

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable Thomas W. Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYSHAWN ANTWAUN BROWN,

APPELLANT

APPELLATE CASE NO. 2022-001171

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 3 State of South Carolina) Fifteenth Judicial Circuit
 4 Plaintiff,) Case No. 2020-GS-26-,01652 &
 5 vs.) 2020-GS-26-01654
 6 Tyshawn Antwaun Brown,)
 7 Defendant.) Transcript of Record

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10

August 8-10, 2022

11

Horry County, South Carolina

12

B E F O R E:

13

The Honorable , Presiding Judge, Thomas W. Cooper and a

14

jury

15

16

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17

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Adam Harrelson, Esquire

18

For the State.

19

20

Eric Fox, Esquire
Nicholas O'Neill, Esquire

21

For the Defendant.

22

Official Court Reporter
Julie Kevish

23

24

25

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1 (Whereupon proceedings convened Monday, August 8, 2022)

2 THE COURT: Ladies and gentlemen, as you have heard,
3 the State has called the case of the State versus Tyshawn
4 Antwaun Brown. Mr. Brown has been indicted by the Grand Jury
5 of Horry County and this Indictment charges that Mr. Brown did
6 in Horry County on or about April 24, 2018 willfully,
7 feloniously and intentionally kill the victim, Charles Durant
8 with malice aforethought either, expressed or implied, by means
9 of a gunshot wound, and the victim died as a proximate result
10 thereof on April 24, 2018 in Horry County in violation of the
11 law. The next indictment charges Mr. Brown with the crime of
12 attempted murder, and this indictment say that Mr. Brown did in
13 Horry County on the same date, April 24, 2018 with the intent
14 to kill Winter Parker, attempted to kill the victim with malice
15 aforethought, either expressed or implied in violation of the
16 law. Now, ladies and gentlemen, the indictments which I have
17 just read to you are not proof nor are they evidence of the
18 charges that they contain, they're simply charging documents,
19 legal documents that tells you or me or anybody else who reads
20 them what this case is all about. To the charges contained in
21 these indictments Mr. Brown has entered pleas of not guilty and
22 has asked for a jury trial at your hands.

23 (Voir Dire)

24 THE COURT: Mr. Brown, would you please stand and
25 face the jury behind you? Thank you. You can be seated.

Voir Dire

1 Ladies and gentlemen of the jury, I need to know if any of you
2 are related by blood or connected by marriage to Mr. Brown or
3 if you're a friend of his or a business associate of his, a
4 casual acquaintance of his or a person who has any direct or
5 indirect contact with Mr. Tyshawn Antwaun Brown, if so, please
6 stand. Thank you.

7 The indictments allege that the two victims in these
8 cases were Charles Durant, the victim in the murder case, and
9 Winter Parker, the victim in the attempted murder case. I need
10 to know if any of you all are related by blood or connected by
11 marriage to any of those alleged victims or friends of theirs
12 or business associates of theirs or casual acquaintances of
13 theirs or people who have any direct or indirect contact with
14 any of those alleged victims, if so would you please stand?
15 Thank you.

16 Ladies and gentlemen, potential witnesses who may
17 testify in the trial of this case, and there is a lengthy list
18 of those who are potential witnesses, not all of them will be
19 called, but they are all potential witnesses. I'm going to go
20 over this list with you and I'm going to be asking you the same
21 thing about these potential witnesses that I asked you about
22 the principals, that is, I'm going to want to know if you're
23 kin to them by blood or by marriage or your friends of,
24 business associates or casual acquaintances or people that have
25 any direct or indirect contact with any of these potential

1 witnesses. Potential witnesses who may testify in the trial of
2 this case are Amy Jackson (Hardwick) from the Horry County
3 Police Department, Detective King Hemingway, Detective Sean
4 Wydra, Sergeant Christopher Hunt, Detective Chris Britt,
5 Detective Cory Dulina, Detective John Brantly, Lieutenant
6 Brandon Strickland, Detective Daniel Spencer, Detective DJ
7 Dudley, Mark Johnson, Merrell Hawkins. All of those
8 individuals are of the Horry County Police Department. Are any
9 of you related by blood or connected by marriage to any of
10 those potential witnesses or friends or casual acquaintances or
11 people who have any direct or indirect contact with any of
12 those potential witnesses, if the so, please stand. Thank you.

13 Other potential witnesses who may testify in the
14 trial of this case are Jack Johnson, Robbie Caulder, Matthew
15 Singleton, Jason Vaught, Detective Jack Lee, Virginia Grant,
16 Christian Lara, Michele Eichenmiller. Are any of you related
17 by blood or connected by marriage to any of those potential
18 witnesses or business associates, casual acquaintances, friends
19 of people who have any direct or indirect contact with any of
20 those potential witnesses, if so please stand. Thank you.

21 Other potential witnesses are Dr. Edward L. Proctor from the
22 Grand Strand Regional Medical Center, Dr. Thomas Beaver, Heath
23 Reaves, Joe Rich, Eugenia Waller, Dawn Ward, Brittany Nicole
24 Burks, B-u-r-k-s, Lashaye Washington, Angelica Knox, Annette
25 Singleton, Bob Prajapati, Mark Patel, Crystal Rich, Telina

Voir Dire

1 Jackson, Fantasia Ford. Are any of you all related by blood or
2 connected by marriage to any of those potential witnesses or
3 friends or casual acquaintances or people who have any direct
4 or indirect contact with any of those potential witnesses, if
5 so, please stand. Yes, sir, your name and number, please, sir?

6 THE JUROR: Lane Moore, 232.

7 THE COURT: Mr. Moore, who is the connection with?

8 THE JUROR: I'm friends with, personally connected
9 with and friends with Dr. Edward Proctor.

10 THE COURT: Is it a professional relationship? In
11 other words, is he your treating physician or just a friend or
12 how is that relationship?

13 THE JUROR: Casual and professional relationship,
14 yes, sir.

15 THE COURT: Would the fact that he is likely to
16 testify in the trial of this case make it difficult for you to
17 serve fairly and impartially as a juror in this trial?

18 THE JUROR: No, sir.

19 THE COURT: Could you set aside that association and
20 decide this case based on the evidence that you would hear in
21 court without regard to that association?

