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Apr 05 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Darlington County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DABRY AUNTA JAMES,

APPELLANT.

APPELLATE CASE NO. 2022-000471

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	) COURT OF GENERAL SESSIONS
COUNTY OF DARLINGTON	) 2020-GS-16-00762
	) 2020-GS-16-00763
	) 2020-GS-16-00764
	) 2020-GS-16-00765
	)
	)
State Of South Carolina	) TRANSCRIPT OF RECORD
vs.	)
Dabry Aunta James	)
	) April 11-13, 2022
DEFENDANT	) Darlington, SC

B E F O R E:

THE HONORABLE MICHAEL G. NETTELSS, judge and a jury.

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

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 Attorney for the Defendant

KESHIA REED
 Official Court Reporter

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1 THE COURT: Mr. Bell, you recognize. You may
2 call your first case.

3 MR. BELL: Yes, your Honor. May it please the
4 Court. The State calls State vs. Dabry Aunta James. He's
5 charged on four indictments. He's charged with murder,
6 unlawful carry of a pistol, possession of a weapon during
7 the commission of a violent crime and grand larceny.

8 THE COURT: Thank you. Ladies and gentlemen of
9 the jury, I hold in my hand the indictments which have
10 been called and read into the record and I hold in my hand
11 the indictment. This indictment bears absolutely no
12 evidentiary value whatsoever. As a matter of fact,
13 Mr. James, as he's seated at the defense table, is
14 presumed to be just as innocent as me or you. We start
15 from that presumption. I want to tell you about the
16 allegations that give rise to this indictment.

17 The allegations arise out of an event that took
18 place in Hartsville, South Carolina at the East Park
19 apartment on February 12th of 2020 in the afternoon hours.
20 The individual who was shot and later died was Floyd
21 Stewart, Jr. Having been armed with the basic information
22 of this case, does anybody know anything about this case?
23 Have you read anything about it? Did you witness any of
24 the events which give rise to these allegations, if so
25 please stand? Yes, sir, if you could come forward.

1 PROSPECTIVE JUROR: Ricky Brisbon number 23.

2 THE COURT: Tell me what you know about this
3 case?

4 PROSPECTIVE JUROR: I don't know, I just heard
5 about it. I just heard it in Hartsville.

6 THE COURT: Right. All right. What did you
7 hear? You just heard that there was a shooting?

8 PROSPECTIVE JUROR: There was a shooting.

9 THE COURT: Okay. If called upon to serve on
10 this jury, could you set aside anything that you might
11 have heard about this case, listen to the evidence in this
12 case or the lack of evidence, and the law as I charge it
13 to you and give both the State and the defendant a fair
14 and impartial trial?

15 PROSPECTIVE JUROR: Well, I wouldn't want to --
16 I don't want to -- because I feel like since I know about
17 the case, but I don't know about it, but I heard about it.
18 And I just don't want to go against it in no kind of way.

19 THE COURT: You say you can't be fair?

20 PROSPECTIVE JUROR: Well, I can be fair, but I
21 don't want like -- I feel like the deceased that passed
22 away I think I know his family. I think it's Stewart. I
23 might be on the wrong case. Did this happen at a club?

24 THE COURT: No, it did not.

25 PROSPECTIVE JUROR: It happen at an apartment?

1 THE COURT: Well, do you know about the case?

2 PROSPECTIVE JUROR: No, I just heard about the
3 case.

4 THE COURT: Okay. What did you hear?

5 PROSPECTIVE JUROR: I just heard about one the
6 brothers.

7 COURT REPORTER: Can you repeat that?

8 PROSPECTIVE JUROR: I heard that one of the
9 brothers that was fighting went home and got the other
10 brother, but the other brother was just sitting in the
11 car at the time the one that is deceased. Like I know
12 their family like, I know the father of that deceased
13 person.

14 THE COURT: Okay. And you feel as though since
15 you know the family you cannot be fair?

16 PROSPECTIVE JUROR: Not really.

17 THE COURT: Okay. You are excused from the
18 trial of this case, but you still gone be on the jury
19 panel in case we try another one.

20 THE CLERK: Just don't mention anything you
21 discussed with the Judge okay.

22 THE COURT: All right.

23 THE CLERK: Brenda Sanders juror number 166.

24 PROSPECTIVE JUROR: Dabry James is a family
25 member of mine, and his grandma sitting over there is kin

1 to me.

2 THE COURT: All right. Well, based on that, I'm
3 going to excuse you for the purpose of this trial only, so
4 you can stay with us. Don't talk about anything with the
5 other jurors.

6 THE CLERK: Stay out in the panel with us, yes,
7 ma'am. You might be on another case.

8 THE COURT: Do not discuss the case.

9 THE CLERK: Another one, Judge. Mr. Terrell
10 Matthews juror number 122. Come right here so the court
11 reporter can hear, okay.

12 PROSPECTIVE JUROR: I just remember when it
13 happen reading about it. I live in Hartsville -- on the
14 Chesterfield side.

15 THE COURT: If called upon to serve on this
16 jury, could you set aside anything that you might have
17 heard about this case, listen to the evidence in the case
18 or the lack of evidence, listen to the law as I charge it
19 to you and give the both the State and the defendant a
20 fair and impartial trial?

21 PROSPECTIVE JUROR: Yeah, I think so.

22 THE COURT: All right. You know, in polite
23 conversation, we always qualify what we say. This is
24 something that deals in absolutes. And my question to you
25 is could you be fair and impartial yes or no?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: You are qualified to serve. Thank
3 you.

4 MR. ERVIN: What number?

5 THE CLERK: 122.

6 THE COURT: All right. Mr. Ervin, could you
7 have your client stand and face the jury panel? Mr. Dabry
8 James is anyone related by blood or marriage, you have a
9 close social or personal relationship with him, if so
10 please stand? You may be seated. Thank you, sir.

11 MR. ERVIN: You Honor, his name is Dabry James.

12 THE COURT: Dabry. I said Dabry. Dabry. All
13 right. I'm going to give you a list of potential
14 witnesses. And I'm gone ask you whether or not you know
15 these individuals, whether or not you have a close social,
16 business or personal relationship with them. The first
17 witness is -- potential witness is Tracy McKinnon from
18 SLED, Dr. Kelly Rose pathologist, Michael Weatherford,
19 Kristin Jeffords, Portia Tedder, Sean James, Nakea
20 Ferguson, Michelle Norton, Alisha Stewart, Joanne Johnson,
21 Brian Rudick, Erica Norton, Johnny Winburn, Scott Gauger,
22 Kyle Hause, Ben Watford and Mike Letterman. Is anyone
23 related by blood or marriage, you have a close social,
24 business or personal relationship with any of these
25 potential witnesses, if so please stand? No response.

1 THE CLERK: Ma'am.

2 THE COURT: All right, hang on. She's already
3 been excused.

4 THE CLERK: From this case. Just have a seat
5 back out in the audience for us.

6 THE COURT: All right. Mr. Bell, could you
7 stand and identify yourself and the members of your
8 office.

9 MR. BELL: Yes, good morning. I am Monty Bell
10 with the Fourth Circuit Solicitor's office specifically
11 the Darlington office and Hartsville. I'm the prosecutor
12 on this case. I'll be assisted by Ms. Patty Parker, and
13 she'll be assisting with the prosecution of this case. We
14 serve under the direction of Will Rogers out of Marlboro.

15 THE COURT: Thank you, Mr. Bell. Is anyone
16 related by blood or marriage? You have a close social,
17 business or personal relationship with either of these
18 lawyers? They may have been engaged in the private
19 practice of law prior to their service in the Solicitor's
20 office. Have they ever represented you in the past, if so
21 please stand? Yes, if you could come forward.

22 THE CLERK: I need you to ask you to speak loud
23 enough for the judge and the court reporter. What's your
24 name, ma'am?

25 PROSPECTIVE JUROR: Cheryl Hoffman. And I'm

1 friends with Mr. Bell. And I serve on the county
2 commission with him and the board in Hartsville.

3 THE COURT: You serve with him now?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. If called upon to serve on
6 this jury, could you set aside your relationship with him,
7 listen to the evidence in this case or the lack of
8 evidence, and the law as I charge it to you and give both
9 the State and the defendant a fair and impartial trial?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: The fact that you have served with
12 him on a board would you give greater or lesser weight to
13 any position that he might take just by virtue of your
14 relationship?

15 PROSPECTIVE JUROR: I don't think so.

16 THE COURT: Okay. You know in polite
17 conversation we always qualify what we say, but this is
18 something we have to deal in absolutes, and my question to
19 you is could you set aside your relationship with him and
20 give both the State and the defendant a fair and impartial
21 trial?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Okay. Have you ever been to his
24 home to eat dinner?

25 PROSPECTIVE JUROR: No, but we been out places

1 in groups and things like that.

2 THE COURT: Okay. And y'all socialized over a
3 period of time?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right. In view of that, I'm
6 going to excuse you for the purpose of this trial, just
7 for this trial.

8 THE CLERK: Just have a seat. Juror number 82
9 is out for this trial.

10 PROSPECTIVE JUROR: I just know him by being in
11 the gym YMCA just working out.

12 THE CLERK: What's your name again?

13 PROSPECTIVE JUROR: Ricky Brisbon.

14 THE CLERK: You already been excused.

15 THE COURT: You already been excused no problem.

16 THE CLERK: Just have a seat back out in the
17 audience for us.

18 THE COURT: Has any member of the jury panel
19 formed or expressed an opinion about any issue or matter
20 involved in this case, if so please stand? No response.

21 Is any member of the jury panel aware of any
22 bias or prejudice towards either the State or the
23 defendant in this case, if so please stand? No response.

24 Is there any member of the jury panel who has
25 served on the grand jury that indicted this case, if so

1 please stand. No response.

2 Have any of you heard, seen or read anything
3 about this matter, if so please stand? Other than what we
4 have mentioned, we already addressed your situation.

5 (WHEREUPON, there are none.)

6 THE COURT: Has any member of the jury panel
7 been a victim of a violent crime, if so please stand?

8 (WHEREUPON, there are none.)

9 THE COURT: Is there any member of the jury
10 panel who is a member or contributor of a group who's
11 primary purpose is the promotion of law enforcement?
12 There are a number of such organizations Mothers Against
13 Drunk Driving, Students Against Drunk Driving, CAVE
14 Citizens Against Violent Crime, just about every sheriff's
15 department has a sheriff's association throughout the
16 State, Highway Patrol has a similar organization. Is
17 there any member of the jury panel who belongs to one of
18 these associations or contributes to them, if so please
19 stand? No response.

20 Does any member of the jury panel know of any
21 reason whatsoever why you should not serve as a juror in
22 this case with particular emphasis being placed on your
23 ability to be fair and impartial to both the State and the
24 defendant, if so please stand?

25 (WHEREUPON, there are none.)

1 THE COURT: Any additional questions from the
2 State?

3 MR. BELL: No, Your Honor.

4 THE COURT: Any from defense?

5 MR. ERVIN: No, Your Honor.

6 THE COURT: All right. Mr. Ervin, could you
7 stand and identify yourself for the jury?

8 MR. ERVIN: Thank you, your Honor. My name Jay
9 Ervin, and I practice law here in Darlington right across
10 the street on the square.

11 THE COURT: All right. Is there any member of
12 the jury panel who is related by blood or marriage? Do
13 you have a close social, business or personal relationship
14 with him? Has he represented you in the past or do you
15 have an ongoing case with him, if so please stand?

16 Yes, ma'am, if you could come forward.

17 THE CLERK: Penny Cauley number 32 for the
18 record.

19 THE COURT: Yes.

20 PROSPECTIVE JUROR: I just know Jay, so I wanted
21 to make sure that was disclosed because we would work
22 cases back and forth.

23 THE COURT: Y'all do what?

24 PROSPECTIVE JUROR: Refer cases back and forth,
25 so he sends people to me, and we send people to him.

1 THE COURT: The main question if called upon to
2 serve on this jury could you set aside that relationship
3 and give both State and the defendant a fair and impartial
4 trial?

5 PROSPECTIVE JUROR: I can.

6 THE COURT: Can you base your decision on what
7 transpires in this courtroom, the evidence as presented
8 here or the lack of evidence and the law as I charge it to
9 you?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: All right. You qualified to serve.
12 Thank you. Madam clerk, if you could give us a jury. If
13 y'all could just bear with us just one moment. The
14 strikes are going to be five and ten and one and two on
15 each alternate, and we're going to get three alternates.
16 While the clerk is doing that, when I first started
17 practicing law, the clerk would take the jury list and
18 they could cut the names out and put them in little
19 capsules. They put them in a bin and the statute required
20 that a blind person pull it out. With the advent of
21 computers, it gives us a true random selection, and it
22 works real well when the computer's working. And it seems
23 to be working on all cylinders today, so it's going good.
24 All right. When your name is called, we're going to ask
25 that you come forward and stand right in front of the

1 clerk and look at the back of the courtroom and bring your
2 belongings with you.

3 THE CLERK: Thank you, your Honor. Juror number
4 181 Saequan Thomas.

5 THE COURT: Yes, sir, if you could come forward,
6 come around this way. I want you to come stand right in
7 front of me and face the back of the courtroom.

8 (WHEREUPON, a black male comes forward.)

9 THE CLERK: What say the State?

10 MR. BELL: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. ERVIN: Please seat the juror.

13 THE CLERK: Please have a seat in the jury box
14 over here to my right, Mr. Thomas.

15 Juror number 145 Teresa Odom.

16 (WHEREUPON, a white female, comes forward.)

17 THE CLERK: What say the State?

18 MR. BELL: Please present the juror.

19 THE CLERK: What say the defense?

20 MR. ERVIN: Please seat the juror.

21 THE CLERK: Please have a seat in the jury box
22 for me, Ms. Odom.

23 Juror number 154 Ciara Rabon.

24 (WHEREUPON, a white female, comes forward.)

25 THE CLERK: What say the State?

1 MR. BELL: Please present the juror.

2 THE CLERK: What say the defense?

3 MR. ERVIN: Please excuse the juror.

4 THE CLERK: Been excused for this particular
5 case, Ms. Rabon. If you'll just have a seat back out in
6 the audience for me please, ma'am.

7 Juror number 178 Barbara Tadlock.

8 (WHEREUPON, a white female, comes forward.)

9 THE CLERK: What say the State?

10 MR. BELL: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. ERVIN: Please excuse the juror.

13 THE CLERK: Been excused for this particular
14 case, Ms. Tadlock, if you'll have a seat back out in the
15 audience for me please.

16 Juror number 142 Tasha Moore.

17 (WHEREUPON, a white female, comes forward.)

18 THE CLERK: What say the State?

19 MR. BELL: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. ERVIN: Please excuse the juror.

22 THE CLERK: Been excused for this particular
23 case, Ms. Moore.

24 Juror number five Lisa Anderson.

25 (WHEREUPON, a white female, comes forward.)

1 THE CLERK: What say the State?

2 MR. BELL: Please present the juror.

3 THE CLERK: What say the defense?

4 MR. ERVIN: Please seat the juror.

5 THE CLERK: If you'll have a seat up here for
6 me, Ms. Anderson.

7 Juror number 174 Gloria Stewart.

8 (WHEREUPON, a white female, comes forward.)

9 PROSPECTIVE JUROR: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. ERVIN: Please excuse the juror.

12 THE CLERK: Been excused for this particular
13 case, Ms. Stewart. Thank you.

14 Juror number 60 Bridgette German.

15 (WHEREUPON, a black female, comes forward.)

16 MR. BELL: Please present the juror.

17 THE CLERK: What say the defense?

18 MR. ERVIN: Please seat the juror.

19 THE CLERK: Please have a seat in the jury box
20 please, Ms. German.

21 Juror number 102 William Kelchner.

22 (WHEREUPON, a white male, comes forward.)

23 THE CLERK: What say the State?

24 MR. BELL: Please present the juror.

25 THE CLERK: What say the defense?

1 MR. ERVIN: Please excuse the juror.

2 THE CLERK: Been excuse for this particular
3 case, Mr. Kelchner. Thank you.

4 Juror number 134 Hope McQueen.

5 (WHEREUPON, a black female, comes forward.)

6 THE CLERK: What say the State?

7 MR. BELL: Please present the juror.

8 THE CLERK: What say the defense?

9 MR. ERVIN: Please seat the juror.

10 THE CLERK: Please have a seat in the jury box
11 for me please, Ms. McQueen.

12 Juror number 179 Dewey Tadlock.

13 (WHEREUPON, a white male, comes forward.)

14 THE CLERK: What say the State?

15 MR. BELL: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. ERVIN: Please excuse the juror.

18 THE CLERK: Been excused for this particular
19 case.

20 Juror number 85 Michelle Hood.

21 (WHEREUPON, a white female, comes forward.)

22 THE CLERK: What say the State?

23 MR. BELL: Please present the juror.

24 THE CLERK: What say the defense?

25 MR. ERVIN: Please excuse the juror.

1 THE CLERK: Been excused for this particular
2 case, Ms. Hood. Thank you.

3 Juror number 65 Arthur Graham.

4 (WHEREUPON, a black male, comes forward.)

5 THE CLERK: What say the State?

6 MR. BELL: Please present the juror.

7 THE CLERK: What say the defense?

8 MR. ERVIN: Please seat the juror.

9 THE CLERK: Please have a seat in the jury box
10 for me please, Mr. Graham.

11 Juror number 169 Tornish Singleton.

12 (WHEREUPON, a black female, comes forward.)

13 THE CLERK: What say the State?

14 MR. BELL: Please present the juror.

15 THE CLERK: What say the defense?

16 MR. ERVIN: Please seat the juror.

17 THE CLERK: Please have a seat in the jury box
18 for me, Ms. Singleton.

19 Juror number 73 Dorothy Hankins.

20 (WHEREUPON, a black female, comes forward.)

21 THE CLERK: What say the State?

22 MR. BELL: Please present the juror.

23 THE CLERK: What say the defense?

24 MR. ERVIN: Please seat the juror.

25 THE CLERK: Please have a seat in the jury box

1 for me, Ms. Hankins.

2 Juror number 176 Kellie Stokes.

3 (WHEREUPON, a white female, comes forward.)

4 THE CLERK: What say the State?

5 MR. BELL: Please present the juror.

6 THE CLERK: What say the defense?

7 MR. ERVIN: Please seat the juror.

8 THE CLERK: Please have a seat in the jury box
9 for me, Ms. Stokes.

10 Juror number 111 Kimberly Lankford.

11 (WHEREUPON, a white female, comes forward.)

12 THE CLERK: What say the State?

13 MR. BELL: Please present the juror.

14 THE CLERK: What say the defense?

15 MR. ERVIN: Please seat the juror.

16 THE CLERK: Please have a seat in the jury box,
17 Ms. Lankford.

18 Juror number 37 Jeremy Coe.

19 (WHEREUPON, a black male, comes forward.)

20 THE CLERK: What say the State?

21 MR. BELL: Please present the juror.

22 THE CLERK: What say the defense?

23 MR. ERVIN: Please seat the juror.

24 THE CLERK: Please have a seat in the jury box
25 for me, Mr. Coe.

1 Juror number 42 Megan Dearing.

2 (WHEREUPON, a white female, comes forward.)

3 THE CLERK: What say the State?

4 MR. BELL: Please present the juror.

5 THE CLERK: What say the defense?

6 MR. ERVIN: Please seat the juror.

7 THE CLERK: Please have a seat in the jury box
8 for me, Ms. Dearing.

9 First alternate juror number 42 I'm sorry --
10 juror number 20 Ashlee Dudley.

11 THE COURT: Bradley.

12 THE CLERK: Bradley, I'm sorry.

13 (WHEREUPON, a black female, comes forward.)

14 THE CLERK: What say the State?

15 MR. BELL: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. ERVIN: Please seat the juror.

18 THE CLERK: Please have a seat in the first
19 chair outside the jury box for me, Ms. Bradley.

20 Juror number 32 Penny Cauley.

21 (WHEREUPON, a white female, comes forward..)

22 THE CLERK: What say the State?

23 MR. BELL: Please present the juror.

24 THE CLERK: What say the defense?

25 MR. ERVIN: Please seat the juror.

1 THE CLERK: Please have a seat in the second
2 chair outside the jury box.

3 Juror number 67 Robert Grantham.

4 (WHEREUPON, a white male, comes forward.)

5 THE CLERK: What say the State?

6 MR. BELL: Please present the juror.

7 THE CLERK: What say the defense?

8 MR. ERVIN: Please excuse the juror.

9 THE CLERK: Been excused for this particular
10 case, Mr. Grantham.

11 Juror number 133 Justin McPhail.

12 (WHEREUPON, a black male, comes forward.)

13 THE CLERK: What say the State?

14 MR. BELL: Please excuse the juror.

15 THE CLERK: You been excused for this particular
16 trial only, Mr. McPhail. Thank you.

17 Juror number 48 Diamond Echols.

18 (WHEREUPON, a black female, comes forward.)

19 THE CLERK: Is there any show for cause from the
20 State?

21 MR. BELL: None from the State.

22 THE CLERK: What say the defense?

23 MR. ERVIN: Seat the juror.

24 THE CLERK: Please have a seat in the third
25 chair outside the jury box for me, Ms. Echols.

1 THE COURT: Any objection with regard to the
2 jury selection process from the State?

3 MR. BELL: None from the State, your Honor.

4 THE COURT: Any from defense?

5 MR. ERVIN: No, your Honor.

6 THE COURT: All right. Ladies and gentlemen,
7 who remain in the jury panel we're going to ask that
8 you're released for the day. I'm going to ask that you
9 call the clerk's office at six, is that correct?

10 THE CLERK: After six o'clock.

11 THE COURT: After six o'clock, and follow the
12 instructions. It might be that you have to come back in
13 the morning, just follow the instructions. It depends on
14 how this matter progresses, and you're free to leave at
15 this time. Thank you very much.

16 THE CLERK: One thing real quick for the clerk's
17 office don't look in the phone book or online and call the
18 actual office. It's those two numbers that you have on
19 that sheet of paper or like I said go to the County's
20 website call those numbers directly because if you call
21 the clerk of court's office after five, you won't get an
22 answer obviously. Those are dedicated lines for the jury.
23 And if by chance you don't come back, the card that you
24 were given this morning, that's how you going to get paid.
25 If you'll wait until after the next day, it will go on the

1 next day. So it's 24 hours before it gets on that card.

2 (WHEREUPON, the remaining jury panel is excused
3 for the day.)

4 THE COURT: While the jury is exiting, can I
5 speak with counsel up here.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 THE COURT: Ms. Lankford, I'm going to ask if
10 you could serve as the forelady of this jury. I'm going
11 to ask you to have a seat right here and exchange chairs
12 with this lady right here. Ms. Lankford, you like
13 everyone else when it comes time to deliberate are going
14 to have one vote, but you're going to have additional
15 responsibilities. If questions or concerns develop
16 amongst the jurors, I want to ask that they communicate
17 that question or concern to you and reduce it to writing,
18 give it to the bailiff. If it's something I can help you
19 with, I'll be happy to do so. In addition to that, if --
20 when it comes time to deliberate, you going to be charged
21 with the responsibility of presiding over the deliberation
22 process. That essentially is to ensure that everybody's
23 voice is heard. I'm going to ask you each of you to stand
24 as the clerk administers the oath.

25 THE CLERK: You all please stand and raise your

1 right hand please.

2 (WHEREUPON, the jury panel is sworn.)

3 THE COURT: Madam forelady and ladies and
4 gentlemen of the jury, we're going to recess until 2:15.
5 We're going to stay here and take care of some legal
6 matters, but y'all going to have a lunch. I'm going to
7 ask that you be back at 2:15, 2:15 sharp. Everyone be
8 here and be here on time. We can't -- unless everybody is
9 here, we can't start. And let's be considerate of one
10 another's time, and let's handle this thing in a very
11 efficient and fair way.

12 I also want to admonish you to not discuss the
13 case amongst yourselves or with anyone else. If you go
14 back to your office or your home, I can anticipate
15 somebody's gone say, well, tell me what's going on with
16 jury service. And I'm going to order that you not respond
17 to them because it might be that they know something about
18 this case. It might be that they have some opinion about
19 this type litigation. And you need to base your decision
20 on what transpires here in this courtroom and not anywhere
21 else.

22 And, madam forelady, there going to be times
23 when you come back from lunch, times throughout this trial
24 where you're going to be in the room by yourself. I'm
25 going to ask that you enforce the rule there be no

1 discussion about this case whatsoever until you've heard
2 the entire case, closing arguments and the charge on the
3 law. You can't talk about a witness. You can't talk
4 about the lawyers. Do not do any of that, and that's
5 going to be your responsibility to enforce that rule.

6 Do not do any independent investigation. I told
7 you about where this took place over in Hartsville. Don't
8 go and try to investigate things on your own. You need to
9 base your decision on what transpires here in this
10 courtroom. And there's not anything that you can't look
11 up on the Google now days. You can do legal research on
12 the Google. You can look up events. Do not do that. I'm
13 ordering that you not do that. You need to base your
14 decision on what transpires here in this courtroom and
15 nothing else. Is everybody understand that?

16 There's also I hear a tale there's a certain
17 thing call social media. I don't participate in it, but a
18 lot of people do. Do not put anything on Facebook or
19 Twitter or LinkedIn or Snapchat or anything of that stuff,
20 that has absolutely no place in this judicial system.
21 Until this matter is resolved, do not put anything on
22 social media. Does everybody understand that? Very good.
23 All right. I'm going to ask that you be back at 2:15,
24 2:15 sharp. I do not anticipate there be any media
25 coverage with regard to this case, but if there is, divert

1 your attention from it because once again you need to base
2 your decision on what transpires here in this courtroom.
3 And to be quite honest with you, the media and journalist
4 quite often get it wrong. So do not pay attention to
5 anything that you might read in the paper or if there's
6 something that comes on the local news, divert your
7 attention from it. Base your decision on what transpires
8 here in this courtroom.

9 Also, it's inappropriate for anybody to try to
10 contact you about this case, that's unlawful. If someone
11 were to try to contact you about this case, identify them
12 as best you can, report it to me, and I'll deal with them
13 accordingly. Does everybody understand that? I don't
14 anticipate that would ever take place, but that's wrong.
15 It's unlawful. Nobody can contact you about this case.

16 I'm going to ask that you display your juror
17 badge, and the reason for that is it might be that there
18 some witnesses or some lawyers in this courthouse. And
19 when you coming in and out, they might be talking about
20 the case. And if you have that badge on, that will help
21 identify you as a juror, and they can eliminate that type
22 of problem or conflict. I'm going to ask that you be back
23 at 2:15, 2:15 sharp. Everyone remain seated as the jury
24 exists the courtroom.

25 THE CLERK: The bailiff's going to show you, but

1 from now on, you report back to the jury room not the
2 courtroom. Always report back to the jury room.

3 (WHEREUPON, the jury was excused for a lunch
4 break.)

5 THE COURT: All right. I understand that we
6 have a Jackson v. Denno hearing, and, Mr. Bell, you
7 recognize.

8 MR. BELL: Yes, your Honor. The State would
9 call Kyle Hause to the stand.

10 THE CLERK: If you'll come forward and take the
11 oath of a witness, sir.

12 THE COURT: Ask you if you could to place your
13 left hand on the Bible and raise your right hand as the
14 clerk administers the oath.

15 THE CLERK: You swear the testimony you give
16 this court to be the truth, the whole truth and nothing
17 but the truth so help you God?

18 THE WITNESS: Yes, sir.

19 THE CLERK: Have a seat up there for me please.

20 THE COURT: I'm going to ask you to pull up real
21 close to that microphone, speak loudly, clearly and slowly
22 in order that we can hear everything that you have to say.
23 Let's start with your full name please, sir.

24 THE WITNESS: Kyle David Hause.

25 THE COURT: Very good. Mr. Bell.

1 MR. BELL: Yes, your Honor. Thank you. May it
2 please the Court.

3 WHEREUPON,

4 Kyle Hause,
5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION IN-CAMERA

7 BY MR. BELL:

8 Q Kyle Hause, would you please let the Court know where
9 you work?

10 A Yes, sir, Hartsville police department.

11 Q And you took a statement in regards to this case,
12 correct?

13 A Yes, sir.

14 Q Would you please tell the Court the date and place of
15 this statement?

16 A It was at Hartsville P.D. investigations on February
17 the 13th 2020.

18 Q Who was present during that questioning?

19 A Myself and Mr. James.

20 Q All right. And by Mr. James who do you mean?

21 A Dabry.

22 Q Was the defendant under the influence of any alcohol
23 or drugs that you was aware of?

24 A No, sir.

25 Q Did the defendant have any physical or mental

1 disability that you were aware of that you felt like
2 impaired his ability to understand?

3 A No, sir.

4 Q What was the surroundings in the room when you was
5 taking the statement? Tell me about the room that you was
6 in?

7 A It had a table and two chairs I believe, that's it.

8 Q Was it air conditioning?

9 A Yes, sir, it's climate control central heat and air,
10 yes.

11 Q Was it nice chairs?

12 A Yeah, they're pretty nice.

13 Q What was the length of time that you questioned him?

14 A I'm not exactly certain. Maybe -- from the time
15 after he finished eating.

16 Q Yeah, just about, around about?

17 A Twenty minutes.

18 Q Okay.

19 A Roughly approximately after he finished eating.

20 Q What was about the total time that he was there at
21 the Hartsville police department?

22 A I think roughly an hour.

23 Q Did you let him take lunch breaks? Did you let him
24 eat? Did you let him go to the bathroom?

25 A Yes, sir.

1 Q Did you make any threats or promises to him while you
2 were taking his statement?

3 A No, sir.

4 Q Was the defendant under arrest at that time?

5 A Yes, sir.

6 Q Was he advised of the nature of the investigation?

7 A Yes, sir.

8 Q Did you advise those rights in writing?

9 A Yes, sir.

10 MR. BELL: Beg the Court's indulgence.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. BELL: Your Honor, may I approach the
13 witness?

14 THE COURT: You may.

15 BY MR. BELL:

16 Q Mr. Hause, what I'm showing you is premarked State's
17 Exhibit 1. Do you recognize that document?

18 A Yes, sir.

19 Q And where do you recognize it from?

20 A From the interview that day with Dabry.

21 Q How do you recognize it?

22 A Because I read it to him, and then he had the
23 opportunity to read it as well. And he also initialed
24 beside one, two, three and four and sign at the bottom.
25 And I sign below him as a witness.

1 MR. BELL: Your Honor, at this time I would move
2 to have State's Exhibit 1 moved into evidence.

3 THE COURT: It's a court's exhibit at this
4 juncture.

5 MR. BELL: Court's exhibit.

6 THE COURT: Any objection from the defense?

7 MR. ERVIN: No, Your Honor.

8 THE COURT: All right.

9 (WHEREUPON, Court's Exhibit No. 1 was marked for
10 the record.)

11 BY MR. BELL:

12 Q Could please for the Court review and read that
13 waiver starting from the top?

14 A Yes, sir. It has his name Dabry James. I'm not sure
15 the pronunciation of the middle Aunta James. Location is
16 HPD investigations. The date was 2-13-20, and then the
17 case number my signature or sorry my printed name is the
18 officer talking to him. And then goes down to number one
19 is I'm sober, competent and sufficiently intelligent to
20 understand this form and my rights. I can rewrite and
21 understand the English language. I have received and he
22 advised me GED for years of formal education. And then
23 the fourth one I have not been promised anything. And he
24 initialed beside all four of those. And then it continues
25 on before we ask you any questions, you must understand

1 your rights. Number one, you have the right to remain
2 silent. Number two, anything you say can be used against
3 you in court. Number three, you have the right to talk to
4 a lawyer for advice before we ask you any questions and to
5 have with you during questioning. Number four, if you
6 cannot afford a lawyer, one will be appointed for you
7 before questioning if you wish. Number five, if you
8 decide to answer questions now without having a lawyer
9 present, you will still have a right to stop answering at
10 any time until you talk to a lawyer, and then below that
11 is the waiver of rights. I've read this statement of my
12 rights, and I understand what my rights are. I'm willing
13 to make a statement and answer questions. I do not want a
14 lawyer at this time. I understand and know what I am
15 doing. No promises or threats have been made to me and no
16 pressure or coercion of any kind has been used against me.
17 And then he signed and dated, and then I signed and dated
18 below that.

19 Q Thank you. Did the defendant answer questions and he
20 appear to have rational and responsive when he answered
21 those questions?

22 A Yes, sir.

23 Q And again nobody promised him anything or threatened
24 him?

25 A That's correct.

1 Q Okay. How did the defendant respond when you asked
2 him -- when asked whether he wanted an attorney, how did
3 he respond?

4 A He said no.

5 Q Okay. Did he ever at any point change his mind and
6 say he wanted an attorney?

7 A No, sir.

8 Q To the best of your knowledge, was the defendant's
9 statement freely and voluntarily given?

10 A Yes, sir.

11 Q Was the statement recorded?

12 A Yes, sir.

13 Q By video?

14 A Yes, sir.

15 MR. BELL: Beg the Court's indulgence.

16 (WHEREUPON, a pause in the proceedings.)

17 MR. BELL: Your Honor, may I approach the
18 witness?

19 THE COURT: You may.

20 BY MR. BELL:

21 Q Mr. Hause, do you recognize that DVD?

22 A Yes, sir.

23 Q And tell the Court where do you recognize that DVD
24 from?

25 A It's a video of the interview with Mr. James.

1 Q And you reviewed that in its entirety in preparation
2 for this case?

3 A Yes, sir.

4 Q It's a true accurate depiction of the interview that
5 you gave Mr. James?

6 A Yes, sir.

7 MR. BELL: Your Honor, at this time I move
8 State's Exhibit Number 2 as a Court Exhibit into evidence.

9 THE COURT: Any objection.

10 MR. ERVIN: No objection.

11 (WHEREUPON, Court's Exhibit No. 2 was admitted
12 into evidence.)

13 BY MR. BELL:

14 Q Was there a written statement given in this case?

15 A Yes, sir.

16 MR. BELL: Your Honor, may I approach the
17 witness?

18 THE COURT: You may.

19 BY MR. BELL:

20 Q Mr. Hause, do you identify that document?

21 A Yes, sir.

22 Q Where you recognize that document from?

23 A From our office that day.

24 Q What is that document?

25 A It's a voluntary statement given by Mr. James to me.

1 Q Is that a true and accurate depiction of the
2 statement you took on that day?

3 A Yes, sir.

4 MR. BELL: Your Honor, I move Court Exhibit
5 Number 3 into evidence.

6 THE COURT: Any objection?

7 MR. ERVIN: No, your Honor.

8 THE COURT: Let's make it a Court Exhibit.

9 (WHEREUPON, Court's Exhibit No. 3 was marked for
10 the record only.)

11 BY MR. BELL:

12 Q Mr. Hause, if you don't mind, could you please read
13 that for the Court?

14 A Yes, sir. Hartsville police department voluntary
15 statement, date February 13th 2020, HPD Investigations.
16 I, Dabry James, I'm 19, and live at [REDACTED] Lange Court
17 Hartsville Lange Court Hartsville, South Carolina. I am
18 giving a statement to Sergeant Hause who has identified
19 himself as a police officer. And he has duly warned me
20 that I have the following rights: That I have the right
21 to remain silent and may not make any statement at all,
22 that any statement I make maybe used against me at my
23 trial, that any statement I make may be used as evidence
24 against me in court. That I have the right to have a
25 lawyer present to advise me prior to and during

1 questioning and that I have the right to terminate the
2 interview at any time. Prior to and during the making of
3 this statement, I have and do hereby knowingly,
4 intelligently and voluntarily waive the above explained
5 rights. And I do make the following voluntary statement
6 to the aforementioned person of my own free will and
7 without any promises or offer of leniency or favors and
8 without compulsion or persuasion by any person or persons
9 whomsoever. And then he wrote below that was outside. He
10 pulled up, called me to come and talk. I said okay, hold
11 on, came back after convo with mother. He asked was there
12 a problem. I said no. He ask two more times. I gave
13 same reply. He walked off. And I followed him, then shot
14 him twice. And then that's what he said wanted his
15 written statement to be, so there's a period. And then
16 drew a line with his initials. And below that it says I
17 have read this statement consisting of one page each of
18 which bears my signature. And I do affirm that all facts
19 and statements contained herein are true and correct,
20 which he signed signature of person making voluntary
21 statement. And then below that I signed the above
22 warnings were given and the voluntary statement was taken
23 by signature official was me. My signature.

24 Q Thank you, Mr. Hause.

25 MR. BELL: Your Honor, at this time if the State

1 needs to publish any of the video, we'll be more than
2 happy to set that up.

3 THE COURT: I'm going to -- during the break,
4 I'm going to view the video, and then I'm going to hold my
5 ruling in abeyance until I have done so. Can that video
6 be e-mailed to me or do I have to watch it on that video?

7 MR. BELL: Your Honor, it's a certain app Smart
8 Player.

9 THE COURT: It's going to be a problem. Do you
10 have something I can look at it on over the lunch break?

11 MR. BELL: Yes, your Honor.

12 THE COURT: Okay. Can it be set up in chambers
13 back there?

14 MRS. PARKER: Yes, sir, I'll set it up on my
15 laptop.

16 THE COURT: Okay, very good. Thank you.

17 MR. BELL: Your Honor, that's all from the
18 State.

19 THE COURT: Mr. Ervin, cross-examination.

20 MR. ERVIN: Thank you.

21 CROSS-EXAMINATION IN-CAMERA

22 BY MR. ERVIN:

23 Q Investigator Hause, how long you been working with
24 Hartsville?

25 A I believe about five and a half years now.

1 Q And were all five of those years as an investigator?

2 A Yes, sir.

3 Q Okay. And your involvement in this case, when did
4 you become involved?

5 A On the day that the incident happen. February 12th,
6 I responded to the scene.

7 Q Correct. And did you -- what was your role in the
8 investigation? You a lead investigator?

9 A Initially, I was just to assist with the scene.
10 There was a lot of people there and that sort of thing.
11 And then the following day whenever Mr. James was caught
12 then I interviewed him.

