analyze DNA?

15 A Since working in forensics, as far as DNA, I have
16 attended a course at the FBI Academy in Quantico, Virginia,
17 in conventional forensic serology. I also completed a
18 course in blood stain analysis system at the Serological
19 Institute and advanced DNA training at Marshall University
20 in Marshall, Virginia.

21 Q Do you have to have any continuing educational
22 requirements or recertifications?

23 A We're required to have annual training every year.

24 Q Do you have any experience doing DNA analysis?

25 A Yes.

1 Q For how long?

2 A The entire time I've worked at the Beaufort County
3 Sheriff's Department.

4 Q You've been previously qualified as a DNA expert?

5 A Yes, I have.

6 Q How many times?

7 A 19.

8 Q Mr. French, can you just briefly describe what DNA is?

9 A DNA is a hereditary molecule found in living creatures.
10 It's what makes us human and also makes us individual.

11 Q Does DNA differ from person to person?

12 A Yes.

13 Q Is there any exceptions to that rule?

14 A Identical twins.

15 Q Does DNA stay the same throughout a person's life?

16 A Most of the time.

17 Q How long has DNA technology and forensic testing been
18 around?

19 A Forensics, roughly, 30 years.

20 Q What type of fluids or substances can be tested for
21 DNA?

22 A Any type of biological material, fluids such as semen,
23 saliva, blood and then hair and skin cells.

24 Q Are you familiar with the term of known standard as
25 applied to DNA testing?

1 A Yes.

2 Q What is a known standard?

3 A Known standard is a sample that's collected from an
4 individual to represent their DNA.

5 Q Going to the lab itself, does the BCSO lab nationally
6 accredited?

7 A Yes.

8 Q Who is that by?

9 A ANAB, that's ANSI national accreditation board. ANSI
10 is American National Standards Institute.

11 Q What's required to obtain and maintain that
12 accreditation?

13 A They come in and inspect and look at the physical
14 facilities of the lab, the laboratory itself, the
15 bookkeeping, recordkeeping, look at our procedures, make
16 sure what's written down is proper, that we follow what we
17 actually have written down, making sure everybody is
18 qualified, annual proficiency tested and trained.

19 Q Are there quality assurance standards employed within
20 the lab itself?

21 A Yes.

22 Q What are those?

23 A There's a lot. Some are as simple as not having the
24 known standards and the questioned samples open at the same
25 time. There's also positive and negative controls that we

1 run for each step to make sure that the reaction is
2 performing the way it should.

3 Q When was the lab last certified?

4 A Earlier this year, in the spring.

5 Q Regarding the specific process of BCSO forensic lab
6 testing, can you walk us through that DNA testing?

7 A When we get -- we find out about evidence when we get a
8 request for an investigator or officer saying that there's
9 such and such a case with evidence they wanted tested. We
10 then ask for that evidence to be brought from our evidence
11 section.

12 Once we receive it, we always look to make sure it's
13 sealed in some type of container, like an envelope or bag.
14 Once we receive it into the lab, we log it into the system
15 and then proceed to do whatever type of analysis we need to
16 do.

17 Q Does BCSO have any particular process or software that
18 they use to conduct DNA analysis?

19 A DNA analysis itself?

20 Q Yes, sir.

21 A We have different types of instruments to identify a
22 DNA profile.

23 Q And you said you've been qualified as an expert 19
24 times?

25 A Yes, in DNA.

1 MR. GOURLEY: Your Honor, at this time, I'd move Mr.
2 French as an expert in DNA analysis.

3 MS. ROGERS: Without objection, Your Honor.

4 THE COURT: Ladies and gentlemen, in this case, Mr.
5 French is being qualified as an expert in the area of DNA
6 analysis. That allows him to give his opinion and the
7 reasons for his opinion and that is for you to use as you
8 see appropriate and as compared to other evidence in this
9 case.

10 MR. GOURLEY: Thank you, Your Honor.

11 THE COURT: Yes, sir.

12 BY MR. GOURLEY:

13 Q Mr. French, you said that you get notified that an
14 investigator has requested DNA be analyzed; is that correct?

15 A Yes.

16 Q I'm going to hand you what's been identified as State's
17 Exhibit No. 48. Do you recognize that document -- or that
18 item?

19 A Yes, I do.

20 Q And how do you recognize that?

21 A By the case number and also by my initials on the seal
22 on the bottom.

23 Q So you actually cut that open and get whatever contents
24 are in there, correct?

25 A That's correct.

1 Q And what, in particular was in that envelope?

2 A Seven swabs collected from the scene.

3 MR. GOURLEY: Your Honor, at this time, I'd move
4 State's Exhibit No. 48 into evidence.

5 MS. ROGERS: Without objection, Your Honor.

6 THE COURT: Without objection, it's in evidence.

7 (State's Exhibit No. 48 was admitted into evidence.)

8 BY MR. GOURLEY:

9 Q Mr. French, you stated that there were seven swabs from
10 the scene in Exhibit 48, correct?

11 A That's correct.

12 Q What is the first thing that you did with those
13 particular swabs?

14 A In this case, they were swabs of what they thought were
15 blood stains. So the first thing I did was look to see if
16 it looked like blood to me. If it did, then I do a
17 presumptive test, which tells me that yes, it might be
18 blood. And if it is, then I try to extract DNA from it to
19 get a profile.

20 Q All right. So you stated that you do a test to make
21 sure it is blood, correct?

22 A It's possible. It doesn't prove it is blood, it just
23 says it might be blood.

24 Q Presumptive test?

25 A Yes.

1 Q Did you do that in this case?

2 A Yes, I did.

3 Q And what did the presumptive test reveal?

4 A In those seven swabs, they all tested positive for the
5 presence of blood.

6 Q Now, Mr. French, what are you comparing that blood, or
7 presumptive blood to? Any known standard?

8 A I develop a profile from the blood.

9 Q Okay.

10 A And compare it to whatever DNA profile I have.

11 Q Okay. And in this case, you had known standards from
12 Joelette Holloway, Virgil Howard and Demetrius Thompson,
13 correct?

14 A Yes.

15 Q And you were able to compare whatever you analyzed to
16 those known standards?

17 A Yes.

18 Q Starting with item number one.

19 MR. GOURLEY: If we could go to State's Exhibit No. 23,
20 please.

21 Q What was item number one, Mr. French?

22 A Number one is a swab of suspected blood from the road.
23 It was labeled A, B, C at the scene.

24 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

25 (Pause.)

1 Q Those were swabs taken by Investigator Snider of items
2 identified as A and B, correct?

3 A A, B and C.

4 Q A, B and C.

5 MR. GOURLEY: Can you go to State's Exhibit No. 23,
6 please?

7 Q Is that correct, sir?

8 A Yes.

9 Q And what, if anything, do you do with that to be able
10 to analyze it and make a determination of who, if anybody,
11 that blood belonged to?

12 A I extract the DNA from the blood, develop a profile
13 through TrueAllele. In this case, it's a single
14 contributor, so I don't really need TrueAllele to determine
15 a mixture, but it also does this analysis for me. And I
16 compare it to those standards.

17 Q You mentioned TrueAllele, can you just briefly tell the
18 jury what TrueAllele is?

19 A TrueAllele is software that we use. When you have a
20 mixture of DNA, it's kind of hard to determine who might be
21 in that mixture. So we use software that sorts out the
22 mixture and the possible contributors in that mixture and
23 gives a statistical value to each of those.

24 Q So regarding item number one, TrueAllele wasn't
25 necessary because it was a single source; is that correct?

1 A As far as the mixture, yes, but it does generate the
2 stats for us.

3 Q And what, if anything, did you glean from item number
4 one? Whose blood was that?

5 A I found a match to Joelette Holloway. It was five
6 quintillion times more likely than a coincidental match to
7 an unrelated individual.

8 Q So quintillion is 15 zeros?

9 A 15 zeros.

10 Q Moving on to item number two. Where was that swab
11 taken, Mr. French?

12 A This is a swab of suspected blood on the road, and that
13 was labeled D.

14 MR. GOURLEY: If you will publish State's Exhibit 25.

15 Q Now, Mr. French, did you analyze item number two?

16 A Yes.

17 Q And did you make a determination of potential match
18 regarding whose blood that may be?

19 A Yes.

20 Q Who is that?

21 A Match to Virgil Howard is 66 sextillion times more
22 likely than a coincidental match to an unrelated individual.

23 Q So a Virgil Howard; is that correct?

24 A Yes.

25 Q And that was 21 zeros?

1 A 21 zeros.

2 Q Were Joelette Holloway and Demetrius Thompson excluded
3 from that?

4 A Yes.

5 Q Moving on to item number three, suspected blood, E, F,
6 J -- G and J, I apologize. State's 26, 27, 28. Did you
7 analyze those?

8 A Yes.

9 Q And did you determine any sort of match?

10 A It was a match to Joelette Holloway. It's five
11 quintillion times more likely than a coincidental match to
12 an unrelated individual.

13 Q And again, that's 15 zeros?

14 A Yes.

15 Q And again, Virgil Howard and Demetrius Thompson were
16 excluded, correct?

17 A That's correct.

18 Q Moving on to item number four, blood droplets K and L,
19 that's State's Exhibit 29 and 30.

20 MR. GOURLEY: Can you go to 30, please?

21 Q Mr. French, did you analyze those?

22 A Yes.

23 Q And what did you determine at that point?

24 A That's also a match to Joelette Holloway. It's five
25 quintillion times more likely than a coincidental match to

1 an unrelated individual.

2 Q Moving on to item number five, M and N, State's 31 and
3 32. Were you able to analyze those?

4 A Yes.

5 Q And what did you determine from those?

6 A Again, a match to Joelette Holloway. It's five
7 quintillion times more likely than a coincidental match to
8 an unrelated individual.

9 Q And again, Virgil Howard and Demetrius Thompson were
10 excluded?

11 A Yes.

12 Q Moving on to item number six, placard O, State's
13 Exhibit No. 33. Were you able to analyze that?

14 A Yes.

15 Q And did you make a determination as to a potential
16 match?

17 A Yes. That is a match to Virgil Howard, a 66 sextillion
18 times more likely than a coincidental match to an unrelated
19 individual.

20 Q And that's 21 zeros?

21 A Yes.

22 Q And Joelette Holloway and Demetrius Thompson were
23 excluded, correct?

24 A Correct.

25 Q Moving on to item number seven, the final swab. That's

1 placard P. Mr. French, were you able to identify whose
2 blood that was?

3 A Again, a match to Joelette Holloway. It's five
4 quintillion times more likely than a coincidental match to
5 an unrelated individual.

6 Q And Virgil Howard and Demetrius Thompson were excluded,
7 correct?

8 A That's correct.

9 Q In addition to the blood swabs, did you also analyze
10 any swabs taken from a knife?

11 A Yes.

12 Q I'm going to hand you what's been previously identified
13 as State's Exhibit No. 51. Do you recognize that item?

14 A Yes, I do.

15 Q What is that item?

16 A There are swabs in here from a knife. Item number
17 eight is a swab with a knife handle and buttons. And number
18 nine is two swabs from the knife blade.

19 MR. GOURLEY: Your Honor, at this time, the State moves
20 to introduce State's Exhibit No. 51 into evidence.

21 MS. ROGERS: Without objection.

22 THE COURT: Without objection, it's admitted.

23 (State's Exhibit No. 51 was admitted into evidence.)

24 BY MR. GOURLEY:

25 Q Mr. French, looking at item number eight, can you

1 identify what item number eight was in your report?

2 A It's a swab from a knife handle and button.

3 Q Were you able to determine any sort of matches
4 regarding that?

5 A This involved a mixture of DNA. I got a match to
6 Joelette Holloway that's 971 million times more likely than
7 a coincidental match to an unrelated individual. And also a
8 match to Demetrius Thompson is 53.6 million times more
9 likely than a coincidental match to an unrelated individual.
10 Virgil Howard was excluded.

11 Q So Mr. French, I apologize, but you found that Joelette
12 Holloway's DNA on there was 971 million times more likely,
13 correct?

14 A Yes.

15 Q And Demetrius Thompson's DNA was 53.6 million more
16 likely, correct?

17 A That's correct.

18 Q And that swab came from the knife handle and button?

19 A Yes.

20 Q Moving on to item number nine, which is a swab of the
21 knife blade. Were you able to make any sort of
22 determination as to whose DNA was on that?

23 A Yes, that also involved a mixture. And a match to
24 Joelette Holloway is four quintillion times more likely than
25 a coincidental match to an unrelated individual. And a

1 match to Demetrius Thompson is one quadrillion times more
2 likely than a coincidental match to an unrelated individual.
3 And Virgil Howard was excluded.

4 Q Mr. French, I'm going to show you what's been
5 previously identified as State's Exhibit No. 49. Do you
6 recognize that?

7 A Yes, I do.

8 Q What is that?

9 A These are swabs from the jacket.

10 MR. GOURLEY: Your Honor, at this time, I'd move to
11 introduce State's Exhibit No. 49.

12 THE COURT: Without objection?

13 MS. ROGERS: Without objection.

14 THE COURT: Without objection, it's admitted.

15 (State's Exhibit No. 49 was admitted into evidence.)

16 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

17 THE COURT: Yes, sir.

18 (Pause.)

19 BY MR. GOURLEY:

20 Q Mr. French, looking at your item number ten, the swab
21 of the jacket right front pocket, were you able to make a
22 determination as to whose DNA was on it?

23 A That was as well a mixture.

24 Q Yes, sir.

25 A And a match to Demetrius Thompson was 666 quadrillion

1 times more likely than a coincidental match to an unrelated
2 individual.

3 Q All right. Moving on to item number 11, the swab of
4 the jacket, the right sleeve, which we have identified int
5 his exhibit. Did you make a determination as to whose DNA
6 was on that?

7 A Yes.

8 Q Who was that?

9 A A match to Demetrius Thompson, it was 153 quintillion
10 times more likely than a coincidental match to an unrelated
11 individual. And a match to Joelette Holloway, 119 million
12 times more likely than a coincidental match to an unrelated
13 individual.

14 Q And Virgil Howard was excluded; is that correct?

15 A Yes.

16 MR. GOURLEY: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 (Pause.)

19 MR. GOURLEY: No further questions.

20 Thank you, Mr. French. Please answer any questions Ms.
21 Rogers has.

22 MS. ROGERS: No questions, Your Honor.

23 THE COURT: You may step down, sir.

24 MR. GOURLEY: I would just ask that Mr. French be
25 excused.

1 THE COURT: Any objection to him being excused?

2 MS. ROGERS: No, Your Honor.

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

4 MR. GOURLEY: Your Honor, the State calls Jeffrey
5 Maxwell.

6 THE CLERK: Place your left hand on the Bible and raise
7 your right.

8 JEFFREY MAXWELL

9 after being duly sworn, testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Please have a seat. Speak directly into
12 the microphone. State your name and spell your name for the
13 record.