22 THE JUROR: Yes, sir.

23 THE COURT: And would you do that, please, sir?

24 THE JUROR: Yes, sir.

25 THE COURT: Thank you, sir. Now, ladies and

1 gentlemen, the lawyers that will be involved in the trial of
2 this case on behalf of the State the case will be presented by
3 Assistant Solicitors Joshua Holford and Adam Harrelson who are
4 sitting right here at counsel table. The Defendant, Mr. Brown,
5 is represented by Eric Fox and Nicholas O'Neill of the Horry
6 County Bar who are seated right here. I now need to know if
7 any of you all are related by blood or connected by marriage to
8 the any of these lawyers or if you're friends of theirs or
9 casual acquaintances of theirs or people who have any direct or
10 indirect contact with any of them or if you've ever been
11 represented by any of them or sued by any of them in the past.
12 If so would you please stand?

13 Thank you. Now, ladies and gentlemen, I need to know if you
14 know anything about this case, if you have seen or heard or
15 read anything about this case or if you have any knowledge
16 about this case of any source whatsoever. I've read the
17 indictment that tells you that the allegations are that these
18 crimes occurred here in Horry County on or about April 24,
19 2018. The location of the incident was at [REDACTED] Spring Street
20 in Loris at the intersection of Spring and Church Street over
21 in Loris. I tell you that because I need to know if you know
22 anything about the case. If you have seen or heard or read
23 anything about the case or if you have any knowledge about the
24 case from any source at all would you please stand. Thank you.
25 Now, ladies and gentlemen, you told me that you don't know

Voir Dire

1 anything about the case itself, but you understand what the
2 case is all about. You understand that the allegations are
3 charges of murder and attempted murder. These are crimes of
4 personal violence, obviously. There are other crimes of
5 personal violence, armed robbery, criminal domestic violence,
6 kidnapping, criminal sexual conduct, all of these are crimes
7 against a person, and I tell you that because I need to know if
8 any of you all or any members of your immediate family have
9 ever been involved in a crime of personal violence, either as a
10 defendant or a victim or a witness. So the question does not
11 only apply to you, it applies to any members of your immediate
12 family that is in your household and it applies to a wide range
13 of possible involvement in the crime of personal violence. You
14 or your family member could have been the victim, that is the
15 person against whom the crime was inflicted, or you or your
16 family member could have been the defendant, that is the person
17 charged with committing the crime, or you or your family member
18 could have been a witness who had some involvement in the case
19 itself as a witness. I need to know if that question applies
20 to you in any of those respects, and if it does I'm going to
21 bring you up here privately in the relative privacy of the
22 lawyers and the court reporter and myself and ask you more
23 about your particular involvement in that regard. So first of
24 all, I simply want to get you identified by your name and by
25 your number and then find out what the type of involvement is

1 privately. So if that question applies to anybody would you
2 please stand right now and let me find out who you are? Yes,
3 ma'am, name and number?

4 THE JUROR: My name is Tristan Barfield, Juror Number
5 18.

6 THE COURT: Thank you. Yes, sir, your name and
7 number?

8 THE JUROR: Lane Moore, 232, sir.

9 THE JUROR: Wendi Yost, 373.

10 THE COURT: Thank you. Yes, ma'am, in the center in
11 the back, your name, please?

12 THE JUROR: Patricia Smith, 317.

13 THE COURT: Thank you, ma'am. Yes, sir?

14 THE JUROR: David Patterson, 254.

15 THE COURT: Yes, ma'am?

16 THE JUROR: Bernadette Meissner, 222.

17 THE COURT: Mr. Barfield, if you would come forward,
18 please?

19 THE COURT: Folks, the rest of you can be seated
20 while these are coming up here and I'll call you individually.
21 Thank you. Mr. Barfield, if you'll stand right here and speak
22 so that she can hear you, sir. Was it you or a family member
23 that was involved?

24 THE JUROR: It was a family member, it was my dad.

25 THE COURT: Your dad. And what was your dad's

Voir Dire

1 involvement?

2 THE JUROR: There were a few things. I know he's
3 been involved in, at least, I think he's been in court for
4 robbery at one point, but I'm not exactly certain on the other
5 ones, I just know he's been involved with personal violence,
6 fighting people, stuff like that.

7 THE COURT: Is that here in Horry County?

8 THE JUROR: No. It was a long time ago somewhere
9 else.

10 THE COURT: Okay. Were you living at home with your
11 dad at the time?

12 THE JUROR: No. This was before I was born.

13 THE COURT: So you just heard about it after the
14 fact?

15 THE JUROR: Uh-huh.

16 THE COURT: Okay. Would the fact that you've heard
17 these things about your dad before you were born make it
18 difficult for you to be fair and impartial as a juror in a
19 trial of this nature?

20 THE JUROR: I don't believe so.

21 THE COURT: Could you set aside those things and
22 decide the case based on what you would hear in court about
23 this case without regard to your father's situation?

24 THE JUROR: I believe I could.

25 THE COURT: Will you do that?

1 THE JUROR: Yes.

2 THE COURT: That's all we ask. You can go back and
3 have a seat. Thank you, sir.

4 THE COURT: Juror 232, Mr. Moore? Was it you or a
5 family member that was involved?

6 THE JUROR: My father and my uncle.

7 THE COURT: Are those two incidents?

8 THE JUROR: One.

9 THE COURT: And what was your involvement?

10 THE JUROR: My uncle was murdered. My father was
11 charged with his murder. It was brought before the Grand Jury.
12 Our entire family, of course, was questioned. It was never
13 bound over for trial. My father is now deceased.

14 THE COURT: Where did that happen?

15 THE JUROR: Atlanta, Georgia.

16 THE COURT: So your uncle was the victim, your father
17 was charged with the crime; is that correct?

18 THE JUROR: Yes, sir.

19 THE COURT: How long ago was that?

20 THE JUROR: 1982.

21 THE COURT: Were you at home at the time these things
22 happened?

23 THE JUROR: Yes, sir.

24 THE COURT: Would that experience as you've just
25 described it to me make it difficult for you to serve fairly

Voir Dire

1 and impartially in a trial of this case involving a crime of
2 the charge of murder?

3 THE JUROR: No, sir.

4 THE COURT: Could you set aside that experience and
5 decide this case based on what you would hear in court in
6 regard to that experience?