13 Q And you say Mr. James was caught. Were you involved
14 in the apprehension of Mr. James?

15 A No, sir, I was not.

16 Q At what point did you have contact with him?

17 A With Mr. James at our office for this interview.

18 Q Okay. Well, you mentioned he was eating. Did
19 somebody go to get him food?

20 A Yes, sir, I believe Detective Watford stop when he
21 brought him back and got Sonic for him.

22 Q He stopped on the way?

23 A I believe so. I'm not entirely sure, I wasn't there
24 or they sent somebody to get him Sonic.

25 Q But at any rate you have fed him something before

1 starting to interrogate him?

2 A No, I didn't feed. The officers that brought him in
3 fed him.

4 Q Right. He was eating something?

5 A Right, yes, sir. Yeah, he's eating at the beginning
6 of the video. Yes, sir.

7 Q And did you have any conversation with him before he
8 started eating?

9 A I don't know if it was before he was eating, but I
10 know that we let him smoke a cigarette and I believe that
11 was beforehand.

12 Q Okay. Well, you talked a little bit about your
13 opinion that this statement is freely and voluntarily
14 given and number of things about that. Do you know
15 anything about his -- how hold he is?

16 A I believe he was 19 years old at the time.

17 Q Okay. Do you know anything about his intelligence or
18 his educational background?

19 A Other than what told me on the form that he had a
20 GED.

21 Q Okay. So that's the length of -- that's the extent
22 of your knowledge about his overall intelligence and his
23 background?

24 A Yes, sir.

25 Q His educational background. You didn't conduct any

1 type of independent verification of that?

2 A No, sir, other than what he told me on the Miranda
3 form.

4 Q And how long had he been in detention or under arrest
5 at the point that you initiated the interrogation?

6 A I'm not sure how long that -- when he was captured
7 to when he was brought back. I have no idea about what
8 amount of time that was, but it was -- when he was brought
9 into our office, I know he was seated and fed. And then
10 when he finished eating, you know, that's when I began to
11 talk to him.

12 Q Was he seated and fed in a different room or was he
13 seated and fed in the same interrogation room?

14 A He was seated and fed in the interview room.

15 Q Okay.

16 A Yes, sir.

17 Q When you say the interview room, you mean the same
18 thing that I call the interrogation room?

19 A Oh, okay.

20 Q Isn't that correct?

21 A Well, I guess, yes.

22 Q Is that the room you routinely use to talk to people
23 who are suspected of committing a crime or who are a
24 witness to?

25 A Yeah, suspects, witnesses, victims, yes, sir.

1 Q That's the interview room?

2 A Yes, sir.

3 Q Is it a big room.

4 A I mean, I'm not sure exactly of the dimensions. It's
5 not huge, no.

6 Q Well, I mean, is it this far wall to wall or is it
7 further back?

8 A I'd say roughly maybe to the podium right there, and
9 then squared off. I think it's pretty square, but I don't
10 have the exact dimensions.

11 Q So it's a pretty small room fair to say?

12 A I mean, I guess. It's opinion. It seems okay.

13 Q Most bedrooms are bigger than that, aren't they?
14 Unless, you're in a mobile home?

15 A Yeah, I guess.

16 Q And you indicated that he was advised of his rights.
17 And did you do that verbally before you started asking
18 questions?

19 A I read him the written Miranda form that I just read.
20 Yes, sir, that's how he was advised of his rights by me.

21 Q The one you indicated he signed?

22 A Yes, sir.

23 Q Okay. You have any questions about it?

24 A No, sir, not that I recall.

25 Q Okay. And at least while he was in your custody or

1 care, was he touched by you in any way ---

2 A No, sir.

3 Q --- intimidated by you in your opinion?

4 A No, I don't believe so at all.

5 Q Did you know him before this incident?

6 A No, sir, I didn't.

7 Q You never had any interaction with him?

8 A Not that I can recall, no.

9 Q Well, in the interview, you appeared to have some
10 knowledge about some background facts that you discussed
11 with him. You remember that?

12 A You'd have to refresh my memory on exactly.

13 Q Well, you seem to discuss motive with him in the
14 interrogation, is that correct?

15 A Just trying to talk to him and establish a rapport to
16 see where he was at.

17 Q What did you tell him that you understood why he did
18 it?

19 A I don't believe I said that.

20 Q Well, tell me what you said is what I'm trying to
21 say? The Court will have the video.

22 A Right, yes, sir. I mean, that's -- and that's no
23 offense, that's why it's on video because I'm not exactly
24 sure which part of the video you're talking about but ---

25 Q Well, did you look at the video in preparation for

1 this matter?

2 A I have looked at the video.

3 Q Okay. And at any point in time did you ever discuss
4 what might have motivated him to do this?

5 A Sure absolutely. I want to know the truth. I mean,
6 I want to know what happened and why to establish a
7 rapport with him.

8 Q Well, gives us an example of it? I want to hear it
9 from you.

10 A I mean, can you be more specific about what you ---

11 Q Like was he arguing with the person immediately prior
12 to the shooting?

13 A Uh-huh. Yeah, he said they had words, correct.

14 Q Well, did you discuss with him what those words were
15 about?

16 A Yeah, it was something to do with a social media
17 post.

18 Q Okay. And did you have any independent knowledge
19 about that?

20 A I didn't have any independent knowledge about the
21 social media post, no.

22 Q Or about the words that they had?

23 A Other than what he told me, no, other than that they
24 had words over it. And apparently I think Floyd wanted
25 him to quit posting pictures of his car.

1 Q Well, do you know why he was posting pictures of his
2 car?

3 A I did not. He didn't get into that.

4 Q Did you talk to him about that?

5 A Not at length, no. I didn't get into that with him.

6 Q Why not?

7 A He didn't really want to elaborate. Like I said, I
8 wanted to know where he was at and allow him to talk and
9 say what happened to him and why it happened.

10 Q Did he ever indicate to you that the pictures were
11 posted because that's the victim's vehicle?

12 A The victim?

13 Q Floyd Stewart ---

14 A Right.

15 Q --- that was his car?

16 A Yes, that's correct.

17 Q And he indicated that to you?

18 A Yes, that's what they were arguing about beforehand.

19 Q And do you know why the pictures were posted?

20 A I do not.

21 Q Okay. Did you know who posted them?

22 A Well, apparently Floyd thought that he was posting
23 them so.

24 Q You know what it was posted on?

25 A No, some sort of social media.

1 Q Facebook messenger perhaps?

2 A Could be some sort of social media post.

3 Q Okay. So you didn't ask to view that?

4 A Not at that time, no.

5 Q Do you know why he went back to talk to his mother or
6 did he explain that to you?

7 A Why he went back to talk to his mother?

8 Q There's a portion of the statement ---

9 A Well, they had went to Wal-Mart that day grocery
10 shopping. He did tell me that, yes, sir. I think he was
11 helping her take the stuff in and out right before that
12 happened.

13 Q And, in fact, he took something to her, didn't he?

14 A Uh-huh, said he went back over and spoke with his
15 mother.

16 Q What's that?

17 A He said he went back over and spoke with his mother.

18 Q What about the phone?

19 A The phone?

20 Q Uh-huh.

21 A I don't ---

22 Q Did he tell you he took his mama's phone back to her?

23 A I can't recall that directly in the video exactly
24 what was said about that.

25 Q Okay. So you don't know if the photos of the car in

1 question were on that phone?

2 A No, I don't.

3 Q And you didn't check that?

4 A That's correct.

5 Q Okay. What was the length of time from beginning to
6 end of the interrogation or the interview?

7 A After he finished eating, I'd say approximately 40
8 something minutes.

9 Q And after you finished your questioning is that when
10 the written statement ---

11 A Yes, he provided the written statement after he made
12 the verbal statement, yes.

13 Q Okay.

14 MR. ERVIN: Beg the Court's indulgence.

15 (WHEREUPON, a pause in the proceedings.)

16 MR. ERVIN: Nothing further.

17 THE COURT: Any redirect?

18 MR. BELL: No, your Honor.

19 THE COURT: You may step down.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 THE COURT: Any further witnesses?

23 MR. BELL: Nothing from the State, your Honor.

24 THE COURT: Mr. Ervin, I'll be glad to hear from
25 you, and I'm going to have an opportunity to view the

1 video before I make a ruling on it. Is there any
2 particular that number one that you want to present in
3 this hearing and is there anything particular that you
4 want me to focus on with regard to the video?

5 MR. ERVIN: No, your Honor, I will just ask the
6 Court to review the video.

7 THE COURT: All right. Very good. And do you
8 have any witnesses with regard to the matters at hand
9 here?

10 MR. ERVIN: No, your Honor.

11 THE COURT: All right. And I'm going to have an
12 opportunity to do that, and I'll hold my ruling in
13 abeyance until I've done so. Any other motions?

14 MR. ERVIN: Your Honor, I would move the Court
15 to require the State to produce the victim in this case
16 prior record. I have not received the NCIC rap sheet for
17 the victim.

18 THE COURT: Mr. Bell.

19 MR. BELL: Yes, your Honor. I do have that,
20 but, you know, based on the rules and regulations
21 government NCIC I was going to make sure I presented it to
22 him, but I didn't want to deliver it until trial. I'll
23 get a copy of that to him ASAP.

24 THE COURT: Do you have that in your file right
25 there?

1 MR. BELL: Yes, sir, your Honor.

2 THE COURT: If you could hand it to him.

3 MR. ERVIN: And your Honor we would also move
4 for sequestration of the witnesses.

5 THE COURT: All right. What is the State
6 position on sequestration?

7 MR. BELL: Your Honor, the State has no
8 objection, but one on the sequestering. One of my
9 witnesses is Joann Johnson, that is the mother of Floyd
10 Stewart. The State does not plan on calling her in the
11 case in chief, and I would plan to call her possibly for
12 reply witness and so being that she is close to the
13 victim, we would ask that she be able to stay in. Again,
14 she's not being called in my case in chief and the State
15 would decide whether or not to call her in reply.

16 THE COURT: Mr. Ervin, what do you have to say
17 about that?

18 MR. ERVIN: Your Honor, obviously, she's not an
19 investigator in the case. She is potentially going to
20 testify sequestration would apply to her. If you can
21 assure she's not, if he doesn't plan to call her, then I
22 would just -- that would be his call. Your Honor, I'm not
23 familiar with partial sequestration. If, you know, I'm
24 certain the case agent can stay in the room, I understand
25 that.

1 THE COURT: And if the victim weren't deceased,
2 the victim could be here.

3 MR. ERVIN: Correct.

4 THE COURT: Well, Mr. Bell, if she stays in, she
5 would be precluded from testifying, but she can stay if
6 she's not going to testify.

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

8 (WHEREUPON, a pause in the proceedings.)

9 MR. BELL: She won't be testifying, your Honor.

10 THE COURT: Very good. All right. She can
11 remain in the courtroom. The sequestration only means
12 that the witnesses can't listen to their testimony, but
13 the order specifically is that the witnesses can't discuss
14 their testimony with other witnesses. I'm going to ask
15 that you instruct all of them to that effect.

16 MR. BELL: Yes, your Honor.

17 THE COURT: Very good. Any other motions?

18 MR. ERVIN: Your Honor, we have discussed and
19 agreed that the defense would stipulate to the line up
20 that was done in this case. In other words, we have no
21 objection to the presentation of the Hartsville police
22 department line up in which Dabry James was identified.

23 THE COURT: All right. Very good. And you
24 waive any Biggers hearing in that regard?

25 MR. ERVIN: That's correct. The Neil vs.

1 Biggers case will not be necessary in this case.

2 THE COURT: Very good. All right. Yes, sir.

3 MR. BELL: That's all.

4 THE COURT: All right. Any other motions?

5 MR. BELL: Your Honor, I just want to make to
6 clear with that stipulation I'll be able to discuss that
7 line up in my opening, correct?

8 THE COURT: Yes.

9 MR. ERVIN: Yes.

10 THE COURT: Yes. All right. Any other motions?

11 Do what?

12 MR. ERVIN: Nothing I was just saying that goes
13 across the board. We both can discuss it I'm sure.

14 THE COURT: All right. Any other motions?

15 MR. BELL: None from the State, your Honor.

16 THE COURT: All right. Well, we going to have
17 -- I'm going to break for lunch right now, and I'm going
18 to come back and then start viewing the videos. That
19 might be a good opportunity for y'all to take a look at
20 all the evidence and pre-mark the evidence and show it to
21 him, so he'll know what you're referring to?

22 MR. ERVIN: Yes, sir.

23 MR. BELL: Yes, sir, your Honor.

24 THE COURT: Very good. All right. We'll stand
25 at ease until 2:15. And, Mrs. Parker, if you could help

1 us with that, we appreciate it.

2 (WHEREUPON, a lunch break was taken.)

3 MR. BELL: Judge, I didn't know if I needed to
4 go on the record on my list I did have number eight Ms.
5 Michelle Norton from the clerk's office on here because I
6 thought I was going to have an issue with being a witness
7 I want to take her off as well as Alisha Stewart.

8 THE COURT: Okay. Very good. All right, let's
9 have quiet. The jury is suppose to be here at 2:15. Why
10 we're doing that, Mr. Ervin, I've had an opportunity to
11 view the video statement that has been presented to me as
12 a Court's Exhibit. And is there any argument that you
13 would like to make with regard to the Miranda issues and
14 the voluntariness?

15 MR. ERVIN: No, your Honor.

16 THE COURT: Where is your client?

17 (WHEREUPON, a pause in the proceedings.)

18 MR. BELL: Your Honor, I'm looking at my jury
19 list.

20 THE COURT: Witness list.

21 MR. BELL: Excuse me, Judge, the witness list.
22 I'm sorry, Judge. Dytashia Platt is one of my witness,
23 and I did not have her on my witness list. And I did make
24 Mr. Ervin aware he knew I was going to call her. I
25 inadvertently left it off.

1 THE COURT: All right.

2 MR. ERVIN: I don't think it's critical at this
3 point.

4 THE COURT: All right, good. I understand all
5 the jurors are here. Mr. Ervin, once again for the
6 record, any arguments with regard to voluntariness of the
7 Miranda issues?

8 MR. ERVIN: No, Your Honor.

9 THE COURT: All right. Well, I do indeed to
10 find that he was in custody when the statement took place.
11 I specifically find that he was given his Miranda warnings
12 and that the statement was voluntary. I've taken into
13 consideration his age, his education and all of the
14 circumstances of the questioning. There's no question,
15 but that the overall tenure of the interview was not
16 coercive and it was voluntary and it's admissible. And
17 anything from the State before we bring the jury out?

18 MR. BELL: Nothing else from the State, your
19 Honor.

20 THE COURT: Anything from defense?

21 MR. ERVIN: No, your Honor.

22 THE COURT: All right. We ready for the jury.

23 (WHEREUPON, the jury came into open court.)

24 THE COURT: Madam forelady and ladies and
25 gentlemen of the jury, we're about to begin the trial of

1 indictment 2020-GS-16-0762. The State vs. Dabry Aunta
2 James. Ladies and gentlemen of the jury, it might be such
3 that many of you have served on a civil jury before. In
4 circuit court, there's two different types of court.
5 General sessions criminal court, which we're dealing with
6 here today. There's another type court it is common
7 pleas, which involves like automobile accidents, medical
8 malpractice, contract disputes where the issue that you
9 are litigating has to do with money.

10 This is an allegation the person has violated
11 the criminal codes of the State of South Carolina. And
12 we're talking about incarceration and the deprivation of
13 certain of their civil liberties. If you're to sit at the
14 back of this courtroom and take a look at the proceeding,
15 if you didn't hear what we were talking about, it be very
16 difficult to determine which court you're taking part in
17 or which court you're observing because in both courts you
18 have a jury that's sitting there listening to the facts,
19 determine what the facts are, got a judge presiding. You
20 got litigants on both sides. You got witnesses taking the
21 witness stand, but the similarities really stop there
22 because criminal court is different.

23 When a person is accused of a crime, there's a
24 very important constitutional safe guard, and it's known
25 as the presumption of innocence. As Mr. James is seated

1 there at the defense table, he's presumed to be just as
2 innocent as me or you. It's only after the State proves
3 him guilty each and every element of the offense beyond a
4 reasonable doubt that you can consider anything other than
5 that. That presumption is with him here today like a
6 protective cloak that follows him throughout the trial and
7 only in the deliberations.

8 The second constitutional safeguard is that the
9 State has the burden of proof. There's some theoretical
10 reasons behind that because we live in a free democratic
11 society. And if the government tries to take away your
12 liberty, they're going to be required to prove it.
13 There's some practical reasons behind that because they
14 have all of the resources necessary to gather the
15 evidence. They have law enforcement. They have SLED.
16 They have the sheriff's department. They have the police
17 department. They have all the resources required, and
18 they held to that duty and that responsibility to prove
19 their case each and every element beyond a reasonable
20 doubt.

21 The State has the burden of proof. The
22 defendant does not need to present any evidence. And as a
23 matter of fact, he doesn't even -- he's not required to
24 testify, that's an absolute right on his part. And
25 there's a reason behind that because all of us in our

1 every day lives have been accused of something, that it's
2 absolutely impossible to prove your innocence. The United
3 States of America you aren't required to do that. In some
4 third world countries, you can be accused of a crime, hall
5 before the Court, and be required to prove your innocence.
6 It's not the way it is in the United States of America.
7 The State has the burden of proof.

8 And the last element of the constitutional
9 safeguards is the State has the highest burden of proof
10 known to our judicial system proof beyond a reasonable
11 doubt. In a civil case, if you've ever served on that
12 before, if you imagine with me if you will the scales of
13 justice. And when the trial starts, the scales are even.
14 And in a medical malpractice case, if the plaintiff was to
15 approve their case, and it was just tilt the scales ever
16 so slightly in their favor, they would prevail. More
17 likely than not, that's known as preponderance of
18 evidence. Because after all in that forum, all you're
19 talking about is money, but in this court, we're talking
20 about possible incarceration. A person's civil liberties,
21 and so I envision the proof beyond a reasonable doubt is
22 locking up the scales. The highest burden of proof known
23 to our judicial system.

24 I want to tell you a little bit about how the
25 trial is going to progress. The State has the burden of

1 proof. Mr. Bell's going to stand up before you and give
2 an opening statement. He'll talk about what this case is
3 about. Maybe talk a little bit about the law and what he
4 intends to prove. And then the defense although they're
5 not required to do is, maybe able to give an opening
6 statement. They will go next. And they can talk about
7 their perception of the case and any defenses that they
8 might have. Pay very close attention to that. After
9 that, we'll begin the trial earnest.

10 And the plaintiff has burden of proof. They go
11 first. They call each one of their witnesses one by one
12 to this witness stand. He'll ask them questions about
13 what they know about this case. Then the defense will
14 have an opportunity to cross-examine them, and then the
15 State since they have the burden of proof will have an
16 opportunity to redirect on questions.

17 They'll call each witness one right after the
18 other until their case in chief is complete. And then the
19 defense will have an opportunity to present any witnesses
20 if they chose to do so. Certainly, they're not required
21 to do so. And then after that the lawyers will have an
22 opportunity to give closing arguments. And they are very
23 similar in forum to opening statement, but they are truly
24 argumentative in nature because at that juncture of the
25 trial, y'all have heard all of the evidence, and these

1 fine lawyers can point to the evidence that supports
2 they're relative theory of the case. What they have to
3 say is not evidence, but it will aid you immensely in your
4 deliberation process, so pay very close attention to that.

5 Ladies and gentlemen of the jury, you and I have
6 very separate and distinct roles in this case. My job is
7 -- I'm known as the arbiter of the law, which means I
8 preside over this proceeding. I determine what evidence
9 you get to hear. I determine the admissibility of
10 evidence that you get to hear. At the conclusion of the
11 case, I charge you the law.

12 Your job is different than that. You are the
13 triers of facts. You're the one that listen to the
14 evidence, determine what the truth is and apply it to the
15 law. In every case that's tried in this court, there's a
16 dispute about the facts or the inferences -- the
17 inferences to be drawn from the facts, and that's your job
18 as jurors to make those factual findings. The law doesn't
19 allow me to have an opinion or express an opinion about
20 the facts, that's your job. In your -- in fulfilling
21 your role as the triers of fact, you're necessarily going
22 to be called upon to evaluate the credibility of
23 witnesses. Ask yourself when the witness takes the
24 witness stand, what opportunity they had to observe the
25 things to which they're testifying to, ask yourself

1 whether or not this witness has an interest, bias or
2 prejudice in what they're saying. I'll tell you from the
3 very outset that you can believe one witness against many
4 or many against one. You can believe all of what a
5 witness says, a portion of what a witness says or none of
6 what a witness says. All of us in our every day lives
7 make determination to whether people are telling us the
8 truth. It requires common sense, and the law says that
9 you're to use your good common sense and evaluate the
10 credibility of witnesses, pay attention to what they say.
11 In addition to that, pay attention to how they say it.
12 All of us who have teenage children or have had teenage
13 children know that sometimes it's just as important to pay
14 attention to how they are as to what they their demeanor
15 is. Pay very close attention in that regard.

16 At the conclusion of the closing arguments, I
17 will give you -- I will charge you the substitutive law.
18 You are participating in a time tested system. This is an
19 important case. It's very important you've taken an
20 solemn oath that you'll listen to the evidence, determine
21 what the true facts are and apply it to the law. And I'll
22 tell you from the outset that if I make an error with
23 regard to evidentiary matters or if I charge the law in an
24 inappropriate way, those areas are easily corrected.
25 However, if you make an error with regard to the findings

1 of the fact, quite often those never can be corrected. So
2 you need to pay close attention. Given the nature of this
3 case, and the length of this case, I'm going to order that
4 you not take notes. Pay very close attention. You are
5 participating in a time tested system. We're going to
6 proceed forward with a serious contemplated mind.

7 Mr. Bell, you recognize.

8 MR. BELL: Yes, your Honor. May it please the
9 Court.

10 THE COURT: Yes.

11 MR. BELL: Ladies and gentlemen of the jury, I
12 hope you all enjoyed lunch. Murder, murder to me you will
13 get the law from the judge. What I think is murder?
14 Murder is the willful killing of a another human being
15 with malice aforethought. The willful killing of another
16 human being with malice aforethought.

17 Now, I think we all understand what willful
18 killing of another human being is. What is malice? You
19 will get the law from the judge, but I'll tell you what my
20 interpretation of what malice is. When I think of malice,
21 I think ill will. I think of hatred. Like my grandmama
22 use to say, just mean for no reason. And the judge will
23 give you the law, but it's just what I think of malice is
24 just hatred. It's a deprived heart, just no justification
25 for just hatred toward a person, that's what you need to

1 think of when you're hearing this case.

2 Now, like the judge said burden of proof is on
3 me. And, me, I been waiting two years along with the
4 mother of Mr. Floyd Stewart, the deceased that I talk
5 about. We been waiting two years to be here. And we
6 thank y'all for being here because we have a story to
7 tell.

8 And what's that story. On February 2nd 2020,
9 Mr. Floyd Stewart took his last breath at East Park
10 apartments Hartsville, that's in Darlington County.
11 Mr. Floyd Stewart approached the defendant, Mr. Dabry
12 James, had a conversation, at which point Mr. Floyd
13 Stewart turned his back, walked away, bullet back of the
14 head.

15 The evidence is going to also show as
16 Mr. Stewart laid there, he stood over him. The evidence
17 will show he stood over him multiple shots from the hands
18 of Mr. Dabry James. Now, he sits there like the judge
19 said he's innocent. A cloak of innocence just like that
20 jacket on his back. And I have the burden of proof to
21 take it off, so y'all hold me to that burden. I have to
22 show evidence through testimony. I'll show physical
23 evidence. I'm going to show witnesses, might be a photo
24 line up, hold me to my burden, that's very important, but
25 I need you to listen.

1 My mom would drop me off at Sunday school, she
2 say put your listening ears on. I need you to have your
3 listening ears on. There's going to be parts of this
4 trial. There's going to be a video, and it's going to be
5 long. It's going to be very kind of hard to hear, but you
6 need to pay attention. I need you to focus. This is
7 going to be a short trial. This is going to be a short
8 opening, that doesn't mean this isn't important. I have
9 the burden of proof to prove beyond a reasonable doubt
10 that on February 12th not only did Dabry James murder
11 Floyd Stewart with malice aforethought, he also possessed
12 a weapon during the commission of a violent crime, and he
13 didn't have a concealed weapon's permit, so that's
14 unlawful carrying of a pistol. And after the murder, he
15 goes and gets into Mr. Stewart's car and steals it, that's
16 grand larceny as long as that property is over \$2,000, and
17 I'll have to prove that. You have to hold me -- my burden
18 of proof of reasonable doubt every element, every crime.
19 I'm going to do that.

20 Now, what is reasonable doubt? The judge will
21 tell you. What I think of a reasonable doubt is?
22 Reasonable doubt is the hesitation to act. So at the
23 close of my case if when you go back to deliberate and you
24 hesitate to act on any of those verdicts, you got to find
25 Mr. James not guilty. I'm going to carry my burden. I

1 appreciate y'all for your time and I look forward to
2 presenting my case.

3 THE COURT: Thank you, Mr. Bell. Mr. Ervin, you
4 recognized.

5 MR. ERVIN: Please the Court. Mr. Bell. Ladies
6 and gentlemen of the jury, I previously introduced myself.
7 I want to do so again. I'm Jay Ervin, and I been
8 practicing law here in Darlington County. This is my 37th
9 year of practice, so it's not the first time I been before
10 a jury and made arguments in cases, but the most important
11 thing to talk about in the opening statement is -- you've
12 heard some of it from the judge early on and that certain
13 principles of our law that juries have to keep in mind at
14 the beginning of a case.

15 But before we start talking about that, I want
16 to thank you for your jury service. It's very important.
17 It really is one of the bedrock of our democracy and it's
18 as important. Some people say it's service of one's
19 country. I certainly think it is a bedrock of our
20 democracy, but I don't know that it compares to serving
21 during war time. But it's one of those things that is
22 sacred in our democratic system.

23 The judge will talk to you about the burden of
24 proof in a criminal case, and how the burden rest upon the
25 State and stays with the State throughout the entire

1 trial, until and unless at the close of deliberations and
2 at the close of testimony, and you begin your
3 deliberations, that burden of proof remains throughout,
4 until and unless it's removed by the evidence that has
5 been submitted in a case.

6 The burden of proof is on the State to prove
7 each and every element of the crime beyond a reasonable
8 doubt. And a reasonable doubt is what he defined it as
9 and what the Court will define later at the conclusion of
10 all the testimony in this case. The judge will charge you
11 on the law, and that's significant at this stage just to
12 stress that I can give you examples. And Mr. Bell can
13 give you examples, but if we say anything about the law
14 that's inconsistent with the judge's charge, you disregard
15 it because Judge Nettles is the sole judge of the law.
16 You're to judge the credibility of the witnesses, but he
17 will instruct you on the law as it applies in South
18 Carolina. And while we make arguments in our closing
19 arguments about what the evidence has shown and how it
20 comports to the law in this case, he is the sole person
21 for you to rely upon when hearing the elements of the law
22 in this case.

23 Now, the judge also touched upon how important
24 it is for a juror and a jury collectively to determine
25 whether or not a witness is credible and that really is

1 the most important function. Function of a juror because
2 determining the credibility of a witness' testimony is how
3 you basically weigh their testimony and determine what
4 weight, if any, to give in arriving at your verdict
5 because that's really what it's all about is determining
6 whether or not the truth is present in this case.

7 In determining whether or not a witness is
8 credible, he gave us some examples. Judge Nettles gave
9 you some examples of what to take into consideration. One
10 of which was the most important thing is does a witness
11 appear forthright, what is their demeanor, how they come
12 across when they're testifying about the facts they're
13 testifying to and what is their opportunity to have the
14 ability to give that testimony. Were they there? Did
15 they see everything? And you certainly should take all
16 these things into consideration and determine the
17 believability or the credibility of a witness' testimony.
18 And what's so significant about that is that as a jury
19 collectively, you are judges of the facts. The judge can
20 instruct you on the law, but basically the 12 of you and
21 the alternates are the judges of the facts in this case.
22 You determine where the truth lies and what has been
23 established in the case.

24 Now, you've heard about the charges in this case
25 and you also heard that Dabry James has been indicted for

1 murder as well as some other charges. And there was a
2 brief defining of the -- what murder consistent of it is
3 killing of another person with malice aforethought either
4 expressed or implied. The intentional killing of another
5 person with malice aforethought.

6 Now, the thing that's significant about that is
7 malice aforethought implies premeditation and implies at
8 that moment in time, and prior to that, that you meant to
9 do that. And those are things that are not necessarily
10 present in all killings of another person. That will
11 become relevant in determining innocence or guilt in this
12 case we submit. And really the verdict that you reach
13 is -- verdict is an old Latin term veredicto, which means
14 to speak the truth. And I certainly believe that at the
15 conclusion of all the evidence in this case your verdict
16 will speak the truth. Thank you.

17 THE COURT: Thank you, Mr. Ervin. Mr. Bell, you
18 recognize you may call your first witness.

19 MR. BELL: Yes, your Honor. The State calls
20 Mike Weatherford to the stand.

21 THE CLERK: If you'll come and take the oath of
22 a witness please, sir.

23 THE COURT: I'll ask if you could to approach
24 the clerk and place your left hand on the Bible and raise
25 your right hand as the clerk administers the oath.

1 THE CLERK: Do you swear the testimony you give
2 this court to be the truth, the whole truth, and nothing
3 but the truth so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Have a seat over here for me please.

6 THE COURT: If you could have a seat in the
7 witness chair, pull up real close to that microphone,
8 speak loudly, clearly and slowly in order that we can hear
9 everything that you have to say and let's start with your
10 full name please, sir.

11 THE WITNESS: Michael Allen Weatherford.

12 THE COURT: Very good. Mr. Bell.

13 MR. BELL: Yes, your Honor.

14 WHEREUPON,

15 Michael A. Weatherford,
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BELL:

19 Q Mr. Weatherford, where do you work?

20 A Hartsville police department.

21 Q And where were you working on February 12th 2020?

22 A I was at Hartsville police department.

23 Q And what was your involvement in the case against
24 Mr. Dabry James?

25 A I was one of the investigators that was working that

1 day when the call came out, went to the scene, began
2 gathering evidence figured out witnesses things of that
3 nature. And then ultimately went back to my office where
4 I prepared a photo lineup and spoke with a witness.

5 Q Let's go back to the scene, what did you see when you
6 got there? What all did you observe?

7 A There was numerous vehicles, several officers walking
8 around, but one of the things I seen when I first got to
9 Lange Court was Mr. Floyd Stewart's body on the ground to
10 the -- when you turn on Lange Court it would be the first
11 set of apartments to the left. His body was on the ground
12 about the middle way or in front of those apartments.

13 Q And these apartments you say are on Lange Court where
14 is Lange Court?

15 A Lange Court is off of East Carolina Avenue within the
16 city limits of Hartsville. It's a set of apartment
17 complexes that's within our jurisdiction.

18 Q Okay. And what's the name of those apartments again?

19 A East Park apartments.

20 Q Okay. All right. So you arrived on scene, you saw
21 the body Floyd Stewart. Did you talk to any witnesses?

22 A At the scene I don't believe I spoke to anybody. I
23 spoke to my investigators, made sure I had people doing
24 what they were suppose to be doing, what I needed to be
25 done kind of taking on my supervisory role. I was made

1 aware of a witness that I needed to speak with. And that
2 they would transport that witness to the investigations
3 division where I could speak with them there.

4 MR. BELL: Your Honor, may I approach?

5 THE COURT: Yes.

6 BY MR. BELL:

7 Q Okay. What I'm handing you, Mr. Weatherford, is
8 State's Exhibit premarked for 4, 5, 6 and 7. I just want
9 to see right now identify each one a little by showing you
10 without telling me what they are first tell me do you
11 recognize them?

12 A I do recognize them.

13 Q Starting with State's Exhibit premarked Number 4
14 where do you recognize number four from?

15 A The scene of where everything occurred in front of
16 the apartments at Lange Court.

17 Q And what does it show in that picture?

18 A Shows Mr. Floyd Stewart's body on the ground in a
19 face forward slumped over position.

20 Q Is that a fair and accurate picture outside of the
21 redaction that was made with his head -- with his face
22 blotted out. Is that a fair and accurate depiction of
23 what you saw on February 12th of 2022?

24 A Yes, it is.

25 Q Move on to State's Exhibit Number 5 premarked as

1 State's Exhibit Number 5, where do you recognize that
2 picture from?

3 A Again, this is East Park apartments Lange Court.
4 It's just a little further back about where the
5 intersection would be where Carolina in the beginning
6 driveway or the road come together.

7 Q Moving on to number six. Do you recognize number
8 six? What's in number six?

9 A Number six is the street signs just identifying that
10 it's East Carolina Lange Court, which again is in the city
11 limits of Hartsville.

12 Q That's where the incident occurred, correct?

13 A Correct.

14 Q And lastly exhibit number seven, where do you
15 recognize exhibit number seven from?

16 A That is in front of the apartments where Mr. Floyd
17 Stewart's body was at as well just from a different angle.

18 Q And regarding exhibits five, six and seven, are they
19 all true accurate depictions of what you saw on
20 February 12th of 2020?

21 A Also number four but, yes, they are.

22 MR. BELL: Your Honor, at this time I would move
23 State's Exhibit 4, 5, 6 and 7 into evidence.

24 THE COURT: Any objection from defense?

25 MR. ERVIN: No objection.

1 THE COURT: They're into evidence without
2 objection from defense.

3 MR. BELL: Thank you, your Honor.

4 (WHEREUPON, State's Exhibits Nos. 4, 5, 6 and 7
5 were admitted into evidence.)

6 MR. BELL: Your Honor, at this time your Honor
7 may I publish this to the jury?

8 THE COURT: Yes.

9 BY MR. BELL:

10 Q Okay. Now, Mr. Weatherford, when you got back to the
11 Hartsville police department, I think earlier you
12 testified that you started a photo lineup?

13 A Yes, sir.

14 Q All right. What did you base your photo lineup on?

15 A From the scene and speaking with my investigators,
16 the name Dabry James had come up numerous times as being
17 the individual involved, so from that, I had a name went
18 through what I normally do our computer system was able to
19 get a photo of him, and from there, I created a photo
20 lineup involving six individuals of what I could best fit
21 age, likeness, skin tone, facial hair, physical
22 characteristics that were similar and created a photo
23 lineup from that.

24 Q And just so you know the lineup form -- did you come
25 up with a lineup form? Did you do that?

1 A When I started with the Hartsville police department,
2 they had that form already done through prior cases and
3 things of that nature, so we adopted that and used that to
4 read from to limit any bias or implicit insinuations while
5 presenting a photo lineup.

6 Q So when you came up with that lineup, did you present
7 that lineup to a witness?

8 A I did.

9 Q And who was that witness?

10 A I want to say Dytashia Platt if I'm saying that
11 correctly.

12 Q And did she pick out someone from that line up?

13 A She did.

14 Q And who did she pick out?

15 A Dabry James.

16 MR. BELL: Your Honor, may I approach the
17 witness?

18 THE COURT: Yes.

19 BY MR. BELL:

20 Q What I'm handing up to you now is State's Exhibit 1
21 and that will be State's Exhibit 14 and 15, that's already
22 been moved into evidence and stipulated to. Could you
23 look at those two items? You recognize those items,
24 correct?

25 A I do.

1 Q Go to the picture of the lineup, could you look at
2 that and over Dabry James picture what's indicated on that
3 picture?

4 A There is initials from the witness. There's the
5 date, the approximate time that those were collected, my
6 signature as well as my call sign and my last name.

7 Q Did you in any way suggest to Ms. Platt to or force
8 her to pick Mr. Dabry James?

9 A I did not. I specifically read from the photo lineup
10 form, which indicates that an individual may or may not be
11 present. They may look differently or any number of
12 reasons why the name that I kept coming up with may or may
13 not be in the lineup.

14 Q And at any time did Ms. Platt indicate to you any
15 type of percentage of how sure she was that the suspect
16 was Mr. Dabry James?

17 A She did.

18 Q And what did she indicate?

19 A She indicated that she was 100 percent certain of her
20 selection.

21 MR. BELL: Your Honor, at this time I would like
22 to publish State's Exhibit 14 and 15 to the jury.

23 THE COURT: Any objection?

24 MR. ERVIN: No objection.

25 THE COURT: Into evidence, and you may publish

1 them.

2 (WHEREUPON, State's Exhibits Nos. 14 and 15 were
3 admitted into evidence.)

4 BY MR. BELL:

5 Q Now, Mr. Weatherford, you also took out three more
6 warrants, didn't you?

7 A I did.

8 Q Okay. Those warrants were grand larceny, possession
9 of a weapon during the commission of a violent crime and
10 unlawful carrying of a pistol?

11 A That's correct.

12 Q Let's talk about the grand larceny. What evidence
13 based on your investigation gave raise to charging
14 Mr. Dabry James with grand larceny?