14 THE WITNESS: Jeffrey Maxwell, J-E-F-F-R-E-Y,
15 M-A-X-W-E-L-L.

16 MR. GOURLEY: May it please the Court, Your Honor?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. MAXWELL:

20 Q Lieutenant Maxwell, where are you currently employed?

21 A Beaufort County Detention Center.

22 Q And what do you do for Beaufort County Detention
23 Center?

24 A I'm the intel officer.

25 Q And what does an intel officer do?

1 A One of my duties is I monitor the video visitation
2 inmate phone system.

3 Q Describe the inmate phone system.

4 A If somebody comes into our facility, they are
5 registered on the phone system, which is a voice
6 verification process they have to go through.

7 Q Do they have to set up a specific account?

8 A They go through and get enrolled in the system. They
9 have a unique PIN number that's given to them, that way,
10 each time they enroll, they'll have to put in their inmate
11 number -- the PIN number and then they'll have to say their
12 name or United States to the system can recognize them.

13 Q Are they notified their calls are subject to monitoring
14 or recording?

15 A Yes, sir.

16 Q And are those recordings maintained in the normal
17 course of business at the Beaufort County Detention Center?

18 A Yes, sir.

19 Q I'm going to hand you what has been marked as State's
20 Exhibit No. 44. Do you recognize this CD?

21 A Yes, sir.

22 Q And what's on that CD?

23 A Jail calls.

24 Q How do you recognize that?

25 A I have my initials on it.

1 Q So you reviewed it and initialed it?

2 A Yes, sir.

3 Q Was it true and accurate?

4 A Yes, sir.

5 MR. GOURLEY: Your Honor, at this time, I'd move
6 State's Exhibit No. 44 into evidence.

7 MS. ROGERS: I'd like to renew my prior objection.

8 THE COURT: Subject to your prior objection, it's
9 admitted into evidence.

10 (State's Exhibit No. 44 was admitted into evidence.)

11 MR. GOURLEY: Permission to publish?

12 THE COURT: You may.

13 (State's Exhibit No. 44 was published for the Court and
14 jury.)

15 MR. GOURLEY: No further questions, Your Honor.

16 THE COURT: Anything from this witness?

17 MS. ROGERS: No questions, Your Honor.

18 THE COURT: All right. Any objection to this witness
19 being excused?

20 MR. GOURLEY: No, Your Honor.

21 THE COURT: You're excused, sir. Thank you.

22 MR. GOURLEY: Your Honor, at this time, the State rest.

23 THE COURT: Ladies and gentlemen of the jury, at this
24 time, the State rest their case. There's a matter of law I
25 need to take up with the attorneys. I'm going to send you

1 back to your jury room. I'll bring you right back out and
2 let you know where we're going from here, okay?

3 Again, do not discuss this case, it would be
4 inappropriate to do so. Thank you.

5 (The jury exits the courtroom.)

6 THE BAILIFF: The jury is cleared, Your Honor.

7 THE COURT: Thank you.

8 Any motions?

9 MS. ROGERS: Yes, Your Honor.

10 THE COURT: Yes, ma'am.

11 MS. ROGERS: At this time, I'd like to make a motion
12 for a directed verdict. No evidence has been presented by
13 the State that Mr. Demetrius Thompson had the specific
14 intent to kill. The State has failed to meet their burden.
15 Because the State has failed to produce evidence sufficient
16 for attempted murder, then the charge of possession of a
17 weapon during a violent crime should likewise be ruled for a
18 directed verdict in favor of the defense. There is no
19 underlying violent crime.

20 THE COURT: Solicitor.

21 MR. GOURLEY: Thank you, Your Honor. As Your Honor is
22 aware, the standard at directed verdict motion is in the
23 light most favorable to the State. We have submitted
24 throughout the course of this trial both direct and
25 circumstantial evidence in this matter regarding the charges

1 of attempted murder. Obviously, we do have to prove as part
2 of the elements of attempted murder the specific intent to
3 kill and malice aforethought, which may be established by
4 direct evidence, circumstantial evidence or a combination of
5 both.

6 As Your Honor has heard, Mr. Thompson sliced Joelette
7 Holloway's neck. It would be the State's position that that
8 action alone is specific intent to kill. Obviously, going
9 for somebody's jugular vein, which is acknowledged by Mr.
10 Thompson in the jail call, is a common saying throughout the
11 world that if you want to kill someone, you go for the
12 jugular vein. Not only was there one cut, Judge, but there
13 was two cuts. We've also learned through the DNA testing
14 that Virgil Howard was also cut who was present at the
15 scene.

16 He also testified during the course of -- not
17 testified, but during the course of his statement, he also
18 noted that he was -- walked for approximately an hour and a
19 half clenching the razor blade cussing out, ticked off at
20 Joelette Holloway.

21 Certainly, I would submit to the Court that that is
22 circumstantial evidence of malice aforethought. He had the
23 conscious knowing. He immediately confronted her, an
24 altercation occurred. Whether she hit him or what, the end
25 result was that Joelette Holloway suffered a

1 four-to-six-inch laceration, gross anatomy being displayed
2 as testified by EMS.

3 I would certainly submit to the Court that that is
4 ample circumstantial and direct evidence with the DNA to
5 overcome directed verdict.

6 THE COURT: All right. Respectfully, as we all know,
7 intent can be shown by acts and conduct of the Defendant and
8 other circumstances which you may naturally and reasonably
9 infer intent. I think, obviously, the cutting with the box
10 cutter or whatever it is specifically is enough to get past
11 the specific intent.

12 I also agree with Mr. Gourley that the hour and a half
13 that he had walking with the blade in his hand shows
14 adequate -- the jury could find adequate malice
15 aforethought. And with that, we're going to send this to
16 the jury.

17 Ms. Rogers, is now a good time to go through with your
18 client about his right to testify or not to testify?

19 MS. ROGERS: Yes, Your Honor.

20 THE COURT: Mr. Thompson, if you will stand up and I'm
21 going to swear you in, sir.

22 THE CLERK: Sir, will you please raise your right hand?

23 DEMETRIUS THOMPSON

24 after being duly sworn, testified as follows:

25 THE DEFENDANT: Yes.

1 THE COURT: Mr. Thompson, you can put your hand down,
2 sir. I just need --

3 What's the matter?

4 MS. ROGERS: I apologize for missing that. I would
5 like to have a brief conversation with Demetrius first,
6 please.

7 THE COURT: All right. That's fine.

8 We'll go ahead and take a little over five minutes or
9 so.

10 (Short recess.)

11 THE COURT: Please be seated.

12 Has Mr. Thompson had time to speak with you, Ms.
13 Rogers?

14 MS. ROGERS: Yes, Your Honor.

15 THE COURT: All right. Mr. Thompson, stand up if you
16 will. I remind you that you're under oath.

17 Sir, again, you swear or affirm the testimony you give
18 will be the truth, so help you God?

19 THE DEFENDANT: Yes.

20 THE COURT: Thank you, sir.

21 Mr. Thompson, it's now come to that point in the trial
22 where you are permitted to testify on your own behalf if you
23 want to. However, also, sir, you are never required to
24 testify against yourself. The 5th Amendment to the
25 Constitution states that no person shall ever be compelled

1 to be a witness against themselves.

2 Sir, I want you to understand, though, that this right
3 that you have is a personal right. While I expect you to
4 talk to your lawyers about what they think is best, whether
5 or not you wish to testify is something that you choose. I
6 just need you to understand that if you do testify, you will
7 be subject to cross-examination by the State, just as every
8 other witness. And provided I rule that whatever questions
9 are relevant, they will be able to ask you. Do you
10 understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: All right, sir. Do you wish to testify in
13 this case?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: All right, sir. And is that your decision?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Thank you, sir. You may be
18 seated. I think that's freely made.

19 Do you have any other witnesses to put up, Ms. Rogers?

20 MS. ROGERS: No, Your Honor. The defense rest.

21 THE COURT: Okay.

22 MS. ROGERS: And at this time, I would like to renew
23 all of my motions and objections.

24 THE COURT: All right. We will go ahead and do that.
25 Go ahead.

1 MR. GOURLEY: Your Honor, I do have a proposed jury
2 charge for attempted murder I'd like to hand up to the
3 Court.

4 As I'm sure Your Honor is aware, Judge Hood had his
5 charge in a published opinion about a month ago. I did
6 speak with some individuals up at the AG's Office and how
7 comfortable they felt that that was going to survive both
8 the Court of Appeals and Supreme Court. And this is what
9 they proposed to me as far as the attempted murder given
10 that recent opinion. Judge Hood did go at length in
11 fashioning some various charges. I'm just providing that to
12 Your Honor for whatever it's worth, Judge. This intent
13 charge coupled with your general intent that you typically
14 charge, Your Honor, would be our position.

15 MS. ROGERS: Your Honor?

16 THE COURT: Yes.

17 MS. ROGERS: We would also like to request a jury
18 instruction for a lesser-included offense of assault and
19 battery first, Your Honor.

20 THE COURT: Assault and battery in the first degree.
21 What about ABHAN?

22 MS. ROGERS: We're not requesting ABHAN. We would like
23 assault and battery first.

24 THE COURT: Charge of assault and battery in the first
25 degree --

1 Hold on a second.

2 MR. GOURLEY: Yes, ma'am.

3 THE COURT: So the charge on assault and battery in the
4 first degree says that a person commits the offense of
5 assault and battery in the first degree if the person
6 unlawfully offers or attempts to injure another person with
7 the present ability to do so and the act either is
8 accomplished by means likely to produce death or great
9 bodily injury. And then great bodily injury is defined,
10 bodily injury which causes substantial risk of death or
11 which causes serious permanent disfigurement or protracted
12 loss or impairment of the function of a bodily member or
13 organ.

14 Yes?

15 MR. GOURLEY: Judge, we have an injury in this case,
16 therefore, it's the State's position that assault and
17 battery first degree is not appropriate. Certainly, I don't
18 have a good faith argument on the ABHAN, but as far as
19 assault and battery first degree, there was an injury and,
20 therefore, it would be excluded. It's not an appropriate
21 charge.

22 And again, Your Honor, if I may expound on it, ABHAN
23 does -- assault and battery first requires an injury of
24 another person involving the nonconsensual touching of a
25 private part, which we clearly don't have, or occurred

1 during the commission of a robbery, a burglary --

2 THE COURT: I understand that. I'm reading it straight
3 out of the statute. What I just read to you was what would
4 pertain to this case.

5 MR. GOURLEY: Right.

6 THE COURT: And again, it would be a person commits --
7 assault and battery first degree, it's an offer or attempt
8 to injure another person with the present ability to do so
9 and the act of either is accomplished by means likely to
10 produce death or great bodily injury.

11 So on assault and battery first degree, there does not
12 have to be an injury. And your argument is that in this
13 case there is an injury, correct?

14 MR. GOURLEY: That's correct, Judge. So I think it
15 would be more appropriate for the ABHAN where there was an
16 injury that occurred. I don't think there's been any
17 dispute, even by the defense that there is an injury in this
18 case, which would negate the assault and battery first
19 charge. He did not offer or attempt, he did.

20 THE COURT: Why don't you want an ABHAN charge?

21 MS. ROGERS: Your Honor, I mean, obviously, assault and
22 battery first would be better for the client. We're not --
23 I mean -- oh, and we also want a self-defense charge.

24 THE COURT: I'm sorry, you also want a what?

25 MS. ROGERS: A self-defense charge, I'm sorry.

1 THE COURT: As far as self-defense is concerned, I
2 heard testimony from him twice. I heard him state in his
3 interview with Investigator Byrd that he said that she
4 struck him first. I think you also asked if they saw
5 swelling in the right eye. I was kind of confused. You
6 kept saying the right eye, when it's the left eye, but --
7 and he said he just didn't know and didn't notice and that
8 he didn't complain of it. And then I also heard him say in
9 his jail call that she had hit him, and I heard the word
10 twice that she hit him.

11 I guess my only question for the self-defense charge if
12 he is -- there is a duty to retreat in self-defense and he
13 didn't retreat. And I've heard no -- I've heard nothing
14 about her having any type of weapon. So tell me, why am I
15 charging self-defense?

16 MS. ROGERS: I guess you weren't able to hear any
17 testimony about the weapon, so that was our initial thought
18 and that's where I was going with it, you know, in my
19 questioning earlier. But we weren't able to ask any
20 questions after that.

21 THE COURT: So my question is, what is the evidence
22 that shows that self-defense is appropriate in this case to
23 charge?

24 MS. ROGERS: That -- yeah, that Joelette Holloway hit
25 Demetrius in the face.

1 THE COURT: That's why this case could potentially be
2 an ABHAN because it sounds a lot like mutual combat. He
3 also has a duty to retreat and so unless you can show me
4 that somehow she -- or he feared for his life and that she
5 could kill him, I just don't see how --

6 MR. GOURLEY: Judge, if I may?

7 THE COURT: Yes.

8 MR. GOURLEY: I can hand up State V. Plumer. It's a
9 2021 case dealing with self-defense. I'm sure Your Honor is
10 aware. It's out of Greenwood County. The Court identified
11 four different elements that are required for a self-defense
12 charge. One being, as Your Honor has already pointed out,
13 retreating or having no probable means of avoiding danger.
14 But the other three, being without fault in bringing the
15 difficulty, the inability of losing life or a serious bodily
16 injury having occurred and acting as a reasonable and
17 prudent person would have believed that he was about to lose
18 his life or suffer serious bodily injury.

19 Certainly, from all the testimony that's been presented
20 here today, Demetrius left Super 8 Motel to go find Joelette
21 Holloway. He was the one that brought on the confrontation.
22 I don't believe that an individual striking somebody in the
23 face on a reasonable and prudent person's standard qualifies
24 or is justification for self-defense to slash her neck.

25 There has been no testimony that Joelette Holloway had

1 a weapon or had any means whatsoever of causing the losing
2 of life of Demetrius Thompson or any sort of serious bodily
3 injury. And again, he was not without fault in bringing on
4 the difficulty. He approached her, he confronted her.
5 There is a multitude of reasons why self-defense would not
6 be appropriate in this case, Judge.

7 THE COURT: Yes, Ms. Rogers?

8 MS. ROGERS: Your Honor, there has been some evidence
9 of an assault and battery first. We think that a
10 lesser-included is more than appropriate under these
11 circumstances.

12 THE COURT: So what are you asking for now then?

13 MS. ROGERS: Assault and battery first.

14 THE COURT: So you want to charge attempted murder and
15 assault and battery first, but not ABHAN?

16 MS. ROGERS: Yes.

17 MR. GOURLEY: And again, Your Honor, it's the State's
18 position --

19 MS. ROGERS: Yes.

20 MR. GOURLEY: -- that assault and battery first is not
21 appropriate given the statute, the offer/attempt language.
22 We don't have an offer and attempt. We have an act itself
23 causing the laceration to the neck.