7 THE JUROR: Yes, sir.

8 THE COURT: And you'll do that?

9 THE JUROR: Yes, sir.

10 THE COURT: Thank you, Mr. Moore. You can go back
11 and have a seat.

12 THE COURT: Ms. Yost? Was it you or a family member?

13 THE JUROR: It was a family member.

14 THE COURT: And what was the relation to you?

15 THE JUROR: It was my aunt, my mother's sister.

16 THE COURT: What was her involvement?

17 THE JUROR: She was raped and murdered around 1987.

18 THE COURT: Where did that happen?

19 THE JUROR: In West Virginia.

20 THE COURT: Were you alive when that happened?

21 THE JUROR: About 12 years old.

22 THE COURT: Was your aunt living close to you all at
23 the time?

24 THE JUROR: It's about a 45 minute drive.

25 THE COURT: So in the same --

1 THE JUROR: Yeah.

2 THE COURT: Okay. Were you involved other than just
3 as a family of a victim?

4 THE JUROR: No.

5 THE COURT: Would that experience that you have being
6 related to a victim of rape make it difficult for you to serve
7 fairly and impartially as a juror in a trial of this nature?

8 THE JUROR: No.

9 THE COURT: Could you set aside that experience in
10 your family life and decide this case based on what you will
11 hear in court about this case?

12 THE JUROR: Yes.

13 THE COURT: And would you do that, please?

14 THE JUROR: Yes.

15 THE COURT: Thank you, ma'am. You can go back and
16 have a seat. Juror 317, Ms. Smith? Was it you or a family
17 member that was involved?

18 THE JUROR: Me.

19 THE COURT: And what was your involvement?

20 THE JUROR: I was a victim.

21 THE COURT: Do you mind telling me what the crime
22 was?

23 THE JUROR: Domestic violence attack.

24 THE COURT: And was someone prosecuted for that?

25 THE JUROR: I think it was restraining orders.

Voir Dire

1 THE COURT: I'm sorry?

2 THE JUROR: Couple of restraining orders put on him.

3 THE COURT: I see.

4 THE JUROR: That was in 1993.

5 THE COURT: Oh, goodness. Was that in Horry County?

6 THE JUROR: No, that was in North Carolina.

7 THE COURT: Would your experience as a victim in that

8 particular crime make it difficult for you to be fair and

9 impartial as a juror in this trial?

10 THE JUROR: No.

11 THE COURT: Would you be able to set aside what had

12 happened to you in that particular case and decide this case

13 based the evidence that you will hear in court about this case?

14 THE JUROR: Yes.

15 THE COURT: And would you do that, please, ma'am?

16 THE JUROR: I sure will.

17 THE COURT: Thank you, Ms. Smith. Mr. Patterson?

18 THE JUROR: Good afternoon, Your Honor.

19 THE COURT: How are you doing?

20 THE JUROR: Good. I may have misunderstood the

21 question, myself, a family member involved or involved in any

22 type?

23 THE COURT: If you or a family member had any

24 involvement with a crime of personal violence either as a

25 victim or a defendant.

1 THE JUROR: What about the investigator?

2 THE COURT: That would be witness. That's right. A
3 witness is a third party of it.

4 THE JUROR: Okay.

5 THE COURT: So I take it this question would apply to
6 you and not to a family member?

7 THE JUROR: Correct.

8 THE COURT: And tell me about your involvement.

9 THE JUROR: I was a crime scene investigator from
10 1991 until 2021.

11 THE COURT: Okay. Where were you?

12 THE JUROR: Police, Western Fairfax County in
13 Virginia.

14 THE COURT: Interesting work, obviously. Would your
15 involvement as a crime scene investigator during that period of
16 time of individual cases or cumulatively make it difficult for
17 you to be fair and impartial as a juror in this particular
18 trial?

19 THE JUROR: I would like to think not.

20 THE COURT: Could you set aside your experience and
21 decide based on what you would hear in court about this trial?

22 THE JUROR: Based on the evidence, yes.

23 THE COURT: And would you do that?

24 THE JUROR: I'll do my best.

25 THE COURT: Thank you, sir, Mr. Patterson. You can

Voir Dire

1 go back to your seat. Ms. Meissner, was it you or a family
2 member that was involved?

3 THE JUROR: Me.

4 THE COURT: And what was the --

5 THE JUROR: I was molested by my father.

6 THE COURT: I'm sorry. Okay. Was he ever prosecuted
7 as a result of that?

8 THE JUROR: No, sir.

9 THE COURT: Okay. How long ago was that?

10 THE JUROR: I was 15, so 30 years ago.

11 THE COURT: Did that happen here in Horry County?

12 THE JUROR: No, North Carolina.

13 THE COURT: And I'm sorry we had to delve into your
14 memory about this.

15 THE JUROR: That's okay.

16 THE COURT: Let me ask you, would your involvement as
17 a victim in a crime like that make it difficult for you to be
18 fair and impartial in a trial like this?

19 THE JUROR: No, sir.

20 THE COURT: Could you set aside your experience in
21 that regard and decide this case based on what you would hear
22 in court?

23 THE JUROR: Yes, sir.

24 THE COURT: And would you do that?

25 THE JUROR: Absolutely.

1 THE COURT: I'm sorry we had to get you to go back
2 there.

3 THE JUROR: That's okay.

4 THE COURT: You can go back and have a seat. 267,
5 would you come forward, please?

6 THE COURT: What is the nature of your relationship?

7 MR. HARRELSON: 151, I knew him from church about
8 four years ago and number 267, she is dating my fiancé's
9 friend. I just wanted to bring that to the Court's attention.

10 THE COURT: Now, do you want me to inquire further
11 with either of them about that relationship?

12 MR. HARRELSON: I don't think it would be a problem
13 but defense may have an issue.

14 THE COURT: I can leave it where it is or I give them
15 his name and ask them if they had, you know --

16 MR. FOX: I think, just as a precaution, let's just
17 ask the general questions: Would that have any influence? I'm
18 sure the answer will probably be no, but out of precaution I
19 think it would be better to have that on the record.

20 THE COURT: Okay. Good. Juror Number 267, Ms.
21 Poston, will you approach, please? Ms. Poston, Adam said that
22 there is some indirect relationship that you have with someone
23 who is -- you tell me, Adam?