15 A Witness statements stated that Mr. Dabry James after
16 shooting Mr. Stewart, then did take his vehicle and flee
17 the area. Based off of that, speaking with his mother,
18 the investigation and some other searching, it was a 2014
19 Chrysler 200 that had purchased not long ago by his
20 mother. And even after some trade in on her vehicle back
21 and forth, the estimated value of the loan was about
22 \$8,600, but even just this morning still plugging in the
23 same vehicle with the lowest -- almost the lowest common
24 denominator of care for the vehicle being in poor
25 condition two additional years afterwards, high milage was

1 standard options of everything that on Kelly Bluebook was
2 still approximately to 2,400 to \$4,000 with a trade in of
3 about \$3,200. So it was still even today valued over the
4 \$2,000 mark.

5 Q Regards to the unlawful carrying of a pistol what --
6 base on your investigation gave rise to issuing a warrant
7 for that?

8 A I previously checked with SLED who issues concealed
9 weapons permit. They did not have anything on file for
10 Mr. James. And, again, I followed up again this morning
11 to go back and double check and spoke with the captain
12 over the concealed weapons permit division. He followed
13 up with me and said that they had nothing on file for
14 Mr. Dabry James, which indicated he does have a concealed
15 -- does not now nor did he have a concealed weapon's
16 permit.

17 Q Okay. And lastly, Mr. Weatherford, without telling
18 me what -- I don't want to know what Ms. Platt said, but
19 who was your number one suspect prior to the photo lineup
20 in interviewing Ms. Platt?

21 A The name that kept coming up was -- which was
22 Mr. Dabry James.

23 Q After your interview with Ms. Platt, who was your
24 number one suspect?

25 A Again, Mr. Dabry James.

1 MR. BELL: Your Honor, that's all from the
2 State. Please answer any questions Mr. Ervin has for you.

3 THE COURT: Mr. Ervin, you recognized
4 cross-examination.

5 CROSS-EXAMINATION

6 BY MR. ERVIN:

7 Q Mr. Weatherford, again what's your position with
8 Hartsville?

9 A I'm currently a lieutenant over our vice division.

10 Q Okay. And do you routinely put together those photo
11 lineups?

12 A It depends on the circumstances, but more times than
13 not I am the one who puts those together, yes, sir.

14 Q Okay. Do you even do it in cases where somebody
15 indicates to you that they know the individual real well?

16 A It depends on a number of factors, but we do do that
17 at times, yes, sir.

18 Q In fact in this case, she told you that she was a 100
19 percent sure that Dabry James was the person in the lineup
20 that she said I don't really need to see a lineup. I know
21 him that well, correct?

22 A I believe that is correct, yes, sir.

23 Q So the lineup really was unnecessary, correct?

24 A We want to make sure that we are identifying the
25 correct individual. A lot of times people say others

1 names, but we just want to be corrected and sure when
2 obtaining warrants of that stature that we have the right
3 individual.

4 Q And I certainly understand that and commend you for
5 it, but in cases where an individual has explain to you
6 how well they know somebody and that you were just talking
7 to them as was the case in this particular investigation
8 really wasn't necessary, was it?

9 A Not particularly, no.

10 Q And in fact she was talking to Dabry James when Floyd
11 Stewart walked up and started in on him, isn't that what
12 she said? Started a beef, an argument?

13 A I know that she said there was a conversation that
14 was occurring.

15 Q She said words were exchanged, correct?

16 A That I believe how it was phrased, yes, sir.

17 Q And you know what that means street lingo. They
18 weren't being sweet to each other at that point, were
19 they?

20 A From the direction of what she said, no, sir.

21 Q Okay. They didn't come up and greet each other like
22 how you doing man, did they?

23 A No, sir.

24 Q And in fact the allege victim in the case, Floyd
25 Stewart, approached and confronted Dabry James, didn't he?

1 A Yes, sir.

2 Q Okay. And he left and took his mother's phone back
3 to her and her keys that he had. She was across the way,
4 isn't that correct?

5 A I believe so, yes, sir.

6 Q And when he returned Floyd Stewart was still there,
7 wasn't he, waiting on him?

8 A I don't know the context of whatever, but I do know
9 that Floyd was still there I think speaking with the
10 witness.

11 Q And continuing to speak to him, correct?

12 A I don't know that they spoke any more, but I know
13 that they were all back together at that point.

14 Q Had some more words?

15 A That sounds right.

16 MR. ERVIN: I don't have any further questions.

17 THE COURT: Any redirect?

18 MR. BELL: Nothing from the State, your Honor.

19 THE COURT: You may step down.

20 MR. ERVIN: One more follow up.

21 THE COURT: All right.

22 BY MR. ERVIN:

23 Q The photo lineup -- was the lineup presented one by
24 one?

25 A It was.

1 Q So in other words you showed each picture
2 individually?

3 A I did.

4 Q So it wasn't on a chart?

5 A No, sir.

6 Q Just picture by picture, correct?

7 A Yes, sir.

8 Q And the photograph of number five here of Dabry
9 James, you noticed something unusual about that?

10 A I do.

11 Q You know what it is?

12 A Appears to be a Band-Aid.

13 Q Right. See where it is?

14 A On his ear.

15 Q Right below his ear?

16 A I do.

17 Q You know he had been shot when that picture was
18 taken?

19 A I don't believe so.

20 Q You don't believe he had been?

21 A I don't know that I was aware of that fact. I see a
22 Band-Aid, but I don't know the circumstances leading to
23 that.

24 Q You don't know. Well, you said a lot about what you
25 knew about the investigations in this case about

1 statements you taken from people and conclusions you
2 reached. You knew he had been shot in December, didn't
3 you?

4 A I don't believe I was aware of that, no, sir.

5 Q Okay. Do you dispute that?

6 A I don't only because I've uncovered that there's a
7 report that had been filed with Darlington County not in
8 our jurisdiction where there was an incident report filed,
9 but before that or recently, I'm not aware.

10 Q All right. When you did this lineup, when was that?

11 A February whatever date is 2020. I think it was
12 February of 2020.

13 Q February 13th 2020?

14 A I believe so.

15 Q The day after the incident occurred?

16 A No, it would have been the day of.

17 Q Okay. Same day?

18 A Yes.

19 Q So that's the 12th. Do you know when the incident
20 report was filed in Darlington County sheriff's department
21 that you obviously had the benefit of reading since then?

22 A I believe that was back in December of 2019.

23 Q Right.

24 A In November -- somewhere back in 2019.

25 Q December 2019 some couple of months before that,

1 right?

2 A Yes, sir.

3 Q All right. And are you aware of the fact he spent
4 overnight at Carolina Pines and was treated for that
5 gunshot wound?

6 A No, sir, I'm not.

7 Q You don't dispute that though, do you?

8 A I can't dispute anything that I don't have knowledge
9 of.

10 Q Okay. Well, if I told you that as matter of fact
11 would you agree with me, would you be surprise by that?

12 A I would not be surprise or dispute that.

13 Q Be kind of consistent with getting shot, wouldn't it?

14 A Yes, sir.

15 Q Okay. But didn't have any role in investigating that
16 shooting incident, did you?

17 A I did not.

18 Q So you don't know anything about it other than what
19 you heard or read or what you can recall which admittedly
20 not very much?

21 A Other than the basic incident report, I do not have
22 any further knowledge of it.

23 Q You didn't conduct any investigation because it was
24 out in the county, is that correct?

25 A That was outside of our jurisdiction correct.

1 MR. ERVIN: I don't have any further questions.

2 THE COURT: Redirect.

3 MR. BELL: Just briefly, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BELL:

6 Q Mr. Weatherford, who do you work for again?

7 A Hartsville police department.

8 Q You work for Darlington County sheriff department?

9 A I do not.

10 Q In your free time, do you just randomly pick up
11 incident reports from Darlington County sheriff department
12 and read them?

13 A I do not.

14 MR. BELL: Nothing further, Judge.

15 THE COURT: You may step down.

16 (WHEREUPON, the witness leaves the witness
17 stand.)

18 THE COURT: You may call your next witness.

19 MR. BELL: Next witness will be Dytashia Platt.

20 THE COURT: Place your left hand on the Bible
21 and raise your right as the clerk administers the oath.

22 THE CLERK: You swear the testimony you give
23 this court to be the truth, the whole truth and nothing
24 but the truth so help you God?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: I'm going to ask you if you could to
2 have a seat in the witness chair, pull up real close to
3 that microphone, speak loudly, clearly and slowly in order
4 that we can hear everything that you have to say and lets
5 start with your full name please, ma'am.

6 THE WITNESS: Dytashia Platt.

7 WHEREUPON,

8 Dytashia Platt,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BELL:

12 Q How you doing this afternoon, Ms. Platt?

13 A I'm fine. How about you, sir?

14 Q Ms. Platt, you go by any nicknames?

15 A Muff.

16 Q Ms. Platt, did you know Mr. Floyd Stewart? Did you
17 know Mr. Floyd Stewart?

18 A Yes, sir.

19 Q How did you know him?

20 A He was dating a friend that I was staying with.

21 Q So he was the boyfriend of somebody you were staying
22 with?

23 A Yes, sir.

24 Q Who was you staying with?

25 A Nakea Ferguson.

1 Q And when were you staying with her? Were you staying
2 with her from around the time this event occurred?

3 A Yes, sir, I was.

4 Q How long have you been staying with her?

5 A I been staying with Nakea probably about six months
6 to a year.

7 Q So you had been staying with her six months to a year
8 prior to February 12th 2020?

9 A Yes, sir.

10 Q Okay. That entire time was she also dating Floyd
11 Stewart?

12 A When I left and came back for work, they were
13 together, yes.

14 Q So I'm asking the whole time you were staying in the
15 house with Nakea Ferguson would you see Floyd there?

16 A Yes, sir.

17 Q Where did Nakea Ferguson stay?

18 A East Park.

19 Q East Park apartments?

20 A Yes, sir.

21 Q Do you remember what apartment number it was?

22 A [REDACTED] Lange Court.

23 Q And how long did you know Nakea Ferguson before you
24 moved in with her?

25 A I known Nakea probably about four months before I

1 moved in with her.

2 Q Okay. Do you know how long she been staying out
3 there?

4 A No, sir.

5 Q Ms. Platt, do you know Mr. Dabry James?

6 A Yes, sir.

7 Q Did you know him on February 12th 2020?

8 A Yes, sir, I did.

9 Q How did you know him?

10 A We all stayed in the same apartment complex.

11 Q So if you stay in a hundred, where did relatively
12 speaking where did Mr. James stay?

13 A Across the street behind the mailboxes.

14 Q So it's safe to say he stayed in the same apartment
15 complex?

16 A Yes, sir, it is.

17 Q So you saw him often?

18 A Yes, sir, I did.

19 Q Would you speak to him often?

20 A Yes, sir.

21 Q All right. Take me to February 12th 2020, tell me
22 what did you see on that day?

23 A February the 12th 2020, how do I start. Me and Dabry
24 was standing on the porch. We was talking. In the
25 process of us talking, Floyd pulled up. When Floyd pulled

1 up, his mother called him -- called Dabry to bring her her
2 phone and her keys. He went over to take that to her. In
3 the process of him coming back, him and Floyd exchanged
4 some words. After him and Floyd exchanged some words,
5 that's when Dabry James leaped up off the porch from
6 beside me, shot Mr. Stewart in the back. Then after that,
7 he shot him in the head.

8 Q Now, what porch was you standing on?

9 A I was standing on my sister's porch.

10 Q Where did your sister stay?

11 A In [REDACTED] right beside Nakea.

12 Q So you have [REDACTED] and [REDACTED]. Your sister stays right
13 beside the place where you were staying, right?

14 A Yes, sir.

15 Q Okay. So you are on the porch and you're talking to
16 Dabry James?

17 A Yes, sir.

18 Q And Floyd who you testified that Floyd Stewart came
19 up came up and they ---

20 MR. ERVIN: Your Honor, if he has a question, I
21 would object to that line of leading.

22 THE COURT: Yeah, that is leading.

23 MR. BELL: I'll rephrase, your Honor.

24 BY MR. BELL:

25 Q You just testified that Floyd and Dabry James had

1 words. Did you hear what they said?

2 A All I heard was Floyd ask Dabry was that him sending
3 pictures of his car to someone else.

4 Q Did you see the phone?

5 A No, sir, I did not.

6 Q When Floyd ask Mr. James that, did you hear what
7 Mr. James make a reply?

8 A No, sir.

9 Q So Dabry James didn't say anything?

10 A Not that I know of.

11 Q What did Mr. Stewart do next after he ask him that?

12 A After he ask him that, he told him if it is him don't
13 be doing that because he don't want to have hisself or
14 people that he love in danger. And then after that he
15 ain't say something else. Mr. Stewart walked off to his
16 car. And in the process of him walking off to his car,
17 that's when Mr. James shot him in the back and stood over
18 him and shot him in the head.

19 Q So you're testifying Mr. Stewart's walking towards
20 his car. After Mr. James you say shot him in the head,
21 then what happened?

22 A Mr. James hopped in Mr. Stewart's car. He drove off.
23 That's when Mr. James mother told her sister come on --
24 her daughter excuse me -- her daughter to come on, and
25 they left right behind him going their separate ways.

1 Q So you say Dabry James mother, do you know her name?

2 A Ms. Portia.

3 Q Did she -- did you observe her outside when this
4 happened?

5 A She was on her porch as well.

6 Q Did she say anything after this happened?

7 A All she said was, oh, my God and jumped in her car
8 and grab her daughter.

9 Q Do you remember if Mr. Stewart's car was running at
10 the time?

11 A I can't recall.

12 Q What did you do after you saw Mr. Stewart get shot?

13 A Once I seen Mr. Stewart get shot and he was laying on
14 the ground, my first mind told me to call the ambulance,
15 call the police, that's what I did. I call the police. I
16 call the ambulance. I told them a man was laying on my
17 ground dead, and they need to come out and see about it.

18 Q Did they come?

19 A Yes, sir, they did.

20 Q And when they got there, what did you tell them?

21 A I told them that a man had got shot by another man
22 and they kept asking me who. And right then and there, I
23 felt like I didn't want to tell them, so I didn't.

24 Q So your testimony is when they first came, you
25 weren't truthful?

1 MR. ERVIN: Your Honor, I'm going to object to
2 him regurgitating her testimony. If he's got a question
3 ---

4 THE COURT: I agree. You need to ask direct
5 questions.

6 MR. BELL: Fair enough, your Honor.

7 BY MR. BELL:

8 Q You weren't truthful when law enforcement came,
9 right?

10 A Not at first, no, sir.

11 Q Eventually, you was shown a photo lineup, correct?

12 A Yes, sir.

13 Q Mr. Weatherford, asked you who did the killing?

14 A Yes, sir, he did. He asked me could I point him out
15 in a lineup and I told him, yes, sir, I could.

16 Q And did you do that?

17 A Yes, sir, I do did.

18 MR. BELL: Your Honor, I would like to approach
19 the witness.

20 THE COURT: Yes.

21 MR. BELL: Your Honor, I would like to have the
22 witness step down and I would like to put the pictures up
23 and publish them.

24 THE COURT: You may.

25 MR. BELL: Beg the Court's indulgence.

1 (WHEREUPON, a pause in the proceedings.)

2 BY MR. BELL:

3 Q Could you step down here for me. Could we cut that
4 light off back there. All right, Dytashia, what I have is
5 this pin. Do you recognize this picture?

6 A Uh-huh.

7 Q What's in this picture?

8 A Nakea's apartment, my sister's apartment and Floyd
9 body.

10 Q Who's apartment is here?

11 A That's Nakea's apartment. That's my sister's
12 apartment. And that's Floyd's body.

13 Q All right. Now, where's the porch that you were
14 sitting on?

15 A Right here in front of ---

16 Q This is it?

17 A Uh-huh.

18 Q Where was Floyd Stewart's vehicle? I need you to
19 point this out. Do you remember?

20 A Right here.

21 Q That's in front of?

22 A Nakea's apartment.

23 Q Next, I want to show you State's Exhibit Number 4.
24 Dytashia, I would like for you to show me exactly where
25 you were standing? I know this is hard, but I'll take

1 this down as soon as you show the ladies and gentlemen of
2 the jury.

3 A I was standing right there where this officer is at
4 right here.

5 Q Is that the porch that you were standing on?

6 A Yes, sir.

7 MR. BELL: No further questions from the State
8 of this witness.

9 THE COURT: Have a seat back in the witness
10 chair. Mr. Ervin, cross examination.

11 MR. ERVIN: Thank you, your Honor.

12 CROSS-EXAMINATION

13 BY MR. ERVIN:

14 Q Dytashia, was it -- at what point did you tell them
15 by them I mean the authorities the police, Hartsville
16 City Police that you had seen something. Initially, you
17 didn't tell them that Dabry did this, correct?

18 A Uh-huh.

19 Q And at what point later did you meet with them to
20 look at the photo lineup?

21 A Once everything had like -- once they got me to a
22 point where I could actually calm down and we went down to
23 the station, me and that's when me and Officer Weatherford
24 sat and talk about what happened. And I picked Dabry
25 James out of a lineup.

1 Q And in fact that was a video interview, wasn't it?

2 A Yes, sir.

3 Q They video you in the interview room, is that
4 correct?

5 A Uh-huh.

6 Q And you really didn't need to see a lineup, did you?
7 You told him that, didn't you, because you knew Dabry
8 James?

9 A Yes, sir, I did.

10 Q And had you known him for a pretty good little while?
11 Is that a yes or no?

12 A Yes, sir.

13 Q How long had you known Dabry James?

14 A I been staying in East Park for a while, so I've
15 known him for a good little minute.

16 Q More than a year then?

17 A Yes, sir.

18 Q Okay. So identification wasn't an issue for you?

19 A No, sir.

20 Q And you told them that?

21 A Yes, sir.

22 Q Now, how far from where you and Dabry were standing
23 was it to Mr. Stewart's car?

24 A It wouldn't be no further than I would say about
25 where me and you are sitting and standing now.

1 Q Okay. So not very far at all, was it?

2 A No, sir.

3 Q And how far away were Dabry and Stewart when he left
4 to go toward his car, how far away -- I'm just going to
5 walk toward you. Tell me to stop. How far were they from
6 you?

7 A About right there.

8 Q So Mr. Stewart was close to his car when he was shot?

9 A Yes, sir.

10 Q He was walking to the car, right?

11 A Yes, sir.

12 Q You don't know what was inside the car, do you?

13 A No, sir, I do not.

14 Q You didn't look in it?

15 A No, sir.

16 Q Okay. Was the door open to the car?

17 A I can't recall.

18 Q Okay. But it could have been just not sure of that?

19 You remember if the car was running?

20 A No, sir, I do not.

21 Q And you were quite a bit closer to them than Ms.
22 Portia Tedder was Dabry's mother?

23 A Yes, sir.

24 Q That's pretty fair to say, isn't it?

25 A Yes, sir.

1 Q Okay. And you said that there was an disagreement
2 over the photographs that had been posted of Floyd's car,
3 is that what you heard?

4 A Yes, sir.

5 Q Did you hear Floyd Stewart say to Dabry James what
6 you gone do now as he was getting ready to get in his car?

7 A No, sir.

8 Q Back toward his car?

9 A No, sir.

10 Q You didn't hear that?

11 A No, sir.

12 Q Could he have said it?

13 A Maybe.

14 Q Okay. Could have.

15 MR. ERVIN: Nothing further, your Honor.

16 THE COURT: Any redirect?

17 MR. BELL: Briefly, your Honor.

18 REDIRECT EXAMINATION

19 BY MR. BELL:

20 Q Ms. Platt.

21 A Yes, sir.

22 Q Could you make out what kind of gun Mr. James was
23 using on that day?

24 A No, sir, I cannot.

25 Q Okay. Did you ever see Mr. Stewart with a gun?

1 A No, sir.

2 MR. BELL: Beg the Court's indulgence.

3 (WHEREUPON, a pause in the proceedings.)

4 BY MR. BELL:

5 Q And just for the record is Mr. Dabry James in the
6 courtroom today?

7 A Yes, he is.

8 Q Could you point him out for me?

9 A (Whereupon, Ms. Platt pointed to the defendant.)

10 MR. BELL: Let the record reflect Ms. Platt has
11 in court identified Mr. Dabry James. That's all from the
12 State.

13 THE COURT: All right. You may step down.

14 MR. ERVIN: One redirect, your Honor. I mean,
15 recross.

16 THE COURT: I'm going to allow that on this
17 occasion, but the rules don't really allow for recross.
18 It's just direct, cross and redirect. You have an
19 obligation to objection to anything that's brought up new
20 in redirect.

21 MR. ERVIN: Right.

22 THE COURT: From this point forward, that
23 applies to all witnesses.

24 MR. ERVIN: Yes, sir. Yes, your Honor.

25 RECROSS-EXAMINATION

1 BY MR. ERVIN:

2 Q He mentioned the gun. You hadn't seen any guns out
3 there that day prior to this, had you?

4 A No, sir.

5 Q Had you ever seen guns at Lange Court before?

6 A No, sir.

7 MR. ERVIN: That's all I have.

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

9 THE WITNESS: You welcome.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 MR. BELL: Your Honor, I ask that Ms. Dytashia
13 Platt be relieved of her subpoena?

14 THE COURT: Any objection from defense?

15 MR. ERVIN: No objection.

16 THE COURT: You free to leave.

17 MR. BELL: The State calls Brian Rudick.

18 THE COURT: Yes, if you could approach the
19 Bible, you can put your paper down. Place your left hand
20 on the Bible and raise your right.

21 THE CLERK: Do you swear the testimony you give
22 this court to be the truth, the whole truth, and nothing
23 but the truth so help you God?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Come forward and I'm going to ask

1 you if you could to have a seat in the witness chair, pull
2 up real close to that microphone, speak, loudly, clearly
3 and slowly in order that we can hear everything that you
4 have to say and start with your full name please, sir.

5 THE WITNESS: Yes, sir. My name is Brian Rudick
6 R-U-D-I-C-K.

7 WHEREUPON,

8 Brian Rudick,
9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BELL:

12 Q Mr. Rudick, who do you work for?

13 A I work for the Hartsville police department.

14 Q And who were you working for on February 2nd --
15 February 12th 2020?

16 A Hartsville Police Department.

17 Q Were you involved any with the case involving
18 Mr. Dabry James?

19 A I was.

20 Q Would you please tell the ladies and gentlemen of the
21 jury what your involvement in this case was?

22 A On that date at approximately 2:05 pm dispatch
23 advised over our radio that there was a shooting at Lange
24 Court, which is in the East Park apartment complex. And
25 from my recollection what I wrote down, there was one down

1 which usually means someone is injured or shot. I
2 responded from the police department. I'm a lieutenant
3 there, that's where my office is, responded, and I was the
4 first on scene.

5 Q Okay. What did you observe when you got on scene?

6 A As I was pulling up between the [REDACTED] and [REDACTED] building
7 apartments, there was what appeared to be a black male in
8 a red shirt laying on the ground. That was the
9 approximate area that they told us that the shooting had
10 occurred in. I got out and there was several females in
11 the area that appeared to be frantic within several feet
12 of him. I asked them what happened to the shooter because
13 that's normally our primary -- make sure that stopped.
14 They said he already fled driving the victim's car.

15 Q And did you observe the body?

16 A I did.

17 Q What did you observe?

18 A From my experience, I was looking for respirations.
19 I spoke. Hello, are you okay. What's going on. I did
20 not see the subject move. From the time I got there, the
21 victim did not move. I observed what appeared to be
22 gunshot wounds to the back of the head. There appear to
23 be brain matter coming out of the wounds. There did not
24 appear to be any respirations, so I would assume he was
25 deceased.

1 Q And what did you do next?

2 A At that point the other officers started arriving as
3 back up to the fire department. EMS everyone started
4 showing up. I stayed with the body. The fire department
5 was able to provide us with a sheet initially. And we
6 tried to use a tarp sort of as a visual blocker because
7 it's an apartment complex. There's lots of people coming
8 and going. We were trying to kind of keep that down. I
9 ended up asking our evidence technician to go back to the
10 detective division and bring us -- we had a special built
11 PVC frame with some canvas over it can be used as a
12 blocker. At that time we were actually having to hold the
13 tarp, so bringing that out helped provide some visual
14 block of the body.

15 Q About what time of the day was this?

16 A It was at 2:05 p.m. is when we were initially
17 dispatched.

18 Q Did you do any type of pat search?

19 A We wanted -- we were trying to identify the victim
20 initially and knowing that the coroner would eventually be
21 on scene, I checked the immediate pockets that I could
22 access without disturbing the body looking for an ID and
23 did not find one.

24 Q While looking for an ID did you find a weapon?

25 A No.

1 Q Okay. And what other involvement did you have with
2 this case?

3 A I pretty much stayed at the body. The responding
4 investigators were all speaking to witnesses and along
5 those lines and arranging for search warrants and doing
6 other investigative purposes, so I stayed right there. At
7 one point I heard or overheard a conversation I believe it
8 was one of the witnesses.

9 MR. ERVIN: Objection to leading.

10 THE COURT: Sustained.

11 BY MR. BELL:

12 Q What other job did you perform out there in your
13 official capacity?

14 A Due to the -- what appeared to be bullet wounds to
15 the head, I asked Detective Norton to bring me a metal
16 detector to the scene in an attempt to locate possible
17 spent rounds. We did not find any shell casings. We
18 searched a pretty vast area from the apartments all the
19 way out into the parking area probably 5,000 square feet
20 or greater. Did not find anything of evidentiary value
21 that we determined. She did bring me the metal detector,
22 and I searched a grid pattern in and around the body after
23 it had been removed by the coroner or we got consent from
24 the coroner and moved the body. And ended up with three
25 different indications of metal under the ground. I mark

1 those and eventually excavated those particular areas,
2 and the first one I believe was a penny. The second one
3 was a piece of jewelry that had been discarded and did not
4 have any relevance to the case. The third indicator was
5 right where the victim's head had been. I flip the grass
6 over, and we were able to find two spent bullets.

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

9 THE COURT: Yes.

10 BY MR. BELL:

11 Q I'm am showing you -- it's been premarked State's
12 Exhibit 8, 9, 10 and 11. First, I want you to just look
13 at them and tell me if you recognize them. And if you do,
14 tell me where you recognize them from start with number
15 eight? Do you recognize them?

16 A I do, sir.

17 Q Where do you recognize it from?

18 A This is the ground area between apartment [REDACTED] and [REDACTED]
19 where the victim was found. In particular, 108 shows the
20 location where his head had sat, and I had excavated a ten
21 inch by ten inch by four inch deep piece of grass out
22 where I had located the rounds.

23 Q Move on to number nine, do you recognize it?

24 A I do.

25 Q Where do you recognize it from?

1 A The same day taking the plug of dirt that I'd removed
2 from the hole, flipped it over and started examining, and
3 I found the two bullets. And this is the picture of the
4 bullets by themselves after they were removed from the
5 grass and sitting on the ground.

6 Q Going to number ten?

7 A Yes. Number ten and number 11 are very similar
8 photographs. There of a scale. When you do crime scene
9 photography, you use scale, so that you can figure out how
10 big or small an object is sometimes. A photograph doesn't
11 quite capture how large it is, so we always try to include
12 photographic scale in each picture. So each of the two
13 rounds each had its own photograph taken with a
14 photographic scale.

15 Q In regards to exhibits eight, nine, and ten and 11,
16 are they true accurate depictions of what you observed at
17 that crime scene on February 12th 2020?

18 A They are, sir.

19 MR. BELL: Your Honor, at this time I move --
20 the State moves 8, 9, 10 and 11 into evidence.

21 MR. ERVIN: Without objection.

22 THE COURT: It's into evidence without objection
23 from defense.

24 MR. BELL: Okay.

25

1 (WHEREUPON, State's Exhibits Nos. 8, 9, 10 and
2 11 were admitted into evidence.)

3 BY MR. BELL:

4 Q Lastly, Mr. Rudick, I'm going to show you what's
5 marked as State's Exhibit 12 and 13 without telling me
6 what it is, please tell me if you recognize it?

7 A I do.

8 Q Where you recognize it from?

9 A From the crime scene at Lange Court.

10 Q How do you recognize it?

11 A Because my handwriting is on both of these envelopes.

12 Q Okay. And what is the content?

13 A Content should be one round in each envelope.

14 Q Those are the two rounds that you found?

15 A It is still sealed, yes, that would be the rounds
16 that I did find.

17 MR. BELL: Your Honor, at this the point I move
18 State's Exhibit 12 and 13 into evidence.

19 MR. ERVIN: No objection.

20 THE COURT: It's into evidence.

21 MR. BELL: Beg the Court's indulgence.

22 (WHEREUPON, State's Exhibits Nos. 12 and 13 were
23 admitted into evidence.)

24 (WHEREUPON, a pause in the proceedings.)

25

1 BY MR. BELL:

2 Q Now, what happens after the body is collected?

3 A The body was removed by EMS wherever the coroner
4 sends it for further examination.

5 MR. BELL: Please answer any questions,
6 Mr. Ervin may have.

7 THE COURT: Mr. Ervin.

8 MR. ERVIN: I don't have any questions.

9 THE COURT: You may step down.

10 THE WITNESS: Yes, sir.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 THE COURT: Madam forelady and ladies and
14 gentlemen of the jury, we're going to take a brief recess
15 allow you to refresh yourselves. Do not discuss the case.
16 Madam forelady, I'm going to ask that you enforce that
17 rule. Everyone remain seated as the jury exits the
18 courtroom.

19 (WHEREUPON, the jury retire to the jury room.)

20 THE COURT: Anything from the State before we
21 recess for a moment?

22 MR. BELL: Your Honor, we're moving a lot faster
23 than I suspected. I might need to get one of my other
24 witnesses up here.

25 THE COURT: Now, would be a good time to do

1 that.

2 MR. BELL: Yes, sir.

3 THE COURT: Anything from defense?

4 MR. ERVIN: No, your Honor.

5 MR. BELL: Your Honor, I do want to ask. The
6 one witness I was talking about would be the Investigator
7 Kyle Hause that involve us publishing the video which is
8 about 45 minutes long, that's why I was going to save him
9 for nine o'clock in the morning, but the way we're moving
10 I want to make the Court aware.

11 THE COURT: Is that the only other witness you
12 have?

13 MR. BELL: No, I have one more.

14 THE COURT: All right. Who is the other one?

15 MR. BELL: That be Kristin Jeffords law
16 enforcement.

17 THE COURT: Okay. And how long is that one?

18 MR. BELL: That one maybe ten or 15 minutes.

19 THE COURT: Why don't we call that one, and then
20 we'll recess and start with the other one in the morning.

21 MR. BELL: Yes, sir.

22 THE COURT: All right. Do you have an objection
23 to that, Mr. Ervin?

24 MR. ERVIN: No, your Honor. It's your call.

25 (WHEREUPON, a break was taken.)

1 THE COURT: Anything from the State before we
2 bring the jury out?

3 MR. BELL: Nothing from the State.

4 THE COURT: Anything from defense?

5 MR. ERVIN: No, your Honor.

6 THE COURT: We ready for the jury.

7 (WHEREUPON, the jury came into open court.)

8 THE COURT: Mr. Bell, you recognize.

9 MR. BELL: Thank you, your Honor. The State now
10 calls Kristin Jeffords Hartsville police department.

11 THE COURT: Yes, ma'am, if you could place your
12 left hand on the Bible, raise your right hand as the clerk
13 administers the oath.

14 THE CLERK: You swear the testimony you give
15 this court to be the truth, the whole truth, and nothing
16 but the truth so help you God?

17 THE WITNESS: I do.

18 THE COURT: Yes, ma'am, if you could come around
19 have a seat in the witness chair. I'm going to ask that
20 you pull up real close to that microphone, speak loudly,
21 clearly and slowly in order that we can hear everything
22 that have to say let's start with your full name please,
23 ma'am.

24 THE WITNESS: Kristin Jeffords.

25 THE COURT: Very good. Mr. Bell.

1 MR. BELL: Thank you, your Honor.

2 WHEREUPON,

3 Kristin Jeffords,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BELL:

7 Q Ms. Jeffords, what was your involvement with the case
8 involving Mr. Dabry James dating February 12th of 2020?

9 A On February 12th, I arrived on scene at East Park
10 apartments for a subject that was -- they called in that
11 he was shot in the parking lot or shot in the apartment
12 complex, showed up that day and was met by a witness. I
13 can't remember her name, can't remember how to pronounce
14 it. It's Platts. She said that something had happened,
15 that her neighbor had -- the neighbors had gotten into an
16 argument and one had shot the other and then everyone had
17 left. And then she didn't want to talk any more, and I
18 believe that was the end of my day on the 12th. I don't
19 think I had anything else on the 12th. Actually, I did.
20 I believe the vehicle was recovered. It was a stolen
21 vehicle from the victim that day that was recovered.

22 Q Did you do anything with the vehicle?

23 A I did an inventory of it once I located it.

24 Q Where was the vehicle found?

25 A It was on off of Cellular Road on Melrose Drive. It

1 was in a field out in the county.

2 Q Now, how long from the incident -- what was the
3 difference in time between the incident and when the
4 vehicle was found?

5 A I'd have to look back at the paper. It was still
6 daylight, and I believe it was on the 12th.

7 Q When you inventoried the vehicle, did you find
8 anything?

9 A Didn't find anything in the car.

10 Q Did you find any weapons?

11 A No, sir.

12 Q What other involvement did you have with this case?

13 A The following day we received a -- I received a tip
14 that Mr. Dabry had called his mom from a 803 cell phone
15 number or 803 phone number. I checked the phone number
16 and it came back Fountain store in Bishopville. I had
17 dealt with his family members a couple months before at
18 the same trailer park. I had prior knowledge of their
19 being empty mobile homes there. I did go to the store
20 parking lot. After I was there for a short period of
21 time, I saw a strange acting Cadillac -- an older model
22 Cadillac car circling around the trailer park. They kept
23 stopping. And I said I'm pretty sure they're lost because
24 everybody in Bishopville knows everybody. And she came
25 into the store. She got a pack of cigarettes and she came

1 out. I looked at her. I was like, okay, well, she's
2 really -- she looks like she's pretty lost. She got back
3 in the car and drove away. She came back a minute later
4 and pulled into the trailer park again. And she stopped
5 in front of a couple of trailers, and then she finally
6 got, I guess, to the right one or she did get to the right
7 one. They open the door and out came Shawn and Dabry got
8 into the backseat of the car, car drove away. I recognize
9 both of them, so we started in behind them. Once they
10 realize that I was in a patrol unit, they speed up and it
11 started raining. She was running about a 100 miles an
12 hour. When they got to a stop sign, the -- it was still
13 raining, but when they got to the stop sign at 15 and
14 Stokes Bridge Road -- yes, Stokes Bridge Road and 15, they
15 opened up the door, the back passenger side door and threw
16 out a boot. And I radioed to Lee County they threw out a
17 boot. We took a left onto 15 and stoped just before the
18 Lee County Darlington County line, which is Damper Road
19 and just -- it's just before Damper Road on 15. A truck
20 driver helped us get them to stop as well as Lee County
21 sheriff's office units that were coming behind us. And I
22 took the -- both the brothers out of the backseat James --
23 both the James brothers out of the backseat and that was
24 it pretty much.

25 Q Did you place Dabry James at that time under arrest?

1 A I did not.

2 Q What did you do with Mr. James Dabry James?

3 A We were in Lee County, so I waited for Hartsville
4 P.D. units to show up since I was just helping with the
5 investigation. The -- I turn everything over to the lead
6 investigator when he got there, just told him, you know,
7 stuff. I spoke with them make sure they were okay.

8 Q Did you handle any transport duties at that time?

9 A No, sir.

10 MR. BELL: Beg the Court's indulgence.

11 (WHEREUPON, a pause in the proceedings.)

12 BY MR. BELL:

13 Q Who took Mr. Dabry James into custody?

14 A Like the particular officer?

15 Q Yes.

16 A I don't remember.

17 Q Did Mr. James willfully turn himself into -- Dabry
18 James willfully turn himself in?

19 A He was -- he got out of the car, I guess, not
20 willfully. I mean, we chased him down 15 and stopped him
21 with an 18 wheeler and other units, but once we open the
22 car door, there was no problems.

23 MR. BELL: Please answer any questions Mr. Ervin
24 may have for you.

25 THE COURT: Mr. Ervin.

CROSS-EXAMINATION

1
2 BY MR. ERVIN:

3 Q He asked you whether he willfully turned himself in.
4 He wasn't driving the car, was he?

5 A No, sir.

6 Q In fact, you indicated a female was, didn't you?

7 A Yes, sir, there was a female driver.

8 Q And she was the one speeding?

9 A Yes, sir.

10 Q And whatever evasive actions were being made were
11 being done by her?

12 A Yes, sir.

13 Q Would that be fair to say?

14 A Yes, sir.

15 Q The boot that you testified about that was deposited
16 from the car at a stop sign, is that what it was?

17 A Yes, sir, it was a rubber boot.

18 Q Like a person would wear?

19 A Yes, sir.

20 Q And you didn't take custody of the boot? You didn't

21 ---

22 A No, sir, we were still in pursuit with the vehicle
23 and the subjects. I wasn't sure what was in the boot, I
24 just radioed over to -- because we were still in Lee
25 County at the time. And I radioed over to the Lee County

1 units that a boot had been thrown out of the door, and I
2 asked for them to stop and pick it up. And it was picked
3 up from there.

4 Q And to your knowledge, did they retrieve the boot?

5 A They did.

6 Q Okay. The vehicle was located near Lydia, isn't that
7 right?

8 A The stolen vehicle from the victim's stolen vehicle
9 ---

10 Q Yeah, the one that you ---

11 A --- the white Chrysler 200. Yes, sir, it was located
12 -- so actually right between Hartsville and Lydia.

13 Q Okay. How far was it from Lydia?

14 A What part of Lydia?

15 Q Like Mr. Bee's?

16 A Mr. Bee's about two and a half miles, three miles
17 maybe. You have to turn off of Snow Hill Road off of
18 Indian Branch so.