24 If Your Honor is inclined to charge assault and battery
25 first, we must charge ABHAN under State V. Middleton.

1 THE COURT: Exactly.

2 MR. GOURLEY: So to that extent, though, Judge, I would
3 submit to the Court that ABHAN is the appropriate
4 lesser-included because we have an injury. Assault and
5 battery first is not appropriate because we have an injury
6 and as directly contemplated by the statute itself when it
7 says, offers or attempts. He was successful on his offer or
8 attempt if you want to characterize it that way. He
9 accomplished his goal of injuring her, which is outside of
10 assault and battery first. How I look at assault and
11 battery first is if somebody shoots a gun at somebody and
12 misses --

13 THE COURT: Misses, uh-huh.

14 MR. GOURLEY: -- that's an assault and battery first
15 because there is no injury. If they would have hit them,
16 that's an ABHAN. Then a potential attempted murder if I can
17 prove specific intent. But we don't have assault and
18 battery first here. We have malice. We have specific
19 intent. We've charged him with attempted murder. At best,
20 we have ABHAN.

21 THE COURT: I think we have an attempted murder case or
22 an assault and battery of a high and aggravated nature case.

23 My next question is, how long are you both going to
24 argue?

25 MR. GOURLEY: 15, 20 minutes, Judge, at most.

1 MS. ROGERS: Yes, Your Honor.

2 THE COURT: Same for you?

3 MS. ROGERS: Yes, Your Honor.

4 THE COURT: So it's up to this jury whether or not they
5 want to stay and finish today or if they want to come back
6 tomorrow.

7 If I can have one of the bailiffs to go back and ask
8 them. Just tell them that there's two options: They can
9 come in and we can argue and charge and if they want to stay
10 and deliberate, they can; or we can just hear closing
11 arguments and then they come back in the morning at 9:30.
12 But you can tell them that the case won't go to them before
13 after 5:00. In other words, they won't even have it for
14 them to begin their deliberations until after 5:00.

15 THE BAILIFF: Yes, ma'am.

16 THE COURT: Tell them either way is fine with us.

17 So we're back to -- I'm sorry. I'm going to charge
18 attempted murder and assault and battery of a high and
19 aggravated nature. Is the simple act of just swinging twice
20 enough evidence for self-defense?

21 Do you have any case law?

22 MR. GOURLEY: Again, Judge, it's going back to the
23 Plumer case that I handed up that dealt with the victim in
24 that case -- or the defendant in that case picking up a gun
25 and shooting at the victim after having been shot at -- or

1 after having shot at. But again, there's the elements
2 identified in the self-defense claim. Under a reasonable
3 and prudent person's standard, I don't believe that an
4 individual swinging at somebody two times, at best, and
5 making contact, which, again, we don't have any identifying
6 injuries other than maybe a left eye, maybe a right eye
7 being swollen qualifies under a reasonable and prudent
8 person's standard.

9 THE COURT: I don't think self-defense is appropriate
10 in this case. I really don't. Number one, he would have to
11 be able to show that it was through no fault of his own that
12 this difficulty occurred, and he can't. He wanted to do it.
13 He confronted her.

14 MS. ROGERS: Your Honor?

15 THE COURT: Yes.

16 MS. ROGERS: Have you already considered by renewed
17 motion for a directed verdict?

18 THE COURT: I have not yet.

19 MS. ROGERS: Okay.

20 THE COURT: So I'm going to bring the jury in.

21 What I want you to do, Ms. Rogers, is rest before the
22 jury and then I'm going to tell them we're going to come
23 back at 9:30 in the morning.

24 Bring them in, please.

25 THE BAILIFF: The jury is entering the courtroom, Your

1 Honor.

2 (The jury enters the courtroom at 4:00 p.m.)

3 THE BAILIFF: The jury is in the courtroom, Your Honor.

4 THE COURT: Thank you.

5 Ms. Rogers.

6 MS. ROGERS: Your Honor, at this time, the Defense
7 rest.

8 THE COURT: Ladies and gentlemen, at this time, the
9 Defense has also rested. What we have left to do in this
10 trial is hear closing arguments from the lawyers and I need
11 to charge you on the law. All of that is going to take, at
12 least, another hour, ladies and gentlemen, before we even
13 send the case to you. So I think the best course of action
14 would be to come back tomorrow morning.

15 Is everyone able to come back at 9:30 in the morning?
16 Is anyone unable to, I should say that? Raise your hand if
17 you're unable to be back in the morning?

18 (No hands raised.)

19 THE COURT: All right. So that's what we're going to
20 do, ladies and gentlemen. You'll come in at 9:30. You'll
21 hear arguments and charge until roughly 10:30 or 11:00 and
22 we'll send it to you for your deliberations.

23 Also, I will tell you, if you deliberate through the
24 lunch hour, we will be bring in food for you, whatever you
25 need, if that's the case.

1 Ladies and gentlemen, I need to caution you that
2 although you have heard all the evidence in this case, you
3 haven't heard the closing arguments of the lawyers, you have
4 not heard my charge on the law and it would not be
5 appropriate for you to discuss this case.

6 I remind you again when you go home, you can tell a
7 family member, friend, neighbor, again, you're sitting on
8 the jury of a criminal case. You can't say anything about
9 the case.

10 I look forward to seeing you all in the morning at
11 9:30. If anyone falls ill over the evening or has car
12 trouble in the morning, I need you to call to the Clerk of
13 Court's Office, because we're going to be looking for you
14 and I will send someone out to get you, okay? So I
15 appreciate it again, y'all. Goodnight. Get a good night's
16 rest.

17 (The jury exits the courtroom.)

18 THE BAILIFF: The jury is clear, Your Honor.

19 THE COURT: Do you want to go ahead and renew your
20 motions?

21 MS. ROGERS: Yes, Your Honor. At this time, I would
22 like to renew my motion for a directed verdict and then my
23 other motions as well as all my objections.

24 THE COURT: Okay. Mr. Gourley.

25 MR. GOURLEY: Yes, Your Honor. Again, to reiterate the

1 fact I believe there's been substantial circumstantial
2 evidence in the light most favorable to the State to support
3 the elements of attempted murder and possession of a weapon
4 during a violent crime. I can elaborate if Your Honor would
5 like.

6 THE COURT: Again, based on my earlier ruling, I do
7 think it's appropriate to send it to the jury.

8 So I think we have decided at this point that we are
9 going to charge attempted murder and ABHAN. Do we all agree
10 that ABHAN is also a violent crime as described by the
11 statute?

12 MR. GOURLEY: Yes, Your Honor.

13 MS. ROGERS: Yes.

14 THE COURT: All right. So they can still consider if
15 they convict him of either one the possession of a weapon
16 during the commission of a violent crime.

17 Yes, ma'am?

18 MS. ROGERS: Your Honor, I would also like to ask, if
19 possible, for an assault and battery in the second degree
20 jury charge.

21 THE COURT: If I charge that, I have to do assault and
22 battery in the first degree, so it goes all the way down the
23 line. It's already assault and battery in the second degree
24 if the person commits the offense of assault and battery in
25 the second degree, if a person unlawfully injures another

1 person or offers or attempts to injury another person and
2 either moderate bodily injury to another person results or
3 moderate bodily injury to another person could have
4 resulted.

5 Moderate bodily injury means physical injury that
6 involves prolonged loss of consciousness or the cause is
7 temporary or moderate disfigurement or temporary loss of the
8 function of a bodily member or organ or injury that requires
9 medical treatment and the treatment requires the use of
10 regional or general anesthesia. Moderate bodily injury does
11 not include one-time treatment and subsequent observation of
12 scratches, cuts, abrasions, bruises, burns, splinters or any
13 other minor injuries that do not ordinarily require
14 extensive medical care.

15 Mr. Gourley.

16 MR. GOURLEY: Your Honor, I would submit to the Court
17 that the injury that occurred in this case is not moderate
18 bodily injury. I think it's great bodily injury. It's
19 certainly not temporary. It's not something that's ever
20 going to disappear from Ms. Holloway's neck.

21 Again, as Your Honor has already pointed out, if we're
22 going to charge assault and battery second, we've got to go
23 with assault and battery first, which we've already
24 determined is not an appropriate charge in this case.

25 THE COURT: Yes.

1 MS. ROGERS: Your Honor, I would just like to respond
2 that I do think that it was moderate bodily injury. The
3 only kind of testimony that we were able to get out was from
4 EMS. She did say that it was moderate injury. She did say
5 that the victim's airway was clear. And she also stated
6 that they weren't required to call the trauma unit.

7 So I would argue that this is moderate bodily injury.
8 And although it looks bad and we were unable to present any
9 other testimony as to the severity of the wound or lack
10 thereof, what I've got is the testimony from the EMT, Katie,
11 who stated that it was moderate and she didn't need to call
12 the trauma team.

13 THE COURT: Did she say it was moderate?

14 MS. ROGERS: Yes, Your Honor.

15 MR. GOURLEY: I don't recall that, Judge.

16 Your Honor, if I may, I would again submit to the Court
17 that it is great bodily injury. Bodily injury which may
18 cause a substantial risk of death or which causes serious
19 permanent disfigurement --

20 THE COURT: My only concern about that, Mr. Gourley, is
21 two things: Number one, you didn't have a medical expert
22 testify to it, that would have gotten you past that hurdle.
23 Secondly, she wasn't here, so I couldn't see if she had
24 permanent disfigurement, which I'm going to take a wild
25 guess that she probably does have a big old scar across her

1 neck. I don't know that, though, so I can't guess. Okay?
2 That's the only thing that I have somewhat of an issue with.

3 MR. GOURLEY: I understand, Judge.

4 THE COURT: I'm just so concerned that charging
5 attempted murder, assault and battery of a high and
6 aggravated nature, assault and battery in the first degree
7 and assault and battery in the second degree is a lot for
8 this jury to go through. I think we really need to look at
9 the case law in regards to that. I think we're all going to
10 do that tonight.

11 I think we all need to go see what cases -- how judges
12 in recent cases have been charging juries when it comes to
13 ABHAN -- I think there's a lot of case law when it talks
14 about ABHAN and assault and battery first. Just reminding
15 everybody that this is not -- this ABHAN statute, I'm going
16 to say for you all, I'm sure it's the only one you've ever
17 known, but I know Ms. Gibbs back there and I'm going to go
18 ahead and date her, we had an old ABHAN statute that I used
19 to work under, which is very different. And I will say that
20 it just popped up in an old jury charge that I looked at
21 that I had. So it clearly is not the law anymore. So let's
22 just look at the case law.

23 Does anyone know when that new ABHAN charge -- I just
24 have to date myself because it was probably like 2000. It's
25 probably in the last -- just pull the statute and see when

1 it was redone.

2 MR. GOURLEY: Your Honor, I think it was 2010, I
3 believe.

4 THE COURT: 2010, okay. So I'm not as old as I think.

5 So y'all do some research. If you find anything you
6 want me to consider, I need you to e-mail it to both me and
7 Morgan, copying us both on it as well as opposing counsel.

8 And if you find anything better on self-defense that
9 you think will convince me, I mean, I'll listen to anything.
10 I'm just not in this case right now comfortable because I do
11 think -- I just don't see how this jury will be able to
12 determine by any of the evidence that he didn't bring about
13 the difficulty. Based on that alone, I just don't see how
14 it could be self-defense. And then I also think you have
15 the problem of the duty to retreat. So I really think not
16 bringing about the difficulty himself is the biggest
17 problem.

18 So then, as far as the verdict form is concerned,
19 whatever we decide on, obviously, I've got to put in if you
20 don't find him guilty of attempted murder, then you then
21 must consider, you know, ABHAN, then you just consider
22 assault and battery first degree, assault and battery in the
23 second degree. But see what y'all can find, okay?

24 And I would be very interested in seeing, Mr. Gourley,
25 anything from either one of you on whether or not a judge

1 has charged ABHAN and not assault and battery first, but
2 they have charged ABHAN and assault and battery second or
3 assault and battery third. Okay?

4 MR. GOURLEY: Yes, ma'am.

5 THE COURT: Okay. I appreciate it, y'all. We'll see
6 y'all in the morning.

7 (Court was adjourned for the day to reconvene on
8 Thursday, October 21, 2021.)

9 THURSDAY, OCTOBER 21, 2021

10 THE COURT: So Ms. Rogers, I received your e-mail.
11 Mr. Gourley, did you find anything?

12 MR. GOURLEY: Yes, Your Honor. I can hand up State V.
13 Middleton. It's specifically dealing with the assault and
14 battery first degree. To that extent, Judge, in this
15 particular case, the Court did not instruct the
16 lesser-included offense of assault and battery first degree.
17 There were two victims in the case, one of the victims did
18 suffer an injury. And according to this case, it was proper
19 for the Court to not have charged assault and battery first
20 degree as a result of him suffering an injury. That's
21 exactly what we talked about yesterday.

22 So to that point, I don't feel that the evidence in
23 this case fit the elements of assault and battery first
24 degree given the fact that the victim in this case did
25 suffer an injury. The injury did not occur during the

1 course of a robbery, burglary, et cetera as contemplated by
2 the statute.

3 (Pause.)

4 THE COURT: Yes, ma'am?

5 MS. ROGERS: Your Honor, I have a response to that. In
6 Middleton -- and I understand you just read that, but in
7 Middleton, the defendant requested a jury charge on
8 lesser-included offense of assault and battery first degree.
9 The circuit court declined to charge. The Supreme Court
10 deemed this to be error. The court, ultimately, found error
11 was harmless because the jury could only reach one
12 conclusion, that appellant attempted to murder the victim.
13 Thus, in light of this evidence, the court noted that the
14 erroneous jury charge did not contribute to the verdict
15 beyond a reasonable doubt.

16 Unlike Middleton, in this case, the Defendant is
17 requesting a charge of lesser-included offense to attempted
18 murder, ABHAN, assault and battery first, assault and
19 battery second and third. It is Defendant's position that
20 failure to charge a lesser-included offense would constitute
21 an error of law. And unlike Middleton, the evidence in this
22 case is capable of more than one conclusion as there was no
23 testimony from the victim and no testimony from a physician
24 regarding the extent of injuries and what medical treatment
25 was required.

1 And if Your Honor will allow, I do have additional
2 argument on that.

3 THE COURT: Go ahead.

4 MS. ROGERS: In State V. Williams, the defendant was on
5 trial for attempted murder. Defendant had requested the
6 court charge the jury on the lesser-included offenses.
7 Initially, the Court of Appeals held that the circuit court
8 erred by refusing to charge the jury on lesser-included
9 offense of attempted murder, specifically referencing
10 assault and battery first. The Court ultimately held the
11 error was harmless because it didn't contribute to verdict,
12 as the evidence yielded only the conclusion that the
13 defendant acted with malice aforethought and attempted to
14 commit murder. This case went up to the Supreme Court.

15 The Supreme Court held that the court did not err in
16 refusing to charge the jury on the lesser-included offense
17 because regardless of which version of defendant's theory
18 the jury believed, the jury could not have found him guilty
19 of a lesser-included offense. Under the State's version,
20 the defendant was guilty of attempted murder and under the
21 defense's theory, the defendant was not guilty of any
22 charge.