24 THE JUROR: Fiancé, yeah.

25 THE COURT: Okay. Would that relationship, whatever

1 it is, make it difficult for you to be fair and impartial in
2 the trial of the case in which he's going to be representing
3 one of those sides?

4 THE JUROR: Uh-huh.

5 THE COURT: Could you set aside that and decide this
6 case based on what you hear in court, could you do that?

7 THE JUROR: Yes.

8 THE COURT: Thank you, Ms. Poston, you can go back
9 and have a seat. Juror Number 151. Mr. Hubbard, could you
10 come forward, please. Adam said that a few years ago you all
11 had some church connection; is that right?

12 THE JUROR: Yes, sir.

13 THE JUROR: Yes, sir, a mutual friend.

14 THE COURT: Would that relationship make it difficult
15 for you to be fair and impartial in a trial of a case that he
16 is representing one of those sides?

17 THE JUROR: No, sir.

18 THE COURT: You could set that aside and decide the
19 case based upon what you hear in court?

20 THE JUROR: Yes, sir.

21 THE COURT: You'll do that?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you, sir. You can go back and have
24 a seat. Thank you, gentlemen.

25 Ladies and gentlemen of the jury, have any of you

1 formed in your own minds or expressed to anyone else any
2 opinion that you might have as to the guilt or the innocence of
3 Mr. Brown, if so would you please stand? Are any of you
4 conscious, that is to say, are you aware of any bias or
5 prejudice that you might have for or against the State of South
6 Carolina, or for or against Mr. Brown? If so, please stand.
7 Do any of you know of any reason of any kind at all that would
8 keep you from serving fairly and impartially as a juror in this
9 trial? If you know of any such reason, would you please stand?
10 Thank you. Any further questions from the State, Mr. Holford?

11 MR. HOLFORD: Nothing from the State, Your Honor.
12 From the defense?

13 THE COURT: Mr. Fox, from the defense? I'm sorry,
14 Mr. O'Neill?

15 MR. O'NEILL: No, Your Honor.

16 (Jury Selection.)

17 THE COURT: Madam Clerk, you can give us a jury. The
18 strikes will be five for the State, ten for the defense and we
19 will select two alternates. As to each alternate the strikes
20 will be one from the State and two from the defense. Ladies
21 and gentlemen, if you will bring your attention to the Clerk
22 now and follow the instructions that she gives you as your name
23 is called, if it is called. Madam Clerk?

24 THE CLERK: When I call your name and juror number,
25 please come to the front of the courtroom and bring all of your

Jury Seated

1 belongings with you. You will turn and face the back wall.

2 THE COURT: You'll come right here in from of the
3 court reporter and turn and face the back.

4 THE CLERK: Juror number 18, Tristan Barfield. What
5 say the State?

6 MR. HARRELSON: Please present this the juror.

7 THE CLERK: Defense?

8 MR. O'NEILL: Please seat this juror.

9 THE CLERK: Please be with seated in the jury box.
10 Juror number 46, Chenita Brown-Mccray. What say the State?

11 MR. HARRELSON: Please present this juror.

12 THE CLERK: Defense.

13 MR. O'NEILL: Please seat this juror.

14 THE CLERK: Please be seated in jury box.

15 THE CLERK: Juror number 373, Wendi Yost.

16 What say the State?

17 MR. HARRELSON: Please present this juror.

18 THE CLERK: Defense?

19 MR. O'NEILL: Please excuse this juror.

20 THE CLERK: You're excused from this particular case.

21 THE COURT: You can go back and have a seat.

22 THE CLERK: Juror 267, Katelyn Poston. What say that
23 State?

24 MR. HARRELSON: Please present this juror.

25 THE CLERK: Defense?

1 MR. O'NEILL: Please excuse this juror.

2 THE CLERK: You're excused from this particular case.

3 Juror Number 372, Dawn Woodward. What say the State?

4 MR. HARRELSON: Please present this juror.

5 THE CLERK: Defense?

6 MR. O'NEILL: Please seat this juror.

7 THE CLERK: Please be seated in the jury box.

8 Juror 254, David Patterson. What say the State?

9 MR. HARRELSON: Please present this juror.

10 THE CLERK: Defense?

11 MR. O'NEILL: Please excuse this juror.

12 THE CLERK: You're excused from this particular case.

13 THE CLERK: Juror 360, Shawn Wells? What say the
14 State? Please present this juror.

15 THE CLERK: Defense?

16 MR. O'NEILL: Please seat this juror.

17 THE CLERK: Please be seated in the jury box.

18 Juror 298, Stephanie Schoot. What say the State?

19 MR. HARRELSON: Please present the juror.

20 THE CLERK: Defense?

21 MR. O'NEILL: Please seat this juror.

22 THE CLERK: Please be seated in the jury box.

23 Juror number 262, Sharon Piccione. What say the State?

24 MR. HARRELSON: Please present this juror.

25 THE CLERK: Defense?

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1 MR. O'NEILL: Please excuse this juror.