19 Q Well, I'm using Mr. Bee's as a landmark. If you
20 coming from Hartsville, do you go past Mr. Bees to ---

21 A If you're coming from Mr. Bee's and you take a left
22 out of the parking lot, you take a left at -- by the post
23 office which would be Indian Branch going back into
24 Hartsville, and it would turn into High Hill Road. Before
25 you get to High Hill Road, you take a right onto Snow Hill

1 Road. And the road is Melrose I think on Melwood, and
2 it's down there on the right.

3 Q So it truly is outside -- inside the county, but out
4 in the middle of nowhere?

5 A Out in the middle of nowhere in a field, yes, sir.
6 It was located I believe by -- I can't remember how it was
7 located.

8 Q Would you be surprise to learn that there was a trace
9 on the vehicle -- lien holder frequently has traces on
10 vehicles. You know what I mean by lien holder?

11 A The people that the car's finance through?

12 Q Yes.

13 A What kind of trace do you mean like a device?

14 Q Like a locator, a homing device?

15 A It could have been exactly how we found out.

16 Q And that's usually how people pick up cars when
17 they're behind on their payments?

18 A Right, yes, sir.

19 Q Repo man?

20 A There you go.

21 Q Right. And that's the technology you all employed to
22 take you to the location?

23 A So I'm not sure. I can't testify to that because I
24 was just advise by another officer agent working, and I
25 went and did the inventory of the vehicle.

1 Q Wouldn't surprise you to learn though, would it?

2 A No, sir, not at all.

3 Q As far as your inventory of the vehicle, you didn't
4 locate anything inside the vehicle?

5 A No, sir.

6 Q Did you do any forensic analysis of the vehicle?

7 A I did swabs on the door handles and the steering
8 wheel.

9 Q And did those reveal anything? Were you able to
10 obtain any fingerprints?

11 A I can't testify to that. I put them into evidence,
12 and they were turned over to the lead investigator of the
13 case.

14 Q What was the swabs for?

15 A For DNA. It's just something I always do.

16 Q Right.

17 MR. ERVIN: Thank you. I don't have anything
18 further.

19 THE COURT: Redirect?

20 MR. BELL: No, your Honor.

21 THE COURT: All right. You may step down.

22 THE WITNESS: Thank you.

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 MR. BELL: Your Honor, at this time ---

1 THE COURT: Might counsel approach the bench for
2 just one moment.

3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury.)

6 THE COURT: Madam forelady, ladies and gentlemen
7 of the jury, we're going to recess until 9:30 in the
8 morning. When you go home, once again do not discuss the
9 case amongst yourselves or with anyone else. Do not do
10 any independent investigation. And certainly it's
11 inappropriate for anybody to contact you about this case.
12 If there's any news coverage, which I don't anticipate
13 there would be, but if there were, divert your attention
14 from that and base your decision on what transpires here
15 in this courtroom. No independent investigation on the
16 internet or otherwise, no social media. We'll see you at
17 9:30, 9:30 sharp in the morning. Thank you very much.

18 (WHEREUPON, the jury was excused for the day.)

19 THE COURT: Once again, anything from the State?

20 MR. BELL: No, your Honor.

21 THE COURT: Anything from defense?

22 MR. ERVIN: No, Your Honor.

23 THE COURT: All right. We'll stand ease.

24 (WHEREUPON, the proceedings were concluded for
25 the day to be reconvened on April 12, 2022.)

1 THE COURT: Good morning. Anything from the
2 State before we proceed?

3 MR. BELL: Your Honor, my pathologist says the
4 earliest she can get here is 11:30. I'm ready to proceed
5 with my first witness Kyle Hause, and after that the
6 pathologist.

7 THE COURT: I think given what we discussed
8 yesterday, that might work out just right.

9 MR. BELL: Yes, sir.

10 THE COURT: But we'll certainly make
11 accommodations for that.

12 MR. BELL: Yes, sir, that's all from the State.

13 THE COURT: Mr. Ervin, anything?

14 MR. ERVIN: Your Honor, I don't have anything
15 this morning.

16 THE COURT: We ready for the jury.

17 (WHEREUPON, the jury came into open court.)

18 THE COURT: Madam forelady, ladies and gentlemen
19 of the jury, thank you for being here and being here on
20 time. Everybody looks well rested and alert. Let's pay
21 very close attention.

22 Mr. Bell, you recognize.

23 MR. BELL: The State calls Kyle Hause to the
24 stand.

25 THE COURT: Mr. Hause, if you could, I'm going

1 to ask you if you could come forward and place your left
2 hand on the Bible and raise your right hand as the clerk
3 administers the oath.

4 MR. BELL: The State calls Kyle Hause to the
5 stand.

6 THE CLERK: You swear the testimony you give
7 this court will be the truth, the whole truth, and nothing
8 but the truth so help you God?

9 THE WITNESS: Yes.

10 THE COURT: Ask you if you could to have a seat
11 in the witness chair, pull up real close to that
12 microphone, speak loudly and clearly and slowly in order
13 that we can hear everything that you have to say and let's
14 start with your full name and let's spell that last one
15 for us.

16 THE WITNESS: Okay. Kyle David Hause H-A-U-S-E.

17 THE COURT: Very good. Thank you. Mr. Bell.

18 WHEREUPON,

19 Kyle Hause,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BELL:

23 Q Good morning, Mr. Hause.

24 A Good morning.

25 Q On February 12th 2022 where did you work?

1 A Hartsville police department.

2 Q What did you do for Hartsville police department?

3 A I was a detective.

4 Q And what was your involvement in this case today?

5 A I responded to the scene whenever the initial call
6 came out.

7 Q When you got to the scene, what did you do?

8 A I went around and spoke to -- there was a large crowd
9 there, so I went around and spoke to witnesses and kept
10 people back and began investigating the crime.

11 Q In your investigation, did you talk to any witnesses?

12 A Yes, I did.

13 Q Who did you talk to?

14 A Dytashia Platt.

15 Q Did you talk to anybody else?

16 A I spoke to several other people out there. The
17 victim, Mr. Stewart's girlfriend, showed up as well while
18 we were there.

19 Q Did you do any interviews on this case?

20 A Yes, sir.

21 Q Who did you interview?

22 A I interviewed Dytashia as well as Mr. James.

23 Q And what goes into an interview?

24 A Basically, its establishing trust and rapport with
25 whoever that you're interviewing, so that they feel

1 comfortable telling their side of the story and what
2 happened.

3 Q Now, who is Dytashia Platt in this case?

4 A She was the witness.

5 Q And who is Dabry James?

6 A The suspect.

7 Q Who is Portia Tedder in the case?

8 A Portia is his mother.

9 Q Who did you interview in this case again?

10 A Oh, I'm sorry. I did interview Portia as well.

11 Q Did anything fruitful come from the interview with
12 Ms. Portia Tedder?

13 A Yes.

14 Q What came from that interview?

15 A She assisted with helping us locate her son the
16 following day.

17 Q And did you locate him the following day?

18 A Yes, sir.

19 Q And you did interview Mr. Dabry James, correct?

20 A Yes, sir.

21 Q All right. Was Mr. James under arrest when you
22 interviewed him?

23 A Yes, sir.

24 Q Did you give him Miranda warning?

25 A Yes, sir.

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

2 THE COURT: You may.

3 BY MR. BELL:

4 Q Mr. Hause, what I'm showing you is marked as State's
5 Exhibit 1. First, tell me if you identify the exhibit?

6 A Yes, sir.

7 Q Where -- how do you recognize it?

8 A This is what I read to Dabry in the interview room
9 prior to interviewing him.

10 Q And how do you know that that's the actual form that
11 you ---

12 A Both our signatures are on it.

13 MR. BELL: Your Honor, at this time I would like
14 to move State's Exhibit 1 into evidence.

15 THE COURT: Any objection?

16 MR. ERVIN: Without objection.

17 THE COURT: It's into evidence.

18 (WHEREUPON, State's Exhibit No. 1 was admitted
19 into evidence.)

20 MR. BELL: Your Honor, if I may at this time, I
21 would like to publish the waiver form to the jury.

22 THE COURT: You may.

23 MR. BELL: Beg the Court's indulgence. It has
24 to warm up.

25 THE COURT: Yes.

1 (WHEREUPON, a pause in the proceedings.)

2 BY MR. BELL:

3 Q All right. Mr. Hause, at this time I would like for
4 you to read off to the jury the Miranda waiver. Let me
5 see if I can get this a little clearer. All right, go
6 ahead.

7 A Okay, from the top where his name is?

8 Q Yes.

9 A Okay, Hartsville police department City of Hartsville
10 Miranda Waiver Your Rights. And then I printed his name
11 Dabry Aunta Sher James. It's a HPD investigations on
12 February 13th, 2020. Number one, I'm sober, competent and
13 sufficiently intelligent to understand this form and my
14 rights. Number two, I can read, write and understand the
15 English language. Number three, I have received a GED,
16 which was what he answered for years of formal education.
17 And I have not been promised anything.

18 Q All right. Mr. Hause, what is that beside every one
19 of those numbers that you just read off?

20 A His initials.

21 Q Did Mr. Dabry James -- that's his initials, did he
22 initial it himself or did you initial it for him?

23 A He initial it himself.

24 Q Please keep going?

25 A Below that it says before we ask you any questions

1 you must understand your rights. You have the right to
2 remain silent. Anything you say can be used against you
3 in court. You have the right to talk to a lawyer for
4 advice before we ask you any questions and to have him
5 with you during questioning. If you cannot afford a
6 lawyer, one will be appointed for you before questioning
7 if you wish. If you decide to answer questions now
8 without having a lawyer present, you will still have the
9 right to stop answering at any time until you talk to a
10 lawyer. Below that says waiver of rights. I have read
11 this statement of my rights, and I understand what my
12 rights are. I'm willing to make a statement and answer
13 questions. I do not want a lawyer at this time. I
14 understand and know what I am doing. No promises or
15 threats have been made to me and no pressure or coercion
16 of any kind has been used against me.

17 Q And what's below that?

18 A His signature.

19 Q And below that?

20 A My signature.

21 Q Okay. Thank you. So you interviewed Mr. Dabry
22 James, correct?

23 A Yes, sir.

24 Q And that was recorded?

25 A Yes, sir.

1 Q That entire interview recorded?

2 A Yes, sir.

3 Q Was there any other -- was there a written statement
4 given in this case?

5 A Yes, sir, he also provided a written statement.

6 Q Okay. What I'm showing you is State's Exhibit Number
7 3. Do you recognize that exhibit?

8 A Yes, sir.

9 Q Where do you recognize it from?

10 A This is a written statement he provided to me in the
11 interview.

12 Q How do you recognize it?

13 A Sir?

14 Q How do you recognize it? How do you recognize it?

15 A This is a written statement that he provided me in
16 the interview.

17 Q How do you know that's the written statement?

18 A Oh, it's both our signatures are on it.

19 MR. BELL: Your Honor, at this time I would like
20 to move State's Exhibit Number 3 into evidence.

21 MR. ERVIN: Also without objection.

22 THE COURT: It's into evidence without objection
23 from defense. Yes, sir, Mr. Bell.

24 (WHEREUPON, State's Exhibit No. 3 was admitted
25 into evidence.)

1 MR. BELL: Your Honor, at this time I would like
2 to publish it to the jury.

3 THE COURT: You may.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. BELL:

6 Q All right. Mr. Hause, could you start at the top and
7 read off the voluntary statement that's been put into
8 evidence?

9 A Yes. Hartsville police department voluntary
10 statement on 2-13-2020, location HPD investigations. I,
11 Dabry James, am 19, and live at [REDACTED] Lange Court
12 Hartsville, South Carolina 29550. I'm giving this
13 statement to Sergeant Hause who has identified himself as
14 a police officer. And he is dually warn me that I have
15 the following rights. That I have the right to remain
16 silent and may not make any statement at all, that any
17 statement I make may be used against me at my trial. That
18 any statement I make may be used as evidence against me in
19 court. That I have the right to have a lawyer present to
20 advise me prior to and during questioning and that I have
21 the right to terminate the interview at any time. Prior
22 to and during the making of the statement, I have and do
23 hereby knowingly, intelligently and voluntarily waive the
24 above explained rights. And I do make the following
25 voluntary statement to the aforementioned person of my own

1 free will without any promises or offer of leniency or
2 favors without compulsion or persuasion by any person or
3 persons whosoever. Below that, he wrote was outside. He
4 pulled up, called me to come and talk. I said okay, hold
5 on, came back after convo with mother. He asked was there
6 a problem. I said no. He asked two more times. I gave
7 same reply. He walked off and I followed him. Then shot
8 him twice. Then after that there's a period. And we draw
9 a line there and he initialed saying that nothing else
10 could be added. Below that I said -- below that is
11 written I have read the statement consisting of one page
12 each page of which bears my signature. And I do affirm
13 that all facts and statements contained herein are true
14 and correct. He signed his name under signature of person
15 making voluntary statement, and I signed the above
16 warnings were given and a voluntary statement was taken by
17 me Sergeant Hause.

18 Q Okay. Thank you, Detective Hause. Now, I'm showing
19 you State's Exhibit Number 2. And your view of this case
20 in preparation for trial, do you recognize that DVD?

21 A Yes.

22 Q Where do you recognize it from?

23 A This is the recorded interview with Mr. James.

24 Q Have you reviewed that DVD in its entirety?

25 A Yes, sir.

1 Q Is it a true and accurate depiction of the interview
2 that you gave with Mr. James?

3 A Yes, sir.

4 MR. BELL: Your Honor, at this time I move
5 State's Exhibit Number 2 into evidence.

6 MR. ERVIN: No objection, Your Honor, assuming
7 that is the same interview I've seen.

8 THE COURT: It's in evidence.

9 (WHEREUPON, State's Exhibit No. 2 was admitted
10 into evidence.)

11 MR. BELL: Thank you, your Honor. At this time
12 your Honor, the State would like to publish the interview
13 for the jury.

14 THE COURT: You may.

15 MR. BELL: Your Honor, beg the Court's
16 indulgence, it's going to take a little while to get the
17 technology.

18 THE COURT: Yes.

19 (WHEREUPON, a pause in the proceedings.)

20 THE COURT: Those of you who are in the back
21 corner if you're having trouble seeing it feel free to
22 stand on the back row.

23 MR. ERVIN: Your Honor, may we approach?

24 THE COURT: Yes.
25

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 (WHEREUPON, video is being played for the jury.)

5 BY MR. BELL:

6 Q Detective Hause, was there any shell casings found at
7 the crime scene?

8 A No, sir.

9 Q What type of gun did Mr. James tell you he used?

10 A A revolver.

11 Q Would a revolver leave any shell casings?

12 A No.

13 MR. BELL: Beg the Court's indulgence.

14 (WHEREUPON, a pause in the proceedings.)

15 BY MR. BELL:

16 Q Did you ever find a gun?

17 A No, we were unable to locate it.

18 MR. BELL: Please answer any questions Mr.
19 Ervin may have for you.

20 THE COURT: Mr. Ervin, you recognize
21 cross-examination.

22 CROSS-EXAMINATION

23 BY MR. ERVIN:

24 Q Detective Hause, how long have you been at the
25 Hartsville police department?

1 A I been there about five and a half years.

2 Q And where were you prior to that you been in law
3 enforcement a for a while, haven't you?

4 A Yes, sir. I started at Hartsville police department,
5 worked at Darlington County sheriff's office and then came
6 back to Hartsville.

7 Q So you been in Darlington County your entire career?

8 A Yes, sir.

9 Q And did you receive any training with regard to
10 interrogation techniques or interview techniques? I know
11 that may be hash term to use for law enforcement.

12 A Interview, I been to an interview class and just had
13 other basic law enforcement classes and that sort of
14 thing.

15 Q Right. Well, you indicated it's very important to
16 establish trust in rapport with people before you begin to
17 talk to them?

18 A Correct.

19 Q And how did you do that in this case? You did that
20 employing what method?

21 A Just general conversation really with him. I don't
22 think there was a specific method used.

23 Q Well, didn't you try to indicate that you were aware
24 of some things that had happened before that might have
25 led to this?

1 A Uh-huh, yeap.

2 Q And specifically tell the jury what you were
3 referring to?

4 A The incident at KFC.

5 Q Yeah, that incident at KFC.

6 A Okay. Yeap, he was jumped there by several people
7 which I asked him that on the video and he said Floyd was
8 not one of them.

9 Q Right. Did he say anything else about his
10 involvement in that incident?

11 A At KFC ---

12 Q KFC, yeah.

13 A --- where he was jumped?

14 Q Uh-huh.

15 A No.

16 Q Didn't he indicate that he didn't see him there?

17 A Yes, that's what he said, right.

18 Q That doesn't necessarily mean he wasn't involved,
19 does it?

20 A I can only go by what he told me in there.

21 Q Right.

22 A And that's -- I understand what you're saying and
23 that's what I have to do is sit down with him and try and
24 understand why it happened.

25 Q Right. There were a number of people involved in KFC

1 jumping incident. And as a result of that several people
2 were arrested -- two people, correct?

3 A I'm not sure about that, sir.

4 Q It happened in the city?

5 A Okay.

6 Q And, you know, those arrests occurred after he was
7 arrested?

8 A Okay.

9 Q You familiar with that, aren't you?

10 A Not directly, no.

11 Q Okay. But you acknowledge that occurred?

12 A Yes.

13 Q And in fact you interviewed his brother, didn't you?

14 A Yes.

15 Q Shawn James.

16 A Yes.

17 Q Were you also aware that in the county Dabry had been
18 shot back in December?

19 A No.

20 Q You didn't know about that then?

21 A No.

22 Q And did you bring it up with him at all in your
23 interview?

24 A No.

25 Q Okay. You know it now?

1 A I do know now, yes, now that you told me.

2 Q And Carolina Pines is that in the City?

3 A Yes.

4 Q So when somebody is shot and taken to Carolina Pines
5 for treatment, do y'all not get notified?

6 A It depends on who's in there and where it occurred
7 at. If they say it happened in another jurisdiction, then
8 we may not be notified at all.

9 Q Okay. So if it happened in -- allegedly happened in
10 the county, the county would be notified?

11 A Correct.

12 Q And a county officer might be present, is that
13 correct?

14 A Yes, they would respond.

15 Q So that would have would been what happened when he
16 was shot in December and spent the night at Carolina Pines
17 for treatment related to that gunshot wound, is that
18 correct?

19 A Yes, they determined it happened in there, then they
20 would notify the county.

21 Q Now, when you made a statement to Shawn in the
22 interview with him that Dabry got pushed to the point
23 where he couldn't take it any more, is that what you were
24 talking about?

25 A Him being shot in the county?

1 Q Yeah.

2 A No, because I wasn't aware of that at that time. Him
3 getting pushed to the point would be so to get Shawn to
4 tell me why he thought it all happen and everything.

5 Q Okay. And, you know, that there was some talk --
6 some words there at the scene from your interview with
7 Dytashia Platt concerning photographs of the victim's car,
8 is that correct?

9 A Yes.

10 Q And what kind of car was that?

11 A It was the car that was taken. It was the white -- I
12 believe you said it was a white Chrysler. It's on the
13 video.

14 Q So supposedly Dabry had photos of that vehicle prior
15 to this incident that had been posted on social media
16 would that be, correct, fair assumption, wouldn't it?

17 A That's my understanding because that's what the
18 argument was about at East Park.

19 Q And are you also aware that those photos that were so
20 controversial to Floyd and to Dabry supposedly represented
21 Stewart's vehicle, which is the vehicle that he believed
22 the shots emanated from or that the shooter ---

23 A Yeah, okay, I didn't know that. So that's why on the
24 interview tape that you heard is what he told me.

25 Q Okay. Does it shock you to learn it now?

1 A I don't know if it shocks me or I don't -- just going
2 by what you say.

3 Q Right, wouldn't surprise you about that? Well, it's
4 just yes or no?

5 A Well, given the nature of the conversation with him,
6 it would surprise me, yes, because my understanding of it
7 was just over the pictures of the car.

8 Q Okay. Now, let's talk about another witness that we
9 haven't heard from, but you indicated in your incident
10 report that you prepared that there was another person at
11 the scene who came up afterwards. In other words, Nakea
12 Ferguson you remember her?

13 A Yeah, Mr. Stewart's girlfriend, yes.

14 Q Right. Who also lived with Dytashia Platt, is that
15 correct?

16 A She lived with her?

17 Q Uh-huh. Isn't that right?

18 A I'm not sure that I knew that at the time.

19 Q Okay. All right. Well, in your report, you
20 indicated that the Nakea Ferguson was en route from
21 Murphy's?

22 A Yes, where she worked.

23 Q And Murphy's is where they sell gas at Wal-Mart,
24 right?

25 A Yes.

1 Q Where Dabry and his mother had just left and her
2 sister?

3 A Yeah, and on the scene they said that Mr. Stewart had
4 just left Murphy's.

5 Q Okay. So on the scene they indicated that he had
6 just left Murphy's and went straight to this incident
7 location?

8 A That was my understanding.

9 Q Okay. You don't think he was following him?

10 A I don't know, no.

11 Q Could have been?

12 A It wasn't discussed in the interview.

13 Q Okay. Now, you also mention another person in a
14 shooting something about a Capo?

15 A Yes, that was the victim in the shooting Decaprio
16 Collins.

17 Q In what shooting?

18 A That occurred several weeks earlier at Max Lounge.

19 Q Is that when three people were killed?

20 A Yes, sir.

21 Q And who is this Decaprio Collins that was killed?

22 A He was one of the victims.

23 Q Okay. And was he a friend of Shawn James?

24 A That's what -- yes, we believe so, that's what they
25 were upset about.

1 Q Now, I'm not sure I understand when you say they were
2 upset about. Who is they?

3 A Well, that's what he said they were upset at Shawn
4 over that. I'm not sure who they are, that's what he said
5 in the interview.

6 Q And when you say he said, who said that?

7 A That's what Mr. James said in the interview. He said
8 that they were upset with Shawn over that but not him.

9 Q Okay. So is this a situation where there might have
10 been some transferred intent spilled over to him?

11 A That's what I was trying to find out in the
12 interview, yes, sir.

13 Q All right. But you believe that to be the case now?

14 A Everything is on that interview.

15 Q Okay. In your video-taped interview with Dytashia
16 Platt, didn't she indicate to you that Dabry James became
17 upset during the confrontation with Floyd Stewart?

18 A Yes, when she was talking to Floyd, yes.

19 Q Okay. And at what point prior to the actual shooting
20 was he upset immediately prior?

21 A Yeah, he became upset when they were talking, yes.

22 Q And do you know -- you know, there was a discussion
23 about the pictures. Was there ever any indication that
24 Floyd Stewart said what you gone do about this? What's
25 gone happen next?

1 A Not by Mr. James. No, Mr. James did not tell me
2 that.

3 Q Okay. Well, what about from somebody else? What
4 about Dytashia Platt?

5 A I don't -- I can't recall that right off.

6 MR. ERVIN: Beg the Court's indulgence.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MR. ERVIN:

9 Q Did you do any measurements out there at the scene?

10 A No, sir, I did not.

11 Q Do you know if any were done?

12 A I believe there were some other officers out there
13 working on that, but I was not apart of that.

14 Q Normally, when you go to a crime scene you have
15 certain officers that are responsible for securing the
16 crime scene, is that correct?

17 A Yes, sir, just depends on the circumstances of what
18 happened location and that sort of thing.

19 Q Right. Well, in this case with it being an apartment
20 complex with people milling around, it would be very
21 important to secure the scene, wouldn't it?

22 A Yes, sir.

23 Q To avoid contamination of the crime scene?

24 A Correct.

25 Q And that's a common police term, isn't it?

1 A Sure, yeah.

2 Q Make sure it's secured and pristine?

3 A Right.

4 Q Untampered with?

5 A Yes.

6 Q And in so doing is it fairly normal to do
7 measurements?

8 A Just again, it depends on the circumstances and where
9 it happened at and that sort of thing?

10 Q Well, the distance from where they were standing and
11 talking to Mr. Stewart's car would certainly be relevant,
12 wouldn't it?

13 A Sure, yes, said it was parked in front of there.

14 Q So it was a pretty short distance?

15 A Yeap.

16 Q And, in fact, we've heard an indication that it was
17 about where -- distance between you and I?

18 A Maybe a little further than that but...

19 Q You weren't there, were you?

20 A Was I there when it happened? No, I was not there
21 when it happened.

22 Q And Dytashia Platt was?

23 A That's correct.

24 Q Okay. And you don't know how close Floyd Stewart was
25 to his car when he was shot, do you?

1 A No, sir.

2 Q Did anybody that you were aware of make those
3 determinations?

4 A Not that I'm aware of.

5 Q Okay. Is it fair to say that in this taped interview
6 that you did about as much talking if not more than Dabry?

7 A I mean, you got to listen to the whole thing so.

8 Q But you acknowledge that Dabry said a lot more in
9 this interview than what is contained on his written
10 statement that he signed at the very end of the interview?

11 A Yes, he definitely said more on the interview than
12 his written statement, yes.

13 Q Right. So that would be a better representation of
14 what he communicated to you in there, the interview itself
15 than the written statement? More accurate and full and
16 complete representation?

17 A That's why we did both, so that you would have the
18 full -- yeah, that's everything he had to say, yes, sir.

19 Q Okay. Do you happen to know -- and I know this is a
20 somewhat of a broad question, but after December 7th when
21 Dabry spent the night in Caroline Pines -- December 7th of
22 2019, which is a couple months prior to this, were there a
23 number of shootings other than just the Max Lounge
24 shooting in which people died in Hartsville?

25 A From December to February?

1 Q Uh-huh.

2 A Not that I can recall right off.

3 Q But the Max Lounge shook up the whole town, didn't
4 it?

5 A I think it would shake anybody up.

6 Q Right. Is that what you -- you interviewed Shawn,
7 didn't you?

8 A Yes.

9 Q Okay. And what was the purpose of that just the fact
10 that he was with his brother when Dabry he was arrested?

11 A Yes, and ---

12 Q The circumstances surrounding that?

13 A The circumstances surrounding their arrest, yes.

14 Q Okay. To the best of your knowledge, I believe you
15 may have already indicated that the weapon used in this
16 case wasn't recovered, is that correct, is that still the
17 case?

18 A Yes, to my knowledge, that's correct.

19 Q Did y'all go out there with him to try to locate it?

20 A We did not go with him. We went out there and looked
21 as best we could with what he told us in the interview
22 room, but we were unable to locate it, but, no, he did not
23 accompany us.

24 Q Did you transport him from the place where he was
25 arrested in Lee County to the interview room?

1 A No, sir.

2 Q Well, somebody must have they stopped to get
3 something to eat?

4 A Okay. Yeap.

5 Q Is that right?

6 A They got him something to eat, yes, sir.

7 Q Okay. But that wasn't you?

8 A Correct.

9 Q Okay. And why didn't you ever ask him if it was a
10 gun in the victim's car?

11 A He never brought it up. The victim wasn't in his car
12 so.

13 Q I understand that. But you didn't think it was
14 relevant to ask him that?

15 A I just wanted to hear his side of it.

16 Q Other than Dytashia Platt, Portia Tedder, and briefly
17 speak with Nakea Ferguson, did you interview any other
18 witnesses?

19 A Not that I recall.

20 Q From the location?

21 A Not that I recall.

22 MR. ERVIN: I don't have any further questions.

23 THE COURT: Redirect.

24 MR. BELL: Yes, your Honor, briefly.

25 REDIRECT EXAMINATION

1 BY MR. BELL:

2 Q During your interview oral written statement, Dabry
3 James ever mention anything about the December 7th 2019
4 incident?

5 A No, sir.

6 Q Did Dabry James ever mention Floyd Stewart his car
7 being involved in the shooting to you?

8 A No.

9 Q Was there ever a gun found in the vehicle of Floyd's
10 recovered vehicle?

11 A No.

12 Q Did Mr. James mention at any time, any incident where
13 him and Floyd Stewart had any prior incident, beef,
14 problem anything?

15 A No, sir.

16 MR. BELL: No further questions, your Honor.

17 THE COURT: You may step down.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 THE COURT: You may call your next witness.

21 MR. BELL: Your Honor, if we could get a brief
22 recess, I need to check on my pathologist.

23 THE COURT: Very good. Madam forelady, ladies
24 and gentlemen of the jury, there's a witness that's coming
25 from Charleston. I think he might be a little later, so

1 we're going to allow you to return to the jury room,
2 refresh yourselves, and once again do not discuss the case
3 in anyway, shape or form. Everyone remained seated as the
4 jury exits the courtroom.

5 (WHEREUPON, the jury retires to the jury room.)

6 THE COURT: Anything from the State before we
7 recess?

8 MR. BELL: No, your Honor.

9 THE COURT: Anything from defense?

10 MR. ERVIN: No, your Honor.

11 THE COURT: We'll stand at ease.

12 (WHEREUPON, a break was taken.)

13 THE COURT: Anything from the State before we
14 bring the jury out?

15 MR. BELL: Your Honor, I do have my toxicologist
16 here. I'm still waiting for my pathologist, but the
17 State's ready to proceed.

18 THE COURT: Anything from you, Mr. Ervin?

19 MR. ERVIN: No, your Honor.

20 THE COURT: All right. We ready for the jury.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: Yes, sir.

23 MR. BELL: Yes, your Honor. The State calls
24 Tracy McKinnon.

25 THE COURT: Mr. McKinnon, if you could please

1 come forward and place your left hand on the Bible.

2 THE CLERK: Do you swear the testimony you give
3 this court be the truth, the whole truth, and nothing but
4 the truth so help you God?

5 THE WITNESS: Yes, I do.

6 THE COURT: I'm going to ask you if you could,
7 you could set your stuff down and have a seat here in the
8 witness chair. Ask you if you could pull up real close to
9 that microphone, speak loudly, clearly and slowly in order
10 that you can hear everything that you have to say. And
11 let's start with your full name.

12 THE WITNESS: Tracy Allen McKinnon
13 M-C-K-I-N-N-O-N.

14 THE COURT: Very good. Thank you. Mr. Bell.
15 WHEREUPON,

16 Tracy McKinnon,
17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BELL:

20 Q How you doing, Mr. McKinnon?

21 A Great. Thank you.

22 Q Where do you work?

23 A I work for the South Carolina State Law Enforcement
24 Division. It's commonly referred to as SLED.

25 Q How long have you work there?

1 A Just over 16 years.

2 Q Could you give me your educational background?

3 A Yes, I have a bachelor of science degree with a major
4 in chemistry from the University of North Carolina at
5 Charlotte and also a masters of science degree in forensic
6 science with a toxicology concentration from Arcadia
7 University. And I been a forensic toxicologist with SLED
8 as I said for just over 16 years. I'm a board certified
9 toxicologist with the American Board of Forensic
10 Toxicologist. And I'm also a member of the Society of
11 Forensic Toxicologist.

12 Q And what exactly is forensic toxicology?

13 A Forensic toxicology is the study of what drugs do to
14 the body and what the body does to drugs. Essentially,
15 any time that you ingest anything into the body your
16 body's going to react a certain way to clear that
17 substance through the body. And as a forensic
18 toxicologist, I deal with what substances do to the body.

19 Q What exactly do you do for SLED as a forensic
20 toxicologist?

21 A I do analytical work on biological specimen. And I
22 also interpret any findings that I have in courts of law
23 or for coroners throughout the State.

24 Q How many toxicologist test have you performed in your
25 career?

1 A Into the thousands, maybe tens of thousands.

2 Q Have you ever been qualified in court as an expert in
3 forensic toxicology?

4 A Yes, sir, I have.

5 Q How many times?

6 A Over 30 times before.

7 MR. BELL: Your Honor, at this time I move ---

8 MR. ERVIN: We stipulate to his qualifications
9 as a forensic toxicologist.

10 THE COURT: Madam forelady, ladies and gentlemen
11 of the jury, normally a person cannot give opinion
12 testimony. Normally, a witness can only testify to things
13 they've heard, saw and felt sense by smell. There's an
14 exception when a person's qualified because of education
15 or experience. They're permitted to give their opinions
16 in certain areas if the Court qualifies them that way.
17 This witness is qualified in the area of forensic
18 toxicology to give opinions in that area. However, that
19 does not mean that you must accept this opinion, but it's
20 evidence for you to use in any way you see fit and give it
21 the weight and credibility you believe is appropriate.

22 Yes, sir.

23 BY MR. BELL:

24 Q Okay. All right. Mr. McKinnon, did you do any
25 toxicology analysis involving the homicide of Floyd

1 Stewart?

2 A Yes, sir, I did.

3 Q What I'm showing you, Mr. McKinnon, is State's
4 Exhibit Number 20.

5 MR. BELL: Your Honor, this has been stipulated
6 to by defense counsel to the toxicology report.

7 MR. ERVIN: That's correct.

8 THE COURT: Yes.

9 MR. ERVIN: We have no objection if he wants to
10 admit.

11 THE COURT: All right. It's into evidence.

12 (WHEREUPON, State's Exhibit No. 20 was admitted
13 into evidence.)

14 BY MR. BELL:

15 Q Mr. McKinnon, is that your report?

16 A Yes, this does appear to be a fair and accurate
17 representation of the report that I issued for this case.

18 Q Could you please tell us the findings of your report?

19 A Yes, so in pretty much all the cases that come into
20 SLED and the toxicology department, the very first
21 analysis that we'll complete on these samples is going to
22 be a blood volatile analysis. And that's basically
23 looking for any alcohol such as ethanol, which is drinking
24 alcohol, and then few other volatiles of concern. And
25 this instance the volatiles analysis was completed on the

1 blood, the ilic vein blood for blood Floyd Stewart Jr.,
2 and also on his ocular sample which is the fluid that's
3 pulled from the eyes at autopsy. And in both instances,
4 the both specimens were negative for any volatiles of
5 concern.

6 Q Did you test for any other drugs?

7 A Yes, this case was considered a -- what we consider
8 violent death meaning we have a cause of death, and we
9 give -- we would do a preliminary drug screen looking for
10 classes or specific drugs of abuse that are common --
11 commonly seen in the field. And in this instance a drug
12 of abuse panel was completed on this sample on the blood
13 sample.

14 Q And were there any drugs found in the system of
15 Mr. Floyd Stewart?

16 A The only class of drugs that stream positive -- and
17 this is a presumptive positive where the cannabinoids
18 class, and the cannabinoids of interest that we analyze
19 for are tetrahydrocannabinol or we abbreviate it THC for
20 short. And then it's two primary metabolites 11 hydroxy
21 and 11 carboxy THC.

22 MR. BELL: Your Honor, I like to publish the
23 report for the jury.

24 THE COURT: Yes.

25

1 BY MR. BELL:

2 Q Mr. McKinnon, could you step down. This is a laser
3 pointer for you. I like for you to discuss the presence
4 of THC and what that means, explain that to the jury?

5 A Okay. So I stated previously the preliminary drug
6 screen positive for the class of cannabinoids. And after
7 any class screens positive, we actually have to confirm
8 what was triggering that positive screen and then
9 quantitate any findings. So here we confirmed and
10 quantitated these three compounds first being
11 tetrahydrocannabinol, which is the THC. The second is
12 it's active metaboloid or basically the -- the first past
13 break down product of the drugs get it out of the body.
14 It's 11 hydroxy THC, and then it's inactive metabolite 11
15 carboxy THC. All three of those drugs were present in
16 Mr. Stewart's blood sample.

17 Q So when you talk about the 11 hydroxy, you said short
18 lived. What does that mean? Help the jury understand
19 what does that mean the presence is short lived hydroxy?

20 A Okay, so any time a drug is ingested however it's
21 ingested whether it's smoke, eaten or taken intravenously,
22 the body's going to try to get rid of it. So it's going
23 to produce what we call metabolites or break down products
24 so that it can be more easily excreted through the body.
25 The first break down on metabolite of THC as I said is 11

1 hydroxy THC. And this is a very short lived metabolite in
2 the body. Meaning, we're only going to be able to detect
3 it depending on the dose for say matter of two to six
4 hours maybe as long as 12 hours. It's that short lived in
5 the body. The carboxy THC on the other hand stays around
6 in the body for a much longer time. We can actually
7 detect that again depending on the dose for up to three or
8 four days maybe even as far as out as two weeks.

9 Q So an 8.5 result showing the hydroxy means what?

10 A 8.5 coupled to the 44 of the parent THC means that
11 the dose that was ingested was a considerable dose and
12 that it would be most likely a very recent ingestion of
13 the marijuana.

14 Q So it'll be safe to say in your opinion that
15 Mr. Stewart has just ingested or recently ingested
16 marijuana?

17 A It would be very safe to say that ingestion was
18 certainly within the previous two hours no more than maybe
19 four or five hours.

20 Q Regarding the 11th carboxy the 120, could you explain
21 that to the jury?

22 A The 120 as I said before the carboxy THC is just a
23 metabolite that just stays around in the body for A while.
24 We can detect that out like I said for three or four days
25 up to two weeks. And that number sometimes doesn't really

1 matter, it's just a bio marker just showing that, you
2 know, if that was the only compound that we saw minus say
3 we didn't see the THC or the 11 hydroxy THC, then all I
4 would be able to say at that point is this individual had
5 ingested marijuana sometime previously. I couldn't pin
6 that down to a certain time.

7 Q You can go back and have a seat. Thank you. One
8 final question. Your expert opinion based on those
9 readings what would the affect be of those drugs on a
10 normal person?