23 Unlike Williams, in this case, there is no victim
24 testimony and no medical evidence of extent of injury. The
25 defense asserts that the evidence is certainly capable of

1 more than one conclusion and failure to charge would
2 constitute an error of law.

3 THE COURT: My problem with this case is that under the
4 facts -- the case in Middleton talks about attempting to
5 shoot someone and it didn't strike that person. And that's
6 a difference in this case because, clearly, the woman's neck
7 was cut.

8 Now, the extent of the injury may be up for debate
9 since there was no victim testimony and there was no medical
10 testimony, but there was testimony by the paramedic that
11 went to the scene. She said she could see her gross
12 anatomy. You could clearly see in the picture whether or
13 not -- I mean, it was close to the jugular. And we clearly
14 can see she bled a lot.

15 I can tell you, as far as the facts of this case or our
16 case is concerned, assault and battery in the first degree
17 is not appropriate because once you take out what pertains
18 to our facts, all it can be is an offer or an attempt. In
19 this case, it was more than an offer or an attempt. It was
20 actually -- he landed the blade on her neck and she was
21 injured and she did get medical treatment. So it wouldn't
22 be appropriate to charge assault and battery in the first
23 degree because of the facts of our case.

24 The question then becomes whether or not it would be
25 appropriate to jump over and to charge assault and battery

1 second degree because the jury potentially could find that
2 there was moderate bodily injury. And that's my real
3 question, is whether or not you can jump over the assault
4 and battery first degree and go from attempted murder to
5 ABHAN to assault and battery in the second degree.

6 Anyone have an opinion on that?

7 MR. GOURLEY: Judge, candidly, I was not able to find
8 any case law regarding that particular issue. I would
9 submit to the Court this is not moderate bodily injury.
10 There is no evidence of moderate bodily injury. Everybody
11 knows the saying "going for the jugular" is to kill
12 somebody. There's ample evidence for a risk of loss of life
13 or serious injury.

14 THE COURT: We all have to remember, for them to be
15 able to -- they would have to -- to find him guilty of
16 either -- I'm sorry, to find him guilty of the ABHAN, they
17 would have to find there was great bodily injury. So if
18 there wasn't great bodily injury, they couldn't find him
19 guilty of ABHAN. But it really -- that one doesn't matter
20 because if they already found that he had the intent to
21 kill, then you don't even get to the ABHAN. So I think it
22 takes care of itself. I really do. I don't think you need
23 -- because, again, then he should be acquitted.

24 The real question in this case is number one, under
25 attempted murder, did he attempt to kill her? Number one,

1 that's the question that is before the jury for the
2 attempted murder. Then if they say no, there was no intent
3 to kill, then the next question would be, under the ABHAN
4 statute, whether or not there was great bodily injury. And
5 that's for the jury to determine with the facts that they've
6 gotten.

7 I mean, that's for you, Ms. Rogers, to argue that
8 there's no victim. There is no medical testimony by the
9 doctor that treated her. How are you supposed to make a
10 determination of great bodily injury? And if you can't make
11 a determination, obviously, that's reasonable doubt as to an
12 element of the offense and you can find him not guilty.

13 So I think that's the way it goes. I think it's -- I'm
14 comfortable it's not going to be reversed. I also know that
15 if we were to try to do the lesser-includeds, I think it's
16 just going to get really messy and this jury is not going to
17 understand.

18 So I'm very comfortable to follow the case law that you
19 sent me. And if you would like to go ahead and just make as
20 Court's Exhibits after -- you don't have to do it right now.
21 Let's do it after your arguments and after I charge them. I
22 will give a note for the record for what you sent me last
23 night. We will also include, obviously, the Middleton case
24 and go from there. So when you put in the Williams case,
25 you need to put in the Supreme Court case.

1 Anything else before we --

2 MR. GOURLEY: Judge, the only additional charge I would
3 request is in the allegations in this case is the voluntary
4 intoxication charge. Defense counsel has hammered the fact
5 that he was intoxicated; that he did cocaine and drugs and
6 alcohol all night, even went to the point that he was in
7 some kind of drug-induced rage. At this point in time, I
8 think voluntary intoxication is appropriately applicable.

9 THE COURT: Let me see which one you have. Let me just
10 look.

11 (Pause.)

12 THE COURT: I mean, it would be -- when voluntary
13 intoxication --

14 MR. GOURLEY: Judge, I'm fine with voluntary
15 intoxication is not a defense. I mean, the Defendant's own
16 statement, he has admitted and conceded he was doing crack
17 cocaine and drinking a bottle of vodka hours before. That
18 was in the defense's opening argument, that was in his
19 statement.

20 THE COURT: So I'm fine with a charge that says
21 voluntary intoxication is not an excuse for or a defense to
22 a crime regardless of whether the crime is one involving
23 general or specific intent. This rule also extends to the
24 voluntary ingestion of drugs.

25 A person who voluntarily ingest alcohol or drugs and

1 thereby becomes intoxicated is no less responsible for their
2 acts while in such a condition. If one voluntarily drinks
3 intoxicating liquors, wine or beer or ingest drug and
4 becomes intoxicated to whatever degree, and if while in that
5 condition commits an act which would be a crime if it had
6 been committed by a sober person, the fact of intoxication
7 would not relieve the intoxicated person from
8 responsibility.

9 MS. ROGERS: Your Honor?

10 THE COURT: Yes.

11 MS. ROGERS: If I may, I'd like to object to that
12 charge. We aren't arguing that voluntary intoxication. I
13 would like to request a charge of whether it's a
14 voluntariness of the statement, but we haven't argued -- and
15 I heard the State argue that voluntary intoxication is
16 negating intent. Like, that's not -- we haven't argued that
17 at any point, so I would like to object to that.

18 MR. GOURLEY: Judge, it was asked during
19 cross-examination of Investigator Byrd that he had induced
20 drugs, crack cocaine, alcohol --

21 THE COURT: It could have gone for two purposes. It
22 could have gone to trying to lessen his responsibility for
23 the act and -- and I think the way he answered the question,
24 I think he was attempting to do that. But, obviously,
25 you're trying to use it to show the statement was

1 involuntary?

2 MS. ROGERS: Yes.

3 THE COURT: So I think it can be for both purposes, so
4 I actually think this is appropriate. I'm going to go ahead
5 and charge it.

6 MS. ROGERS: Your Honor?

7 THE COURT: Yes.

8 MS. ROGERS: Are you going to do a voluntariness of his
9 statement charge as well? Since it serves two purposes, I
10 would like that as well because that's our issue, is whether
11 or not his statement was voluntary.

12 THE COURT: Yes, I think that is appropriate. And the
13 reason why, obviously, for the record is that my standard of
14 voluntariness is by a preponderance of the evidence.
15 Obviously, a jury has to decide beyond a reasonable doubt
16 the statement was voluntary. So there is a voluntariness of
17 statement charge.

18 Let's do this, I'm going to bring the jury and I'll let
19 you all argue and charge. I'm going to find the
20 voluntariness of statement charge. And what we will do is
21 we will break really briefly after your closings before I
22 charge and I'll let you know.

23 MR. GOURLEY: Judge, just briefly?

24 THE COURT: Yes.

25 MR. GOURLEY: Are you charging self-defense?

1 THE COURT: No.

2 MR. GOURLEY: Thank you.

3 THE COURT: We've talked about this. There is no way
4 that the jury can find that he was without fault in bringing
5 about the difficulty. He went to fight.

6 MR. GOURLEY: One more thing, Judge. The attempted
7 murder charge, the proposed charge, are you charging that or
8 another charge?

9 THE COURT: Oh, I'm just doing my regular attempted
10 murder charge.

11 MR. GOURLEY: Okay. Thank you, Judge.

12 THE COURT: So I'm just reading a case and it's kind of
13 coming to me what I remember it saying. It says something
14 like in this case, certain statements have been admitted --
15 actually, it's just one. Let's just say it's one statement
16 that has been admitted. The jail calls are not a statement.
17 So in this case, a statement was admitted. And while it was
18 admitted by the Court, it's up to you, the jury, to find
19 beyond a reasonable doubt whether the statement was freely
20 and voluntarily given under the totality of the
21 circumstances before you may consider it. And then it says
22 something like you can consider the age and intelligence and
23 all this to determine the voluntariness. I just remember it
24 kind of listing a few things.

25 Did you want that?

1 MS. ROGERS: Yes, that's what I'm thinking of. I just
2 don't know where it is.

3 THE COURT: Oh, here we go. The potential
4 circumstances include --

5 MS. ROGERS: Oh, here it is.

6 THE COURT: Did you find it?

7 MS. ROGERS: Yes.

8 THE COURT: Would you read it to me?

9 MS. ROGERS: A statement alleged to have been made by
10 the Defendant has been admitted into evidence in this case.
11 While the Court has determined that the statement is
12 admissible, I instruct you that you make the ultimate
13 decision of whether or not the Defendant made the statement.
14 If the Defendant did make the statement, you must determine
15 whether the statement was made by the Defendant voluntarily
16 and or his own free will. This means that the statement was
17 not caused by pressure, force, fear, threats, coercion, or
18 intimidation, or by hope or a promise of leniency or a
19 reward of any kind.

20 In determining whether the statement was voluntary, you
21 should consider both the characteristics of the Defendant
22 and the details of the questions. And then it has some of
23 the factors that you must consider are the age of the
24 Defendant and it list --

25 THE COURT: Okay. Let me see that.

1 All right. I will charge that as well.

2 Anything else from the State?

3 MR. GOURLEY: No, Your Honor.

4 THE COURT: From the Defense?

5 MS. ROGERS: Nothing from the Defense, Your Honor.

6 THE COURT: All right. Let's bring the jury out.

7 THE BAILIFF: The jury is entering, Your Honor.

8 THE COURT: Thank you.

9 (The jury enters the courtroom.)

10 THE BAILIFF: The jury is seated, Your Honor.

11 THE COURT: Thank you.

12 Good morning, ladies and gentlemen. It's a pleasure to
13 see you all. As I told you yesterday, what we have left to
14 do in the trial of this case is hearing closing arguments
15 from the attorneys, I then need to charge you on the law
16 that's applicable to this case and send it to you for your
17 deliberations.

18 So with that said, Mr. Gourley.

19 MR. GOURLEY: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 CLOSING ARGUMENT BY MR. GOURLEY

22 MR. GOURLEY: I told y'all at the start of this trial
23 actions speak louder than words. And you've seen the
24 actions and end result of Demetrius Thompson on December
25 5th, 2020.

1 He's been charged with attempted murder. What is
2 attempted murder? Ladies and gentlemen, I have to prove to
3 you beyond a reasonable doubt that Demetrius Thompson
4 specifically intended to kill Joelette Holloway with malice
5 aforethought.

6 What's malice? Ill will and hatred towards a person.
7 Malice can come about at any point in time. It's not a plan
8 that has to be devised long before any action takes place.
9 It can happen in the snap of the fingers. It can happen in
10 the time it takes to unfold a knife blade and slice a
11 person's throat. That's exactly what Demetrius Thompson
12 did.

13 Ladies and gentlemen, how do we know that he
14 specifically intended to kill Joelette Holloway? What did
15 the evidence show? It showed the night before, Demetrius
16 and Joelette spent the night at the Super 8 Motel. You
17 heard Demetrius in his statement. He woke up the next
18 morning, he gave Joelette some money to book another night.
19 She didn't. You heard Ernest Holmes. He came and picked
20 her up and dropped her at her house. Demetrius was pissed.
21 He was angry. He was upset. He felt he was being taken
22 advantage of by Joelette.

23 So what did he do? What did he say he did? He left.
24 He walked two hours clenching a razor blade, cussing her
25 name. Two hours, ladies and gentlemen. You heard

1 Investigator Byrd, that's not long enough time for you to
2 calm down, for you to chill out, for you to get over the
3 little bit of money that you supposedly gave her to book
4 another night? No.

5 So what did he do? He walked to Rue Du Bois Lane where
6 she lives. Walked there, saw her hanging out with a friend.
7 What did he do? Immediately confronted her, Where's my
8 money? Joelette said, Go talk to my mom. No, I'm here to
9 talk to you. Where's my money? Clenching his razor blade
10 that he's carried for the last two hours cussing her name.

11 What happened? Well, Mr. Thompson says that Joelette
12 hit him twice. We didn't see any injuries. We saw maybe a
13 swollen left eye or maybe a swollen right eye, I'm not quite
14 sure about that. No injuries on his face, no busted lip, no
15 nothing. Regardless, ladies and gentlemen, that doesn't
16 give you the right to take out a razor blade that he's been
17 clenching for two hours and slice her throat. Slice her
18 open like a Vienna sausage.

19 You heard the jail call. This remorseful person that
20 the defense wants to display talked about ten days later on
21 the jail call, laughing how he slit her throat, how it felt
22 good, how he cut her open like a Vienna sausage. That is
23 specific intent, ladies and gentlemen. That is malice
24 aforethought. Cutting somebody's throat, going for the
25 jugular. He didn't slice her on the arm. He didn't slice

1 her on the chest. He cut her where he could kill her.

2 She's lucky to believe alive. The amount of blood that
3 she lost while she was laying in front of her mother's
4 porch, bleeding through her neck, trying to stop the
5 bleeding while her mom's on the phone with 911. This is a
6 significant amount of blood. This isn't a scratch. This
7 isn't a minor injury as the defense wants to say. Oh, it
8 looks bad, but it's not really that bad. She is lucky to be
9 alive.

10 The defense wants to paint Demetrius Thompson as
11 somebody who was doing drugs, drinking all night, in a rage,
12 severely remorseful as a result of his actions. You heard
13 the jail call ten days after he did what he did bragging
14 about what he did, laughing about what he did, that's not a
15 remorseful person.

16 Let's also talk about, she said he dropped the knife by
17 the side of the road. You've heard the testimony, he threw
18 the knife by the road. Not only did he throw the knife, he
19 closed it, then he tossed it. Then he walked a hundred or
20 200 feet down Effendi Road, took his jacket off, took his
21 hoodie off, stashed them in a trash bag that he could find
22 and ditched them, trying to hide.

23 Then ladies and gentlemen, he walked to his sister's
24 house. And you heard his sister testify, Get me the F off
25 this island. Does that sound like somebody who's

1 remorseful, who's truly sorry for what he did? He didn't
2 intend to do what he did? No. He wanted to flee. The only
3 reason why he turned himself in, you heard his sister,
4 because law enforcement was surrounding him. He didn't have
5 anywhere to go. He couldn't go anywhere. So instead, he
6 got out of the car. He wasn't meandering around the field
7 as the defense portrayed in their opening argument. He
8 walked through the field to go turn himself in to a deputy.
9 And yes, he admitted it; because all the evidence showed it.

10 There's no doubt, ladies and gentlemen, that Demetrius
11 Thompson slit Joelette's Holloway's neck. We have the
12 knife. We have the DNA both on the knife and on the jacket.
13 We have his confession. We have his jail call where he's
14 bragging about it. There's no question about that.