2 THE CLERK: You're excused from this particular case.

3 THE CLERK: Juror number 232, Lane Moore. What say
4 the State?

5 MR. HARRELSON: Please excuse this juror in this
6 case.

7 THE CLERK: You're excused from this particular case.
8 Juror number 282, Brendan Rich. What say the State?

9 MR. HARRELSON: Please excuse this juror from this
10 case.

11 THE CLERK: You're excused from this particular case.
12 Juror number 359, Kandra Warren. What say the State?

13 MR. HARRELSON: Please present this juror.

14 THE CLERK: Defense?

15 MR. O'NEILL: Please excuse this juror.

16 THE CLERK: You're excused from this particular case.
17 Juror number 41, John Brearley. What say the State?

18 MR. HARRELSON: Please present this juror.

19 THE CLERK: Defense?

20 MR. O'NEILL: Please excuse this juror.

21 THE CLERK: You're excused from this particular case.
22 Juror number 350, Frederick Ulisano. What say the State?

23 MR. HARRELSON: Court's indulgence?

24 THE COURT: Yes, sir.

25 MR. HARRELSON: Please present this juror.

1 THE CLERK: Defense?

2 MR. O'NEILL: Please seat this juror.

3 THE CLERK: Please be seated in the jury box. Juror
4 number 329, Diane Stewart. What say the State?

5 MR. HARRELSON: Please excuse this juror from this
6 case.

7 THE CLERK: You're excused from this particular case.
8 Juror number 70, Christine Cox. What say the State?

9 MR. HARRELSON: Please present this juror.

10 THE CLERK: Defense?

11 MR. O'NEILL: Please seat this juror.

12 THE CLERK: Please be seated in the jury box.

13 THE CLERK: Juror 327, Mary Stephens-Clark.

14 What say the State?

15 MR. HARRELSON: Please present this juror.

16 THE CLERK: Defense?

17 MR. O'NEILL: Please excuse this juror.

18 THE CLERK: You're excused from this particular case.
19 Juror number 151, Jacob Hubbard. What say the State?

20 MR. HARRELSON: Please present this juror.

21 THE CLERK: Defense?

22 MR. O'NEILL: Please excuse this juror.

23 THE CLERK: You're excused from this particular case.

24 THE COURT: State has exercised three strikes, the
25 defense has exercised eight strikes.

Jury Seated

1 THE CLERK: Juror number 203, Sabina Lynskey. What
2 say the State?

3 MR. HARRELSON: Please present this juror.

4 THE CLERK: Defense?

5 MR. O'NEILL: Please seat this juror.

6 THE CLERK: Please be seated in the jury box.

7 THE CLERK: Juror number 330, Ward Stocking.
8 What say the State?

9 MR. HARRELSON: Please present this juror.

10 THE CLERK: Defense?

11 MR. O'NEILL: Please seat this juror.

12 THE CLERK: Please be seated in the jury box. Juror
13 number 238, Edward Munsch. What say the State?

14 MR. HARRELSON: Please present this juror.

15 THE CLERK: Defense?

16 MR. O'NEILL: Please seat this juror.

17 THE CLERK: Please be seated in the jury box.
18 Juror number 333, Nathanael Suggs. What say the State?

19 MR. HARRELSON: Please present this juror.

20 THE CLERK: Defense?

21 MR. O'NEILL: Please excuse this juror.

22 THE CLERK: You're excused from this particular case.
23 Juror number 317, Patricia Smith. What say the State?

24 MR. HARRELSON: Please present this juror.

25 THE CLERK: Defense?

1 MR. O'NEILL: Please seat this juror.

2 THE CLERK: Please be seated in the jury box.

3 Juror number 49, Lindsay Buckles. What say the State?

4 MR. HARRELSON: Please present this juror.

5 THE CLERK: Defense?

6 MR. O'NEILL: Please seat this juror.

7 THE CLERK: Please be seated in the jury box.

8 THE COURT: We will proceed now to the alternates,
9 Madam Clerk. The strike will be one for the State and two for
10 the defense to reach the two alternates.

11 THE CLERK: Juror number 306, Earnest Sibalich.
12 What say the State?

13 MR. HARRELSON: Please present this juror.

14 THE CLERK: Defense?

15 MR. O'NEILL: Please seat this juror.

16 THE CLERK: Please be seated in the jury box.

17 Juror number 362, Isaiah White. What say the State?

18 MR. HARRELSON: Please present this juror.

19 THE CLERK: Defense?

20 MR. O'NEILL: Please excuse this juror.

21 THE CLERK: You're excused from this particular case.

22 Juror number 34, Emile Blake. What say the State?

23 MR. HARRELSON: Please present this juror.

24 THE CLERK: Defense?

25 MR. O'NEILL: Please seat this juror.

Jury Seated

1 THE CLERK: Please be seated in the jury box.

2 THE COURT: Are there any matters of law regarding
3 the jury selection process from the State? Mr. Holford, Mr.
4 Harrelson?

5 MR. HOLFORD: None from the State.

6 THE COURT: Thank you. From the defense, Mr. Fox,
7 Mr. O'Neill?

8 MR. O'NEILL: None from the defense, Your Honor.

9 THE COURT: Thank you. Ladies and gentlemen, those
10 of you who were not selected as a juror for this trial, I want
11 to thank you for your cooperation and your patience throughout
12 the day. I'm going to be able to send you home now and let you
13 get a lottery ticket on your way back to wherever you're going
14 where you came and I ask, however, that you call the number on
15 the card that you received earlier today tonight after 6:00,
16 just to get instructions as to whether we need you anymore or
17 whether you're not going to have to come back, but call that.
18 You've got the instructions from the Clerk already about that.
19 You know how it works. You call in after 6:00, there will be a
20 message on it, there's a message you can't argue with or talk
21 back to, it will just tell you what you need to do. I do
22 appreciate the fact that you have given us your time, a half a
23 day already today, and we're willing to give longer if we had
24 need it, but we did not. Thank you for your civic
25 responsibility in showing up today and going through this

1 process. I wish that you had a chance to sit on this jury, or
2 any jury, as a matter of fact. You get some flavor of what
3 jury service to you is, you showed us that this morning sitting
4 around half a day and having a whole lot of questions and then
5 leaving. You really don't get the full flavor to inquire of us
6 and it's important for us to involve you in that process, these
7 folks will, they will. They'll know what it is to have to
8 listen and decide and they'll know how important their role is
9 as jurors in this case. You'll just have to get indirectly.
10 But I thank you for your willingness to go forward with it if
11 you had been asked to do it. Have a safe trip home. Call that
12 number after 6:00 this afternoon. Thank you very much.