11 A Okay. So THC which is the active component of
12 marijuana is a central nervous system depressant, which
13 would act very similar to say ethanol. And most of us I
14 would say are probably very aware of the affects of
15 ethanol where you're going to have sedation, lethargy,
16 sometimes confusion. In the higher amounts for THC, you
17 can actually start to see psychosis. So given the levels
18 of this individual, I would say that this individual was
19 very much impaired to the point of being very lethargic,
20 maybe somewhat very confused and really kind of in a more
21 of a sedated type relax mood, that would be my opinion.

22 MR. BELL: Please answer any questions Mr. Ervin
23 may have for you.

24 THE COURT: Mr. Ervin, you recognize cross-
25 examination.

1 MR. ERVIN: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. ERVIN:

4 Q Agent McKinnon, you talked a little bit towards the
5 end there about the active ingredient in marijuana.

6 Marijuana can be ingested many different ways, can't it?

7 A Yes, sir, it can.

8 Q And let's talk about some of those or a combination
9 thereof.

10 A Okay.

11 Q There's states where marijuana is legal, correct?

12 A Yes, sir, there are.

13 Q In fact, there's quite a few now, aren't there?

14 A That list is steadily growing, yes.

15 Q Steadily growing, yeah. In fact within the last
16 year, there's been several added to the list, haven't
17 they?

18 A Yes, there have.

19 Q And in some of those states, they have different
20 types of marijuana that you can purchase like gummies,
21 chocolate, cookies different ways. Are you aware of that
22 brownies and things like that?

23 A Yes, sir, I am.

24 Q So you got the ingestion can be actually eating when
25 you said that earlier. It can be in the form of a -- as I

1 said a gummy bear or piece of candy or it can be in the
2 form of a cookie or a brownie or whatever that state
3 particular state allows, correct?

4 A Yes, sir, that is correct.

5 Q That would also include other methods like smoking,
6 patches, and in fact there's a bill in our legislature now
7 to allow medical marijuana in South Carolina, isn't it?

8 A Yes, sir, I'm aware of that, yes.

9 Q So there's many ways in which a person can get high
10 be fair to say that?

11 A Yes, there are, yes.

12 Q And as with alcohol different people react
13 differently when they ingest or smoke pot?

14 A Yes, sir, that's correct.

15 Q Or do both?

16 A That's correct.

17 Q Some people might be more sedated and laid back,
18 order a pizza. I know you've heard of that?

19 A Not from personal experience, but, yes, I heard.

20 Q You know what I mean. How old are you?

21 A I'm 47, sir.

22 Q You routinely see it in movies and different -- come
23 across it in literature about how it makes people hungry?

24 A Yes, sir, yes.

25 Q And some people may act differently. You can't

1 really testify as an expert about how it affected a
2 particular person because they might have different levels
3 of tolerance?

4 A That's correct. I can only speak in general terms
5 what we would expect to see, what we would expect those
6 affects to be to the body as a general -- as general rule.

7 Q Would it be fair to say if somebody's a pot head,
8 they smoked dope all the time, they would not be as
9 affected by it as somebody who's a casual smoker?

10 A To a degree, that's correct, yes.

11 Q Right. And the level that you've testified to that
12 was present in this case no question he was high?

13 A There's no doubt that he was heavily impaired by the
14 THC.

15 Q But you can't say what that translate to for that
16 particular individual because you don't know his normal
17 consumption?

18 A Right. Without actually witnessing what he was --
19 how he was acting, there's no way that I can say
20 definitively what -- you know, what was going through his
21 mind or exactly how he was acting.

22 Q Right. And just like with alcohol some people are
23 laid back when they have a drink or two or more?

24 A That's correct.

25 Q Where as others can get violent, act a fool, correct?

1 A Yes, that's correct, yes.

2 Q You also indicated you don't know how recent the
3 usage had been, but it had been pretty recent, wasn't it?

4 A As I stated earlier, it was probably within the
5 previous two hours, but I would say no more than four or
6 five hours out would have been how recently he would have
7 ingested the marijuana.

8 Q Well, you realize this was or maybe you don't about
9 two o'clock in the afternoon?

10 A I was not aware of that, no, sir.

11 Q Okay. Now, that I've told you that, that would
12 indicate the individual was smoking in the middle of the
13 day or that morning or ingested?

14 A The time and math would have indicate that, yes, sir.

15 Q It would be consistent?

16 A Yes.

17 Q Okay. And that's not the casual pot smoker?

18 A I can't define what a casual pot smoker would be.

19 Q Somebody drinks in the morning, they're not a casual
20 drinker or recreational drinker?

21 A I would tend to agree with you on that, sir.

22 Q So if you smoke pot in the morning or ingest pot in
23 the morning or at noon, you wouldn't be a casual pot
24 smoker either, would you?

25 A I would tend to agree with you there.

1 MR. ERVIN: I don't have any further questions.

2 THE COURT: Any redirect?

3 MR. BELL: No, your Honor.

4 THE COURT: You may step down. You free to
5 leave. Thank you.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: You may call your next witness.

9 MR. BELL: The State calls Kelly Rose Dr. Kelly
10 Rose.

11 THE COURT: If you could please come forward,
12 I'm going to ask if you could to place your left hand on
13 the Bible and raise your right hand as the clerk
14 administers the oath.

15 THE CLERK: Do you swear the testimony you give
16 this court be the truth, the whole truth, and nothing but
17 the truth so help you God?

18 THE WITNESS: I do.

19 THE COURT: Yes, ma'am, if you could come
20 forward, I'm going to ask you to have a seat in the
21 witness chair, pull up real close to that microphone,
22 speak loudly, clearly and slowly in order that we can hear
23 everything that you have to say and let's start with your
24 full name please, ma'am.

25 THE WITNESS: Kelly L. Rose R-O-S-E.

1 THE COURT: Yes, sir, Mr. Bell.

2 WHEREUPON,

3 Dr. Kelly L. Rose,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BELL:

7 Q Hello, Dr. Rose.

8 A Hello.

9 Q Would you please give the ladies and gentlemen of the
10 jury your occupation?

11 A I'm a forensic pathologist in Newberry, South
12 Carolina at Newberry Pathology Group.

13 Q And how long have you work there?

14 A I have worked there since November of 2018.

15 Q How long you worked in the field of forensic
16 pathology?

17 A In pathology since 2005 and forensic since 2010.

18 Q What's your educational background?

19 A I went to the College of Charleston and majored in
20 biology with an emphasis in molecular. Then I went to
21 medical school at the Medical University of South Carolina
22 where I got my MD. After that, I started my residency in
23 pathology at MUSC, and I did that for three years. And
24 then transferred to Emory, finished my residency in
25 regular general pathology. And then stayed on for a year

1 and did forensics at the Fulton County medical examiners
2 office in Atlanta.

3 Q Can you tell the, ladies and gentlemen of the jury,
4 what exactly is pathology?

5 A Okay, pathology is the study of disease. You have
6 several branches. The two main ones that everybody has to
7 learn if they're a pathologist are anatomic and clinical.
8 Anatomic pathology is the diagnosing disease through
9 looking at tissues. So if you get a biopsy or if you have
10 something dissected because you have cancer, they will
11 send that tissue to a pathologist, and they will diagnose
12 it. Clinical pathology is fluids, so it's laboratory
13 stuff even microbiology like in viruses like Covid or if
14 you have to get your urine analyzed, that's clinical
15 pathology. After that, you can specialize further, and I
16 chose forensic pathology, which is you can kind of
17 consider it as like the study of cause of death. We are
18 trying to determine the cause and manner of death in
19 unexpected deaths not every death, but deaths that are in
20 unexpected.

21 Q How many autopsies have you performed in your career?

22 A I have performed approximately 3,500.

23 Q Have you ever been qualified in court as an expert in
24 the field of pathology?

25 A I have.

1 Q How many times have you testified?

2 A Approximately 30.

3 MR. BELL: Your Honor, at this time I move ---

4 MR. ERVIN: And we stipulate to it.

5 THE COURT: She is indeed qualified as an
6 expert in forensic pathology. We talked about what an
7 expert witness is, and I will charge you in greater detail
8 at the conclusion of the case. She's allowed to render
9 her opinions in this field.

10 MR. BELL: Thank you, your Honor.

11 BY MR. BELL:

12 Q Ms. Rose, did you perform any autopsies in this case?

13 A I sure did.

14 Q Did you document those findings?

15 A Yes, I did. With every autopsy, we will do several
16 steps. We diagram what we see. We take a lot of
17 pictures, and then will finish with the report. So I did
18 the autopsy, and I made note of what I found. And then I
19 issued a report.

20 Q I am showing you what is marked as State's Exhibit 16
21 and 17. Do you recognize those exhibits?

22 A I do.

23 Q Where do you recognize them from?

24 A This is one of the diagrams that I made during the
25 autopsy to assist me, and this is my autopsy report.

1 Q And how do you know that those are your reports?

2 A I recognize them and has my signature and my
3 handwriting.

4 MR. BELL: Your Honor, at this time I move
5 State's Exhibit 16 and 17 into evidence.

6 MR. ERVIN: Without objection.

7 THE COURT: They're into evidence.

8 (WHEREUPON, State's Exhibits Nos. 16 and 17 were
9 admitted into evidence.)

10 MR. BELL: Your Honor, at this time I would like
11 to publish State's 17 and have my expert witness explain
12 it to the jury.

13 THE COURT: Yes.

14 BY MR. BELL:

15 Q Could you please explain to the ladies and gentlemen
16 of the jury your findings of the autopsy of Mr. Floyd
17 Stewart?

18 A Yes, at time of autopsy, we looked not just for
19 natural disease, but also injuries. And in this case I
20 identified five gunshot wounds to his head and that's what
21 this is a diagram of one, two, three, four and you'll see
22 five here. This was an abrasion that's what that is
23 depicting on the diagram. And this is an exit wound that
24 corresponds with a gunshot one, which is right there in
25 front of the ear, so once we identify these externally and

1 make diagrams. We take measurements and such. We then
2 will reflect the scalp and by that, I mean we'll make an
3 incision from ear to ear. And we'll reflect the scalp,
4 and you can put it right back together and know one would
5 know. So we reflect it, and then we look and see what
6 kind of internal injuries. We'll remove the skull cap and
7 look in the brain and see what kind of damage the wounds
8 have caused.

9 Q And from that picture we see five holes?

10 A Yes.

11 Q And that's indicative of those five shots entered the
12 head?

13 A Yes, those are five entrance wounds. One of the
14 bullets exited. The other four remained.

15 Q In your expert opinion if you was told that
16 Mr. Stewart was shot first from behind and then
17 repetitively shot while he was on the ground, how would
18 you explain that in that picture?

19 A That with my findings would be most consistent
20 with -- can I stand up?

21 Q Yes, go ahead.

22 A With him inflicting -- having this to gunshot wound
23 first it's towards the back of the head. And often when I
24 see groups of wounds like we have here on the left side of
25 the head, that is -- they'll be on the ground at that

1 point. I see that often when they're already on the
2 ground because someone can stand over them and shoot. So
3 I would say that this one was probably the first one
4 inflicted is what you're telling me is how the scene
5 occurred. And that these were inflicted after he was on
6 the ground and someone was probably standing over him
7 shooting him.

8 Q All right. Thank you. Did you take any samples
9 while performing this autopsy?

10 A Every autopsy we take blood and vitreous fluid,
11 that's the fluid in your eye, so we do that and we take
12 blood. And if the person has urine, we collect it, that's
13 standard on every autopsy. And we did that in this case,
14 and that is for extra tests like toxicology and to have
15 DNA standard in case there's a question that comes up and
16 they need to examine the decedents DNA, you know,
17 questions of paternity arise et cetra. So, yes, we did
18 that in this case.

19 Q And did you send that sample to SLED?

20 A When we collected during a homicide, usually there is
21 a law enforcement officer there and that was during this
22 case, so we collected it, labeled it. We put it in a
23 clear plastic bag and seal it, and I'll initial it. And
24 then we transfer it right there to law enforcement, which
25 is what we did in this case and that was to Erica Norton

1 of the Hartsville police department. Not only do we do
2 tox samples, but any projectiles. So once I remove the
3 skull cap and see that, you know, for instance bullet one
4 went through the basilar skull, which is the part of your
5 skull that your brain rest on. And then it traveled
6 upward into the brain, the right hemisphere of the brain.
7 It hit the brain stem as well and then that exited.
8 However, two, three and four went in through the brain.
9 One of bullets hit the skull didn't come out though. It
10 hit it and then was kind of thrown around the skull into a
11 different part of the brain, so we have to kind of look.
12 And I looked and I found the bullets or projectiles that
13 were left. And then I will photograph those, put those in
14 a clear plastic bag, seal them and transfer those as
15 evidence as well.

16 Q Dr. Rose, what I'm showing you is State's Exhibit
17 Number 19. Do you recognize these items?

18 A Yes, these are the -- I call them projectiles because
19 a bullet is actually only the gray part of a projectile,
20 so I don't say bullet, but these are the projectiles that
21 I recovered. And they are consistent of bullets in there
22 jackets, which are usually a copper color and some are
23 very deformed. Some are separated. These are the
24 projectiles that I collected during that autopsy.

25 MR. BELL: Your Honor, at this time I move

1 State's Exhibit 19 into evidence.

2 MR. ERVIN: No objection.

3 THE COURT: Into evidence.

4 (WHEREUPON, State's Exhibit No. 19 was admitted
5 into evidence.)

6 BY MR. BELL:

7 Q Where did you get those from again?

8 A I retrieve these from the decedents mostly from
9 inside his skull and the brain tissue. One traveled into
10 the back of the neck area and I recovered it there, but
11 the majority of these were in the brain issue. We
12 actually take x-rays too, so that's what we use as a guide
13 to find these because you can't tell from the entrance
14 wound where you are going to find the projectile
15 oftentimes it's not where you think it might be because
16 its impacted the skull and been bounced around.

17 Q Dr. Rose, what was the cause of death for
18 Mr. Stewart?

19 A His cause of death I determined to be perforation of
20 cerebrum and brainstem, that's a fanciful word for it went
21 through his brain stem and brain due to gunshots of the
22 head.

23 Q Is there any way to tell which bullet killed him?

24 A All of these are potentially lethal shots, so in a
25 case like this, no, because they probably happen so fast

1 they all contributed to his death and they were all fatal
2 injuries.

3 Q Did you get a toxicology report back from SLED?

4 A I did.

5 Q Okay. And did that change your findings of cause of
6 death?

7 A It did not.

8 MR. BELL: Beg the Court's indulgence.

9 (WHEREUPON, a pause in the proceedings.)

10 MR. BELL: Please answer any questions Mr. Ervin
11 may have for you.

12 THE COURT: Mr. Ervin, you're Cross-examination.

13 MR. ERVIN: Thank you, your Honor.

14 CROSS-EXAMINATION

15 BY MR. ERVIN:

16 Q Dr. Rose, you indicated that projectiles were
17 recovered. Is there a way to determine the caliber of the
18 pistol from which the projectiles shot based on recovery
19 of those fragments?

20 A Generally, you can have ballistics people look at
21 them. I can take -- I like guns and ammo, so I can kind
22 of render educated guess, but usually they go to
23 ballistics.

24 Q Okay. Was that done in this case?

25 A I'm not aware.

1 Q It's not reflected in your report then?

2 A Generally, I don't include that in my report because
3 my findings aren't -- it doesn't matter what caliber the
4 bullet is for me. It matters that the patient died from
5 the -- so the caliber ---

6 Q Kind of irrelevant?

7 A Yes, sir.

8 Q Okay. And as far as the -- is it normal when you do
9 an autopsy that you would make some kind of determination
10 of distance from the gun to the head?

11 A You can. There a lot of variables to that. If you
12 see a muzzle imprints of the barrel of the gun pushed on
13 someone's face and it leaves a mark, the exact size of a
14 gun barrel looks just like the barrel. Then I can say
15 that that is contact because that shot was in contact with
16 the head. If I see soot, you can say it's within a foot
17 generally. Soot tricky though because if the person is
18 even whipped off before I see it, soot just goes away.
19 Stippling you can identify and that it stays and that
20 means it was a little further a part up to three feetish
21 between like one to three feet. Stippling is gun powder
22 residue that's not fully burned, so it doesn't turn to
23 soot, and it will impact the skin and leave marks, that
24 don't wipe away. If you have anything in between the
25 bullet and the object that it strikes, it's going to

1 absorb that. I often get cases where they've had some
2 sort of clothing even like this, you know, and if the
3 bullet goes in here, you're not going to see any evidence
4 of strain of fire.

5 Q Right. And what type of stippling was present in
6 this case?

7 A He had no stippling.

8 Q Okay. And to the best of your knowledge, you don't
9 know what he had on his head?

10 A No, that's why I called it indeterminate range
11 because from the evidence that I had I couldn't say that
12 this was close or intermediate or really make a
13 determination, so I go indeterminate.

14 Q That's the meaning of indeterminate?

15 A Yes.

16 Q Got you. And is blood spatter evidence -- you're
17 familiar with that I know?

18 A That's not my expertise though.

19 Q Right. But is that routinely part of this analysis?

20 A Not on my end, no.

21 Q Not on your end, but on other ends, are you familiar
22 with it?

23 A I am familiar with it, but I have to say I'm woefully
24 ignorant as to the full extent of what they do behind the
25 scenes.

1 Q When you say you're familiar with it, what is it?

2 A It's spatter from when someone's shot, it's the way
3 the blood spatters out or if someone is slashed with a
4 knife, it's the way it splatters. And if they catch an
5 artery, it does a certain pattern or if it's dripping
6 down, it does a different pattern.

7 Q And sometimes that can be part of the crime scene
8 reconstruction, can't it?

9 A I assume, but that's an assumption because I haven't
10 been to crime scenes here. And, again, it's kind of
11 irrelevant to my determine cause of death.

12 Q Okay. I understand that. And as far as the
13 toxicology, the blood invitreous samples that were
14 submitted to SLED for analysis in this case, you would
15 have been the individual responsible for submitting that
16 to the agent or through law enforcement to the
17 toxicologist at SLED?

18 A Yes, I transferred the specimens to the law
19 enforcement agent in the autopsy, and then they will take
20 it to SLED and transfer it to SLED.

21 MR. ERVIN: Thank you, Doctor. No further
22 questions.

23 THE COURT: Any redirect?

24 MR. BELL: Briefly.

25 REDIRECT EXAMINATION

1 BY MR. BELL:

2 Q Mr. Ervin asked you about blood spatter. And during
3 your autopsy was any brain matter examined in this case?

4 A Yes, when I took off the skull cap, and then we'll
5 remove the brain, I would examine the brain. Often times
6 when you have gunshots to the head and brain, it's not
7 intact any more, so you have to get it out as much as you
8 can and you weigh it because I want to make sure that
9 there's no natural disease going on. And then I will
10 slice through it very thinly and determine pathways of the
11 projectiles if I can. There's hemorrhage that is
12 associated and I document all the associated injuries as
13 well.

14 Q That was documented in your report, correct?

15 A Yes, in my report.

16 MR. BELL: No further questions, your Honor.

17 THE COURT: All right. You may step down, and
18 you're free to leave. Thank you, ma'am.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 THE COURT: You may call your next witness.

22 MR. BELL: Your Honor, if I may briefly check to
23 make sure everything is in evidence?

24 THE COURT: Yes.

25 (WHEREUPON, a pause in the proceedings.)

1 MR. BELL: Your Honor, at this time the State
2 rest.

3 THE COURT: Might counsel approach the bench for
4 just one moment.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury, but out of the hearing of the
7 jury.)

8 THE COURT: All right. Madam forelady and ladies
9 and gentlemen of the jury, at this juncture of the trial
10 we're required to take up matters of law outside of your
11 presence. We going to ask -- we're going to go ahead and
12 release you for lunch and ask you to be back at 1:30, 1:30
13 sharp. And once again do not discuss the case amongst
14 yourselves or with anyone else. Do not do any independent
15 investigation, no social media, and we will see you back
16 at 1:30. Thank you.

17 (WHEREUPON, the jury retire to the jury room.)

18 THE COURT: All right. Be happy to entertain
19 motions at this time.

20 MR. ERVIN: Your Honor, I would move at this
21 time for a directed verdict of not guilty based on the
22 insufficiency of the evidence in the case, which a jury
23 could logically fairly produce guilt.

24 THE COURT: Mr. Bell.

25 MR. BELL: Your Honor, as the Court is aware

1 looking at the evidence most likely being the State, Mike
2 Weatherford testified he didn't have a concealed weapons
3 permit. Mike Weatherford also testified to the value of
4 the vehicle that was stolen being over 2,000, that
5 substantiates the grand larceny charge. Your Honor, he's
6 charged with murder and possession of a weapon during the
7 commission of a violent crime. There's a written
8 statement as well as a video statement admitting the
9 evidence. We think we more than carried our burden at
10 this juncture. That's all from the State.

11 THE COURT: All right. Mr. Ervin, your motion
12 is noted but denied, and you're protected on the record.

13 MR. ERVIN: Thank you.

14 THE COURT: Mr. James, I'm going to ask if you
15 could stand up as the clerk administers the oath.

16 THE CLERK: Raise your right hand. Do you swear
17 the testimony you give this court will be the truth, the
18 whole truth, and nothing but the truth so help you God?

19 THE DEFENDANT: Yes.

20 THE COURT: Mr. James, at this time I'm going to
21 explain certain of your rights. If you do not understand
22 anything I say, please let me know. If you want me to
23 explain anything in more detail, tell me that, and I'll be
24 happy to do so. Do you understand it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. We have now reached the
2 stage of the trial where you may present your defense.
3 You have the right to the protections given to you by the
4 Fifth Amendment to the Constitution of the United States
5 of America which provides in relevant part no person shall
6 be compelled in any criminal case to be a witness against
7 himself. This means that you cannot be required to
8 testify in this case. You have the right to testify on
9 your own behalf. However, no one can make you
10 testify. This is a personal right, and no one can waive
11 this right except you. If you decide to testify, you'll
12 be subject to the same rules that govern other witnesses.
13 You may be examined and cross-examined on any relevant
14 issue in the case.

15 In addition, if you have any convictions
16 involving dishonesty or false statements or for crimes
17 punishable by imprisonment for more than one year. This
18 court determines that the probative value of admitting
19 this evidence outweighs its prejudicial affect to you.
20 The Solicitor will be able to introduce your record to
21 attack your credibility. If you decide to testify, this
22 decision on your part must be freely, voluntarily and
23 intelligently made with knowledge of the protections given
24 to you by the Fifth Amendment to our Constitution, and the
25 consequences of your decision to testify. If you decide

1 not to testify, I will instruct the jurors that they
2 cannot give the fact that you did not testify any
3 consideration whatsoever. That there is to be absolutely
4 no prejudice to you because you did not testify. It's
5 left entirely up to you whether or not to testify. You
6 may talk to your attorney, your family, your friends or
7 anyone else, but the final decision will be left entirely
8 up to you. Mr. James, do you understand what I've explain
9 to you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Do you have any
12 questions about your Fifth Amendment rights?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you discussed these matters
15 with your lawyer?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have you understood those
18 conversations?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you wish to testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Very good. Thank you.
23 All right. For scheduling purposes, we're going to break
24 until 1:30. We've got one hearing at 12. We going to be
25 back at 1:30, and we're going to complete the testimony in

1 this case. We're going to recess for the afternoon, come
2 back in the morning to argue and charge. And for
3 scheduling purposes, I think there some jail matters that
4 need to be tended to. If we could kind of gauge that as
5 best we can and get that ready and we'll continue on and
6 do that this afternoon. All right. Anything from the
7 State before we recess until 1:30?

8 MR. BELL: No, your Honor.

9 THE COURT: Anything from defense?

10 MR. ERVIN: No, your Honor.

11 THE COURT: All right. We'll stand at ease
12 until 1:30.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: Good afternoon everybody. Anything
15 from the State before we proceed?

16 MR. BELL: Nothing from the State, your Honor.

17 THE COURT: Anything from defense?

18 MR. ERVIN: No, Your Honor.

19 THE COURT: We ready for the jury.

20 (WHEREUPON, the jury came into open court.)

21 THE COURT: Madam forelady, ladies and gentlemen
22 of the jury, thank you for being here and being here on
23 time. You have heard all of the State's witnesses in
24 their case in chief. At this juncture in the trial, we
25 recognize the defense. Mr. Ervin, you recognize.

1 MR. ERVIN: Please the Court. Mr. Bell.

2 Defense calls Portia Tedder to the stand.

3 THE COURT: Yes, ma'am, if you could please come
4 forward. I'm going to ask you if you could to approach
5 the clerk there and place your left hand on the Bible and
6 raise your right hand as the clerk administers the oath.

7 THE CLERK: Do you swear the testimony you give
8 this court to be the truth, the whole truth, and nothing
9 but the truth so help you God?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: If you could come forward and have a
12 seat in the witness chair. I'm going to ask that you pull
13 up real close to that microphone speak loudly, clearly and
14 slowly in order that we can hear everything that you have
15 to say and let's start with your full name please.

16 THE WITNESS: My name is Portia Tedder.

17 THE COURT: Very good. Yes, sir.

18 WHEREUPON,

19 Portia Tedder,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ERVIN:

23 Q Ms. Tedder, where you from?

24 A I'm from Darlington.

25 Q And where were you born and raised?

- 1 A Darlington Dovesville.
- 2 Q In the Dovesville area?
- 3 A Yes, sir.
- 4 Q Where did you attend school growing up?
- 5 A Hartsville and Darlington.
- 6 Q Okay. Did you graduate from high school?
- 7 A I did not.
- 8 Q Okay. Tell us the last grade you completed?
- 9 A Tenth.
- 10 Q Okay. And have you married?
- 11 A Single.
- 12 Q You're single now. You parent of a number of
- 13 children?
- 14 A Two.
- 15 Q And who are your children?
- 16 A Dabry James and Shabria James.
- 17 Q Okay. And Shabria is how old?
- 18 A Nineteen now.
- 19 Q Okay. And when this incident occurred back in
- 20 2020 -- February 12th exactly how old was Dabry then?
- 21 A Dabry was 19.
- 22 Q Okay. When was his birthday?
- 23 A Well, no, he was 18 finna be 19 I'm sorry.
- 24 Q Okay. So what is his birthday?
- 25 A [REDACTED]-2000.

1 Q All right. So he turned 19 that year?

2 A Yes.

3 Q I see. And tell me about your -- where you lived in
4 Hartsville or where you were living at the time of this
5 incident?

6 A We stayed in East Carolina apartments on Carolina
7 Avenue.

8 Q Right.

9 A East Park [REDACTED].

10 Q [REDACTED] Lange Court?

11 A Yes, sir.

12 Q And how long had you been living there?

13 A Maybe two and a half years.

14 Q Okay. So quite sometime?

15 A A little while, yes, sir.

16 Q Okay. And did you know or do you have the
17 opportunity to meet Dytashia Platt?

18 A I don't know her.

19 Q You don't know her personally?

20 A No, I don't.

21 Q Did you -- would you know her to see her?

22 A I wouldn't.

23 Q Okay. How about the Nakea Ferguson?

24 A I sort of know her, but I really don't know her
25 either. I just know her from staying in the apartment

1 across from where I stayed at.

2 Q Okay. And is that directly across from you?

3 A Sort of kind of. It was like -- yeah, sort of kind
4 of across from me.

5 Q Okay. And living with you at Lange Court who was
6 living with you?

7 A Me and Dabry and Shabria.

8 Q Okay. And Shabria was in school then?

9 A She was out of school that day. She had a doctor's
10 appointment, so she was in the house.

11 Q Okay. Well, walk us through that morning, what did
12 you and what did Shabria and Dabry do that morning if
13 y'all were together if you can?

14 A Yes, we was together. We went to Wal-Mart and we
15 came back home from Wal-Mart on that day. It was my
16 birthday and I wanted to spend sometime with my son. We
17 had been running from the house because people had been
18 watching the house. So we left Wal-Mart and we got home.
19 It wasn't even ten minutes after we got home, the guy
20 pulled up and started in with my son. The girl from
21 across the street call my son across the street to talk to
22 him. And while he was over there talking to her, he
23 pulled up.

24 Q Okay. And you know who that guy was?

25 A I really don't know him either.

1 Q Okay. Was it the victim in this case?

2 A Yes.

3 Q Okay. Did you see what they were -- or hear what
4 they were talking about?

5 A I couldn't hear because I was across the street.

6 Q Okay. How far away would you say you were? Would it
7 helped if I backed up?

8 A I knew it was further distance than what you standing
9 to me now.

10 Q Okay. So it's far enough away you couldn't hear what
11 they were saying?

12 A I couldn't hear what they were saying.

13 Q How did they appear?

14 A They appeared -- he appeared that he was angry when
15 he got out the car, angry with my son about something and
16 what I don't know.

17 Q Okay.

18 A And he was approaching him about whatever they had
19 going on.

20 Q Right. And at what point -- did he bring you
21 something back?

22 A My son brought me back -- I call my son from across
23 the street. I said son bring me my phone and bring me my
24 keys because he had done took my keys and my phone across
25 the street talking to the girl. So I got my son to bring

1 me back my keys and my phone and he did. And he went back
2 over there across the street.

3 Q Right. And how long was he in the house?

4 A He was in the house for a little while. We hadn't
5 even been home ten minutes since we came from Wal-Mart
6 from the grocery store.

7 Q Okay. Did you notice anybody behind you when you
8 were leaving Wal-Mart?

9 A I'm not sure if it was or if it wasn't. I know he
10 got there pretty quick.

11 Q When you say you know he got there, who are you
12 talking about?

13 A I'm talking about ---

14 Q Floyd Stewart?

15 A Yes. I don't know if somebody call him or he
16 followed us from Wal-Mart.

17 Q Well, what I'm asking you is how long had you been at
18 home?

19 A Not even ten minutes.

20 Q Okay. So you hadn't been home long?

21 A Hadn't been home long not at all.

22 Q Okay. And after you got your keys ---

23 A And my phone.

24 Q What did Dabry do then?

25 A Dabry proceeded to go back across the street to go

1 talk to the girl to see what he had wanted because I asked
2 him I said Dabry what does he want with you. He was like
3 I don't know what he want.

4 Q And what happened next? When he went back over
5 there?

6 A When he went back over there, they was still talking
7 about whatever they was talking. I seen him showing him
8 something on a phone. And then ---

9 Q You talking about Floyd Stewart?

10 A Right. They was going on about whatever they had
11 going on. I don't know what was going on because I wasn't
12 over there. I just seen it from across the street. And
13 then when he was walking away to go back to his car -- I
14 guess, he was going back to his car because he left the
15 door open and stuff like that.

16 Q Was the car close by?

17 A Yes, sir.

18 Q And what happened?

19 A My son shot him.

20 Q And what did you do?

21 A I just got up from where I was. I was in shock, got
22 up from where I was and went in the house, got my daughter
23 and me and my daughter left.

24 Q Where did you go?

25 A I went to my job to tell my job what happened. Then

1 I went to my aunt's house.

2 Q And where were you working?

3 A KFC.

4 Q All right. Now, Dabry had an incident in December?

5 A Right, he got shot in December. He got jumped in
6 January.

7 Q Okay. And where was he working when he got jumped?

8 A At KFC.

9 Q Were you working that day?

10 A I was.

11 Q Okay. Now, let's go back to December when he was
12 kept over night at Carolina Pines.

13 A Right.

14 Q Did you go there to see him?

15 A I did because they called me off my job and said my
16 son had got shot, so I left the job. My boss let me
17 leave. I went up to the hospital and I stayed with Dabry
18 there until he was release.

19 Q The next morning?

20 A Yes.

21 Q Okay. Fast forward to the Kentucky Fried Chicken
22 incident.

23 A Right.

24 Q You were working?

25 A I was working. I was in the drive through window,

1 and my son was in the lobby taking out the trash. And he
2 said that this guy came in from behind and yoked him, so
3 they started fighting, but three to four more guys came
4 inside the store and jumped on him. I went in the lobby
5 got in between them and was trying to break it up or
6 trying to tell them to stop and get off my son or
7 whatever. When I seen the manager coming, I told the
8 manager to call police because they jumping on my son.
9 And they left before the police got there.

10 Q Okay. Did you recognize any of them?

11 A I did not. I did not know these guys.

12 Q Okay. But the police did come and ---

13 A The police did come.

14 Q Conduct some type of investigation?

15 A Yes, right.

16 Q That was documented in an incident report, is that
17 correct?

18 A Right.

19 Q Okay. After this occurred, did you have occasion to
20 meet with the investigator in the case Mr. Hause?

21 A Talking about on the day of the 12th?

22 Q Yeah.

23 A Yes.

24 Q At the Hartsville police department?

25 A Yes.

1 Q You remember him?

2 A Yes.

3 Q And did you appear voluntarily at the Hartsville
4 police department?

5 A Yes.

6 Q Did somebody have to come get you?

7 A No, they didn't.

8 Q And when did you go there?

9 A I went there the day next day. The came out to the
10 house that day of that it happen, and he told me to report
11 up there the next morning and I did.

12 Q And you told him you would, didn't you?

13 A And I told him I would and I did.

14 Q All right. And did he take a video statement from
15 you?

16 A Yes.

17 Q And did you basically tell him the same thing you've
18 testified to here in court?

19 A Yes.

20 Q Any other details about that that you relayed to him
21 that you can think of?

22 A Nothing besides we wasn't even staying home at the
23 time because the guy had been watching the house for a few
24 weeks or a few days. My daughter came up to the job the
25 same night my son got jumped, my daughter came up to the

1 job and somebody watching the house and you need ---

2 Q What do you mean by watching the house?

3 A They was park across the street, back up and not get
4 out the car.

5 Q And that was something that cause you some concern?

6 A Right. And that was the same night he got jumped
7 shortly after that, they came up to the job and jumped on
8 him.

9 Q You didn't have any idea ---

10 A I had no idea what was going on. I wasn't aware of
11 nothing.

12 Q Okay. Did you ever tell Investigator Hause that you
13 left Lange Court because you thought bad people were on
14 the way?

15 A I did.

16 Q What you mean by that?

17 A I just wasn't sure what was going to go on, see I'm a
18 Pee Dee Mental Health patient, so I can't take a whole
19 lot.

20 Q Right.

21 A So therefore after that happened, it just -- I was
22 just in shock, so I left. Me and my daughter left.

23 Q So you have anxiety issues?

24 A Yes.

25 Q I see. And in other words, you were anxious? You

1 were panicking at that point?

2 A Right.

3 Q And you were worried that people were coming out of
4 there?

5 A Right.

6 Q Now, there were some indication that you assisted law
7 enforcement in -- located Dabry afterwards?

8 A Right.

9 Q Did you know where he was?

10 A I did not.

11 Q Well, how did you help them?

12 A I help them by through the phone call. He call me
13 over the phone, so they got my phone and got a number off
14 my phone and that's how come they sort of put two and two
15 together.

16 Q Figured out he was in Lee County?

17 A Right.

18 Q And you were helpful to him?

19 A Right.

20 Q And you wanted him to ---

21 A Right, yes, because it was my birthday the next day.
22 And I wanted to spend some time with my son not knowing
23 that all this was going to transpire.

24 Q Right. But you did the right thing, didn't you?

25 A Right.

1 MR. ERVIN: Beg the Court's indulgence.

2 (WHEREUPON, a pause in the proceedings.)

3 BY MR. ERVIN:

4 Q Where did you go when you left?

5 A When I left where?

6 Q When you left the apartment?

7 A When I left the apartment?

8 Q On Lange Court after the shooting occurred?

9 A I went to KFC.

10 Q Okay. You went back your employer?

11 A I went to my job and told my manager what happened.

12 Then I went to my aunt's house.

13 Q Who's your aunt?

14 A Annette Ford.

15 Q Ms. Ford?

16 A Yes, sir.

17 Q And Dabry James has a couple twins, doesn't he?

18 A Huh?

19 Q Does he have twins Dabry -- children?

20 A He has a daughter. He had a daughter on the way.

21 Q Okay. And who is his -- who is the child's mother?

22 A Kayla Briggs.

23 Q Does she also work at a fast food restaurant?

24 A No, I don't believe she was working at that time
25 because I believe she was pregnant. And she was almost

1 about to have the baby, so I don't believe she was working
2 at this time.

3 Q Well, she worked at Yogi Bear at one time?

4 A She did.

5 MR. ERVIN: Okay. I don't have any further
6 questions.

7 THE COURT: Cross-examination, Mr. Bell.

8 MR. BELL: Yes, your Honor.

9 CROSS-EXAMINATION

10 BY MR. BELL:

11 Q Good afternoon, Ms. Tedder.

12 A Good afternoon.

13 Q For the record, your birthday is when?

14 A [REDACTED]-1981.

15 Q This event happened on February the 12th?

16 A The 12th, yes, sir.

17 Q So it was the day before your birthday?

18 A Yes.

19 Q Now, you remember giving a statement to -- that would
20 have been Hause?

21 A Yes.

22 Q Right.

23 A Yes.

24 Q You know that was recorded?

25 A Yes.

1 Q I think you just testified that Mr. Stewart appeared
2 angry when he got out the car, that's what you just
3 testified to?