15 Finally, ladies and gentlemen, again, attempted murder
16 is specific intent and malice aforethought. Look at the big
17 picture, ladies and gentlemen. Look at the actions of the
18 Defendant. Look at the fact that he walked two hours before
19 he cut her throat cussing her name and immediately
20 approached her. Got into a confrontation with the end
21 result she was laying on the ground bleeding from her neck
22 while he's walking away tossing the knife, ditching his
23 clothes, going to his sister's to flee. That is specific
24 intent. That is attempted murder.

25 Ladies and gentlemen, the Judge is going to instruct

1 you on a lesser-included offense: Assault and battery of a
2 high and aggravated nature, ABHAN. What is ABHAN? ABHAN
3 does not require specific intent. It does not require me to
4 show beyond a reasonable doubt that he intended to kill
5 Joelette Holloway. What it does require me to show is a
6 great bodily injury occurred. How do we prove to you beyond
7 a reasonable doubt that this injury was a great bodily
8 injury?

9 Well, first of all, ladies and gentlemen, the one thing
10 you don't lose when you walk into this courtroom, like your
11 cell phone and smart watches and everything like that, is
12 your common sense, right? Common sense. This is a great
13 bodily injury, ladies and gentlemen. You heard the
14 paramedic testify that she was able to observe the gross
15 anatomy.

16 What is the gross anatomy? The veins, the muscles, the
17 carotid arteries, ladies and gentlemen. This wasn't just a
18 nick on the neck. You heard the Defendant talk about how he
19 nicked her jugular vein. That is a great bodily injury.
20 Please do not lose your common sense when you walk back
21 there and determine that.

22 Again, though, ladies and gentlemen, this isn't an
23 ABHAN case, this is an attempted murder case. This is not a
24 slice on a chest. This is not a slice on the arm. This is
25 a pointed attack on an individual's jugular vein to kill

1 her. Specific intent can be proven by direct or
2 circumstantial evidence. We have ample circumstantial
3 evidence to prove to you beyond a reasonable doubt that he
4 intended to kill her.

5 There's been some talk about the Defendant having done
6 drugs, having done alcohol. He said in his statement how he
7 was in a rage, he was still high. Let's talk about that for
8 a minute.

9 The 911 call came out at 1:35. He was picked up, back
10 at the LEC having a conversation with Investigator Byrd
11 within an hour. Did that man look like he was intoxicated?
12 Did that man look like he was high on drugs? Not at all.
13 He was having a coherent conversation, answering correctly,
14 thinking about what he had done, responding appropriately.
15 Not only that, ladies and gentlemen -- and you'll have it
16 back there with you. He wrote a statement, a very coherent
17 statement. It's not all over the place. It's the exact
18 version of what he just got done telling Investigator Byrd.

19 The Judge is going to instruct you as well that
20 voluntary intoxication is not a defense. Just because you
21 went on a bender and did a bunch of crack and drank some
22 alcohol doesn't grant you immunity from slicing somebody's
23 throat.

24 Finally, ladies and gentlemen, there's been some
25 assertions that Joelette may have struck Demetrius Thompson,

1 which in his mind as he stated on the jail call when he was
2 bragging about what he did is really self-defense. This
3 isn't a self-defense case. You're not going to be
4 instructed on self-defense. The fact that Joelette may have
5 struck him twice with her fist did not grant him the
6 authority to continue to use his razor blade and cut her not
7 once, on the neck, but twice, on the back of the head.
8 Right?

9 Ladies and gentlemen, this is attempted murder. This
10 is specific intent. This is malice aforethought. Go back
11 and look at everything and consider the Defendant's actions,
12 what he did, what he thought about and how he acted out,
13 where he went to with that razor blade. He went for the
14 jugular because he intended to kill her. It's as simple as
15 that. Thank you.

16 THE COURT: Ms. Rogers.

17 MS. ROGERS: Your Honor, may it please the Court?

18 CLOSING ARGUMENT BY MS. ROGERS

19 MS. ROGERS: Ladies and gentlemen of the jury, if
20 actions speak louder than words, let's look at Joelette
21 Holloway's action. She couldn't even be bothered to be
22 here. You didn't get her side of the story.

23 If actions speak louder than words, let's look at the
24 State's actions. They couldn't even be bothered to call one
25 witness who was present during the incident. They didn't

1 call the medical doctor to give you a medical opinion of the
2 injury. You don't lose your common sense when you get in
3 here. Fine. But you need the treating physician to tell
4 you about the injury and they didn't have that.

5 They haven't proven that her jugular vein was nicked.
6 They just have shock value, a picture of a bad wound.
7 They're trying to put up these pictures and the jail call to
8 distract you from the fact that they didn't prove their case
9 beyond a reasonable doubt. They didn't prove that my client
10 had specific intent to kill Joelette Holloway.

11 If actions speak louder than words, let's look at my
12 client's willingness to take responsibility and own up to
13 his actions. I stood up here before you at the beginning of
14 this trial and told you why you're here today. You're not
15 here because Demetrius is trying to avoid responsibility,
16 but the exact opposite of that. He just isn't guilty of
17 attempted murder.

18 The State has to prove my client had specific intent to
19 kill Joelette Holloway. There is no way that they proved
20 that. You saw that Demetrius was cooperate with law
21 enforcement from the beginning. He had been up all night.
22 He drank, he did drugs. And yeah, he got angry. He
23 acknowledged all of that. You saw his statement. He told
24 the truth. He never lied about being angry. He was
25 tearful, you saw it. You saw he was remorseful. He

1 shouldn't have done that to that girl. I hope she's okay.
2 He didn't hate her. He didn't want her to die.

3 If actions speak louder than words, really look at
4 Demetrius Thompson's actions. You have seen and heard
5 things that were difficult to hear and see, but we're not
6 hiding from the evidence. The State brought in a jail call.
7 When was that call made? Ten days later. The moment in
8 time required for attempted murder is at the time of the
9 offense, not ten days later. Specific intent isn't proven
10 by something someone says ten days later. He didn't want
11 Joelette Holloway to die. I hope she's okay. I didn't mean
12 to do that to that girl.

13 If you find that the State has not proven their case
14 beyond a reasonable doubt, you must find my client not
15 guilty of attempted murder. As the State came up here and
16 said, you are also going to be charged on assault and
17 battery of a high and aggravated nature. This offense
18 requires that the State prove to you beyond a reasonable
19 doubt that there was great bodily injury. Great bodily
20 injury is defined in the law, injury which causes a
21 substantial risk of death or which causes serious permanent
22 disfigurement or protracted loss or impairment of the
23 function of a bodily member or organ. That's what the
24 statute says.

25 Well, where is the evidence? We've seen evidence of a

1 cut on Joelette Holloway's neck. No evidence of how it was
2 treated other than to apply pressure. No medical evidence.
3 For all we know, Joelette Holloway put a Band-Aid on it. We
4 don't know. Why don't we know? Because the State has not
5 brought in a single witness to tell you. We don't have
6 permanent disfigurement either. Where is the evidence of
7 that? If Ms. Holloway had bothered to show up, you could
8 have judged that for yourself. Again, do not let the shock
9 value of a horrid picture sway your judgment on the law.

10 Demetrius Thompson isn't trying to hide from what he
11 did. He's not trying to get away from responsibility. He
12 is just not guilty of attempted murder. Because he's
13 overcharged and doesn't meet the elements of not only
14 attempted murder, but ABHAN, assault and battery of a high
15 and aggravated nature either, you should find him not
16 guilty. Thank you.

17 THE COURT: Ladies and gentlemen, at this time, we're
18 going to take a very short recess before I charge you on the
19 law that's applicable to this case. I'm going to ask you to
20 go back to your jury room, get a cup of coffee. We'll come
21 back in, I'll charge you on the law. And then when I send
22 you back, I'm going to send you with the evidence and
23 everything we have.

24 So again, do not discuss this case, it would be
25 inappropriate to do so. You haven't heard the law yet,

1 okay? Thank you.

2 (The jury exits the courtroom.)

3 THE BAILIFF: The jury is clear, Your Honor.

4 THE COURT: Any objections to the verdict form from the
5 State?

6 MR. GOURLEY: No, Your Honor.

7 THE COURT: Any objections from the defense?

8 MS. ROGERS: Not with the verdict form, Your Honor, but
9 I do have something I'd like to put on the record.

10 THE COURT: Okay. Go ahead.

11 MS. ROGERS: The State in their closing talked about
12 circumstantial evidence and as such, the Defendant would
13 like a Logan charge from Your Honor.

14 THE COURT: What would you like the Logan charge to
15 say?

16 MS. ROGERS: Beg the Court's indulgence.

17 THE COURT: Do you know what a Logan charge is?

18 (Pause.)

19 THE COURT: Do you know what my standard circumstantial
20 evidence charge is? I know your office does. It's the same
21 one I do all the time.

22 MS. ROGERS: Your Honor, could you print that for me?

23 THE COURT: The standard bench book is online. It's
24 what judges use 95 percent of the time. Every once in a
25 while, we supplement with Judge Anderson's book, but I can

1 tell you I don't know of any trial judge in the state right
2 now who doesn't charge circumstantial evidence and mere
3 suspicion is not enough and if the State relies on
4 circumstantial evidence, all the evidence must point to the
5 guilt of the defendant. So I believe that is what you're
6 looking for.

7 Anything else?

8 MS. ROGERS: No, Your Honor.

9 (Pause.)

10 THE COURT: Y'all ready to go?

11 MR. GOURLEY: Yes, Your Honor.

12 THE COURT: Ms. Rogers?

13 MS. ROGERS: Yes, Your Honor.

14 THE BAILIFF: The jury is entering, Your Honor.

15 THE COURT: Thank you.

16 (The jury enters the courtroom.)

17 THE BAILIFF: The jury is seated, Your Honor.

18 THE COURT: Thank you.

19 CHARGE ON THE LAW BY THE COURT

20 THE COURT: Madam Foreperson, members of the jury, you
21 followed very patiently and listened very attentively to the
22 presentation of the evidence in this case, and I want to
23 thank you for that.

24 It's now becomes the duty of the trial judge under the
25 Constitution of this state to charge and instruct you on the

1 law that's applicable to this case. And it's your duty as
2 jurors to accept and apply the law as the Court will now
3 state it to you.

4 As jurors, it is your exclusive duty to decide all the
5 issues of fact in this case. Both the State and the
6 Defendant, Mr. Thompson, have a right to expect that you
7 will carefully consider and evaluate the evidence and apply
8 the law of the case to the evidence. And by doing that,
9 both the State and the Defendant will receive a fair and
10 impartial trial in this matter.

11 Now, the State of South Carolina by the Bills of
12 Indictment in this case charges the Defendant, Demetrius
13 Deon Thompson, with the offenses of attempted murder and
14 possession of a weapon during the commission of a violent
15 crime.

16 Now, I remind you that the fact that the Defendant was
17 arrested, charged and indicted in this case is not evidence
18 in this case and cannot be considered by you as evidence of
19 guilt in this case, nor does it create any presumption or
20 inference of guilt. An indictment is simply the formal
21 written instrument which contains the charge that's made
22 against the Defendant. It's the formal document by which
23 this case is brought into the courtroom.

24 Now, the Defendant, Mr. Thompson, has pled not guilty
25 to these indictments; and that plea puts the burden on the

1 State to prove the Defendant guilty beyond a reasonable
2 doubt. A person charged with committing a criminal offense
3 in South Carolina is never required to prove himself
4 innocent. I charge you that it is an important rule of law
5 that a defendant in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be presumed
7 innocent of the crime for which an indictment was issued
8 unless guilt has been proven by evidence satisfying you, the
9 jury, of that guilt beyond a reasonable doubt.

10 This presumptions of innocence does not end when you
11 begin your deliberations, but it accompanies the Defendant
12 throughout the trial until you, the jury, reach a verdict of
13 guilt based on evidence satisfying you of that guilt beyond
14 a reasonable doubt.

15 Now, the presumption of innocence is like a robe of
16 righteousness placed about the shoulders of the Defendant
17 and it remains with the Defendant until it has been stripped
18 away by evidence satisfying you of the Defendant's guilt
19 beyond a reasonable doubt.

20 The presumption of innocence is not just a legal
21 theory. It's not just a legal phrase we use. It is a
22 substantial right to which every defendant is entitled
23 unless you, the jury, are satisfied from the evidence of the
24 Defendant's guilt beyond a reasonable doubt.

25 So, what is a reasonable doubt in the law? A

1 reasonable doubt is the kind of doubt that would cause a
2 reasonable person to hesitate to act in their most important
3 decisions.

4 The State has the burden of proving the Defendant
5 guilty beyond a reasonable doubt. And the term reasonable
6 doubt must be given its plain and ordinary meaning.
7 However, to the extent that I may define it for you, again,
8 a reasonable doubt is the kind of doubt that would cause a
9 reasonable person to hesitate to act in the most important
10 of their personal decisions.

11 The Defendant is entitled to every reasonable doubt
12 arising in this case. If upon any issue of fact essential
13 to a conviction, you have a reasonable doubt as to how that
14 issue should be resolved, you must resolve that reasonable
15 doubt in favor of the Defendant.

16 Some of you may have served as jurors in civil cases,
17 where you were told that it was only necessary to prove that
18 a fact is more likely true than not true, such as by what we
19 call the greater weight of the evidence of the preponderance
20 of the evidence. In criminal cases, the State's proof must
21 be more powerful than that. It must be beyond a reasonable
22 doubt.

23 Suspicion, no matter how strong, is insufficient to
24 convict a person charged with a crime. That the facts and
25 circumstances presented may seem suspicious and the

1 Defendant's guilt may seem probable, this is not sufficient
2 in the law to convict. Proof beyond a reasonable doubt is
3 proof that leaves you firmly convinced of the Defendant's
4 guilt.

5 Now, there are very few things in this world that we
6 know with absolute certainty. And in criminal cases, the
7 law does not require proof that overcomes every possible
8 doubt. If, based on your consideration of the evidence, you
9 are firmly convinced the Defendant is guilty of the crime or
10 crimes charged, you must find the Defendant guilty. If, on
11 the other hand, you think there's a real possibility that
12 the Defendant is not guilty, you must give the Defendant the
13 benefit of the doubt and find him not guilty.

14 Now, I remind you that during this trial, you and I
15 have certain duties to perform. As the judge, it's my
16 responsibility to preside over the trial of this case and I
17 also have the duty to rule on the admissibility of the
18 evidence that's offered during the trial. You are to
19 consider only the competent evidence before you. You are to
20 consider only the testimony that came from the witness stand
21 and as well as any other exhibits that we entered into the
22 record in this case.

23 I have the additional duty to charge you on the law
24 that's applicable to this case. I am the sole judge of the
25 law, and it's your duty as jurors to accept and apply the

1 law as I will now state it to you. If you have any idea as
2 to what the law is or what you think the law ought to be and
3 it does not agree with what I now tell you the law is, you
4 must abandon this idea because you are sworn to accept the
5 law and apply the law exactly as I state it to you.