13 Now, folks, you have all, obviously, been selected as
14 jurors for the trial in this case, and I thank you, too, for
15 your patience and your cooperation with us throughout this
16 process. As I told you earlier, we're going to start the trial
17 of this case tomorrow morning at 9:30. So when you leave here
18 in a few moments you'll follow Mr. Ropp, and he'll be in charge
19 of you throughout the trial of this case as your custodian, and
20 he will be taking care of you. You will follow him, and he'll
21 show you the jury room that you'll report to in the morning at
22 9:30. You won't come back into the courtroom, you'll go
23 directly into the jury room and wait there and we'll get you
24 out at 9:30 to start the trial of the case. Before we start
25 the trial tomorrow morning I will give you some specific

1 instructions about what you can and cannot do as jurors during
2 this trial to keep you from innocently and mistakenly doing
3 some of those things that you might not know that you couldn't
4 do or shouldn't do between now and then. Let me tell you very
5 briefly this, that during the trial of this case you're not
6 allowed to try to find out anything on your own about this case
7 outside of this courtroom. You can't Google this or try to go
8 on Facebook, or whatever those things are, and try to find out
9 something about this case by plugging in names and things of
10 that nature, don't do that, you're not allowed to do that. You
11 can't talk with anybody else about this case and you can't let
12 anybody else talk with you about it during the trial of this
13 case. When the trial is over you can take all the time you
14 want to to talk it amongst yourselves and after you've reached
15 a decision in this case you can do anything you want to about
16 trying to discuss it with people and look it up if you want to,
17 but not until then. It has been obvious to you all what we
18 have been trying to do throughout the entire process starting
19 this morning when you were downstairs and what we followed up
20 with when you came up into this room was this, to make sure
21 that when we had 14 people sitting in those chairs there that
22 we would have people who did not have any interest in this
23 case, didn't have any knowledge about this case that would
24 impact your decision, didn't have any involvement with any of
25 the people who were involved or the issues that were involved,

1 who came into this case as jurors with a completely blank slate
2 for the witnesses in this case and for the law, to right up on
3 that blank slate and for you to look at that and reach your
4 decision based on those things, not what somebody else tells
5 you, not what you try to find out on your own outside of this
6 courtroom. It is only in this courtroom that both sides have
7 the protection that the law gives them to this process. It is
8 here that whatever is said in this courtroom from witnesses
9 have to be bent to the test of strict truth on lawyers for both
10 sides, and that's why all that you need to know about this and
11 all that you're allowed to know about this case in order to
12 render a verdict you will learn from this courtroom right here,
13 from this witness chair right here and from any items or
14 documents that might come in through the record of this case
15 during the course of the trial. If you should do anything to
16 try to find out anything on your own about this case you will
17 have upset the process that you've been part of and given your
18 time today, too, as well, and I know you won't do that, but I
19 need to make that impression on you just to keep you from
20 slipping up and doing some of those things without knowing you
21 weren't supposed to do it, so now you know, don't do it. Okay.
22 I'll see you in the morning at 9:30. Have a safe trip and
23 please be back at 9:30 tomorrow morning. Thank you.

24 (Jury excused for the day.)

25 MR. HOLFORD: Your Honor, if I may?

1 THE COURT: Yes, sir.

2 MR. HOLFORD: The jury has been left out of the room.
3 It's been brought to my attention, number 46, the second juror
4 selected, I believe that's Ms. Brown-Mccray, I've been advised
5 that Winter Parker's mother knows that juror or that juror
6 knows Winter Parker's mother. It's unclear whether she knows
7 the victim, Winter Parker herself, but I did want to bring that
8 to the Court's attention. Maybe we can question her about
9 that.

10 THE COURT: Tell me the connection once again. Who
11 knows what about who?

12 MR. HOLFORD: The victim, Winter Parker, her mother
13 knows the juror, the juror knows the mother. I apologize. I
14 was basing it off the positioning of the juror, not actually
15 knowing the name. It was the lady in the front row so I didn't
16 count. That would be juror number, Smith --

17 THE COURT: Juror number 317?

18 MR. HOLFORD: Juror 317, Patricia Smith. So I was
19 incorrect about Ms. Brown-Mccray. Ms. Patricia Smith, she was
20 on the front row.

21 THE COURT: So Ms. Patricia Smith knows the victim's
22 mother?

23 MR. HOLFORD: That's what I've been informed of.

24 THE COURT: We will inquire first thing in the
25 morning when they get back about that involvement and see what

1 the extent of it is and what we have to do next.

2 MR. HOLFORD: Yes, sir. Thank you.

3 THE COURT: I think the only pre-trial matter that we
4 talked about informally this morning during the docket call was
5 the issue of gang involvement and how much of that can get into
6 the trial of this case. I think you all were going to do some
7 research on that and share that with me at some point in time.
8 Where are we with that?

9 MR. HOLFORD: Your Honor, Deputy Solicitor Scott
10 Hixon has pulled a South Carolina Court of Appeals Opinion. I
11 don't have a copy yet but I can provide it to the Court and
12 provide it to the defense. It appears that it was filed
13 June 23, 2021. That is the case of Micky Martel Johnson,
14 Petitioner, versus State of South Carolina, Appellate Case
15 Number 2017-001292, and in that Opinion the Court affirmed the
16 use of gang activity mentioning by the State. I believe that
17 it would have to go under a 404 (b) analysis still, so the
18 mention of it is prejudicial, I think that's clear. It would
19 be -- testimony about gang affiliation would be considered
20 prior bad act evidence and therefore the rule, the 404 (b) but
21 that it is allowed if the State demonstrated a legitimate
22 purpose doing something more than just proving propensity to
23 commit a crime itself, lying in motive, identity, existence of
24 a common scheme and plan, absence of mistake or accident or
25 intent and the State would be ready to argue that it would show

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1 this evidence or use this evidence to show motive and intent of
2 the defendant. The testimony will be from multiple witnesses
3 that the reason that the victim was killed in this case was
4 because he did not want to be involved in the gang that the
5 defendant is involved in, and so the mentioning of the gang
6 will be that he's involved in a gang, and this specific act,
7 not past criminal activity, there's no mention of past dealings
8 or past bad acts, but that this activity was related to this
9 defendant's involvement in that gang, and that was the reason
10 why he committed this murder.

11 THE COURT: Okay. It's been some time, I read that
12 case when it came down last year and I remember it, but my
13 recollection is it came last year and my recollection is that
14 there was rather stringent analysis by the Appellate Court on
15 the prejudice probative malice and intents. Did Justice Hill
16 write that Opinion?

17 MR. HOLFORD: Yes, sir, that's correct, Justice Hill.

18 THE COURT: And I would like to read it again myself,
19 of course, before we get into this, I need not to remind
20 anybody that you don't have to prove motive. Motive is not an
21 element of the crime.

22 MR. HOLFORD: Yes, sir.

23 THE COURT: But let me read that again, and I'll be
24 glad -- well, I think it would be better after I've read it to
25 hear your argument, quite frankly. Josh, you've already put a

1 good foundation, and Eric, I'll be glad to hear from you now,
2 as well, if you all would count on me to blend your arguments
3 into the case after I have read it. As I said, I remember it,
4 I remember the analysis that was made at the time.