4 A I don't think I said that.

5 Q You don't think you said that?

6 A I said that he was harassing my son.

7 Q Okay. So you didn't see him be aggressive when he
8 got out of the car?

9 A No.

10 Q Okay. You just testified that Nakea stays across the
11 street?

12 A Right. But she wasn't home.

13 Q Okay. You knew Nakea and Floyd were dating, correct?

14 A Something like that.

15 Q Okay. You testified that Dabry brought you your
16 phone and went back to talk to Floyd?

17 A To Floyd, yes.

18 Q So he talk to Floyd, came and talk to you?

19 A Uh-huh.

20 Q Went back to talk to Floyd, that's your testimony?

21 A Yes.

22 Q You just testified that Floyd was walking away when
23 your son shot him, right?

24 A He was.

25 Q Okay. Now, Mr. Ervin talked when Floyd (sic) was

1 jumped at the KFC. He was working that day, right?

2 A Yes, uh-huh.

3 Q You did not -- when you talk to law enforcement, you
4 did not ID Floyd as being any of those three?

5 A I didn't know the gentlemen at the time.

6 Q Did you recognize one as being Floyd Stewart?

7 A I'm not sure.

8 Q Did you recognize any of them?

9 A I didn't recognize none of them.

10 Q Thank you. You testified that your daughter told you
11 somebody was watching the house?

12 A Right, because she was home doing hair. She had the
13 door open. And she said that somebody was watching the
14 house, and it had her scared, so she came up to my job.

15 Q Did you see -- you didn't see ---

16 A I wasn't home. I was at work.

17 Q Now, you did eventually the next day that was your
18 birthday?

19 A Right.

20 Q You did meet with law enforcement and you did tell
21 them -- you testified that you gave them a phone number in
22 a way to reach Dabry, correct?

23 A Where he call me from yes, sir.

24 Q I think Mr. Ervin said you did the right thing?

25 A Right.

1 Q Okay. What did you -- you just testified that when
2 you left from seeing your son kill somebody you went to
3 KFC, correct?

4 A To go talk to my manager, yes, I did.

5 Q You didn't call law enforcement?

6 A I had to go to the job that day.

7 Q You didn't call law enforcement?

8 A No, the girl across the street had already was on the
9 phone with the police.

10 Q All right. And then you went to your aunt's house,
11 Annette Ford, correct?

12 A Right.

13 Q And in that video statement isn't it true that you
14 testified that Dabry came there, didn't he?

15 A Dabry came where?

16 Q He came to your aunt's house before he fled to Lee
17 County, didn't you?

18 A Right.

19 Q And you didn't call law enforcement then, did you?

20 A My aunt was on the phone with the police at the time.

21 Q Did you call law enforcement?

22 A No, I did not.

23 Q Okay. Do you recall when meeting with Mr. Hause your
24 son stood over Mr. Stewart and shot him three to four
25 times your words, correct?

1 A Right.

2 Q In fact, you remember making a statement saying he
3 must have just walked over him and kept shooting, does
4 that sound about right?

5 A I'm not sure.

6 Q You don't deny it, right?

7 A I don't deny it.

8 Q Lastly, do you remember making a statement saying I
9 know my son half way? Do you remember making a statement
10 like that?

11 A I don't.

12 Q Do you deny making a statement like that?

13 A I probably don't deny it, but I don't recall it.

14 Q Okay.

15 MR. BELL: Beg the Court's indulgence.

16 (WHEREUPON, a pause in the proceedings.)

17 BY MR. BELL:

18 Q Did you see your son steal the vehicle?

19 A No, I did not. I had done went in the house by then.
20 When I came back outside, the car was gone and he was
21 gone.

22 MR. BELL: No further questions.

23 THE COURT: Redirect.

24 REDIRECT EXAMINATION

25

1 BY MR. ERVIN:

2 Q You indicated that Dabry came by Annette Ford's
3 house?

4 A Yes, he did.

5 Q Did you talk to him?

6 A Not really because my nieces and everybody was
7 getting on him about he need to turn hisself in and
8 everything, so he sort of like stormed out the house real
9 quick like before I get a chance to say anything to him.

10 Q And he took off?

11 A And he took off.

12 MR. BELL: No further questions.

13 THE COURT: All right. You may step down.

14 Thank you, ma'am.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: You may call your next witness, Mr.
18 Ervin.

19 MR. ERVIN: Call Dabry James.

20 THE COURT: Mr. James, please come forward. Ask
21 if you could to place your left hand on the Bible and
22 raise your right hand as the clerk administers the oath.

23 THE CLERK: Do you swear the testimony you give
24 this court will be the truth, the whole truth, and nothing
25 but the truth so help you God?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Ask if you could to come around,
3 have a seat in that witness chair, pull up real close to
4 that microphone, speak loudly, clearly and slowly in order
5 that we can hear everything that you have to say let's
6 start with your full name.

7 THE WITNESS: Dabry Aunta Neshawn James.

8 THE COURT: Very good. Mr. Ervin, you
9 recognize.

10 MR. ERVIN: Thank you, your Honor.

11 WHEREUPON,

12 Dabry A. James,
13 after first having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ERVIN:

16 Q Dabry, you heard me ask your mother a number of
17 questions about where she was from. Tell us where you
18 were born and raised?

19 A Hartsville, South Carolina.

20 Q And how old are you today?

21 A Twenty-two years old.

22 Q And at this time of this incident how hold were you?

23 A Eighteen.

24 Q And when did you turn 19?

25 A In jail in the county.

1 Q Right. When?

2 A [REDACTED] March [REDACTED] 2000.

3 Q Okay. And were you raised in Hartsville?

4 A Yes, sir.

5 Q Did you go to school in Hartsville?

6 A To the sixth grade. Then I got kicked out of middle
7 school, and I went to Sonavista for the rest of my high
8 school years.

9 Q Right. And you took your GED?

10 A Yeah.

11 Q Did you pass that?

12 A Yes, sir.

13 Q And you've also heard about an incident that
14 occurred in which you were shot, is that correct?

15 A Yes, sir.

16 Q Okay. Explain to the jury the circumstances
17 surrounding that incident?

18 A How it happen?

19 Q How it happen, that's right?

20 A I was leaving my brother's house -- well, my
21 brother's mother house on the way back to my house.

22 Q Explain who your brother is to the jury?

23 A Shawn James. My brother is Shawn James.

24 Q And how old is he?

25 A He's 29 right now -- no, 28, 28.

- 1 Q And he's your older brother?
- 2 A Yes, sir.
- 3 Q Y'all have different mothers?
- 4 A Yes, sir.
- 5 Q And who is his mother?
- 6 A Christina Cranford.
- 7 Q And his father?
- 8 A Brian James.
- 9 Q Okay. Is he present?
- 10 A Yes, sir.
- 11 Q Okay. Mr. James is present is he back there?
- 12 A Yes, sir.
- 13 Q Okay. And where did Christina Cranford live?
- 14 A [REDACTED] Cemetery Lane.
- 15 Q And where is that?
- 16 A Over there by Amspak.
- 17 Q Amspak?
- 18 A Yeah, over there by Kay Branch Road.
- 19 Q Okay. And were you over there?
- 20 A Yes, sir.
- 21 Q And when was that?
- 22 A It was December the 7th.
- 23 Q What were you doing over there?
- 24 A I was just chilling with my brother.
- 25 Q With your older brother Shawn?

1 A Yes, sir.

2 Q When did you leave there?

3 A I left that night. No, I didn't leave like, but I
4 was on the way back to my house that night.

5 Q And Cemetery Lane is that out in the county?

6 A Yeah.

7 Q It's not the city limits?

8 A No.

9 Q Okay. And when you left, what were you driving?

10 A I was driving his mother's car that she bought for
11 him.

12 Q Okay. When you say his mother's car, who is she?

13 A Christina Cranford. My brother's mother.

14 Q Shawn's car?

15 A Yeah.

16 Q And what of kind car was that?

17 A An Oldsmobile.

18 Q Okay. And how long was it -- how far did you go
19 before something happened?

20 A Not even two miles down the road.

21 Q Okay. Tell the jury what happened?

22 A I was leaving on the way out on the way to my
23 mother's house to get me some clothes because I was
24 spending the night with my brother. And by the time I
25 turned out, it was a car that jumped out behind me, but it

1 was two cars behind me. So I was coming and I seen they
2 tried to hop over the cars like come around. So they came
3 around one car and they couldn't get around the other car.
4 So I noticed that they was following me. They was trying
5 to hop the car. So I stop and turned off, and when I
6 turned off, they started firing at the car and I got shot
7 right here on my right side.

8 Q Okay. And were you bleeding?

9 A Yes, sir.

10 Q Were you bleed profusely?

11 A Yeah.

12 Q Facial wound?

13 A Yeah.

14 Q Okay. What did you do next?

15 A Nothing I got back to the apartment -- I mean, got
16 back to where he stay at, and they had called the police.

17 Q You went back to Cemetery Lane?

18 A Yeah.

19 Q Did the sheriff's department arrive?

20 A Yeah.

21 Q Did they do an incident report?

22 A Yeah, they did an incident report.

23 Q And in the incident report, did you provide any
24 information about who was shooting at you?

25 A No, I didn't because I didn't know who it was, only

1 thing I just described to them was type of car that was
2 shooting at me that was it.

3 Q And what kind of car was that?

4 A It was a four-door sedan that like some type of
5 bluish car.

6 Q Did you describe it as a dark four-door sedan?

7 A Yeah, matter of fact the same color like your jacket.

8 Q Okay. And what kind of car did you say you thought
9 it was?

10 A I thought it was a Nissan like the type.

11 Q Okay. And had you ever see the car before?

12 A No, I haven't seen that car before not until after
13 the incident.

14 Q When did you see it after?

15 A I seen Floyd Stewart driving the car after the
16 incident.

17 Q Where did you see him driving it?

18 A Around where we stayed at.

19 Q Why would you see it there?

20 A No, because that's where he was coming. You know, he
21 stay with Nakea Ferguson, and he was back and forth from
22 that area, so I seen that car after the incident.

23 Q Do you know if he been staying with Nakea long at
24 Lange Court?

25 A Probably like a couples months back and forth.

1 Q So he didn't live there?

2 A No, he didn't. He just stayed the night sometimes.
3 Some nights he'll be gone and come back like that.

4 Q Okay. Where Nakea work?

5 A Murphy's in Hartsville.

6 Q You knew that?

7 A Yeah.

8 Q Did you know Nakea?

9 A I don't know her on a personal level, but I know of
10 her.

11 Q And obviously you knew Muff, didn't you?

12 A Yeah.

13 Q Dytashia Platt?

14 A Yeah.

15 Q Did you know her pretty good?

16 A Well, I knew them both the same. I just know them
17 from being out in the apartments.

18 Q Right. And this vehicle you're describing that you
19 saw Floyd Stewart driving, how did that make you feel
20 toward him?

21 A Talking about the vehicle after I got shot?

22 Q Yeah.

23 A I ain't know what was going on. I ain't know what he
24 had going on. I was just trying to figure out like what
25 he had going on. I only seen that car a couple times

1 after I got shot.

2 Q And did you continue to see that car?

3 A No.

4 Q What happened to it?

5 A My guess he got rid of it.

6 Q Okay. And let's fast forward to the incident at KFC.

7 How long had you been working there?

8 A Like a couple months not too long.

9 Q Okay. And what were you doing? What were your
10 duties?

11 A Nothing I was just fixing the orders.

12 Q Okay. And what were you doing when you got jumped?

13 A I was taking out the trash doing the lobby, cleaning
14 up the lobby at nighttime.

15 Q Okay. Was that something that you did before you
16 closed?

17 A Yeah, that's part of the closing job.

18 Q Okay. And what time did this occur?

19 A Probably around like nine something because, you
20 know, everything shut down at ten, so you can't come
21 through the drive through or you can't come at ten
22 o'clock.

23 Q And what happened?

24 A Nothing, I was taking out the trash and a gentleman
25 walk behind me, so I look back. I look back behind me to

1 see what was going on because, you know, normally people
2 don't come in our business that late. So he grabbed me, I
3 got out of the grab after he grab me up and we start
4 fighting. And then after that, I don't know how many
5 people was. They bum rush me and next thing I know I was
6 on the floor. And then my mama them came from around
7 there and they left.

8 Q Okay. And when you say they bum rushed you how many
9 people were there?

10 A I don't know, but it had to be been a couple people
11 because I was holding my own when me and the gentleman was
12 fighting I was holding my own. And then next thing I know
13 I was on the floor.

14 Q Okay. Did you discuss that accident with the
15 Hartsville police department?

16 A No, because I didn't know -- they was persistently
17 asking me who it was, who it was. I don't know who it
18 was. I did not get a chance to see them.

19 Q Right. Were they later able to show you a photo
20 lineup?

21 A Yeah.

22 Q And did you identify a couple people there?

23 A Yeah.

24 Q And those individuals were arrested?

25 A That I know of that's what they say.

1 Q Okay. Going back to when you were shot and went back
2 to your aunt's house, where did you go from there, where
3 did the police take you?

4 A Who?

5 Q Sheriff's department were transported by ---

6 A From where at?

7 Q From the house to Carolina Pines?

8 A Oh, no, I just left -- after I left Carolina Pines?

9 Q No, when you went to Carolina Pines, how did you get
10 there?

11 A Oh, I got there by ambulance.

12 Q Okay. That's what I mean by they EMS?

13 A They transported me to the hospital.

14 Q They transported you to the emergency room?

15 A Yeah, to the ICU.

16 Q Were you kept overnight?

17 A Yeah.

18 Q And how did that impact you?

19 A I was just trying to figure out like where I got shot
20 that was it, why I got shot.

21 Q Were you scared as a result of that?

22 A Yeah, I mean, I was paranoid. I wouldn't say I was
23 scared, but, I mean, if that go along with I was paranoid
24 though after the fact.

25 Q Okay. And how about getting jumped at KFC?

1 A It was just -- it just added onto the paranoia.

2 Q Moving forward to the date of the incident at Lange
3 Court, we heard quite a bit about some pictures being
4 placed on social media. Do you know what that is?

5 A Yeah, pictures of the car that I had stolen -- well,
6 allegedly stealing.

7 Q Okay. And where did this -- where did these pictures
8 come from?

9 A It came from somebody in the neighborhood.

10 Q Now, what do you mean by that?

11 A Because I was trying to figure out what car had shot
12 me because I didn't know offhand, but then I did some
13 research. And it was the four-door sedan. Like I said,
14 he got rid of that car, so he came around in the white
15 car.

16 Q Was the pictures that Floyd Stewart talking about
17 were they pictures of the car he was driving that day or
18 was it an older car?

19 A That day.

20 Q Okay. So the pictures of the newer car?

21 A Yeah.

22 Q Okay. And that was the car he was driving?

23 A Yes, sir.

24 Q And what kind of car was that?

25 A Some type of Chrysler 200.

1 Q Okay. Do you know why he was upset? Did he indicate
2 why he was upset about these pictures being posted on
3 messenger?

4 A No. He was just saying is that it was me posted the
5 pictures.

6 Q Okay. And was he upset about that? Was he mad at
7 you?

8 A Yeah, he felt some type of way.

9 Q And how did that come about when you went to speak to
10 Muff? Were y'all ---

11 A No, me and Muff was talking. Me and Muff was just
12 talking having like regular conversation because I know
13 her, know her in the hood, so I would just mingling with
14 her just talking, have regular conversation nothing
15 serious, nothing major.

16 Q And when he pulled up in his car, how close was he to
17 you?

18 A His car?

19 Q Uh-huh.

20 A Probably like from here to where you at or a little
21 bit further back.

22 Q And what happened then?

23 A And then he got out the car. And when he got out the
24 car, he called me, but I ignored him.

25 Q Okay.

1 A And I was still talking to Muff, and she ask me did I
2 hear. And I say him, and I said, yeah, I hear him, but he
3 called me again and I was like what's up. But then like I
4 say at the same time my mother call me, so I went to go
5 see what my mother wanted. And then he called me again on
6 my way walking to my mother. And I told him all right
7 hold on I'm coming back, gave my mother her keys and her
8 phone and came back and talk to him.

9 Q Okay. All right. And then what happened next?

10 A And we was talking. And then we was talking and he
11 ask me about the pictures. And then I said I ain't got
12 nothing to do with that. And then he ask me, oh, well,
13 that's your brother name right there on the picture, so I
14 was like, yeah, that my brother and I walked off, walk
15 back to the porch where Muff was at. He follow me to the
16 porch. He was like, well, what's up what you want to do
17 is it a problem. I was like, no, it ain't no problem, and
18 he ask me that more times. So after he ask me that, I was
19 just like I ain't got no problem, and then he walked off.
20 And then I followed and then I shot him the first time,
21 and he fell. And I fired two more shots and got in the
22 car and left.

23 Q How far was he from his car when he was shot?

24 A Probably like half way.

25 Q Half way between me and you?

1 A You know, the car was like a little bit further back
2 not too much further, but he was probably like were you a
3 little -- he was right there. He was right there where
4 you at.

5 Q When you got his car, did you see anything?

6 A Yeah.

7 Q What did you see?

8 A He had a pistol in the floorboard.

9 Q What was it?

10 A It was a .9 millimeter Ruger to be exact.

11 Q Okay. And where did go in the car?

12 A When I go to the car -- I went to Lydia.

13 Q Did you stop by your aunt's house?

14 A No, it was after I got out the car, I went to my aunt
15 house.

16 Q Okay. Explain that?

17 A I left, got in the car left, took the car to Snow
18 Hill Road and parked it on the little dirt road. And then
19 I got my uncle to come pick me up.

20 Q Who is your uncle?

21 A My Uncle Steve.

22 Q Steve what?

23 A I think Cranford or something like that.

24 Q So that Christina's people?

25 A Yeah.

1 Q Okay. Did he come pick you up?

2 A Yeah, he came pick me up.

3 Q Okay. And that's when you went to your aunt's?

4 A Yeah.

5 Q Okay. And when you went your aunt's, did you stay
6 there long?

7 A No, I ain't stay there long.

8 Q Where did you go from there?

9 A No, I left. And was with my brother after that.

10 Q Okay. And when you were with your brother where were
11 you with your brother?

12 A No, we went back to Bishopville.

13 Q Okay. Did you still have the .9 millimeter?

14 A Yeah.

15 Q So the gun that you had retrieved from or gotten from
16 the vehicle that you drove off in Floyd Stewart's vehicle,
17 you kept that gun?

18 A Yeah.

19 Q What did you do with the gun that was used to shoot
20 Floyd Stewart?

21 A I threw it.

22 Q Where did you throw it?

23 A Like, it's a road the middle school -- coming from,
24 you know, matter of fact I think 151 the highway 151, I
25 came on that while I was leading. And then I turned off

1 by the middle school, went to the middle school in front
2 of the middle school to Snow Hill Road. It's a wooded
3 area and I threw it in the wooded area before I got to
4 Snow Hill road.

5 Q Okay. Did you tell Investigator Hause about this?

6 A Yeah.

7 Q You gave him a general description of the location?

8 A Yeah.

9 Q You know if they were ever able to locate it?

10 A Not that I know of.

11 Q Okay. Now, immediately prior to this, were you
12 concerned about your own life?

13 A Yeah, I was paranoid.

14 Q And what led you to that?

15 A Everything that happen to me leading up to this
16 incident when I got shot in December and when I got jumped
17 at KFC.

18 Q You also heard something about a Decaprio. Do you
19 know anything about that?

20 A Yeah, the Max shooting.

21 Q Well, what happened with Decaprio, do you know?

22 A He died. They got -- something happened at the bar
23 and he passed away.

24 Q Did you know him?

25 A Yeah, I knew him.

1 Q Was he a friend of yours or he a friend of Shawn's?

2 A He wasn't really my friend, but I knew of him and
3 been around him before so.

4 Q Did you have anything to do with you getting jumped
5 at KFC?

6 A Yeah.

7 Q Why do you say that?

8 A Because they felt some type of way about him passing
9 away, and I had spoke on the situation, so they felt some
10 type of way about it.

11 Q And you said you spoke on the situation, you mean
12 Facebook?

13 A Yeah.

14 Q Okay. And how would you speak on the situation?

15 A Now, you know, you can go live where you can put up a
16 post or anything like that. And I was just speaking on
17 the situation in general like.

18 Q Okay.

19 A He didn't do nothing deserve to be killed or nothing
20 like that, so I was just surprised that what happened that
21 was it.

22 Q All right. Just your sentiments or your thoughts
23 about it?

24 A Yeah.

25 Q Now, I know you're going to be asked if you routinely

1 carry a gun. Is that something that you do on a normal
2 basis?

3 A Yeah.

4 Q Why is that?

5 A Because of what's going on in Hartsville period.

6 Q What was going on in Hartsville?

7 A All the killings that been going on before Decaprio
8 been killings going on here. If you over here, you can't
9 go over here. If you from over here, you can't come over
10 here so. I ain't -- I go wherever I want to go, so I feel
11 like that's what I got to do to protect myself, so I can
12 go wherever I want to go. And nobody can't feel no type
13 of way if I'm on this side or on this side.

14 Q Okay. Now, as far as the afterwards after you got up
15 with your brother Shawn, you heard about when you were
16 arrested the shooting thereafter?

17 A Yeah, about me being arrested, yeah.

18 Q How much longer was it after that you got up with
19 your brother Shawn that you were arrested?

20 A Probably like a couple hours.

21 Q It wasn't very long?

22 A No.

23 Q Was it the next day?

24 A Yeah, it was next the day, but it was from -- when I
25 got with my brother until I got arrested, it wasn't

1 nothing but a couple hours.

2 Q Okay. What were doing in that other time frame?

3 A Trying to stay out the way.

4 Q Trying not to get caught?

5 A Yeah.

6 Q And did you still have the gun, the .9 millimeter?

7 A Yeah.

8 Q Did you keep that?

9 A Yeah, I kept that one.

10 Q Did you have any other guns?

11 A No, I ain't have no other guns not at that time.

12 Q Well, what time did you have another gun?

13 A When I left -- when my Uncle Steve came and got me,
14 and I came back. It was just immediately around the city
15 walking around.

16 Q And. What other gun did you give him?

17 A An SD 40.

18 Q What is that?

19 A Like a spring field SD 40 like just a .40 caliber
20 gun.

21 Q Is it a semi-automatic?

22 A Yes, it's a semi-automatic.

23 Q So it's not a revolver?

24 A No.

25 Q It's nothing like the gun that you tossed?

1 A No.

2 Q Okay. And the -- and these two guns were recovered
3 to the best of your knowledge?

4 A Yeah.

5 Q Do you know where they were recovered?

6 A In Lee Sumter County where -- where we got arrested
7 at the location.

8 Q In the county?

9 A Yeah.

10 Q And what were the guns in?

11 A The rubber boot.

12 Q Where was that rubber boot from?

13 A The car that we got arrested in. Well, the car that
14 they stopped.

15 Q It didn't come out of any other car?

16 A No.

17 Q Okay. Immediately prior to you doing what you did,
18 what was it that Floyd Stewart said, if anything, that led
19 you to lose your cool?

20 A Nothing, but I say I think after we talk, he ask me
21 what was going on with the picture. I said, no, I ain't
22 got nothing to do with no picture. So like I said I
23 left -- I meant before that he said, well, that's your
24 brother right there. And I was like, well, that's my
25 brother, and I left, went back to the porch and he follow

1 me to the porch. And then he came and he was like, well,
2 what you want to do, what you want to do is there a
3 problem.

4 Q What does that mean to you when somebody says what
5 you want to do?

6 A What you want to do I'm right here like we can settle
7 this right now because I'm right here in your face, so
8 what you want to do.

9 Q Were you worried that he might have a gun?

10 MR. BELL: Objection, your Honor, leading.

11 THE COURT: I'll allow him to ask it.

12 A Yeah.

13 MR. ERVIN: Beg the Court's indulgence.

14 (WHEREUPON, a pause in the proceedings.)

15 MR. ERVIN: I don't have any further questions.

16 THE COURT: Cross-examination, Mr. Bell.

17 MR. BELL: Yes, your Honor.

18 CROSS-EXAMINATION

19 BY MR. BELL:

20 Q Good afternoon, Mr. James.

21 A Good afternoon.

22 Q All right. Mr. James, you remember giving a written
23 statement as well a recorded statement to Mr. Hause?

24 A Yes.

25 Q When you gave that interview, you never told him

1 anything about four-door sedan, a dark four-door sedan
2 that you were shot at in December?

3 A Nope that was not discussed.

4 Q Never mention that to him?

5 A No.

6 Q And you talk to him on December -- on February 13th
7 of 2020?

8 A Yeah.

9 Q Not once did you mention a vehicle driven by Floyd
10 Stewart?

11 A No.

12 Q In fact, when asked if you knew Floyd Stewart, you
13 told Kyle Hause that you didn't know him?

14 A Because I don't.

15 Q But you just testified that you knew it was Floyd
16 Stewart's car that was involved in your being allegedly
17 shot at in December?

18 A Yes, that was what I heard.

19 Q That is what you heard?

20 A Yes.

21 Q You never mentioned what you heard to Investigator
22 Hause?

23 A He didn't ask.

24 Q So that's a no?

25 A That's a no.

1 Q You knew that Floyd Stewart stayed occasionally with
2 Nakea Ferguson?

3 A Occasionally.

4 Q That's a yes?

5 A Yes.

6 Q Floyd wasn't at KFC when you got jumped, was he?

7 A Not that I know of.

8 Q Did you tell Investigator Hause that Floyd was at
9 KFC?

10 A No.

11 Q You just testified you go where you want to go,
12 right?

13 A Yes, sir.

14 Q You know, you weren't paranoid. You was paranoid,
15 but you weren't scared, correct?

16 A I mean, they run around the same -- within the same
17 line, but if you want to say that, yeah.

18 Q No, what did you say, you just testified you're
19 paranoid?

20 A I was paranoid.

21 Q But not scared that's what you said?

22 A Yeah.

23 Q Taking you back to the pictures in the phone, you
24 just testified that Floyd Stewart showed you the picture
25 of the Chrysler?

1 A Yes.

2 Q And the Chrysler wasn't involve, based on your
3 testimony, in anything that had to do with the allege
4 shooting that happened December 29th 2019?

5 A No, sir.

6 Q Floyd was walking away when you shot him, correct?

7 A Yes, sir.

8 Q You stood over him and you testified you shot him two
9 more times, correct?

10 A Yes, sir.

11 Q Now, you were present in the courtroom when Dr. Rose
12 testified, correct?

13 A Yes, sir.

14 Q Now, you heard Dr. Rose testify that there was five
15 bullets?

16 A Fragments.

17 Q Five entrance wounds. Were you in here?

18 A Yeah, I was in here.

19 Q And she testified there was five entry wounds to his
20 head, correct?

21 A Yeah.

22 Q Did you hear that?

23 A Yeah, I heard that.

24 Q You dispute that testimony from her?

25 MR. ERVIN: Your Honor, I object to pitting.

1 THE COURT: Sustained.

2 A You said do I reject that?

3 Q Don't answer that.

4 A Oh.

5 Q I'll rephrase it. You didn't see that Floyd had a
6 gun before you shot him, did you?

7 A No, sir.

8 Q And you got rid of the weapon that you killed Floyd
9 Stewart with, correct?

10 A Yes, sir.

11 Q Now, when you talk to Investigator Hause, you
12 voluntarily spoke to him, correct?

13 A Yes, sir.

14 Q He didn't threaten you any kind of way?

15 A No.

16 Q He didn't promise you anything?

17 A No.

18 Q Let's talk about this .9 millimeter Ruger. You
19 testified when you got in Floyd Stewart's vehicle there
20 was a .9 millimeter Ruger on the floor?

21 A Yes, sir.

22 Q So after you took his vehicle from the scene, right,
23 you took the vehicle, correct?

24 A Yes, sir.

25 Q You then dumped the vehicle in Lydia, correct?

1 A Yes, sir.

2 Q And you took his firearm, correct?

3 A Yes, sir.

4 Q Your testimony today is that later you were found
5 with that same .9 millimeter Ruger handgun, correct?

6 A Yes, sir.

7 Q You do recall that statement you gave that was
8 recorded, correct?

9 A Yes, sir.

10 Q Did you not tell Kyle Hause that the .9 millimeter
11 with the beam was yours?

12 A Yes, sir.

13 Q You said it was yours?

14 A Meaning that it was on my person at the time because
15 that's the weapon I got charged with for unlawful carrying
16 in Sumter County.

17 Q You just testified that the 40X East Springfield was
18 yours, right?

19 A Yes, sir.

20 Q But when you was interviewed by Kyle Hause on the
21 February 13th, you said the .9 millimeter with the beam
22 was yours?

23 A Yes, sir.

24 Q Which one was yours both of them was yours?

25 A Yes, sir, both of them was mine.

1 Q Was both of them in Floyd Stewart's car too?

2 A No, just one of them.

3 MR. BELL: Beg the Court's indulgence.

4 (WHEREUPON, a pause in the proceedings.)

5 MR. BELL: Nothing further, your Honor.

6 THE COURT: Any redirect?

7 MR. BELL: Very briefly.

8 REDIRECT EXAMINATION

9 BY MR. ERVIN:

10 Q I'm going to be a little bit more precise when asking
11 about the .9 millimeter. When did it come to your
12 possession?

13 A After I ditch the car.

14 Q Okay. You kept it?

15 A Yes, sir.

16 Q And at that point did you consider it to be yours?

17 A It's on my person so, yes, sir.

18 MR. ERVIN: That's all I have.

19 THE COURT: All right. You may step down.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 THE COURT: Mr. Ervin, you may call your next
23 witness.

24 MR. BELL: Defense rest, your Honor.

25 THE COURT: All right. Madam forelady, ladies

1 and gentlemen of the jury, once again at this juncture in
2 the trial, we're required to take up legal matters outside
3 of your presence. I'm going to ask that you return to the
4 jury room, but do not discuss the case in any way shape or
5 form. Madam forelady, enforce that rule. Everyone remain
6 seated as the jury exits the courtroom.

7 (WHEREUPON, the jury retire to the jury room.)

8 THE COURT: Okay. I'll be happy to entertain
9 motions at this time.

10 MR. ERVIN: Your Honor, I would renew my
11 previously made motion for a directed verdict on the same
12 grounds.

13 THE COURT: Mr. Bell.

14 MR. BELL: I renew my response, your Honor. I
15 feel like we more than carried our burden of proof at this
16 time.

17 THE COURT: All right. It is indeed a question
18 of fact for the jury. As we mentioned, I think we're
19 going to recess on this matter until 9:30 in the morning.
20 And we'll proceed forward with the closing arguments and
21 charge. Under these circumstance, Mr. Bell, you'll be
22 required to open in full. Mr. Ervin will have an
23 opportunity to give his closing argument, and then you'll
24 will have an opportunity to reply. Is that understanding?

25 MR. BELL: Yes, your Honor.

1 THE COURT: Mr. Ervin.

2 MR. ERVIN: Yes, your Honor.

3 THE COURT: All right. At this time it'll
4 probably be a good idea for us to have a jury charge
5 conference, so we'll know what the law that's going to be
6 charged to the jury. I'm going to give you an opportunity
7 to ask for any additional charges or object to anything
8 that I am going to charge. And certainly after I charge
9 the jury, I'll give each of you an opportunity after
10 having heard all of the charge to object at that time as
11 well.

12 First, I'm going to charge them the law that an
13 indictment is not evidence, that's the first one. I'm
14 going to set forth all of the charges, the four different
15 charges, explain that each one of them are separate and
16 distinct need to be considered separately. I'm going to
17 charge the diversion of duties of the jury and the trial
18 judge, charge presumption of innocence. I'm going to
19 charge reasonable doubt and that will involve the shorter
20 version and the longer version. I'll charge both.

21 I'm going to charge direct and circumstantial
22 evidence. And I'm going to charge the -- one from State
23 vs. Logan. The most recent one that deals with
24 circumstantial evidence. And the fact that circumstantial
25 evidence needs to be consistent. And point conclusively

1 to the guilt of the accused, charge credibility of
2 witnesses. I'm going to charge them the law with regard
3 to the statement of a defendant in the Miranda issues.
4 I'm going to charge expert on the law on how to evaluate
5 an expert witness. I'm going to charge them the general
6 law about how to evaluate prior inconsistent statements,
7 charge the substitutive law with regard to grand larceny
8 of a motor vehicle, charge them the substitutive law with
9 regard to murder and possession of a weapon during the
10 commission of violent crime. And any additional -- any
11 additional request to charge from the State?

12 MR. BELL: None from the State, your Honor.

13 THE COURT: Any from defense?

14 MR. ERVIN: Your Honor, we would request to
15 charge voluntary manslaughter.

16 THE COURT: All right. Well, let's talk about
17 that for a moment. In order for me to charge -- I know
18 voluntary manslaughter is a factual determination by the
19 jury, but in order for me to at least charge it, there has
20 to be sudden heat of passion and sufficient legal
21 provocation. Sudden heat of passion may for a time effect
22 a person's self-control and temporarily disturb a person's
23 reasoning. Sudden heat of passion must be the type that
24 would make an ordinary person unable to cooling reflect on
25 his actions and would produce uncontrollable impulse to do

1 violence. The testimony that I've heard here today might
2 fall short in that regard. What kind of sudden heat of
3 passion are you alleging, Mr. Ervin?

4 MR. ERVIN: Well, your Honor, I'm basing that on
5 the totality of the evidence not just with regard to this,
6 but the incident date, but also the incident that incurred
7 prior to that and some of the Facebook messaging, some of
8 the shootings that had occurred there.

9 THE COURT: But doesn't it require that there be
10 sudden heat of passion. I mean, that's one of the
11 requirements of voluntary manslaughter.

12 MR. ERVIN: Yes, sir.

13 THE COURT: And it also says if there's an
14 opportunity for a person to cool off, then it doesn't
15 really apply. We talking about things that took place a
16 long time, and in addition to that, there's really been no
17 testimony even from the defendant that the deceased in
18 this case was one of the ones that jumped him.

19 MR. ERVIN: Not one of the ones that jumped him,
20 but you take into consideration along with his testimony
21 that he was concerned that he was going for a weapon or he
22 had a weapon and he was paranoid about that. He testified
23 to that and that was immediately prior to what he did.
24 That was the point in time.

25 THE COURT: That sort of goes to the sufficient

1 legal provocation, that's the second element that we got
2 to talk about. Sufficient legal provocation must be the
3 type that would make a person of ordinary reason become
4 enraged and to lose control temporarily. It's temporary.
5 It has to do with what's happening right then.

6 MR. ERVIN: Yes, sir.

7 THE COURT: The provocation needed for voluntary
8 manslaughter must come from some act or related to the
9 victim, so really just paranoia, and it has to be
10 sufficient legal provocation. And it has to be some overt
11 act. He was walking away from him.

12 MR. ERVIN: Walk away towards his car with the
13 door open in which a gun was located. And that, of
14 course, would be a factual question for the jury as to
15 whether or not he was going to get his gun. The word that
16 he testified to what you gone do, what you gone do now.

17 THE COURT: But he walked away.

18 MR. ERVIN: Right. But he could have been going
19 to get his gun, that's the whole factual issue at that
20 point its a mens rea crime. Malice aforethought because
21 that goes to his mind as well, your Honor, what's his
22 condition of mind. He's in a flux, you know. He's in a
23 heat of passion. He feels the need to act quickly
24 immediately.

25 THE COURT: All right. The other element of the

1 basic law concerning voluntary manslaughter, and I think
2 we need to talk about this. If the heat of passion had
3 cooled off or if there was enough time between the
4 provocation, if any, killing for the passion and the
5 killing for the passion of a reasonable person to cool the
6 killing would not be voluntary manslaughter. In deciding
7 whether a reasonable person would have had enough time to
8 cool off, you'd consider all of the circumstances
9 surrounding the killing. You may consider the nature of
10 the provocation if any. The defendant's mental and
11 physical state, and the circumstances in relationship
12 between the parties, which would seem to indicate that the
13 passion has to be instantaneous. What do you have to say
14 about that, Mr. Ervin?

15 MR. ERVIN: Well, Judge, I think that the point
16 in which he turned around and go to his car, he did
17 indicate he was scared and that he ---

18 THE COURT: I'm not real sure he said that.

19 MR. ERVIN: A person's fear immediately
20 following the provocation or threatening act may cause a
21 person to act in a sudden heat of passion. And I think
22 here the mere fact that he's afraid may not be sufficient,
23 but fear must be used for sufficient legal provocation and
24 cause him to lose control.

25 THE COURT: Some overt act. What overt act are

1 we talking about?

2 MR. ERVIN: Him going to his car.

3 THE COURT: All right.

4 MR. ERVIN: Going to his car and the car -- the
5 testimony I think, your Honor, when you start talking
6 about a person being right here between there and where I
7 was standing going to get his car, that's a pretty close
8 proximity to where the weapon that he testified was
9 ultimately located.

10 THE COURT: Right.

11 MR. ERVIN: I think that could be the act.

12 THE COURT: Let's see what, Mr. Bell, has to say
13 about sudden heat of passion and sufficient legal
14 provocation.

15 MR. ERVIN: Your Honor, first of all, he never
16 testified that he thought he had a gun, that's the
17 statement. There was no testimony entered the record that
18 he testified he thought he had a gun. He testified he got
19 in the car, and there was a gun. And I think that is very
20 very important in this case. Particularly, when you look
21 State vs. Cook. I think these facts are very very much so
22 similar to State vs. Cook. They must be some type of
23 showing based on my understanding of Mr. Cook is that he
24 lacked control of his actions. I don't think we heard any
25 testimony to that regard. And or the defendant must have

1 been incapable of cooling off. And I don't think there
2 was any testimony that rises to that level, your Honor.
3 And so the State thinks that ---

4 THE COURT: You think it's a matter of law, it
5 just doesn't apply.

6 MR. BELL: Right, yes, your Honor. I think
7 similar to how the ruling came down in State vs. Cook,
8 that the jury should be able to decide either malice
9 aforethought or self-defense. This is not enough facts or
10 factual basis to lack ---

11 THE COURT: Now, you don't think self-defense
12 applies in this case?

13 MR. BELL: No, no.

14 THE COURT: You talking about self-defense in
15 Cook?

16 MR. BELL: Right.

17 THE COURT: Okay.

18 MR. ERVIN: And, your Honor, just in response to
19 that, I think a person's fear immediately following by
20 these statements certainly can be taken into consideration
21 by the jury and by the Court in determining whether the
22 charges are appropriate and acknowledge that a mere fact
23 that a person is afraid is not sufficient by itself to
24 entitle to that.