6 In every case tried in this Court before a jury, the
7 jury is the sole and exclusive judge of the facts. A trial
8 judge cannot intimate, comment on, or make any statement to
9 a trial jury about the facts in a case. Since you, the
10 jury, are the sole judge of the facts in this case, you're
11 not to infer from what I have said during the progress of
12 this trial in ruling upon the admissibility of evidence or
13 otherwise or anything that I say now during the course of
14 this jury instruction that I have an opinion about the facts
15 of this case. The law does not allow me to have an opinion
16 about the facts in this case. This is a matter solely for
17 you, the jury, to determine.

18 Now, there are two types of evidence which are
19 generally presented during a trial: Direct evidence and
20 circumstantial evidence. Direct evidence is the testimony
21 of a person who claims to have actual knowledge of a fact,
22 such as an eyewitness. It is evidence which immediately
23 establishes a main fact to be proved and does not require
24 deduction. Circumstantial evidence is proof of a chain of
25 facts and circumstances indicating the existence of a fact.

1 It is evidence which immediately establishes collateral
2 facts from which the main fact may be inferred.

3 Circumstantial evidence is based on inference and not on
4 personal knowledge or observation.

5 Crimes may be proven by circumstantial evidence. The
6 law makes no distinction between the weight or value to be
7 given to either direct or circumstantial evidence. However,
8 to the extent the State relies on circumstantial evidence,
9 all of the circumstances must be consistent with each other,
10 and when taken together, point conclusively to the guilt of
11 the accused beyond a reasonable doubt. If these
12 circumstances merely portray the Defendant's behavior as
13 suspicious, the proof has failed.

14 The State has the burden of proving the Defendant
15 guilty beyond a reasonable doubt. This burden rests with
16 the State regardless of whether the State relies on direct
17 evidence, circumstantial evidence, or some combination of
18 the two.

19 Now, it is your duty as jurors to determine the
20 credibility of witnesses who have testified in this case.
21 Credibility simply means believability. It's your duty as
22 jurors to analyze and to evaluate the evidence and determine
23 which evidence convinces you of its truth.

24 In determining the believability of witnesses who have
25 testified in this case, you may believe one witness over

1 several witnesses or several witnesses over one witness.
2 You may believe a part of the testimony of a witness and
3 reject the remaining part of the testimony of that same
4 witness. You may believe the testimony of a witness in its
5 entirety or reject the testimony of a witness in its
6 entirety. You may consider whether any witness has
7 exhibited to you any interest, bias, prejudice or other
8 motive in this case. You may also consider the appearance
9 and manner a witness has while on the witness stand.

10 Normally, in a trial, a person cannot give what we
11 call opinion testimony. Normally, when a person testifies,
12 they must testify as to what they either saw, heard, or
13 sensed by smell or something of that nature. However, there
14 is an exception when someone is qualified because of
15 education or experience. They are permitted to give their
16 opinion in certain areas if the court qualifies them that
17 way. And that evidence is for you to use in any way you see
18 fit and give it the weight and credibility you believe is
19 appropriate.

20 Now, I instruct you and emphasize the fact the
21 Defendant did not testify is not a factor to be considered
22 by you in any way in your deliberations and in your
23 consideration on the question of the guilt or the innocence
24 of the Defendant. It must not be considered by you in any
25 manner whatsoever. A defendant has the Constitutional right

1 to remain silent and the assertion of this right must not be
2 considered by you in your deliberations.

3 I repeat, under your oath, you are to draw no
4 conclusion whatsoever from the fact the Defendant in this
5 case did not testify. The fact that the Defendant did not
6 testify should not even be discussed in the jury room. The
7 burden of proof, as I stated to you, is on the State. The
8 Defendant is never required to prove his innocence. The
9 burden of proof remains on the State to prove guilt beyond a
10 reasonable doubt.

11 Now, a statement alleged to have been made by the
12 Defendant has been admitted into evidence in this case.
13 While I determined that the statement is admissible, I
14 instruct you that you, the jury, make the ultimate decision
15 of whether or not the Defendant made the statement.

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

22 In determining whether the statement was voluntary, you
23 should consider both the characteristics of the Defendant
24 and the details of the questions. Some of the factors that
25 you may consider are: The age of the Defendant; the

1 Defendant's education or lack of education; the Defendant's
2 mental ability or capacity; the Defendant's IQ or
3 intelligence; the Defendant's background and environment;
4 the place and length of detention; the nature of the
5 questioning; and the advice or lack thereof to the Defendant
6 of his Constitutional rights including, but not limited to,
7 the right to remain silent; that any statement could be used
8 against him in a court of law; the right to have a lawyer
9 present; that if he could not afford a lawyer, a lawyer
10 would be appointed to represent him without any cost; and
11 that he could stop making a statement at any time.

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

15 The State has the burden of proving beyond a reasonable
16 doubt that the alleged statement was voluntary. If you
17 determine it was, you may give the statement any further
18 consideration that you deem proper. You must decide what
19 weight, if any, should be given to the alleged statement.
20 If you determine the alleged statement was not the free and
21 voluntary statement of the Defendant, you must not consider
22 the statement at all.

23 There are two indictments in this case. Each
24 indictment charges a separate and distinct offense. You
25 must decide each indictment separately on the evidence and

1 the law that's applicable to it.

2 Now, the first charge, the Defendant is charged with
3 the attempted murder of Joelette "Joey" Holloway. In order
4 to prove a charge of attempted murder, the State must prove
5 the Defendant specifically attempted to kill another person
6 with malice aforethought.

7 Malice is hatred, ill-will, or hostility towards
8 another person. It is the intentional doing of a wrongful
9 act without just cause or excuse and with an intent to
10 inflict an injury or under circumstances that the law will
11 infer an evil intent. Malice includes the absence of
12 justification, excuse and mitigation.

13 Malice aforethought does not require that malice exist
14 for any particular time before the act is committed, but
15 malice must exist in the mind of the Defendant just before
16 and at the time the act is committed. Therefore, there must
17 be a combination of the previous evil intent and the act.

18 Malice aforethought may be expressed or inferred. And
19 these terms "expressed" and "inferred" do not mean different
20 kinds of malice, but merely the manner in which malice may
21 be shown to exist. This is either by direct evidence or by
22 inference from the facts and circumstances which are proved.
23 Malice may be inferred from conduct showing a total
24 disregard for human life.

25 Also, to prove the charge of attempted murder, the

1 State must prove the Defendant had a specific intent to
2 kill. Intent means intending the result which actually
3 occurs; not accidentally or involuntary. Intent may be
4 shown by acts and conduct of the Defendant and other
5 circumstances from which you may naturally and reasonable
6 infer intent.

7 Now, ladies and gentlemen, in this case, if you find
8 that the State has not proven the Defendant guilty beyond a
9 reasonable doubt of attempted murder, you must then consider
10 whether or not he has committed the offense of assault and
11 battery of a high and aggravated nature.

12 Assault and battery of a high and aggravated nature
13 occurs when a person unlawfully injures another person, and
14 great bodily injury to another person results or the act is
15 accomplished by means likely to produce death or great
16 bodily injury.

17 Great bodily injury means bodily injury which causes a
18 substantial risk of death or which serious, permanent
19 disfigurement or protracted loss or impairment of the
20 function of a bodily member or organ.

21 Now, ladies and gentlemen, the Defendant is also
22 charged with possession of a weapon during the commission of
23 a violent crime. The State must prove beyond a reasonable
24 doubt that the Defendant was in possession of a firearm or a
25 knife or visibly displayed what appeared to be a firearm or

1 a knife during the commission of a violent crime.

2 A firearm means any machine gun, automatic rifle,
3 revolver, pistol or any weapon which will, is designed to or
4 may be readily converted to expel a projectile.

5 In order to find the Defendant guilty of possession of
6 a weapon during the commission of a violent crime, however,
7 you must first find the Defendant guilty of committing a
8 violent crime.

9 I charge you that it is the law of the State of South
10 Carolina that attempted murder and assault and battery of a
11 high and aggravated nature are both violent crimes under the
12 law.

13 I further charge you that voluntary intoxication is not
14 an excuse for or a defense to a crime, regardless of whether
15 the crime is one involving general or specific intent. This
16 rule also extends to the voluntary ingestion of drugs. A
17 person who voluntarily ingest alcohol or drugs and thereby
18 becomes intoxicated is no less responsible for his acts
19 while in such a condition. If one voluntarily drinks
20 intoxicating liquors or ingest drugs and becomes intoxicated
21 to whatever degree, and if while in that condition commits
22 an act which would be a crime if it had been committed by a
23 sober person, the fact of intoxication would not relieve the
24 intoxicated person from responsibility.

25 Madam Foreperson, members of the jury, as you retire to

1 begin your deliberations in this case, I wish to express the
2 hope that each of you will be mindful of the importance of
3 your duty here today. You're not called upon to serve as
4 jurors very often, and the proper performance of that duty
5 requires that each of you reach the height of freeing your
6 mind of all improper influences.

7 Please do not get the idea that I'm trying to intimate
8 to you how you should decide the case. As I've told you,
9 under the laws of the State of South Carolina, you, the
10 jury, are the sole judge of all facts and it would be highly
11 improper for me to influence you in the performance of that
12 duty.

13 But, ladies and gentlemen, as the presiding officer of
14 this court, I am vitally concerned that whatever verdict you
15 reach will be the result of you going back into your jury
16 room and confining your consideration to the evidence and
17 the law that you've heard in this courtroom, weighing it
18 fairly and impartially, as I have every confidence you will.

19 Madam Foreperson, I remind you, your verdict must be
20 unanimous. It must be the verdict of all jurors. And to
21 that end, my law clerk has prepared a verdict form. It
22 simply has the case caption and on this verdict form, there
23 are three questions: The first question states, As to the
24 charge of attempted murder of Joelette "Joey" Holloway, we
25 find the Defendant, Demetrius Deon Thompson, and then

1 there's a line for not guilty and guilty.

2 Ladies and gentlemen, don't infer anything from which I
3 put first. Every trial, we just reverse the guilty and not
4 guilty.

5 In this case, as to the attempted murder charge, if you
6 find the Defendant not guilty, it says you must then
7 consider whether or not the Defendant committed the offense
8 of assault and battery of a high and aggravated nature. So
9 it says go to number two if that's what you check.

10 If you do find him guilty of attempted murder, it says:
11 If yes, skip question number two and go straight to question
12 number three.

13 Question number two says: As to the charge of assault
14 and battery of a high and aggravated nature, again, of
15 Joelette "Joey" Holloway, we find the Defendant, Demetrius
16 Deon Thompson, again, not guilty or guilty.

17 In this question, if you find the State has not proven
18 the Defendant guilty of assault and battery of a high and
19 aggravated nature, you are to stop your deliberations. You
20 have reached a verdict for the Defendant.

21 If you do find him guilty of either attempted murder or
22 assault and battery of a high and aggravated nature, you are
23 going to go to question number three, which says: As to the
24 charge of possession of a deadly weapon during the
25 commission of a violent crime, we find the Defendant,

1 Demetrius Deon Thompson, again, either not guilty or guilty.

2 Madam Foreperson, under that, it says: I certify that
3 this is the unanimous decision of the jury and there's a
4 place for you to sign your name and date the verdict form.

5 Ladies and gentlemen, I just want to give you a couple
6 of things that I think you need to know. First off, I'm
7 going to send you back to your jury room for the very last
8 time and tell you not to begin your deliberations. I do not
9 want you to start your deliberations until you get the
10 evidence that they're going to bring back to you, as well as
11 my verdict form and my jury charge. This is verbatim what I
12 just read.

13 And I will tell you Madam Foreperson, it is broken down
14 into sections so you can easily find what you're looking
15 for, such as reasonable doubt or charges or anything else.
16 So I just want you to know that you can go through it and
17 find what it is I just charged you.

18 Ladies and gentlemen, I will also tell you that while
19 my court reporter, Ms. Williams, has been taking down
20 everything everyone says in this case, there's not a
21 transcript of the testimony in this case.

22 Madam Foreperson, if you want to hear trial testimony
23 played back, what I can do is bring you back into the jury
24 room -- I'm sorry, into the courtroom and I can play the
25 audiotape of that witness' testimony. The only thing that

1 you need to know that I am required to play that entire
2 witness' testimony, so the direct, cross, redirect, recross.

3 Ladies and gentlemen, also, lastly, you will have
4 everything back in the jury room that has been entered as an
5 exhibit in this case. I will tell you that there were some
6 what are called demonstrative exhibits that you are not
7 entitled to back there. If you do not have it back in your
8 jury room, you're not entitled to it because it was not
9 entered into the case as evidence.

10 So again, ladies and gentlemen, I appreciate your
11 patience. I'm going to send you back to your jury room. Do
12 not begin discussing the case. If there's something further
13 on the law that the lawyers want me to charge you, I'm going
14 to bring you back out here and charge you further. But if
15 not, I'm going to send you my charge, the verdict form and
16 the evidence in this case and you should begin your
17 deliberations.

18 Madam Foreperson, when the jury has reached a unanimous
19 verdict, I need you to knock on the jury room door and I'm
20 going to accept you back to the courtroom where I will take
21 the verdict form from the Foreperson.

22 You're excused. Thank you.

23 (The jury exits the courtroom at 10:57 a.m.)

24 THE COURT: Any exceptions or additions from the State?

25 MR. GOURLEY: None from the State, Judge.

1 MS. ROGERS: Your Honor, I would just like to renew my
2 prior request to charge on the lesser-included offenses of
3 assault and battery first, second and third.

4 THE COURT: Thank you. I appreciate it.

5 Let's get everything together. So we should be able to
6 hand everything to the jury and bring me out the alternates.

7 (Alternates enter courtroom.)

8 THE COURT: Ladies, thank you so much for hearing this
9 case. I appreciate it. I didn't lose any jurors, which is
10 unusual in these days of COVID, I have to tell you. Because
11 I have been losing jurors all throughout the State of where
12 I go.

13 At this time, I'm going to go ahead and excuse you from
14 the trial of not only this case, but as you know, I pulled
15 another jury -- I didn't pull it, but Judge McIntosh did and
16 we're going to begin that trial, I've got that jury coming
17 in at 11 o'clock. Hopefully, we'll get that done by today
18 or tomorrow. But I'm going to excuse you.

19 You are permitted when you go home now to discuss this
20 case, there's nothing wrong with that. The only thing I ask
21 is I have no idea how long this jury is going to deliberate,
22 I just don't want you talking to them until they've reached
23 a unanimous decision. So for any reason, they go overnight,
24 and I don't expect that to happen, but I just wanted to be
25 sure you don't talk to them.