5 MR. FOX: Judge, I certainly, you don't need me to
6 read quotes from the case that you're familiar with and will
7 read yourself. I agree, I think there is a stringent analysis
8 under 403 whether the probative value outweighs the prejudicial
9 effect. There certainly is some prejudicial effect and the
10 whole goal and the whole point in 404 is to avoid propensity
11 evidence, and as Your Honor correctly points out, and I would
12 argue the State is not required to prove motive or intent.
13 That would be the only exceptions the Lyle exceptions that
14 would apply here. It's not a matter of identity or actions of
15 mistake or common scheme or plan in this case, so it would only
16 be for motive or intent but they're not required of the State
17 to prove. Judge, I would also argue under the 403 that this
18 potentially -- the other part -- 403 of course is the
19 probative, one element is the probative versus prejudicial
20 effect, but the other parts of 403 deal with cumulative
21 evidence and repetitive evidence and evidence that would be
22 misleading the juror, and there's language in Johnson that
23 talks about gang evidence being distracting because it does
24 conjure up just the nature of it, just the mention of gang
25 activity conjures up lawlessness, the image of lawlessness of

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1 violence in most people's minds, and I would argue that the
2 language Johnson uses a distraction I would say that's an
3 alibis to being misleading. If you're distracting a juror
4 then, intentionally or not, I believe you're misleading that
5 juror, so I'll argue further and let Your Honor read the case.
6 I think it's pretty straight forward in the analysis that has
7 to be done. We certainly object to any mention of gang
8 activity or gang affiliation.

9 THE COURT: Mr. Holford, unless you would like to add
10 to what you've already told me preliminarily about this, if you
11 all could get me a copy of that for me to study overnight, and
12 I can get here in the morning a little bit before 9:30 and hear
13 any final remarks that any of you were to have on that issue at
14 that time. I take it we're not being extensive, obviously, but
15 in case there's some point that you want to make that you
16 haven't made, let me look at that and take it all into account
17 and I'll rule before you have to start on openings tomorrow.
18 Is that okay?

19 MR. HOLFORD: Yes, Your Honor.

20 MR. FOX: Yes, Your Honor.

21 THE COURT: Are there any other issues floating
22 around in here that we need to take care of before we break?

23 MR. HOLFORD: Your Honor, there was no statement
24 given by the defendant so we do not need a Jackson V. Denno.
25 There was no law enforcement initiated lineup, show up, six

1 pack, anything like that, so I don't believe that there is a
2 Biggers issue, to my knowledge.

3 THE COURT: That's my understanding.

4 MR. FOX: I agree with that, Your Honor.

5 THE COURT: As always, we will deal with any other
6 matters that come up in the morning. We will also deal with
7 the issue of the juror, and once we get those things laid
8 aside, we'll bring in the jury and I'll appoint the foreperson,
9 the jury will be sworn, I'll make a brief introductory comments
10 and I'll allow your openings, and we'll start that time. Okay?

11 MR. HOLFORD: Yes, Your Honor.

12 THE COURT: I'll see you in the morning at 9:30.

13 MR. HOLFORD: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (Concluded for the day Monday, August 8, 2022)

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1 (Were upon proceedings reconvened Tuesday, August 9, 2022)

2 THE COURT: Folks, the first order of business is to
3 deal with the gang issue. I have hoped to find a copy of the
4 report on the desk but I didn't, and my law clerk, of course,
5 is not with me this week, so if you want to hand me the case
6 that we talked about yesterday so I can have that in front of
7 me when I hear any final remarks concerning that issue. After
8 that we also have an issue with the juror that we need to deal
9 with before we can get started.

10 MR. HOLFORD: Your Honor, we're making copies of it
11 right now.

12 THE COURT: I'm sorry, I should have made that
13 clearer, I can usually get it on my computer but, well, we just
14 haven't been talking to each other this week, my computer and
15 I. We have sort of a love/hate relationship. It doesn't
16 listen to me and I don't understand it. It's just one of those
17 days. I couldn't get into Westlaw for whatever reason, I've
18 had some problems.

19 MR. HOLFORD: Your Honor, one of the easy things I
20 think we can address is, we had talked yesterday morning about
21 possibly sequestration of witnesses. That was not necessarily
22 brought up, if that's something that we're going to do.

23 THE COURT: I've got it on the list, we'll do that
24 right now.

25

1 MR. FOX: I would make that request, Your Honor,
2 other than Ms. Parker who is an alleged victim and a lead
3 investigator for the State.

4 THE COURT: Mr. Holford, what says the State about
5 that?

6 MR. HOLFORD: Your Honor, the State has designated
7 Amy Jackson, she's shown on reports as Amy Hardwick, but Amy
8 Jackson, as our lead investigator in this case. Winter Parker
9 is the victim who is still with us. There are many members of
10 family and friends who will not be witnesses in this case who
11 will be present in the courtroom, but the State will sequester
12 all remaining witnesses.

13 THE COURT: Very good. Sequestration, of course,
14 will be reciprocal for any defense witnesses, as well, and
15 sequestration will go into effect immediately after opening
16 arguments.

17 MR. HOLFORD: Thank you, Your Honor.

18 THE COURT: Thank you. I've got a gap in page issue
19 or maybe they aren't in the right order. I can't tell. I
20 don't have all the pages, I'm sorry. Can you all look?

21 MR. HOLFORD: I apologize, Your Honor. I think we
22 might have copied it one-sided, and it's two-sided. May I
23 approach?

24 THE COURT: Yes.

25 MR. HOLFORD: And Your Honor, this copy does have my

1 marks on it.

2 THE COURT: That's okay. Thank you, folks. I've had
3 the M-A-K-E-L-L Johnson report, opinion number 5828 from the
4 Court of Appeals filed June 23, 2021. I've had a chance to
5 read. The State intends to offer evidence of gang affiliation,
6 apparently now, and Mr. Fox let me hear from you in response to
7 those intentions.

8 MR. FOX: Judge as a threshold issue I think the
9 Court needs to know what exactly they intend to introduce and
10 generally through what witnesses and what these witnesses would
11 say, at least a summary.