25 THE COURT: Let me -- I'm asking you because I

1 don't -- I really want to hear what you have to say about
2 it. Did he say he was afraid?

3 MR. ERVIN: He said he was worried he had a gun.
4 He also said he was paranoid. To me, it's the same thing
5 as being afraid. You concerned that the person is going
6 to get a gun and shoot you.

7 THE COURT: I think the paranoia he was talking
8 about how those two previous events affected him not -- I
9 don't think he said he was also paranoid about a gun I
10 don't think he said that.

11 MR. ERVIN: He was worried.

12 THE COURT: Maybe.

13 MR. ERVIN: Be the same thing pretty much.

14 MR. BELL: Your Honor, I'll just say, you know,
15 the Court cautioned us in State vs. Cook in the event that
16 I think in that case the Solicitor asked for a voluntary
17 manslaughter charge. And the Court was cautioning the
18 Solicitor for not trying to make compromise a situation.
19 I think the Court in that situation was saying if the
20 facts don't get you to voluntary charge, you go murder or
21 you go home. And your Honor the State is wanting for
22 murder or go home in this situation. And I don't think
23 the facts get us to voluntary, and I think he is not
24 entitled to a voluntary manslaughter charge.

25 THE COURT: I'm familiar with the Cook case. Do

1 you have a copy of that with you?

2 MR. BELL: I do not, your Honor.

3 THE COURT: Is there any law you like for me to
4 look at, Mr. Ervin?

5 MR. ERVIN: Your Honor, take a look real quick.
6 There is another case your Honor I don't have it pulled.
7 I can certainly do that State vs. Hernandez.

8 THE COURT: I'll be happy to review anything
9 that you would like for me to.

10 MR. BELL: Your Honor, also I'm going to hand up
11 State vs. Sims, that's the most recent application of
12 State vs. Cook. State vs. Cook analysis that's the recent
13 case in South Carolina where it was used.

14 THE COURT: You know, one of the things in Cook
15 and I'll allow both of you to comment on this was that in
16 Cook they were talking, and they made a point of about the
17 fact that they were talking softly, that's very similar in
18 this case because the mama couldn't hear what they were
19 saying. They say in this -- essentially, this element
20 goes essentially to heat of passion. If they were talking
21 softly to one another, it lends itself to not being the
22 sudden heat of passion and uncontrollable impulse.

23 MR. ERVIN: Your Honor, there wasn't any
24 testimony that they were talking softly. She was across
25 the way -- across the parking lot from where they were

1 talking. The -- Dytashia Platt and he indicated that he
2 was demonstrative that he confronted him at the incident
3 location where the shooting occurred, that they were
4 having words. And when you're having words, you're not
5 talking softly. It was no testimony to support anybody
6 ever talking softly. In fact, it was ---

7 THE COURT: Nobody said anything about anybody
8 raising voices though.

9 MR. ERVIN: Well, when somebody's exchanging
10 words, you're not being nice to each other, that much was
11 made clear in the testimony Dytashia acknowledged that.
12 His mother indicated it was clear that he confronted her
13 son. It doesn't sound to me like the Cook situation.

14 MR. BELL: Your Honor, I think Dytashia's actual
15 testimony was that they was having a disagreement. And
16 then when I asked Dytashia on direct if she heard in
17 response to Mr. Dabry James, she said she did not. I
18 think that lends itself exactly to the analysis that's
19 used in State vs. Cook where there was no heat of passion
20 because Dytashia couldn't even hear the response from
21 Mr. James.

22 MR. ERVIN: If you look at the language in Cook,
23 your Honor, one of the witnesses -- Bridges testified he
24 saw the victim get up and walk over to Cook. From there
25 on, they was just talking real softly. He stated he could

1 hardly tell if it was an argument, that's contrary to the
2 testimony in this case.

3 His mother even though she couldn't hear what
4 they were saying could tell they were having an argument
5 and so could Dytashia. They were having words, exchanging
6 words. In fact, I ask Dytashia were they having a nice
7 conversation. No, they weren't exchanging pleasantries
8 when this occurred. And what going to do is like what are
9 you going to do next. We going to solve this right here,
10 that's not pleasant soft conversation that I would just
11 have to beg to differ in that characterization of it.

12 THE COURT: All right. We'll have time -- and
13 I'll be happy to hear additional request. I'll make a
14 ruling on that and let y'all know one way or the other
15 before closing arguments in the morning.

16 MR. ERVIN: Because that's going to be critical.

17 THE COURT: Pardon.

18 MR. ERVIN: That will be a critical factor.

19 THE COURT: All right. We'll stand adjourn with
20 regard to this matter. And I understand we have a number
21 another things to tend to. And I'm going to -- let me
22 release the jury if y'all would just have a seat. Bring
23 the jury back in.

24 (WHEREUPON, the jury came into open court.)

25 THE COURT: Madam forelady, ladies and gentlemen

1 of the jury, thank you so much for your patience. We're
2 going to adjourn this proceeding until 9:30 in the
3 morning, 9:30 sharp. We're getting in the short roads of
4 this, but it isn't time to talk about the case amongst
5 yourselves or with anyone else. Once again, do not do any
6 independent investigation on the internet or otherwise.
7 If there was anything written in the newspaper, divert
8 your attention from that or on the news. I don't
9 anticipate there would be, but we'll see you in the
10 morning 9:30, 9:30 sharp. Thank you very much.

11 (WHEREUPON, the jury was excused for the day.)

12 (WHEREUPON, the proceedings were concluded for
13 the day to be reconvened on April 13, 2022.)

14 THE COURT: Anything from the State before we
15 proceed?

16 MR. BELL: Nothing from the State, your Honor.

17 THE COURT: Anything from defense?

18 MR. ERVIN: No, your Honor.

19 THE COURT: We ready for the jury.

20 (WHEREUPON, the jury came into open court.)

21 THE COURT: Madam forelady, ladies and gentlemen
22 of the jury, thank you for being here once again and thank
23 you for being here on time. We've reached the juncture in
24 this trial where the State has presented their case. The
25 defense has had an opportunity to present their case. And

1 now we're going to proceed forward with arguments.

2 They're very similar in form to the opening
3 statements that you heard in the beginning of this trial,
4 but they're different in a very real way because at this
5 juncture all of the evidence has been presented from the
6 witness stand. And these very fine lawyers are going to
7 have an opportunity to point to the evidence that supports
8 their relative theory of the case. What they have to say
9 is not evidence, but it'll aid you immensely in your
10 deliberations process because these lawyers have been
11 dealing with this case for a very long time. You and I
12 been dealing with it since Monday. So what they have to
13 say is going to be insightful, so pay very close attention
14 to that.

15 As I mention in the very beginning of the case,
16 the State in every criminal case has the burden of proof.
17 So they're required to go forward in full and give their
18 closing argument. Then the defense will be given the
19 opportunity to give their closing argument. And since the
20 plaintiff has the burden of proof, they'll have an
21 opportunity to replay, so pay very close attention.
22 Mr. Bell, you recognize.

23 MR. BELL: Yes, your Honor. May it please the
24 Court.

25 THE COURT: Yes.

1 MR. BELL: Ladies and gentlemen of the jury,
2 good morning. First off, I want to thank each and every
3 one of you throughout this trial. I told you on Monday it
4 was going to be a short trial. I asked that you pay
5 attention put your listening ears on. I feel like you've
6 been very attentive to all the information that has been
7 given on the videos. Many times you had to turn your neck
8 over there to look on the wall, but I really do appreciate
9 that. I know the family of my deceased appreciates it as
10 well.

11 Like I told you on Monday, the burden of proof
12 is on the State to prove Dabry James is guilty beyond a
13 reasonable doubt of murder, possession of a weapon during
14 the commission of a violent crime, unlawful carrying of a
15 pistol and grand larceny. And I feel like once you get
16 back there with deliberation, I think the State has done
17 that. So I want to go through the evidence that you
18 heard. And the judge is gone tell you what you can
19 consider. I want to go through some of the testimony. I
20 want to go through some of the exhibits. I want to talk
21 about every witness that you heard from. And I want to
22 submit to you what I feel like you should take in from the
23 State's perspective.

24 Let's talk about the first witness I called. It
25 was Mike Weatherford investigator of Hartsville police

1 department. And what did he tell you. He told you where
2 the crime occurred. He told you he interviewed witnesses.
3 He interviewed Dytashia Platt. He got a photo lineup just
4 to make sure that Dytashia was positive it was Dabry
5 James, but just in case, Mike Weatherford did a photo
6 lineup. And in that photo lineup Dytashia Platt pointed
7 out Dabry James.

8 Mike Weatherford also told you that he did
9 research on the vehicle. The vehicle that Mr. Stewart was
10 driving that day was a Chrysler 200, that's a 2014. He
11 told you the value of that vehicle. Well, over \$2,000.
12 Grand larceny the elements of that crime require that the
13 State prove beyond a reasonable doubt that Dabry James
14 stole the items stole from Floyd Stewart an item that cost
15 over \$2,000.

16 Mr. Weatherford also talked about looking up in
17 the SLED data base to see if Dabry James was a concealed
18 weapon permit holder, which Mike Weatherford testified
19 that he was not. That would deem him unlawful for him to
20 carry a pistol. And possession of a weapon during the
21 commission of a violent crime, well if the State has
22 carried the burden of proving Mr. Dabry James guilty of
23 murder, then he also is guilty of possessing the weapon
24 during the commission of a violent crime. Murder being a
25 violent crime.

1 So, again, what is murder. Willful killing of
2 another human being with malice aforethought, willful
3 killing of another human being with malice aforethought.
4 And the judge will give you the law. But malice from the
5 State's perspective I submit is just mean for no reason.
6 Mean with no legal provocation, just mean with no reason
7 just ill will and hatred.

8 Dytashia Platt came up and testified. What did
9 she testify to? She testified to what she saw. She
10 testified that she was sitting there talking with
11 Mr. Dabry James when Floyd Stewart came up. And it's
12 important that you remember what Dytashia said. If
13 there's ever any testimony that you want to have reviewed,
14 you can always ask the Court to come back and review that.
15 But Dytashia said there was an disagreement. She said
16 Floyd Stewart walked up and had a disagreement with Dabry
17 James. And during that disagreement at which point words
18 were exchanged in regards to a picture being shown by or
19 -- being taken of Floyd Stewart's car by Mr. James.
20 Mr. James was confronted by that. And Dytashia Platt
21 testified that Mr. Stewart was walking away, walking
22 toward his car. He was shot from behind, and then
23 Mr. James stood over him and continued shooting him. Then
24 after that, she testified that James got in Stewart's car
25 and fled the scene.

1 Brian Rudick testified after that Dytashia
2 Platt. Brian Rudick got to the scene access the scene,
3 and after that moved the body of Mr. Floyd Stewart brought
4 out a metal detector and found two shells, two shell
5 casings bullets in the ground excuse me -- bullets found
6 no shell casings but found two bullets, that's important.
7 There was no shell casings found, that's also important.

8 What else did Rudick do? Rudick search the
9 pockets of Floyd Stewart. What didn't Rudick find?
10 Rudick did not -- testified he did not find a weapon on
11 Mr. Stewart, that's important.

12 Kristin Jeffords was the next person who you
13 heard from. What did Kristin Jeffords testify to?
14 Kristin Jeffords testified to when the Chrysler is found
15 in Lydia own by Floyd Stewart, that was stolen by Dabry
16 James, that vehicle was inventoried. What didn't they
17 find? They didn't find a weapon, that's important. Also,
18 Kristin Jeffords testified that Mr. James was apprehended
19 in Lee County after a short case. She testified also that
20 a boot was thrown out of the vehicle.

21 Next very important witness Detective Kyle
22 Hause. Now, what did Kyle Hause testify to? We submit to
23 you that Kyle Hause testified to the voluntary statement
24 first thing that was done with Dabry James was he was read
25 his Miranda rights. He was told he had a right to an

1 attorney. He was told he had a right to remain silent.
2 He was not promised anything. He was read that and he
3 signed that Miranda form. It's in evidence. You can have
4 it. You can look at it. Also, the entire time that Kyle
5 Hause talked to Mr. James, it's all recorded have that in
6 evidence. And if that wasn't enough toward the end what
7 did he do? He took a written statement, again, went over
8 the Miranda. And we got that witness statement. And
9 y'all remember that written statement. If you don't,
10 you'll have that in evidence.

11 Next was Tracy McKinnon. Tracy McKinnon was our
12 toxicologist from SLED. What did he testify to? He
13 testified that during the toxicology report and taking the
14 samples from Floyd Stewart, it was THC in his testimony.
15 Remember, he testified the affect that that would have on
16 him, and what's the general demeanor of that much THC
17 being in Mr. Stewart's system being lethargic.

18 And lastly, Dr. Kelly Rose our pathologist.
19 What did she testify to? Very important she testified to
20 the cause of death was homicide. That's an essential
21 element that the State has in murder. Also, she testified
22 when she put up the diagram, she showed five entry point
23 holes in Mr. Stewart's head.

24 One of those shots went in and went out remember
25 that. You have that injury report you can refer back to

1 in evidence as well, that's very important. Because I
2 submit to you when you take all the evidence and put it
3 all together, and before that, that was the State's case.

4 Dytashia Platt testified for the defense and I
5 submit to you this what you can take from that. My heart
6 goes out to Ms. Platt for her son. She testified that she
7 witnessed her son take someone's life. And on
8 cross-examination, we was able to bring out that she did
9 not see Floyd Stewart in an aggressive manner get out the
10 car. She saw Floyd Stewart and Dabry James have a
11 conversation, but she did not see Floyd Stewart walk up
12 aggressively because she gave a previous interview that
13 she didn't say anything like that.

14 She also testified about the incident at KFC.
15 She testified about Dabry James being shot in December of
16 2019. There was nothing in her testimony I will submit to
17 you that ties any link in those two events to the decease
18 Mr. Floyd Stewart.

19 And lastly Dabry James and the judge will talk
20 to you about credibility and the weight that you give
21 credibility of witnesses whether or not you have to be the
22 judge of character and tell whether or not they're being
23 truthful. And I submit to you Mr. James was not being
24 truthful. There was multiple times throughout his
25 cross-examination I was able to highlight the fact that he

1 gave previous statements that now he's getting up here and
2 saying something that he never told you before. And I
3 want you to pay very close attention to that.

4 Specifically, he talked about a firearm. He
5 talked about a firearm that he had never talked about
6 before with Kyle Hause. He didn't write that down. He
7 didn't give it in his video statement that this firearm
8 that he found in the vehicle of Mr. Floyd Stewart. He
9 said that was a .9 millimeter Ruger, but if you remember
10 when I got up on cross-examination, I reminded him in a
11 previous statement with law enforcement that he had told
12 them that the .9 millimeter Ruger that was found on him
13 when he was apprehended in Lee County was his. And his
14 response was, well, it was in my possession.

15 I'll say I would not insult y'all's intelligence.
16 There was a lot of theory that -- by Mr. James' testimony
17 that was coming out that at any point where he had every
18 opportunity to tell Mr. Hause on video or in writing, he
19 didn't do it. And I submit to you that the truth of what
20 really happened was what he really said in the beginning.
21 So when you add all that up and you put it all together,
22 this is what I submit to you, but I think what really
23 happened because you heard mention of Shawn James, the
24 brother of Dabry. And Shawn James possibly having an
25 issue with other people in the community in the Hartsville

1 area. This is what I submit happen here.

2 The State does not dispute that in December of
3 2019 Dabry James might have been a victim of a shooting,
4 okay. He testified that he was driving his brother's car,
5 okay. So he might -- we don't dispute the fact he might
6 have been shot. We don't dispute the fact that some
7 months later he was in a fight at KFC. Again testify that
8 he Floyd Stewart didn't have anything to do with that or
9 when he talked to law enforcement about it, he said, no,
10 Floyd Stewart wasn't there. So we don't dispute that. We
11 think what happened after those two incidents possibly
12 linked to who his brother is who knows. Floyd Stewart
13 said excuse me -- Dabry James said, now, I've had enough.
14 He armed himself with a revolver. A revolver that holds
15 on average of six shots. And he told himself the next
16 person that I have any issue with, I'm going to show this
17 community that if I'm not to be messed with.

18 He said I can go anywhere I want. I carry a
19 gun. I can go anywhere. I can go this side, that side.
20 Anybody who crosses him, he's gone show them. He's been
21 shot at apparently. He's been in a physical altercation,
22 and he needs to prove that he's tough. And what I think
23 happened was when Floyd Stewart came up to him as a man
24 and said, hey, don't be posting my car on social media,
25 don't do that. And when he turned his back, Dabry James

1 saw an opportunity said you know what I need to make a
2 name for myself. I'm tough. I'm bad, but I'm going to
3 wait for him to turn his back. I'm going to wait for him
4 to walk away, and I'll put a bullet in the back of his
5 head. And when he fell with his face turn, he put four
6 more in him and one of them missed. That's why he had two
7 in the ground. And then he took his car. He was
8 apprehended in Lee County. And I submit to you that with
9 murder malice aforethought mean for no reason, in the
10 moment when he decided he turn his back, the malice
11 aforethought for him drawing that gun and shooting a man
12 that's walking away from him, a man that's unarmed in
13 front of his mama, mean for no reason, return a verdict of
14 guilty.

15 MR. ERVIN: Please the Court.

16 THE COURT: Yes. You recognize.

17 MR. ERVIN: Thank you, your Honor. Mr. Bell.

18 Ladies and gentlemen of the jury, I too I want to thank
19 you for the close attention you paid throughout this
20 trial, and obviously this is my opportunity my last
21 opportunity to address you about the case. The way it
22 works in a criminal trial when the defense presents
23 evidence, and we did call two witnesses including Dabry
24 James and that entitles the State to make the final
25 closing and reply to anything I might say. If I neglect

1 to discuss anything in evidence that y'all recall, don't
2 let that prejudice Mr. James. You are the finders of the
3 facts and that's something I talked about in the beginning
4 of this case, that you in essence are 12 judges and three
5 alternates who will determine what is the truth in this
6 case. And that's your task here today to find the facts
7 according to the evidence presented during this trial.

8 And the first thing you heard when we got
9 started in the trial was that Dabry James was before you
10 on an indictment. And I want to start out by talking
11 about that because it really is not relevant to the
12 evidence in this case. The indictment is merely the piece
13 of paper that the grand jury issued the charge on, and
14 that's all it is a piece of paper. It has no evidentiary
15 value whatsoever. And you're not to give it any, but that
16 is the vehicle, that is the way charges are brought into
17 our system and that's all it is. But from that point
18 today walked into this courtroom, the presumption of
19 innocence cloak Dabry James meaning that it was on him at
20 that point. And it stayed on him throughout this trial
21 and will continue to remain on him until and unless the
22 State has met its burden of proof beyond a reasonable
23 doubt in this case. And you have to make that
24 determination in your jury deliberations. You'll be
25 guided by the law that's charged by Judge Nettles.

1 He'll charge you on presumption of innocence and
2 also the burden of proof which I briefly touched upon.
3 He'll charge you direct and circumstantial evidence. And
4 he'll also charge you on probably one of the most
5 important charges is the credibility of the witnesses
6 because you have to make determinations about the
7 believability of witnesses, and in so doing that, you have
8 to examine their testimony and determine whether it's
9 consistent or inconsistent with the prior statement they
10 may have made, what their demeanor is when they're
11 testifying. You've heard that term several times during
12 this trial, and you'll hear it again when the judge
13 instructs you on the law.

14 Demeanor is usually something that people have
15 to rely upon in your common sense in determining whether
16 or not somebody was forthright, whether they appear to be
17 telling the truth, and we certainly believe that all of
18 you are capable of doing so.

19 You also heard some expert testimony in this
20 case, which I think really the only relevant expert
21 testimony that you heard in terms of the testimony was the
22 toxicologist who testified from SLED about the victim,
23 Floyd Stewart's, state of mind or his condition on the
24 date of the incident and that is that he was clearly
25 intoxicated or very high that morning, which calls into

1 question something that we can't really make a
2 determination on today, and that is what his state of mind
3 was and how he was acting that day other than we know that
4 words were exchanged immediately when he approached Dabry
5 James.

6 Now, how rational Floyd Stewart was acting and
7 what position that put him in, it's hard to make that
8 determination. As the toxicologist admitted, when
9 somebody is routinely drinking alcohol, somebody who
10 drinks in the morning would not be a casual drinker. He
11 wouldn't be a recreational drinker. Likewise somebody
12 that is a dope smoker who gets up in the morning and wakes
13 and bakes will not be a casual pot smoker either. How
14 that would impact their behavior, we don't know. He been
15 threatening Dabry James that morning. When they had words
16 over him posting the pictures of the vehicle, which he
17 believed to be the person who had shot at him previously.
18 You heard that from his own testimony.

19 But going back to the witnesses that testified,
20 we started out with Dytashia Platt. She too corroborated
21 that testimony. Mr. James, Dabry James in that she noted
22 that there was initially some hostile words, some bad
23 blood that they were having a beef. And she was concerned
24 about it, but didn't know, you know, exactly, what it was
25 all about. She just knew that she heard about the posting

1 of photos on social media. And, of course, that lays the
2 ground work for, but one of the things that was most
3 important about her testimony was when I asked her about
4 the proximity of the car to where they were talking, where
5 these bad words were being exchanged or these hostile
6 words. She noted that it was very close. In fact, it was
7 from the chair to the rail, which tells you that at the
8 time Dabry James approached him and did what he admitted
9 to doing which was shooting Floyd Stewart because he
10 believed he was going for a gun that the car right there.
11 He was in close proximity to that, and he acted in that
12 manner because he felt like it was necessary under the
13 circumstances. That, again, goes back to the state of
14 mind.

15 You also heard from Dytashia Platt about the
16 photo lineup really don't know why the photo lineup was
17 shown because it was clear that she knew him. She'd know
18 him for some time. She could have picked him out of a
19 crowd. It was basically unnecessary. I understand why
20 they did it, and they followed procedure. But I wouldn't
21 give that any evidentiary weight during deliberations.

22 You get to the other witnesses who testified
23 Kyle Hause acknowledged, the investigator who interrogated
24 Dabry James, and the other witnesses in the witness room
25 or interviewed them. He too talked about Dabry James

1 having a reason for shooting Floyd Stewart about some
2 background information. The fact that there been a lot of
3 violence in Hartsville. And actually that there been a
4 shooting in Max resulted in three people dying which goes
5 to Dabry James state of mind. Yes, he was agitated that
6 morning. There had been some prior violence involving
7 him, and he believed the victim to be a factor in all of
8 that, which goes to again to whether malice was present in
9 this killing.

10 As I pointed out in the beginning of the trial,
11 it's not present in all cases where somebody losing their
12 life. Malice is a condition of a person's mind that
13 implies that an evil heart and often implies premeditation
14 prior to the action being taken. I asked you to consider
15 and would submit that it's very relevant of the proximity
16 of the car to Floyd Stewart at the time this occurred.

17 And also would point out that while Dabry did
18 make a written statement in this case, it's not as
19 complete as the interview is itself. You have the video
20 that you observed during the trial, paid close attention
21 to, and we were watching them. And that is more revealing
22 about the overall tenure of what he was trying to
23 communicate to Investigator Hause and that is that there
24 was a reason all this happened and he felt like he was
25 being threatened. Again, you have to look at the totality

1 of all the evidence.

2 There is not a situation where he went to his
3 house after leaving the Wal-Mart with his mother and
4 sister with an evil heart or with malice present in his
5 mind or that he intended to do anybody any harm. He was a
6 scared young man when Floyd Stewart approached and started
7 basically confronting him about the photos in the vehicle
8 being posted on social media. And all of that needs to be
9 taken into consideration in reaching your verdict. I
10 would ask you to strongly pay attention, closely pay
11 attention to the judge's charge on the law and return a
12 verdict in this case which speaks the truth. We are
13 confident that you will do that. Thank you.

14 THE COURT: Thank you, Mr. Ervin. Reply, Mr.
15 Bell.

16 MR. BELL: Ladies and gentlemen of the jury, the
17 judge will instruct you just take common sense back there.
18 The State has submit your case, and you have the evidence
19 return a verdict of guilty. Thank you.

20 THE COURT: Thank you, Mr. Bell. Madam forelady
21 and ladies and gentlemen of the jury, I'm going to ask
22 that you return to the jury room, but do not discuss the
23 case. Do not discuss the case. Madam forelady, I'm going
24 to ask that you enforce that rule. Everyone remain seated
25 as the jury exits the courtroom.

1 (WHEREUPON, the jury retire to the jury room.)

2 THE COURT: I'm going to ask if y'all could come
3 forward and take a look at the verdict form.

4 MR. ERVIN: It's fine, your Honor.

5 THE COURT: Any objection to the verdict form
6 from the State?

7 MR. BELL: None from the State, your Honor.

8 THE COURT: Any from defense?

9 MR. ERVIN: No, your Honor.

10 THE COURT: All right. We'll stand at ease for
11 five minutes or so. And we will get this one thing
12 printed, then we'll proceed forward with the charge.

13 (WHEREUPON, a break was taken.)

14 THE COURT: Anything from the State before we
15 proceed forward with the charge?

16 MR. BELL: Nothing from the state, your Honor.

17 THE COURT: Anything from defense?

18 MR. ERVIN: No, Your Honor.

19 THE COURT: All right. We're ready for the
20 jury.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: Madam forelady, ladies and gentlemen
23 of the jury, you've heard all of the evidence. You've
24 heard the closing argument. You recall at the beginning
25 of the trial you took an oath that you would listen to the

1 evidence, determine what the truth is and apply it to the
2 law.

3 You all have paid very close attention
4 throughout this trial. I notice that when the lawyers
5 would ask a question you would look at the lawyer. When
6 the witness would answer, you would look at them. You
7 paid very close attention, so you all have all of the
8 tools necessary to resolve the factual issues in this
9 case. But in order for you to fulfill your sworn duty,
10 you're going to have to apply the facts to the law. And
11 so I'm going to ask that you pay very close attention as I
12 charge you the law. I wish there was an entertaining way
13 to do that, but there isn't. So I'm going to ask you to
14 perk up, pay close attention. These are very important
15 matters. All right.

16 Madam forelady, ladies and gentlemen of the
17 jury, the indictment charges the defendant with various
18 offenses. I remind you that the fact the defendant was
19 arrested, charged and indicted is not evidence and cannot
20 be considered by you as evidence of guilt. Nor does it
21 create any presumption or inference of guilt. This
22 document is simply the formal written instrument which
23 contains the charges made against the defendant. It's a
24 formal document by which this case is brought into this
25 court.

1 The indictment in this case allege several
2 different offenses against the defendant. The charges are
3 one murder, two possession of a weapon during the
4 commission of a violent crime, three unlawful possession
5 of a pistol, four grand larceny. Each indictment charges
6 a separate and distinct offense. You must decide each
7 indictment separately on the evidence and law applicable
8 to it uninfluenced by your decision as to any other
9 indictment. The defendant maybe convicted or acquitted on
10 any or all of the offenses charged. You'll be asked to
11 write a separate verdict of guilty or not guilty for each
12 indictment.

13 I remind you that during this trial you and I
14 have certain duties to perform. As a trial judge, it is
15 my responsibility to preside over the trial and also have
16 the duty to rule on the admissibility of evidence. You're
17 to consider only the competent evidence before you.
18 You're to consider only the testimony which has made --
19 which has been presented from the witness stand, any
20 exhibits which have been made apart of the record, any
21 stipulations of counsel.

22 I have the additional duty to charge you the
23 law. As a presiding judge, I am the sole judge of the
24 law. It's your duty as jurors to accept and apply the law
25 as I now state it to you. If you already have an idea as

1 to what the law is or what the law ought to be and it does
2 not agree with what I now tell you the law is, you must
3 abandon this idea because you're sworn to accept the law
4 and apply the law exactly as I state it to you.

5 In every case tried before a jury, the jury
6 becomes the sole and exclusive judge of the facts. A
7 trial judge cannot intimate, state, comment on or make any
8 statement to a trial jury about the facts. Since, you,
9 the jury, are the sole judge of the facts, you are not to
10 infer from what I've said during the progress of this
11 trial in ruling upon the admissibility of evidence or
12 otherwise or anything that I say now during the course of
13 this instruction to you, that I have an opinion about the
14 facts. The law simply does not allow me to have an
15 opinion about the facts. This is a matter solely for you,
16 the jury, to determine. As jurors, it is your duty to
17 determine the effect, value, weight and truth of the
18 evidence presented during this trial.

19 The defendant had pled not guilty to this
20 indictment and that puts the burden on the State to prove
21 the defendant guilty. The person charged with committing
22 a criminal offense in South Carolina is never required to
23 prove themselves innocent. I charge you that it is an
24 important rule of law that the defendant in a criminal
25 trial no matter what the seriousness of the charge may be

1 will always be presumed to be innocent of the crime for
2 which the indictment was issued unless guilt has been
3 proven by evidence satisfying you of that guilt beyond a
4 reasonable doubt.

5 This presumption of innocence does not end when
6 you begin your deliberation, but it accompanies the
7 defendant throughout the trial until you reach a verdict
8 of guilt based on evidence satisfying you of that guilt
9 beyond a reasonable doubt. Presumption of innocence is
10 like a robe of righteousness placed about the shoulders of
11 the defendant which remains with the defendant until its
12 been stripped from the defendant by evidence satisfying
13 you of the defendant's guilt beyond a reasonable doubt.

14 Presumption of innocence is not a mere legal
15 theory. It's not just a legal phrase. It's a substantial
16 right to which every defendant is entitled unless you, the
17 jury, are satisfied from the evidence of the defendant's
18 guilt beyond a reasonable doubt.

19 What is reasonable doubt in the law? A
20 reasonable doubt is the kind of doubt that would cause a
21 reasonable person to hesitate to act. The State has the
22 burden of proving the defendant guilty beyond a reasonable
23 doubt. Some you of may have served as jurors in civil
24 cases where you were told that it's only necessary to
25 prove that a fact is more likely true than not true, such

1 as by a greater weight or preponderance of the evidence.

2 In criminal cases, the States's proof must be
3 more powerful than that. It must be beyond a reasonable
4 doubt. Proof beyond a reasonable doubt is proof that
5 leaves you firmly convinced of the defendant's guilt.
6 There very few things in this world that we know with
7 absolute certainty, and in criminal cases, the law does
8 not require proof that overcomes every possible doubt. If
9 based on your consideration of the evidence you're firmly
10 convinced the defendant's guilty of the crime charged, you
11 must find the defendant guilty. If on the other hand you
12 think there's a real possibility the defendant's not
13 guilty, you must give the defendant the benefit of the
14 doubt and find him not guilty.

15 Madam forelady, ladies and gentlemen of the
16 jury, there are two types of evidence which are generally
17 presented during a trial direct evidence and
18 circumstantial evidence. Direct evidence is directly
19 proves the existence of a fact and does not require
20 deduction. Circumstantial evidence is proof of a chain of
21 facts and circumstances indicated the existence of a fact.

22 Crimes may be proven by circumstantial evidence.
23 The law makes no distinction between the weight or value
24 to be given to either direct or circumstantial evidence.
25 However, to the extent the State relies on circumstantial

1 evidence, all of the circumstances must be consistent with
2 each other, and when taken together point conclusively to
3 the guilt of the accused beyond a reasonable doubt. These
4 circumstances merely portray the defendant's behavior as
5 suspicious proof has failed.

6 The State has the burden of proving the
7 defendant guilty beyond a reasonable doubt. This burden
8 rests with the State regardless of whether the State
9 relies on direct evidence, circumstantial evidence or some
10 combination of the two.

11 Ladies and gentlemen of the jury, necessarily
12 you must determine the credibility of witnesses who have
13 testified. Credibility simply means believability. It
14 becomes your duty as jurors to analyze and evaluate the
15 evidence and determine which evidence convinces you of its
16 truth. In determining the believability of witnesses who
17 have testified, you may believe one witness over several
18 witnesses or several witnesses over one witness. You may
19 believe apart of the testimony of a witness and reject the
20 remaining part of the testimony of that same witness. You
21 may believe the testimony of a witness in its entirety or
22 reject the testimony of a witness in its entirety. You
23 may consider whether any witness has exhibited to you any
24 interest, bias, prejudice or other motive. You may also
25 consider the appearance and manner of a witness while on

1 the witness stand. Their demeanor.

2 Rules of evidence ordinarily do not permit
3 witnesses to testify to opinions or conclusions.
4 Exception to this rule exist for witnesses we call expert
5 witnesses. The witness who by education and experience to
6 become an expert in some art, science or profession or
7 calling may state an opinion as to relevant material
8 matter in which the witness claims to be an expert, may
9 also state the reasons for the opinion.

10 You should consider any expert opinion received
11 into evidence in this case and like any other evidence
12 give it the weight you think it deserves. You decide that
13 the opinion of an expert witness is not base on sufficient
14 education and experience or if you conclude that the
15 reasons given in support of the opinion are not sound and
16 that the opinion is outweighed by other evidence, you may
17 disregard the opinion entirely. An expert witnesses
18 testimony is to be given no greater weight than that of
19 other witnesses simply because the witness is an expert.
20 Further, you're not required to accept an expert witness'
21 opinion even though it is not contradicted.

22 A statement allege to have been made by the
23 defendant has been admitted into evidence. While the
24 Court has determine that the statement is admissible, I
25 instruct you that you make the ultimate decision as to

1 whether or not the defendant made the statement. If a
2 defendant did make the statement, you must determine
3 whether the statement was made by the defendant
4 voluntarily of his own free will.

5 This means that the statement was not cause by
6 pressure, force, fear, threats, coercion or intimidation
7 or by hope or a promise of leniency or a reward of any
8 kind. In determining whether the statement was voluntary,
9 you should consider both the characteristics of the
10 defendant and the details of the questioning. Some of the
11 factors that you must consider are age of the defendant,
12 the defendant's education or lack of education. The
13 defendant's mental ability and capability. The
14 defendant's IQ or intelligence, the defendant's background
15 and environment, place and length of detention, the nature
16 of the questioning, and the advice and lack thereof to the
17 defendant of his constitutional rights including but not
18 limited to the right to remain silent, that any statement
19 could be used against him in a court of law, the right to
20 have a lawyer present. And if you could not afford a
21 lawyer, a lawyer would be appointed to represent him
22 without any cost, that he could stop making a statement at
23 any time. You must carefully consider all of the
24 surrounding circumstances before you give any weight to an
25 allege statement.

1 The State has the burden of proving beyond a
2 reasonable doubt that the allege statement was voluntary.
3 You determine it was, you may give the statement any
4 further consideration that you deem proper. You must
5 decide what weight, if any, should be given to the allege
6 statement. If you determine the allege statement was not
7 the free and voluntary statement of the defendant, you
8 should not consider the statement at all.

9 There has been evidence presented that witnesses
10 have made prior statements which are not consistent with
11 the witnesses present testimony. You may use this
12 evidence to decide whether to believe the witness. You
13 may also use evidence of the earlier contradictory
14 statement to determine the truth of those statements. It
15 is up to you to decide whether to believe the earlier
16 statements of the testimony given at trial. The witness
17 shown to have knowingly testified untruthfully concerning
18 any material matter may consider this in determining
19 whether to trust a witness' testimony as to any other
20 matters. You may reject all of the testimony of that
21 witness or give all or part of the testimony the weight
22 you think it deserves.

23 I'm going to charge you the substitutive law
24 with regard to murder. The defendant is charged with
25 murder. The State must prove beyond a reasonable doubt

1 that the defendant killed another person with malice
2 aforethought. Malice is hatred, ill will or hostility
3 towards another person. It is the intentional doing of a
4 wrongful act without just cause or excuse with an intent
5 to inflict an injury or under circumstances the law will
6 infer an evil intent. Malice aforethought is not required
7 that the malice exist for any particular time before the
8 act is committed, but malice must exist in the mind of the
9 defendant just before and at the time that the act is
10 committed. Therefore, there must be a combination of
11 previous evil intent and the act.

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

18 Express malice is shown when a person speaks
19 words which express hatred or ill will for another or when
20 a person prepared beforehand to do an act which was later
21 accomplish for example lying in wait for a person or any
22 other act of preparation going to show that the deed was
23 within the defendant's mind would be express malice.
24 Malice may be inferred from conduct showing a total
25 disregard for human life.

1 The defendant is charged with possession of a
2 weapon during the commission of a violent crime or attempt
3 to commit a violent crime. The State must prove beyond a
4 reasonable doubt that the defendant was in possession of a
5 firearm or visibly displayed a firearm during the
6 commission of a violent crime. A firearm means any
7 machine gun, automatic riffle, revolver, pistol or any
8 weapon which will and is design or maybe readily to
9 converted to expel a projectile. In order to find the
10 defendant guilty of possession of a weapon during the
11 commission of a violent crime, you must first find the
12 defendant guilty of either committing a violent crime or
13 attemting to commit a violent crime.

14 Murder for the purposes of this statute is a
15 violent crime. So in order for the defendant to be
16 convicted of possession of a weapon during the commission
17 of a violent crime, he would have to be found guilty of
18 murder in order for you to consider that.