1 Also, if you're interested in what the verdict is and
2 it's not printed in the newspaper tomorrow -- I will go
3 ahead and tell you the common tip is, if it's a guilty
4 verdict, it's typically published in the newspaper. If it's
5 not, it isn't. But you can always call the clerk of court's
6 office up here and just say what was the verdict in the case
7 against Mr. Thompson and anyone up there will be able to
8 answer your questions.

9 Thank you. I hope this week was all right. I know we
10 were a little bit disjointed. I've got to tell you, I've
11 been all over, but we really appreciate it. And just having
12 you all here, we've been able to move so many cases. I can
13 tell you that Judge Bonds is coming over and either he's
14 going to try the next case or I am and the other person is
15 going to go take guilty pleas and hear bond motions. We've
16 got a lot of work to do this week. But you just being here,
17 we're able to dispose of cases by other means, and we really
18 appreciate it. Thank you.

19 (The alternates were excused.)

20 (Court in recess awaiting a verdict.)

21 THE COURT: There was a note. The jury would like to
22 hear again the phone call, State's Exhibit 44.

23 I believe that's the jail call; is that correct?

24 MR. GOURLEY: That's correct, Judge.

25 THE COURT: And are you queueing it up?

1 MR. GOURLEY: I am, Judge.

2 THE COURT: And can we test it before we bring them in?

3 MR. GOURLEY: I would appreciate that.

4 THE COURT: Let's bring them in.

5 THE BAILIFF: The jury is entering the courtroom, Your
6 Honor.

7 (The jury enters the courtroom.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: Thank you.

10 Madam Foreperson, I understand the jury has asked to
11 hear again the telephone call, which was State's Exhibit 44?

12 MADAM FOREPERSON: That's correct, Your Honor.

13 THE COURT: Thank you, I appreciate it.

14 I have to tell you, though, as it was shown to you
15 before, it had the typed words on it, which is just the
16 demonstrative part of it. So the only thing I'm permitted
17 to do is the actual audio of it, so I just wanted to explain
18 that to you. But we'll go ahead and play it for you.

19 MADAM FOREPERSON: Thank you, Your Honor.

20 (State's Exhibit No. 44, the jail call, was played for
21 the jury.)

22 THE COURT: Is that what you wanted to hear?

23 MADAM FOREPERSON: Yes, Your Honor.

24 THE COURT: All right. I'll send you back to your jury
25 room for deliberations.

1 (The jury exits the courtroom.)

2 THE BAILIFF: The jury is clear.

3 THE COURT: Thank you.

4 We'll be at ease in this case.

5 (Court in recess awaiting a verdict.)

6 THE COURT: The jury came back and they want to hear
7 the same tape again.

8 (The Defendant is brought into the courtroom.)

9 THE COURT: Mr. Thompson, the jury is asking to hear
10 the recording again of your jail phone call, so we're going
11 to play it again.

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Let's bring them in.

14 THE BAILIFF: The jury is entering, Your Honor.

15 (The jury enters the courtroom.)

16 THE BAILIFF: The jury is seated, Your Honor.

17 THE COURT: Thank you.

18 Madam Foreperson, I understand y'all would like to hear
19 the phone call again; is that correct?

20 MADAM FOREPERSON: Yes, that's correct.

21 THE COURT: All right. We will play it for you.

22 MADAM FOREPERSON: When they had it up on the screen,
23 can we see that one again?

24 THE COURT: We can't see that one because that's -- the
25 testimony that was typed in was demonstrative and it didn't

1 go back to the jury as evidence.

2 MADAM FOREPERSON: Okay. Thank you.

3 (State's Exhibit No. 44, jail call, was played for the
4 jury.)

5 THE COURT: Is that all you wanted to hear?

6 MADAM FOREPERSON: Yes, ma'am.

7 THE COURT: All right. You may go back to your jury
8 room and continue your deliberations.

9 (The jury exits the courtroom.)

10 THE COURT: All right. We'll be at ease in this case
11 until we hear back from the jury.

12 (Court in recess awaiting a verdict.)

13 THE COURT: The jury has reached a verdict.
14 Are y'all ready to bring them in?

15 MR. GOURLEY: Yes, ma'am.

16 MS. ROGERS: Yes, ma'am.

17 THE COURT: Bring them in.

18 THE BAILIFF: The jury is entering the courtroom, Your
19 Honor.

20 (The jury enters the courtroom.)

21 THE BAILIFF: The jury is seated, Your Honor.

22 THE COURT: Thank you.

23 Madam Foreperson, I understand the jury has reached a
24 verdict?

25 MADAM FOREPERSON: Yes, we have, Your Honor.

1 THE COURT: Would you please hand it to the bailiff?

2 Would you please stand?

3 (Defendant stands.)

4 THE COURT: In the case of the State of South Carolina
5 vs. Demetrius Deon Thompson, Defendant, as to the charge of
6 attempted murder of Joelette Holloway, we find the
7 Defendant, Demetrius Deon Thompson, guilty. As to the
8 charge of possession of a deadly weapon during the
9 commission of a violent crime, we find the Defendant,
10 Demetrius Deon Thompson, guilty. Signed by our Foreperson.

11 You may be seated.

12 Would you like this jury to be polled?

13 MS. ROGERS: Yes, Your Honor.

14 THE COURT: Ladies and gentlemen, what I'm going to do
15 is when I call your juror number, hopefully, it's on your
16 badge still, I am going to ask you two questions. I am
17 going to say is this your verdict? The answer is yes or no.
18 And is this still your verdict, yes or no? I simply ask
19 that you wave to me when I say your number so I know who I'm
20 looking at.

21 Juror No. 9, is this your verdict?

22 JUROR NO. 9: Yes.

23 THE COURT: Is it still your verdict?

24 JUROR NO. 9: Yes.

25 THE COURT: Thank you.

1 Juror No. 326, is this your verdict?

2 JUROR NO. 326: Yes.

3 THE COURT: Is it still your verdict?

4 JUROR NO. 326: Yes.

5 THE COURT: Thank you.

6 Juror No. 407, is this your verdict?

7 JUROR NO. 407: Yes.

8 THE COURT: Is it still your verdict?

9 JUROR NO. 407: Yes.

10 THE COURT: Thank you.

11 Juror No. 40, is this your verdict?

12 JUROR NO. 40: Yes.

13 THE COURT: Is it still your verdict?

14 JUROR NO. 40: Yes.

15 THE COURT: Thank you.

16 Juror No. 59, is this your verdict?

17 JUROR NO. 59: Yes.

18 THE COURT: Is it still your verdict?

19 JUROR NO. 59: Yes.

20 THE COURT: Juror No. 390, is this your verdict?

21 JUROR NO. 390: Yes.

22 THE COURT: Is it still your verdict?

23 JUROR NO. 390: Yes.

24 THE COURT: Thank you.

25 Juror No. 63, is this your verdict?

1 JUROR NO. 63: Yes.

2 THE COURT: Is it still your verdict?

3 JUROR NO. 63: Yes.

4 THE COURT: Thank you.

5 Juror No. 8, is this your verdict?

6 JUROR NO. 8: Yes.

7 THE COURT: Is it still your verdict?

8 JUROR NO. 8: Yes.

9 THE COURT: Thank you.

10 Juror No. 202, is this your verdict?

11 JUROR NO. 202: Yes.

12 THE COURT: Is it still your verdict?

13 JUROR NO. 202: Yes.

14 THE COURT: Thank you.

15 Juror No. 107, is this your verdict?

16 JUROR NO. 107: Yes.

17 THE COURT: Is it still your verdict?

18 JUROR NO. 107: Yes.

19 THE COURT: Thank you.

20 Juror No. 61, is this your verdict?

21 JUROR NO. 61: Yes.

22 THE COURT: Is it still your verdict?

23 JUROR NO. 61: Yes.

24 THE COURT: Thank you.

25 Juror No. 249, is this your verdict?

1 JUROR NO. 249: Yes.

2 THE COURT: Is this still your verdict?

3 JUROR NO. 249: Yes.

4 THE COURT: Thank you.

5 Ladies and gentlemen, is there anything further
6 required from this jury?

7 MR. GOURLEY: Nothing from the State, Your Honor.

8 THE COURT: Anything from the defense?

9 MS. ROGERS: Nothing from the defense, Your Honor.

10 THE COURT: Can I see the attorneys for a second up
11 here?

12 (Sidebar conference.)

13 THE COURT: All right. Ladies and gentlemen, I would
14 tell you that normally, I would just go ahead and sentence
15 Mr. Thompson, but at this point, I have another jury that's
16 out here and they're waiting on me as well to continue the
17 trial of their case. What I just asked the attorneys if it
18 was acceptable for me to sentence him tomorrow morning.

19 I want to tell you thank you. I just so appreciate you
20 taking care of not only this case, but when you start -- or
21 I start a week with a trial roster, simply having people
22 here willing to serve allows us to discuss the cases in many
23 other ways, like a guilty plea or other matters. So I want
24 you to know that you not only have resolved this case, but
25 many others.

1 Again, I do have a second jury that we actually started
2 a trial while you were deliberating. I believe we have two
3 witnesses in that case and I will finish that up tomorrow.
4 I will also tell you that I will take some guilty pleas
5 today. Judge Bonds from Waltherboro will be back tomorrow
6 along with me and we'll be working all day tomorrow as well
7 hearing motions, taking -- setting bonds or reducing bonds
8 and also taking guilty pleas.

9 I will tell you that you have an exemption for the next
10 three years. I am going to excuse you and excuse you for
11 the remainder of the week. You are at this time permitted
12 when you go home to discuss this case, that's fine. The
13 only thing, ladies and gentlemen, if anyone calls you or
14 persist, you're certainly never required to talk about the
15 case. Sometimes the lawyers or the investigators want to
16 ask you kind of what your thoughts were about something in
17 particular. You're allowed to do that, but, certainly, you
18 are never required to talk to anybody. If you're not
19 interested in saying anything, just say no, thank you and
20 politely hang up.

21 So with that said, ladies and gentlemen, again, you've
22 been wonderful. I know we were a little disjointed this
23 week with judges coming in and out, but the jury panel has
24 been wonderful and you all have done your job. So I get to
25 excuse you again with my thanks and thanks from everyone

1 here.

2 I will tell you, and I've been doing this now for
3 almost 16 years, if you or a loved one or a victim or a
4 family member who is a defendant or, you know, son or a
5 daughter, you'd want to be looking at 12 people in the
6 community to decide the issue rather than just one judge. I
7 think our jury system is by far the best the world. And I
8 think we all have recognized that since COVID. It's been a
9 while since we've been out here being able to try cases like
10 this. I know everyone in this courtroom is grateful. No
11 one here has a job without you all coming, so we want to
12 thank you.

13 So at this time, I am going to excuse you. I know our
14 Foreperson is going to need to sign an indictment, but other
15 than that, you all are excused for the remainder of the
16 week. I will tell you, if you are interested in knowing
17 what sentence I give Mr. Thompson, you can certainly call to
18 the Clerk of Court's Office tomorrow. Sometimes it's in the
19 newspaper, sometimes it's not. So either way, but if you
20 want to call the Clerk of Court's Office, just ask and
21 anyone who answers the phone will be willing to help you.

22 So thank you again. Have a good week. They're
23 bringing the indictment for the Foreperson to sign. So
24 again, I appreciate it and I'm going to excuse you, ladies
25 and gentlemen. Thank you.

1 (The jury was excused.)

2 FRIDAY, OCTOBER 22, 2021

3 THE COURT: Yes, sir.

4 MR. GOURLEY: Yes, Your Honor. This is Demetrius
5 Thompson, indictment number 2020-GS-07-02336 and
6 2021-GS-07-01405 for attempted murder and possession of a
7 weapon during a violent crime. The jury found him guilty
8 yesterday. I have handed up the sentencing sheets. We're
9 just here for sentencing.

10 THE COURT: Do we have any victim or victim family
11 members who wish to speak?

12 MR. GOURLEY: Your Honor, the victim is not here
13 present today. We did make contact with her and let her
14 know about the conviction, though.

15 And I have the prior record whenever Your Honor is
16 ready.

17 THE COURT: Right now is fine.

18 MR. GOURLEY: Your Honor, he has a prior record, a
19 juvenile record in 1997 of lewd act on a minor --

20 THE COURT: I don't need to know his juvenile record.

21 MR. GOURLEY: Okay. From 1995, trespassing; 1996,
22 possession of marijuana; 1996, possession of marijuana;
23 2008, receiving stolen goods; 2013, A & B third degree;
24 2017, failure to register as a sex offender second offense;
25 out of Florida, possession of cocaine in 2005; 2006, sell or

1 delivery of cocaine; 2006, failure to register with sex
2 offender registry and an additional 2006, sell or delivery
3 of cocaine and failure to register with the sex offender
4 registry again.

5 THE COURT: Anything further from the State?

6 MR. GOURLEY: No, Your Honor. Your Honor, obviously,
7 presided over the case. You are fully aware of the facts of
8 the case. And we are recommending 14 to 19 years.

9 THE COURT: Thank you. That was what you offered him,
10 correct?

11 MR. GOURLEY: That was the offer, yes, Your Honor.

12 THE COURT: Okay. Thank you.

13 Ms. Rogers.

14 MS. ROGERS: Your Honor, I apologize. I don't want to
15 go out of order or anything, but yesterday, you had
16 mentioned me putting the e-mail I sent you on the
17 lesser-included offense on the record as a Court's Exhibit.
18 I did not remember to do that yesterday. I just wanted to
19 give you that before we forget.

20 THE COURT: Okay.

21 MS. ROGERS: Your Honor, yesterday, you had asked us if
22 we wanted you to do the sentencing today so you would have
23 more time to listen to Heather for mitigation. I don't want
24 to take a lot of time away from that. I do just want to
25 leave you with this, that, you know, I care about all of my

1 clients, that's why I'm a public defender, but Demetrius has
2 really made an impact on me. He's made an impact on all of
3 us. His family is here. His two sisters are here.

4 The reason that he's made an impact on us is because he
5 has really changed. You know, some people consider when
6 people go to jail that it's too little, too late, but that
7 hasn't stopped Demetrius. You know, it would be easy for
8 somebody to lose all hope when they're 43, they're sitting
9 in jail for an attempted murder case. But since then, he
10 has gotten his GED. He has got goals to go back to school.
11 He's completed a drug program.

12 And I don't have got a screen shot -- I mean, we all
13 sat there and saw the video of him in that interrogation.
14 You know, he is night and day different, Your Honor. You
15 know, that just goes to show what, you know, having people
16 that care about you, all of the difference that it makes.
17 He's off of drugs. We want him to continue on that. We
18 don't want to discourage that. We want to get him a
19 sentence that allows him to continue to have that, you know,
20 continue on that path to keep him motivated because we
21 really care about him.

22 THE COURT: How long has he been in jail?

23 MS. ROGERS: He's been in jail since December 5th of
24 2020, 319 days, Your Honor.

25 THE COURT: Okay.

1 MS. ROGERS: But, you know, I would like for you to
2 hear from Heather and Demetrius and I think his sister wrote
3 a statement as well.

4 THE COURT: Okay.

5 MS. PRICE: Good afternoon. If it pleases the Court?
6 I know that you have a copy and the State got a copy of the
7 statement. I am going to revisit that, but I also wanted to
8 talk about a few other points about our client. As Ms.
9 Rogers said, we have really come to care about him. He is
10 different in the fact that he has put forth a lot of effort
11 into changing, which you will hear about.

12 Mr. Thompson is tired, tired of the streets, tired of
13 the games, tired of the hustle. He's tired of the drugs and
14 the sadness and just all the BS that the street offers. It
15 doesn't get you anywhere. He's tired of the issues.
16 There's a saying in addiction that when a person is sick and
17 tired of being sick and tired, they will change.

18 This period that our client has been in the detention
19 center is literally the longest period of sobriety he's ever
20 had. He started smoking marijuana when he was nine years
21 old, he's 43. So he's never had this length of time to --
22 as an adult to be clear-headed enough to even think straight
23 and know what he wants.

24 During the time that he's been in the detention center,
25 he's rediscovered himself and he has taken stock of his life

1 and realizes that he does not want to be this person
2 anymore. I would like to say this is a spiritual awakening,
3 another term in the addiction world. I believe he's had
4 this. Without the spiritual awakening and being so sick and
5 tired, you just don't change.

6 In the time that he's been in jail, he has not been
7 calling us, like so many, just bugging us to get me out of
8 here and I didn't do anything. He has taken responsibility.
9 He has taken action. He has gotten his GED. He went to all
10 the classes. He completed it. He's not been an issue in
11 the detention center. He's been a model inmate. He has
12 requested more than once to have access to anger management
13 classes because he knows that that is the crux of his
14 issues. He wants to change that.

15 You know, wanting and knowing how are two different
16 things. I feel like the want and the desire is there. He's
17 already started taking action. But imposing this long
18 sentence on him will not help him sustain that effort. I
19 really believe that he is one that can be rehabilitated, I
20 think, with a lot of services that he has missed so much in
21 his adult life.

22 So the wanting to change doesn't mean you have the
23 coping skills to know how, but he has already started laying
24 that foundation. And I would just like to see him be able
25 to when he does get out, it not be such a long period of

1 time that he does give up or the anger comes back or he
2 becomes institutionalized because I really, really believe
3 that he is -- he's on a cliff right now and he knows that if
4 he jumps, he can't go back to where he was. He's ready to
5 do something different. So vocational rehab, drug classes,
6 all of those things that are available to him in our
7 community, I think he's ready to accept that.

8 The other thing I wanted to point is that, you know,
9 it's very difficult for African-American teens, especially
10 for men and he has been here everyday. You're kind of
11 taught as children that you don't ask for help, you don't go
12 to therapy, you don't learn coping skills. You just suck it
13 up and you deal with it, right?

14 And so Mr. Thompson grew up in an extremely violent
15 environment. His father, he does not even call him father.
16 That was the man that he was speaking to on the jail call
17 that we heard in court. He called him by his first name.
18 He was extremely violent to our client's mother. He was the
19 only male in the home and felt very helpless to help his
20 mother and his older sister at that point. And his sister
21 told me that when the fighting and violence would start,
22 that he would get her and hide and he would protect her from
23 that.

24 You know, in this case, you've heard a lot of different
25 evidence. A couple of things you probably didn't hear. You

1 know the victim didn't show up, but in her not showing up,
2 we didn't get to establish certain facts because the only
3 two people that knew what happened that day are our client
4 and her. So we didn't get to establish that she was
5 attacking him as well, that she engaged -- there were two
6 people in the argument and she engaged as well.

7 Our client did walk a long way. And his sister lives
8 in literally the same -- 200 feet from where the victim's
9 mother lived. He wasn't predatorily hunting her down. He
10 was going to his family member's house and she happened to
11 be -- he met her first as she was outside her mother's house
12 and, you know, the argument ensued. But she could have also
13 retreated.

14 The victim's injury, while shocking -- you probably
15 don't know, in my former life, I was a nationally registered
16 paramedic. I have a lot of medical experience. And the
17 wound was very shocking, but there were no structural
18 damage. She has no lasting deficit. The surgery notes --
19 she was in and out of surgery in less than 30 minutes. The
20 only reason that they took her to surgery was to do a
21 further examination and it be in a sterile environment.

22 But the surgeon's notes said there were no structures
23 damaged. The jugular was not nicked. The carotid artery --
24 in a wound such as that, it's kind of like when a woman has
25 a C-section, you start internally -- yeah, it was really

1 just the fascia --

2 MS. LEMPESIS: Your Honor, I'm sorry, I don't mean to
3 interrupt. Ms. Price is here a mitigation specialist and I
4 understand that, but if you need more information from the
5 records of her surgery, we can do that, but, I don't -- I'm
6 sorry, I don't think it's appropriate for Ms. Price to delve
7 into that. We can get that for you. It wasn't entered in
8 the trial. Perhaps, Ms. Rogers, Mr. Thompson's lawyer could
9 speak to that part of it.

10 THE COURT: Ms. Price is here for mitigation. She can
11 talk.

12 Go ahead.

13 MS. PRICE: So there is a quote from the Federal
14 Interagency on Child and Family Statistics of American
15 Children. It was published in 2005. It states that
16 witnessing and experiencing violence can adversely affect a
17 person's mental health and development.

18 So while that is what brought us here, I do believe
19 that he has had a change in him. He has made poor choices.
20 He acknowledges those poor choices. And, you know, in the
21 last ten months, he has done more to positively lay a
22 foundation than he's done in all of his adult years.

23 I know you read the report, but I do want to read you
24 his own words where he said to me, I'm in this world feeling
25 like I am misplaced. I guess that's why I feel as though I

1 need to be alone all the time. I sometimes have this
2 feeling like I'm afraid to tell people what or how I feel.
3 Why is that? I don't know, but I am trying to figure that
4 out. Using drugs seems to make me feel free. I believe
5 that's why I used them frequently as well as alcohol.
6 Without them, I just seem to not feel right. I have
7 attempted suicide on many occasion. I felt like giving up,
8 even here at the detention center, but I am still fighting
9 trying to get whatever it is right. I think that says a lot
10 about his frame of mind and that he still has hope that he
11 can figure it out and salvage a life for himself. He knows
12 that he is too old for this.

13 He was born in 1978 to an 18-year-old Audrey Jenkins,
14 and Robert Thompson, who was 21. He grew up in Beaufort his
15 entire life. As I stated, his early years were filled with
16 violence. His mother finally left, took him and his sister
17 and left and he finally felt safe. But as he states,
18 everything went dark again when he was being molested. He
19 was the victim of molestation for a while.

20 His father was not completely out of his life. There
21 was an incident where his father lined up all the children
22 and stated that he would -- he had a gun and he showed them
23 bullets and said, I have one of these for each of you, and
24 threatened to kill them. Instead of killing them, he shot
25 the family pet in front of them. Those kinds of images

1 change you as a person, especially when you don't have help.

2 He did go to school. He did pretty well in school, but
3 he started using marijuana by nine. He lived in an area
4 that was fraught with drugs and poverty. His mother worked
5 in the Beaufort County School system. She tried. She
6 eventually had another child, which is his youngest sister.
7 There are a lot of years between them, but still family.

8 As I said, he's never been able to develop coping
9 skills that he has needed to overcome a lot of these things.
10 And, you know, drugs and alcohol, while it may make you feel
11 good, it just derails your life. So I would ask that he
12 receive as minimum time as he could possibly get. I know
13 that the State is asking for 14 years. Attempted murder is
14 zero to 30, possession of a weapon is five. We would ask
15 for five years.

16 THE COURT: Anything you want to tell me, Mr. Thompson?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: You can lower your mask if you would like.

19 THE DEFENDANT: I just would like to say that I
20 apologize for the crime that I was accused of, wishing I
21 could take back that day. I can only now move forward.
22 Since I've been incarcerated, I've graduated from the GED
23 program and also completed drug and alcohol course. Still a
24 lot of work to be done.

25 I would also like to thank my legal team for working so

1 hard and striving to get my charges dropped. I couldn't
2 have had a better lawyer to work with. I also would like to
3 -- I made promises. I also would like -- I also would like
4 to thank you, Judge, for giving us an opportunity to speak
5 on my behalf.

6 MS. ROGERS: If I may, Your Honor, his family is here.
7 They are not wishing to speak.

8 THE COURT: Okay.

9 MS. ROGERS: But I do have a letter one of them wrote a
10 statement. I have not spent a lot of time with my brother
11 growing up, but what I can tell you is he is a very loving
12 and caring man. Yes, he has made mistakes, but that does
13 not define who he is. He has been a wonderful brother in my
14 adult years. He has been an awesome uncle to me and my
15 sister's children. My brother is very mannerable [sic] and
16 very respectful. Knowing what I do know, he needs some push
17 to make him feel loved and not alone in the world. I am
18 prepared to always be by his side. I can definitely see the
19 change in him since getting his GED and also attending
20 classes for drug abuse. Every step he has made has been
21 because of his willingness to change.

22 THE COURT: Thank you.

23 MR. GOURLEY: Your Honor, I would just like to note for
24 the record, we are recommending a range of 14 to 19 years,
25 not 14 years as the defense stated. It was very violent,

1 up-close and personal attack.

2 THE COURT: We are not doing this back and forth. You
3 had your opportunity. One side presents, then the other
4 side presents. We're not going to g back and forth.

5 MR. GOURLEY: Yes, Your Honor.

6 THE COURT: Indictment 2020-GS-07-2336 for attempted
7 murder, the sentence of the Court is that you be committed
8 to the Department of Corrections for a period of 12 years.
9 Indictment 2021-GS-07-1405 for possession of a weapon during
10 the commission of a violent crime, the sentence is five
11 years, those are to run concurrent with each other. I've
12 given you credit for 319 days. I'm asking them to give you
13 space on the ATU floor, hopefully, when you're in the
14 Department of Corrections.

15 Good luck to you, sir.

16 MR. GOURLEY: Thank you, Your Honor.

17 (Court's Exhibit Nos. 5 through 17 were marked for
18 identification.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

I, PENNY M. JOHNSON, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate, and
complete Transcript of Record of the trial had and the
evidence introduced in the hearing of the captioned case,
relative to appeal, in the Court of General Sessions for
Beaufort County, South Carolina, on the 20-21 days of
October, 2021.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

February 4, 2022

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

Date 12-5-2020 Page No. 1**STATEMENT OF:**Name: Demetrius Thompson DOB: [REDACTED] H: _____

Add: _____ SSN: _____ C: _____

W: _____

On the fifth of this morning me and Mrs Holloway were together since the fourth of the day getting intoxicated and high all night. So when the morning came she was supposed to give me the money back for the room that I paid for. Around 9:40 am this morning the house keeper at Super 8 said that we had to leave but Joey Holloway said she was going to get me the room which was (195) for another night to ensure she will pay me the money back for the night before. Her Brother that she calls punkin who works for the fire department pick her up around 10: something. She left me in the room and I was awake by a housekeeper. Intoxicated I walked from Super 8 towards Mr Douglas Ln. and so Joey and a friend she was with and asked for my money. She told to talk to her mom, but I which intoxicated said no I want my money now and after a few words, she swung on me not saying heavy but hit me in my face, and I whom had the razor blade hit her in the back of her neck. I throw the razorblade and walk off after I saw what I have done by being intoxicated

Demetrius Thompson



Certified to be a true and correct copy of the original document on file with the Office of Sheriff for Beaufort County.

Michael M. Hatfield

WITNESSES

Beaufort County Sheriff's Office

T.M. CALHOUN

ARREST WARRANT NUMBER

2020A0710200640

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: **MAY 20 2021**

VERDICT

Foreperson of Petit Jury

Date:
INDICT

DOCKET NO. 2020GS0702336

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

May Term 2021

THE STATE

vs.

DEMETRIUS DEON THOMPSON

Indictment For

Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury. **263**

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

2020GS0702336

At a Court of General Sessions, convened on May 20, 2021, the Grand Jurors of Beaufort County present upon their oath:

Attempted Murder

That in Beaufort County, South Carolina, on or about December 5, 2020, the Defendant, DEMETRIUS DEON THOMPSON, did, with intent to kill and with malice aforethought, attempt to willfully kill Joelette Holloway, all in violation of Section 16-3-29, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

WITNESSES

Beaufort County Sheriff's Office

DOCKET NO. 2021GS0701405

The State of South Carolina

County of Beaufort

After being fully advised as ~~265~~
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September Term 2021

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

ARREST WARRANT NUMBER

DIRECT INDICTMENT

THE STATE

vs.

DEMETRIUS DEON THOMPSON

ACTION OF GRAND JURY

True Bill

Indictment For

**Possession of Weapon During
Violent Crime**

SC Code: 16-23-490

CDR Code: 0549

Defendant

Foreperson of Grand Jury

Date: **SEP 16 2021**

VERDICT

Witness:

Foreperson of Petit Jury

Date: **10-21-2021**

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

)
)
)

INDICTMENT

2021GS0701405

At a Court of General Sessions, convened on September 16, 2021, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about December 5, 2020, the Defendant, DEMETRIUS DEON THOMPSON, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: {conduct description} and DEMETRIUS DEON THOMPSON was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: {offense description, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

Not more than 30 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

VS.

INDICTMENT/CASE#: 2020GS0702336

DEMETRIUS DEON THOMPSON

A/W#: 2020A0710200640

AKA:

Date of Offense: 12/05/2020Race: Black Sex: Male Age: _____S.C. Code §: 16-3-29DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 3410Address: MR DOUGLAS LN, Ladys Island, SC 29907

City, State, Zip: _____

SENTENCE SHEET

DL#* _____ SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED DF or ☐ PLEADSTO: Attempted MurderIn violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410☐ 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

SC Bar # 100934

Defendant

Attorney for Defendant

SC Bar # 10455WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 12 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: _____☒ 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. 319 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.

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: ATU

☐ 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 \$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2985 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</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>

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 129.75

Clerk of Court/Deputy Clerk: ABK
Court Reporter: Kymberle Williams

Presiding Judge: _____

Judge Code: 2192

Sentence Date: 10-22-21

5 years

269

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

INDICTMENT/CASE#: 2021GS0701405

VS.

DEMETRIUS DEON THOMPSON

A/W#: DIRECT INDICTMENT

AKA: _____ Date of Offense: 12/05/2020

Race: Black Sex: Male Age: _____ S.C. Code §: 16-23-490

DOB: _____ SS#: _____ CDR Code #: 0549

Address: MR DOUGLAS LN, Ladys Island, SC 29907

City, State, Zip: _____

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 weapon during 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:

[Signature] 100939 [Signature] 104455
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 5 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: _____

☒ 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. 319 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.

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	\$ _____
§14-1-208 (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
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ _____
TOTAL			\$ _____

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

2142

10-22-21

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Mar 29 2023

SC Court of Appeals


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 29th day of March, 2023.