19 With regard to this offense, the State must
20 prove beyond a reasonable doubt that the weapon further
21 advanced or helped in commission of the crime. The
22 defendant is charged with unlawful carrying of a pistol.
23 The State must prove beyond a reasonable doubt that the
24 defendant carried a pistol about his person whether
25 concealed or not. The weapon is about the defendant's

1 person if it is readily accessible and convenient for
2 mediate use. Pistol need not be actually touching the
3 person of the defendant.

4 Grand larceny of a motor vehicle. The defendant
5 is charged with grand larceny of a motor vehicle. The
6 State must prove beyond a reasonable doubt that the
7 defendant took a motor vehicle that belong to someone else
8 against their will without the consent of the other
9 person. The slightest removal of the motor vehicle or the
10 complete possession of the motor vehicle even for an
11 instance by the defendant is enough to show a taking and
12 carrying away of the motor vehicle. The State must also
13 prove beyond a reasonable doubt that the defendant
14 intended to permanently deprive the owner of the motor
15 vehicle. Finally, the State must prove that the value of
16 the motor vehicle taken was greater than \$2,000.

17 Madam forelady, I'm going to come forward and
18 share with you the verdict form. I will mention to the
19 alternates when we release the jury to go back to the jury
20 room, I'm going to ask that you all stay with us. You all
21 will not go back into the jury room.

22 Madam forelady, I want to go over with you the
23 verdict form, but before I do that, I want talk to you
24 about your responsibilities. You are going to be charged
25 with the responsibility to presiding over the deliberation

1 process, that essentially means that you're to ensure that
2 everybody's voice is heard. In addition to that, if
3 there's questions that develop with regard to your
4 deliberations, you can reduce those questions to writing
5 and give it to the bailiff. And if it's something I can
6 help you with, I will.

7 I'll tell you from the outset that the difficult
8 question in this case is a factual issue, that's your job.
9 I can't help you with that. You've heard the law in that
10 regard, that's your responsibility to do that. If you
11 have a question about the law, that's something I can help
12 you with. If you can't decide whether or not the question
13 you have is a question of law or fact, write it down.
14 It's something I can help you with I will. But I don't
15 believe that there is going to be any question because you
16 all have paid attention to the evidence. You all have
17 the tools to resolve the factual issues of all the
18 information. You paid close attention to the law, so I
19 don't anticipate there are going to be any questions. If
20 they are, you'll free to write it down. I'll be happy to
21 help you.

22 The verdict form is a two-page document The
23 State of South Carolina County of Darlington. It's got
24 The State of South Carolina vs. Dabry Aunta James is the
25 title verdict form. It's got various offenses that he's

1 charged with. We talked about the charge in the beginning
2 of the case. He's charged with murder, possession of a
3 weapon during the commission of a violent crime. Once,
4 again, in order to be convicted of that, you have to be
5 convicted of murder. You can't have that if there's not a
6 conviction for a violent crime, unlawful possession of a
7 pistol and grand larceny of a -- grand larceny of a motor
8 vehicle.

9 You will see right here the verdict must be
10 unanimous. It can't be 11 to one, six to six, eight to
11 four. Everyone has to agree. And once you've reach the
12 verdict, I'm going to ask that you sign it, madam
13 forelady, and date it, notify the bailiff, and we'll
14 receive you back into the courtroom. I will ask you to
15 have a seat.

16 Madam forelady, one of the things that I do want
17 to mention to you is that if anyone were to get up and go
18 to the restroom, stop deliberations because everybody has
19 to participate in all of the deliberation process. Madam
20 forelady, momentarily here I'm going to release you to go
21 back to the jury room. And every time you leave the jury
22 room, I tell you not to begin deliberations. And once,
23 again, I'm going to tell you not to begin deliberations
24 because I'm going to have to talk to these very fine
25 lawyers to determine whether or not they have an objection

1 as to the manner in which I charge the law. If they do,
2 I'll bring you back in and make those clarifications,
3 additions or deletions, but if not, I'm going to ask the
4 bailiff to gather up the documentary evidence, and they
5 will give you instructions to begin deliberations or if
6 you'll have to come back in here. But do not begin
7 deliberations until I tell you to do so. I'm going to ask
8 the alternates to remain with us. And everyone remain
9 seated as the jury exits the courtroom.

10 (WHEREUPON, the jury retire to the jury room.)

11 THE COURT: Speak with the alternates if I
12 could. I want to thank you all for being here. It's not
13 uncommon at all for us to activate an alternate juror.
14 Sometimes people get sick. Sometimes people have other
15 conflicts that develop. Sometimes some juror when we were
16 qualifying the jury have a formal name like Theodore Smith
17 and they know them as Bubba. When Bubba shows up, they
18 say, well, I know him, and he's my best friend. So those
19 kind of conflicts often develop. And if we didn't have
20 you all here particularly in a criminal case, we would
21 have to start all over again because we have to have 12 to
22 deliberate. You all -- I know you all feel like you all
23 been invited to a dance and didn't get to dance. You all
24 are welcome to stay because this is indeed a public forum.
25 Let me ask you all have any of you all served on a jury

1 before? We got a lawyer as an alternate. And you never
2 served on a jury?

3 ALTERNATE JUROR: No, sir.

4 THE COURT: You know, everybody in my law firm,
5 we had eight lawyers in my law firm and everybody served
6 on a jury with the exception of me, and I always wanted to
7 do that, but I never -- I assume I never will get to serve
8 as a juror. Hopefully, it has been a learning experience
9 for you. And nobody has served on a jury before. Do you
10 all have any questions? Nobody ever ask me any questions
11 for some reason. And if it's a hard question, I always
12 refer it to my law clerk.

13 I do want tell you that I've mention throughout
14 the trial of this case do not discuss the case amongst
15 yourselves or with anyone else. I'm releasing you from
16 that order. You can talk to anybody you want to about it.
17 If you don't want to talk to them about it, you tell them
18 so. And if they persist, identify them as best you can
19 and report them to me and I'll deal with according. I
20 don't anticipate that will be a problem.

21 You all have earned a three-year exemption if
22 called to serve in this courtroom within the next three
23 years. You can tell them you serve this week, and you can
24 have an exemption. However, it does not apply to
25 municipal court, magistrate's court or federal court. You

1 will be paid handsomely for your service, small token of
2 appreciation on behalf of the State of South Carolina.
3 And you all are free to leave or you all are free to stay
4 if you're interested. If you want to know what the
5 verdict is and you have other things to do today, feel
6 free to call the clerk's office or call my office, and
7 I'll be happy to tell you what the verdict was. And you
8 all are free to leave at this time. Thank you very much.
9 Thank you.

10 (WHEREUPON, the alternate jurors were excused.)

11 THE COURT: Is there any objection to the manner
12 in which I charge the law from the State?

13 MR. BELL: Nothing from the State, your Honor.

14 THE COURT: Anything from the defense?

15 MR. ERVIN: Nothing from defense, your Honor.

16 THE COURT: All right. I'm going to ask if you
17 all could come forward and take a look at all of the
18 documentary evidence. We gone put it in one pile, and I'm
19 gone recognize you on the record to determine whether or
20 not everything that's in the pile is in evidence, if
21 there's anything in the pile that's not in evidence.

22 (WHEREUPON, a pause in the proceedings.)

23 THE COURT: Mr. Bell, is everything in that pile
24 into evidence?

25 MR. BELL: Yes, your Honor.

1 THE COURT: Is there anything in the pile is not
2 in evidence?

3 MR. BELL: No, your Honor.

4 THE COURT: Mr. Ervin, is everything in the pile
5 in evidence?

6 MR. ERVIN: It is.

7 THE COURT: Is there anything in the pile that's
8 not in evidence?

9 MR. ERVIN: No, your Honor.

10 THE COURT: I'm gone ask the clerk if you can
11 take the documentary evidence back there and give them
12 whatever's necessary paper and pencils and tell them to
13 begin deliberations.

14 THE CLERK: Yes, sir.

15 THE COURT: All right. We'll stand at ease.

16 (WHEREUPON, the jury began deliberations at
17 10:36 am.)

18 THE COURT: Before we do that, can I have the
19 forelady of the jury out here?

20 THE CLERK: Sir?

21 THE COURT: Can I have the forelady of the jury
22 out here for just one moment?

23 (WHEREUPON, the forelady of the jury comes into
24 the courtroom at 11:51 am.)

25 THE COURT: Yes, ma'am, these are very very

1 important matters. There's never any rush. Of course,
2 you all were in deliberations, and we don't stop
3 deliberations until the matter is resolved. And my
4 question to you is would you like for me to order lunch?

5 FORELADY: Yes, that's what we were just talking
6 about.

7 THE COURT: All right. And the clerk will take
8 care of that, and he'll do a fine job in that regard.
9 Thank you.

10 FORELADY: Thank you.

11 (WHEREUPON, the forelady returned to the jury
12 room at 11:51 am where deliberations continued.)

13 THE COURT: We received a note with regard to
14 murder with malice definition. I'm going to recharge them
15 the substitutive law with regard to murder. Any objection
16 from the State?

17 MR. BELL: None from the State, your Honor.

18 THE COURT: Any from defense?

19 MR. ERVIN: No, sir, your Honor.

20 THE COURT: All right. We ready for the jury.
21 And I'm going to make this apart of the record.

22 (WHEREUPON, Court's Exhibit No. 1 was marked for
23 the record.)

24 (WHEREUPON, the jury came into the open
25 courtroom 12:43 pm.)

1 THE COURT: Madam forelady, ladies and gentlemen
2 of the jury, pay very close attention. The defendant is
3 charged with murder. The State must prove beyond a
4 reasonable doubt that the defendant killed another person
5 with malice aforethought. Malice is hatred, ill will or
6 hostility towards another person. It is the intentional
7 doing of a wrongful act without just cause or excuse with
8 an intent to inflict an injury or under circumstances that
9 the law will infer an evil intent.

10 Malice aforethought does not require that malice
11 exist for any particular time before the act is committed.
12 The malice must exist in the mind of the defendant just
13 before and at the time of the act at the time that the act
14 was committed. Therefore, there must be a combination of
15 previous evil intent and the act. Malice aforethought may
16 be expressed or inferred. These terms express and
17 inferred do not mean a different kinds of malice, but
18 merely the manner in which malice maybe shown to exist.
19 That is either by direct evidence or by inference from the
20 act from the facts and circumstances which are proved.

21 Express malice is shown when a person speaks
22 words which express hatred or ill will for another or when
23 the person prepared beforehand to do the act which was
24 later accomplished. For example lying in weight for a
25 person or any other act of preparation going to show that

1 the deed was within the defendant's mind would be express
2 malice. Madam forelady, ladies and gentlemen of the jury,
3 malice may be inferred from conduct showing a disregard --
4 for a total disregard for human life. You may retire to
5 the jury room and resume deliberations.

6 (WHEREUPON, the jury retired to the jury room to
7 resume deliberations at 12:45 pm.)

8 THE COURT: Anything from the State?

9 MR. BELL: Nothing from the State.

10 THE COURT: Anything from defense?

11 MR. ERVIN: No, your Honor.

12 THE COURT: All right. We'll stand at ease. If
13 we could kind of stay pretty close.

14 (WHEREUPON, court is at ease.)

15 THE COURT: All right. Let me mention something
16 to everybody who is here. These type cases always can
17 cause an emotional reaction. My job is to preside over
18 the trial of this case, but also have the obligation to
19 maintain order in the court. And I want everybody --
20 first of all, let's not let anybody else in if they aren't
21 here because everybody needs to understand the
22 instructions that I'm giving. If you feel as though you
23 can't control your emotions one way or the other, then all
24 of these law enforcement here been given an order there's
25 any outburst whatsoever, you're going to be taken into

1 custody and subject to contempt of court charges. I don't
2 want to do that. But everybody needs to understand if you
3 can't control your emotions, you need to leave right now.
4 Does everybody understand that? All right. Very good.
5 All right. We ready for the jury.

6 (WHEREUPON, the jury came into open court at
7 1:18 pm.)

8 THE COURT: Madam forelady, have you reached a
9 verdict?

10 FORELADY: Yes, sir.

11 THE COURT: Is it unanimous?

12 FORELADY: Yes, sir.

13 THE COURT: I'm going to ask that you give the
14 verdict form to the clerk. Verdict form seems to be in
15 proper order. I'm going to ask the clerk if you will
16 publish it.

17 THE CLERK: Yes, your Honor.

18 THE COURT: I'm going to ask the defendant to
19 stand.

20 THE CLERK: These are the cases of the State of
21 South Carolina vs. Dabry Aunta James, the defendant, the
22 verdict form. First charge of murder, as to the offense
23 of murder, we, the jury find the defendant guilty. Is
24 this your verdict would you so signify by raising right
25 hand please? All 12 have done so.

1 Number two possession of a firearm during the
2 commission of a violent crime. As to the offense of
3 possession of a firearm during the commission of a violent
4 crime, we, the jury, find the defendant guilty. This is
5 your verdict would you so signify by raising your right
6 hand please? All 12 have done so.

7 Charge three unlawful possession of a pistol.
8 As to the offense of unlawful possession of a pistol, we,
9 the jury, find the defendant guilty. If this is your
10 verdict, would you so signify by raising your right hand
11 please? All 12 jurors have done so.

12 Four grand larceny. As to the offense of grand
13 larceny, we, the jury, find the defendant guilty. If this
14 is your verdict, would you so signify by raising right
15 hand please? All 12 have done so. And this is signed by
16 the foreperson Kimberly Lankford April the 13th 2022, your
17 Honor.

18 THE COURT: Any additional request for polling
19 from the State?

20 MR. BELL: None from the State.

21 THE COURT: Any from the defense?

22 MR. ERVIN: No, your Honor.

23 THE COURT: Madam forelady, ladies and gentlemen
24 of the jury, the way the South Carolina court system works
25 obviously is they -- the issue of with regard to

1 sentencing was not submitted to you. In South Carolina,
2 the judge sentences the individual, and there's a range of
3 punishments that I could levy with regard to this matter.
4 And since you have been with us throughout this week and
5 have tried this case, you have a personal interest in it.
6 If you like to stay and observe the sentencing, you're
7 welcome to do so. You aren't required to do so, that's my
8 job. But this is a public forum and anybody can be a
9 witness to this. For those of you who would like to
10 witness the sentencing, we'll just ask that you remain in
11 the jury box. And those of you who would like to leave,
12 you can do so here momentarily after a few remarks.

13 First of all, as you know, the law cannot --
14 does not allow me to have an opinion about the facts, and
15 therefore, I can't have an opinion with regard to the
16 verdict. One thing I can do is thank you for your
17 service. You obviously paid a lot of attention. You been
18 very diligent. You have been here on time, and for that,
19 I'm grateful. You been able to do what nobody in this
20 courtroom has been able to do is bring some finality and
21 resolution to this matter.

22 I do want to let you know that throughout the
23 trial of this case, I've issued an order that you can't
24 talk about this case. I'm releasing you from that order.
25 You going to have the opportunity to speak to anybody you

1 want to about it. However, if you don't want to talk to
2 them about it, if someone were to ask you about it, and
3 tell them you don't want to speak about it. And if they
4 persist in their efforts to talk to, identify them as best
5 you can, report them to me, and I'll deal with them
6 accordingly. Do everybody understand that? And you're
7 released from all orders with regard not speaking about
8 the matter.

9 I also want to let you know that you've earned a
10 three-year exemption for your service. If called upon to
11 serve in this court within the next three years, you've
12 earned an exemption. However, it does not apply to
13 federal, magistrate's court or municipal court. You will
14 be paid handsomely for your service. Not really, but it
15 will be a small token of our appreciation for your hard
16 work and the valuable service you provided to the State.
17 Do you all have any questions? All right. Let me see the
18 show of the hands of the people like to leave at this
19 junction? All right. And those who would like to stay
20 just remain seated.

21 (WHEREUPON, a pause in the proceedings.)

22 THE COURT: All right. I'll ask, Mr. Ervin, if
23 you could bring Mr. James forward. And I'm going to
24 recognize the State with regard to sentencing. And any
25 comments that are made if the victim's family chose to

1 speak, I'm going to ask that all your comments be direct
2 to the Court and not to the defendant. Mr. Bell, you're
3 recognize and I'll hear you first and anybody that you
4 would like to speak on behalf of the victim.

5 MR. BELL: Yes, Your Honor. May it please the
6 Court. Your Honor, you heard all the facts in regard to
7 this case. Your Honor, we weren't able to get out in
8 trial and being Hartsville native what this crime did to
9 the people of Hartsville. It was an execution, your
10 Honor. An execution that took place two o'clock in the
11 afternoon in the East Park apartments very much so crowded
12 apartments.

13 Your Honor, I can't express to you when you look
14 at the video of all the Hartsville police officers that
15 had to go out there to rope it off with the amount of body
16 cam footage of people out there screaming, welling, kids
17 getting off the school bus. They had to get a tarp. It
18 was unreal, your Honor. And it sent shock waves through
19 this community. And I thank the jury for bringing closure
20 to this family.

21 Your Honor, by his own admission, written
22 statement, Mr. Floyd was walking away. By his recorded
23 statement, Mr. Floyd was walking away. The State tendered
24 an offer your Honor, and we understand he has a right to a
25 jury trial. The State tendered an offer of 30 years to

1 resolve this without taking the family through it. This
2 mother, Ms. Joanne Johnson, had to see for the first time
3 during the presentation of my case her son laid out like
4 that. The State took into account his age when this took
5 place. We took into account that he had no prior
6 convictions prior to this when we tendered this offer.

7 Your Honor, throughout this trial and even
8 after, I think, you saw on cross-examination, there is a
9 certain demeanor about Mr. James. He has not shown any
10 remorse whatsoever. I feel like for this. And your Honor
11 particularly being a native of Hartsville, but Darlington
12 County, this behavior is cancerous, and cancers must be
13 removed from the body. And your Honor we ask, and the
14 State would ask now that the jury has the evidence and
15 come back with a guilty, he must be removed from the body.
16 And as heinous as it was to shoot a man walking away from
17 you with a six-shot revolver, put one in the back of his
18 head and stand over him and unload, then run and dump the
19 gun.

20 Your Honor, I didn't always prosecute. I was a
21 criminal defense attorney. I will tell you he had what's
22 called in the street they call it a throw away, that was a
23 throw away revolver. He was walking around Hartsville
24 with just like he sat on that stand. He said I go
25 anywhere I want. I'm paranoid, but I'm not scared. He

1 was going to shot anybody that rubbed him the wrong way.
2 Even a man by his own account he says Mr. Floyd said do we
3 have problem. No, we ain't got no problem. Do we have a
4 problem. No, we don't have no problem. When Mr. Stewart
5 walks away, he shoots a man in the back of head, your
6 Honor. We ask for life.

7 We don't think that there's any rehabilitation
8 for this type of behavior, and we just ask for life. And
9 with me your Honor, I do have his mother. We have his
10 sister Cathy Marshall. We have his mother Joanne Johnson.
11 We have his girlfriend at the time Nakea Ferguson.
12 Mr. Floyd Stewart was 29 years of age, three kids by blood
13 two by love, your Honor. We just ask that you take all of
14 that into consideration. You heard all the facts.
15 There's no need to rehash it. But your Honor if there was
16 ever a time when somebody deserves life. This is the
17 time. I defer to anyone who wants to speak at this time,
18 your Honor.

19 THE COURT: You all are welcome to speak. You
20 don't have to, but if you -- I feel as though I have the
21 necessary information, but if you would like to speak,
22 I'll be happy to hear from you. They've indicated they do
23 not want to speak. Anything further, Mr. Bell?

24 MR. BELL: Nothing from the State, your Honor.

25 THE COURT: You all can have a seat. Mr. Ervin,

1 you recognize.

2 MR. ERVIN: Thank you, your Honor. Obviously,
3 we have a different view of the evidence. And, your
4 Honor, Dabry James as you've heard has no prior
5 convictions. I do think he is a good candidate for
6 rehabilitation, particularly taking into consideration the
7 lack of a prior record. I understand that they tendered
8 an offer. Everybody is entitled to due process. Many
9 defendants in my experience have, you know, wanted their
10 day in court for whatever reason like we might consider it
11 unreasonable for them to have such a request, but people
12 do have a right to be heard. He felt compelled to be
13 heard in this case.

14 I understand while the State would take the
15 position that 30 years day for day, which the statute
16 requires on a conviction of murder is a reasonable offer,
17 but communicating that to a young man who, you know, has
18 been convicted of committing this crime when he was 18 at
19 the time shortly thereafter 19 is not always an easy thing
20 to do. But I will say that he has express remorse to me.
21 And, you know, regardless of whoever's reviewing the
22 evidence in this case, I can state with certainty that he
23 did have a certain amount of fear as a result of events
24 that occurred prior to this date that may not be adequate
25 justification. And I understand that the jury's reached a

1 verdict, and we certainly abide and trust in that verdict
2 as I indicated, we would in the beginning of this trial.

3 I would like for him to have the opportunity to
4 address the Court. You've heard enough about his life I
5 think, your Honor, and his background. He gave you that
6 in his own testimony. His family is here. They're
7 supportive. I do think that life would be a harsh
8 sentence, but he knows that that is a possible sentence
9 and knowing that, he stands before you today.

10 THE DEFENDANT: I would just like to apologize
11 to each and every last one of y'all that's here today,
12 that's it.

13 THE COURT: Anything else from anybody?

14 MR. ERVIN: Not from defense, your Honor.

15 THE COURT: How much time has he severed?

16 MR. BELL: 791 days.

17 MR. ERVIN: That sounds to be exactly right.

18 THE COURT: Mr. James, taking into consideration
19 all of the facts and circumstances of this case, on
20 indictment 2020-GS-16-0762 murder, sentence of the Court
21 is you be committed to the state department of corrections
22 for a period of 40 years, sentences run concurrent credit
23 for 791 days.

24 With regard to indictment 2020-GS-16-0764
25 unlawful carrying of a pistol, sentence of the Court is

1 you be committed to the state department of corrections
2 for a period of one year, sentences to run concurrent
3 credit for 791 days. With regard to indictment
4 2020-GS-16-0765 grand larceny, sentence of the Court is
5 that you be committed to the state department of
6 corrections for a period of five years sentences to run
7 concurrent credit for 971 days. With regard to indictment
8 2020-GS-16-0763 possession of a weapon during the
9 commission of a violent crime, sentence of the Court is
10 that you be committed to the state department of
11 corrections for a period of five years sentence is to run
12 concurrent credit for 791 days. Good luck to you.

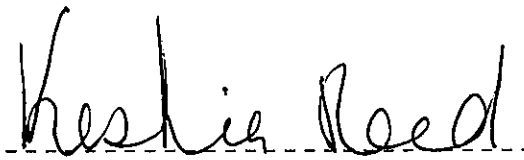
13 END OF REQUESTED TRANSCRIPT
14
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 283, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of General Sessions for Darlington County, South Carolina, on the 11-13 days of April, 2022.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 25th day of September 2022.


Keshia Reed, Court Reporter

Hartsville Police Department

Voluntary Statement



Date: 02/13, 2020. Time: _____ Location HPD Investigator
 I, Dabry James, am 19 and live at [REDACTED] Lange Court
Hartsville, SC 29550

I am giving this statement to Sgt [Signature], who has identified him/herself as
 a Police Officer, and he has duly warned me that I have the
 following rights:

That I have the right to remain silent and not make any statement at all; that any statement I make may be
 used against me at my trial; that any statement I make may be used as evidence against me in court; that I
 have the right to have a lawyer present to advise me prior to and during questioning and that I have the right
 to terminate the interview at any time.

Prior to and during the making of this statement, I have and do hereby knowingly, intelligently, and
 voluntarily waive the above explained rights, and I do make the following voluntary statement to the
 aforementioned person of my own free will and without any promises or offer of leniency or favors, and
 without compulsion or persuasion by any person or persons whomsoever:

Was outside He pulled up called
me to come in talk I said
OK Help on came back
after convo with mother He
asked was there a problem
I said no He asked 2
more time I gave same reply
He walked off in I
followed him then sitot
him twice DJ

I have read this statement consisting of 1 page(s), each page of which bears my signature, and I do affirm
 that all facts and statements contained herein are true and correct.

Dabry James
 Signature of person making voluntary statement

The above warnings were given and the voluntary statement
 was taken by

Sgt [Signature]
 Signature of official listed above

Witness

WITNESSES

Michael A. Weatherford

Hartsville Police Dept

Law Enforcement Case #: 2020-02-100
390

 WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

 Defendant

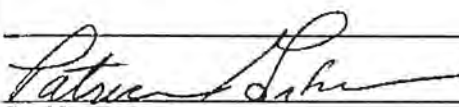
I hereby appear in my own proper person and
plead guilty to the within indictment or to:

 Defendant

 ARREST WARRANT NUMBER
2020A1620200124

 ARRESTED ON: 2020-02-13

 ACTION OF GRAND JURY


 Grand Jury Foreperson

Date

JUN 11 2020

 VERDICT

 TRUE BILL

 Petit Jury Foreperson

 Date
DOCKET NUMBER:
2020-GS-16-0762

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

 Term:
June 2020

THE STATE

vs.

Dabry Aunta James

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

 TRUE CERTIFIED COPY,

 CLERK OF COURT/RMC
 DARLINGTON COUNTY, SC

 William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Murder / Murder

§16-03-0010; 16-03-0020

At a Court of General Sessions, convened on June 11, 2020, the Grand Jurors of Darlington County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Dabry Aunta James did in Darlington County, on or about February 12, 2020, willfully, feloniously, and intentionally kill the victim, Floyd Stewart Jr., with malice aforethought, either express or implied, by means of shooting the victim, and the victim did die as a proximate result thereof on or about February 12, 2020, in Darlington County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

TRUE CERTIFIED COPY, 7

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

William B. Rogers, Jr.
WILLIAM B. ROGERS, JR.
SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Darlington

STATE

VS.

INDICTMENT/CASE#: 2020-GS-16-0762Dabry Aunt JamesAW#: 2020A1620200124

AKA:

Date of Offense: 2/12/2020Race: Black Sex: M Age: 22S.C. Code § : 16-03-0010; 16-03-0020DOB: 03-27-2000 SS#: [REDACTED]CDR Code #: 0116Address: 107 Lange CourtCity, State, Zip: Hartsville, SC 29550DL#: 104799422 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 ☐ PLEADSTO: Murder / MurderIn violation of § 16-03-0010; 16-03-00 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Adam M. Bell 76652 Dabry James

F. Bell, Adam M.

SC Bar #

Defendant

Ervin III, John M.

SCB01914

SC Bar#

Adam M. Bell

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 40 days/months/years Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment,of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 4-13-22☒ 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.7910 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.

TRUE CERTIFIED COPY.

South B. Sugar
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

STATE VS.

Dabry Aunt James

INDICTMENT/CASE#:

2020-GS-16-0762

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 0 _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☐ Other: _____☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ 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

\$	100.00
\$	100.00
\$	12.00
\$	25.00
\$	25.00
\$	150.00
\$	41.00
\$	50.00
\$	40/ea
TBD	\$ 3.75
\$	500.00
TBD	\$
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk:

Michelle Npton

Court Reporter:

Kisha Reed

Presiding Judge:

Judge Code:

Sentence Date:

Michael Npton
2148
4-13-22

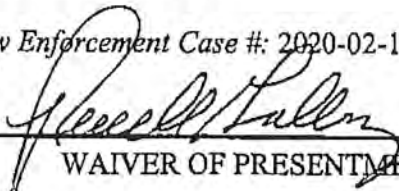
TRUE CERTIFIED COPY.

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

WITNESSES

Michael A Weatherford

Hartsville Police Dept

Law Enforcement Case #: 2020-02-100
390

 WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

 Defendant

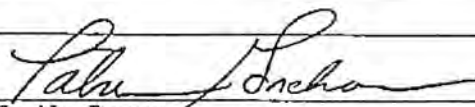
I hereby appear in my own proper person and
plead guilty to the within indictment or to:

 Defendant

 ARREST WARRANT NUMBER
2020A1620200130

 ARRESTED ON: 2020-02-14

 ACTION OF GRAND JURY


 Grand Jury Foreperson

Date

JUN 11 2020

 VERDICT

 TRUE BILL

 Petit Jury Foreperson

 Date

DOCKET NUMBER:

2020-GS-16-0763

The State of South Carolina

County of Darlington

 COURT OF GENERAL SESSIONS

 Term:
June 2020

 THE STATE

vs.

Dabry Aunta James

 INDICTMENT FOR

 Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

TRUE CERTIFIED COPY,


 CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

 William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF DARLINGTON

) Weapons / Poss. weapon during violent crime, if not
) also sentenced to life without parole or death

§16-23-0490

At a Court of General Sessions, convened on June 11, 2020, the Grand Jurors of Darlington County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Dabry Aunta James did in Darlington County, on or about February 12, 2020, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

TRUE CERTIFIED COPY

William B. Rogers, Jr.
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

William B. Rogers, Jr.
WILLIAM B. ROGERS, JR.
SOLICITOR

5 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Darlington

STATE

VS.

INDICTMENT/CASE#: 2020-GS-16-0763Dabry Auntia JamesA/W#: 2020A1620200130

AKA:

Date of Offense: 2/12/2020Race: Black Sex: M Age: 22S.C. Code § : 16-23-0490DOB: 03-27-2000 SS#: [REDACTED]CDR Code #: 0549Address: 107 Lange CourtCity, State, Zip: Hartsville, SC 29550DL#: 104799422 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 ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ - §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]716652Dabry James[Signature]

SCB01914

Ervin, Adam M.

SC Bar #

Defendant

Ervin III, John M.

SC Bar#

Glenn M. Bell

Attorney for Defendant

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 yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 4-13-22☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.90 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.

TRUE CERTIFIED COPY,

[Signature]
 CLERK OF COURT/RMC
 DARLINGTON COUNTY, SC

STATE VS.

Dabry Auntia James

INDICTMENT/CASE#:

2020-GS-16-0763

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 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def, Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§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	\$	25.00
§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 \$ 128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:Michelle Harty
Kisha ReedPresiding Judge:
Judge Code:
Sentence Date:Michael Harty
2140
4-13-22

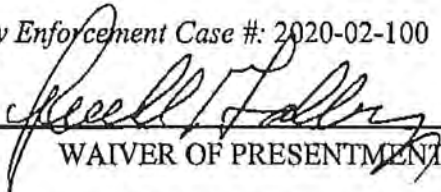
TRUE CERTIFIED COPY.

Sam B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

WITNESSES

Michael A Weatherford

Hartsville Police Dept

Law Enforcement Case #: 2020-02-100
390

 WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

 Defendant

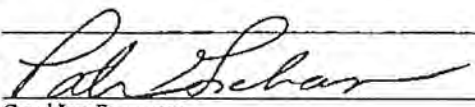
I hereby appear in my own proper person and
plead guilty to the within indictment or to:

 Defendant

 ARREST WARRANT NUMBER
2020A1620200131

 ARRESTED ON: 2020-02-14

 ACTION OF GRAND JURY


 Grand Jury Foreperson

 Date JUN 11 2020

 VERDICT

 TRUE BILL

 Petit Jury Foreperson

 Date

DOCKET NUMBER:

2020-GS-16-0764

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

 Term:
June 2020

THE STATE

vs.

Dabry Aunt James

INDICTMENT FOR

Weapons / Unlawful carrying of pistol

§16-23-0020; 16-23-0050(A)

CDR Code: 0044

TRUE CERTIFIED COPY.


 CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

 William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	
COUNTY OF DARLINGTON	)	Weapons / Unlawful carrying of pistol
		§16-23-0020; 16-23-0050(A)

At a Court of General Sessions, convened on June 11, 2020, the Grand Jurors of Darlington County present upon their oath:

UNLAWFUL CARRYING OF PISTOL

CDR: 0044 16-23-0020,0050(A)(2)

That Dabry Aunt James did in Darlington County on or about February 12, 2020, carry about the person a pistol, such carrying not being authorized by law, in violation of Section 16-23-0020, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

TRUE CERTIFIED COPY.
John B. Suggs
 CLERK OF COURT/RMC
 DARLINGTON COUNTY, SC

William B. Rogers, Jr.
 WILLIAM B. ROGERS, JR.
 SOLICITOR

0-1 year

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Darlington

STATE

VS.

INDICTMENT/CASE#: 2020-GS-16-0764Dabry Aunt JamesAW#: 2020A1620200131

AKA:

Date of Offense: 2/12/2020Race: Black Sex: M Age: 22S.C. Code § : 16-23-0020; 16-23-0050(A)DOB: 03-27-2000 SS#: [REDACTED]CDR Code #: 0044Address: 107 Lange CourtCity, State, Zip: Hartsville, SC 29550DL#: 104799422 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 ☐ PLEADSTO: Weapons / Unlawful carrying of pistolIn violation of § 16-23-0020; 16-23-00 of the S.C. Code of Laws, bearing CDR Code # 0044☒ 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:

76152 Dabry James
SC Bar # DefendantErvin III, John M.
Attorney for Defendant

SCB01914

SC Bar# WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 1 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 2 yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 4-13-22☒ 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.☐ 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.

TRUE CERTIFIED COPY,

Scott B. Siga
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

STATE VS.

Dabry Aunt James

INDICTMENT/CASE#:

2020-GS-16-0764

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 0 _____ days/hours☒ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☒ Other: _____☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ 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

Clerk of Court/ Deputy Clerk:

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:

TOTAL \$ 128.75

TRUE CERTIFIED COPY,

Scott B. Suggs

CLERK OF COURT/RMC

DARLINGTON COUNTY, SC

0-5 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Darlington

STATE

VS.

INDICTMENT/CASE#: 2020-GS-16-0765Dabry Aunt JamesA/W#: 2020A1620200132

AKA:

Date of Offense: 2/12/2020Race: Black Sex: M Age: 22S.C. Code § : 16-13-0030(B)DOB: 03-27-2000 SS#: [REDACTED]CDR Code #: 3420Address: 107 Lange CourtCity, State, Zip: Hartsville, SC 29550DL#: 104799422 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 ☐ PLEADSTO: Larceny/Grand Larceny, value more than \$2,000 but less than \$10,000; Penalty Statute 16-13-0030(B)(1), Felony ClaIn violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3420☒ 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:

Mr. M. Bell 76652 Dabry James [Signature] SCB01914
 Board, Adam M. SC Bar # Defendant Ervin III, John M. SC Bar#
 Glenn M. Bell Attorney for Defendant

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 2 yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years/Time Served and or paymentof \$ —; plus costs and assessments as applicable; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 4-13-22☒ 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.291 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.

TRUE CERTIFIED COPY

[Signature]
 CLERK OF COURT/RMC
 DARLINGTON COUNTY, SC

STATE VS.

Dabry Aunt James

INDICTMENT/CASE#:

2020-GS-16-0765

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 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ 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

\$ 128.75

Clerk of Court/ Deputy Clerk:

Court Reporter:

Michelle Neaton
Kisha Reed

Presiding Judge:

Judge Code:

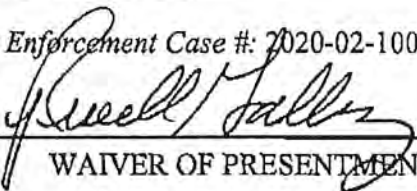
Sentence Date:

Michael Hill
 2140
 4-13-22

WITNESSES

Michael A Weatherford

Hartsville Police Dept

Law Enforcement Case #: 2020-02-100
390

 WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

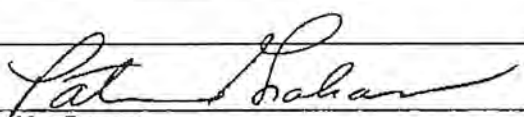
I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

 ARREST WARRANT NUMBER
2020A1620200132

ARRESTED ON: 2020-02-14

ACTION OF GRAND JURY


 Grand Jury Foreperson

Date JUN 11 2020

VERDICT

TRUE BILL

Petit Jury Foreperson

Date

DOCKET NUMBER:
2020-GS-16-0765

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
June 2020

THE STATE

vs.

Dabry Aunta James

INDICTMENT FOR

Larceny/Grand Larceny, value more than
\$2,000 but less than \$10,000; Penalty Statute
16-13-0030(B)(1), Felony Class F

§16-13-0030(B)

CDR Code: 3420

TRUE CERTIFIED COPY,


 CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DARLINGTON) Larceny/Grand Larceny, value more than \$2,000 but
 less than \$10,000; Penalty Statute 16-13-0030(B)(1),
 Felony Class F
 §16-13-0030(B)

At a Court of General Sessions, convened on June 11, 2020, the Grand Jurors of Darlington County present upon their oath:

GRAND LARCENY
 (VALUE OVER \$2000 BUT LESS THAN \$10000)

CDR: 3420 16-13-0030(B)

That Dabry Aunt James did in Darlington County on or about February 12, 2020, take and carry away the personal goods of Floyd Stewarts Jr., valued at more than two thousand (\$2,000.00) dollars, but less than ten thousand (\$10,000.00) dollars, described as follows: a Chrysler 200 Vehicle, with the intent to deprive the owner permanently of such property and to convert the goods to his own use, in violation of Section 16-13-0030(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

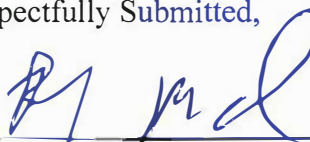
TRUE CERTIFIED COPY 
 **WILLIAM B. ROGERS, JR.**
CLERK OF COURT/RMC **SOLICITOR**
DARLINGTON COUNTY, SC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Apr 05 2023****SC Court of Appeals**

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of April, 2023.