12 THE COURT: Let's hear from the State.

13 MR. HOLFORD: Yes, Your Honor, the State intends to
14 call several witnesses who are familiar with Tyshawn Brown.
15 They also know him by the name "Smoke" and they will testify
16 that he is a high-ranking member of a gang. They will also
17 testify that there was a conversation, another individual in
18 the vehicle, Heath Reaves, is a lower-level foot soldier member
19 of the same gang, and that Tyshawn told him to kill the victim
20 in this case, and that was the reason they followed the victim,
21 that Heath was supposed to shoot him and did not and that
22 Tyshawn as the higher ranking member of this gang did kill him
23 and the reason he killed him is because Charles Durant did not
24 want to be a part of the gang. So the testimony will be
25 limited to this one specific instance. We're not talking about

1 past instances, we're not talking about drug dealings or gang
2 violence in the past, we're simply talking about the gang
3 affiliation and the reason why this higher ranking gang member
4 murdered Charles Durant for not wanting to be a part of that
5 gang so it does go to the motive and intent under 404(b): The
6 proponent must demonstrate some legitimate purpose. And so
7 we're not raising the issue of gang to show a propensity for
8 violence, we're merely raising the issue of gang to show why in
9 this specific case here today in this trial the actions were
10 taken by the defendant. So I believe with that, and it shifts
11 to a 403 analysis whether the prejudice, because it is
12 prejudicial, there's no question about that. We are talking
13 about gang affiliation so there is prior bad act there, but the
14 question is whether the prejudicial effects substantially
15 outweighs the probative value and so with the State's intention
16 to limit any conversation about gang, this Opinion talks about,
17 you know, when the State in the other case, the Johnson case,
18 talked about a gang known as sex, money, murder, beating
19 people, robbing people, stealing people, selling drugs, it was
20 talking about other instances not involved in the trial going
21 on at the time. They talked about a nickname named "Homicide"
22 or a national leader known as "Machete" or being forced to join
23 or be killed and arranging for subordinate members to commit
24 crimes. The Court drew specific attention to those saying
25 those were probably pushing the envelope, but we don't have any

1 of that in this case. The defendant's name in this gang is
2 "Smoke," it's not "Homicide," it's not "Killer," it's not
3 "Murder," and so the prejudicial effect does not substantially
4 outweigh the probative value of allowing the witnesses to be
5 able to tell why this happened this way.

6 THE COURT: Thank you. Mr. Fox, does that give you
7 something to chew on?

8 MR. FOX: Yes. A couple things that concern -- and
9 I'm familiar with the witness list the State has provided and
10 I'm familiar, there's no surprises on there, through discovery.
11 So I'm a little bit concerned that other than Mr. Heath Reaves
12 who is apparently going to be a cooperating co-defendant, other
13 than Heath Reaves, Mr. Holford mentioned several witnesses, I'd
14 be very concerned that this would be hearsay testimony, we've
15 heard, we think, rather than firsthand knowledge. I'll give
16 one example is Ms. Ms. Eugenia Waller who is a relative of
17 sorts of Mr. Joe Rich who will be a witness and who was in,
18 apparently in this van the night of the shooting. She
19 talks about knowing -- in fact she's one of the ways that Mr.
20 Brown was identified to law enforcement. She thinks that
21 "Smoke," as she knows him is, in fact, Tyshawn Brown, and talks
22 about activities and gang affiliation and gang activity
23 separate from this. So I'm very concerned, it's not clear if
24 she has firsthand knowledge of that, so I would be a little
25 concerned. I think the prejudicial effect is still, even with

1 Mr. Reaves, does still outweigh its probative value. I think,
2 you know, and Your Honor has read the case, you know the
3 language that the Court of Appeals used. The danger of
4 introducing this kind of testimony, the reaction that you may
5 well get, the reaction of, you know, implied lawlessness and
6 violence. And I point out one distinction with Johnson is that
7 the Court felt that testimony was probative because he was also
8 charged with conspiracy and accessory. We don't have those
9 issues in this case and so I think that is one distinguishing
10 factor between Johnson. I would certainly request, if Your
11 Honor does allow, and if we understand very specifically what
12 is going to be allowed in general, and that there be a limiting
13 instruction to the jury at the time of that testimony that what
14 it legitimately is for, which I assume would be under motive
15 and intent, if Your Honor allows it, but not to propensity
16 evidence or inclination towards violence or anything like that.

17 THE COURT: Thank you, Mr. Fox. Mr. Holford? How do
18 you intend to deal with the hearsay issues Mr. Fox has raised,
19 which of course, you raised when you were talking about some of
20 this testimony that you intend to offer?

21 MR. HOLFORD: Your Honor, Heath Reaves has direct
22 personal knowledge. He is in the gang himself. I don't
23 believe that would be hearsay testimony. The only other
24 witness that would mention gang is Joe Rich who was the third
25 member in the vehicle at the time that the plan to follow the

1 victims and end up killing them, killing one and nearly killing
2 another was hatched, and that was based on a conversation in
3 the van by the defendant, so I don't believe that that would be
4 hearsay.

5 THE COURT: And he'll be testifying about that
6 firsthand?

7 MR. HOLFORD: Yes, Your Honor.

8 THE COURT: Okay. The Court, of course, in the well
9 drafted Opinion has all of these appeals one of these days, and
10 it'll be from another Court higher up when his time comes. He
11 did, as Mr. Fox indicated, made it clear that while a motive is
12 not an element of all of the charges, it is an element of
13 conspiracy and accessory which require proof of planning, et
14 cetera, and that appears to be at least one of the reasons that
15 he gave for allowing this evidence to come in in support of
16 those charges, which as Mr. Fox said does not exist in this
17 case. The Opinion is replete with concern, of course, and
18 evidence of gang affiliation demands careful handling because
19 its power to distract the fact finder from its rational task of
20 deciding the facts, et cetera, and luring their attention to
21 lure is there and the trial judge has to temper the risk if
22 that evidence would outweigh or exert an influence on the
23 jury's emotions, and that's always a concern. The case that we
24 were referring to, obviously, had an awful lot in it, and
25 Justice Hill took advantage of this particular case to address

1 the concern that our Supreme Court, Justice Kittredge, in
2 particular, has outlined in many cases, and that is the
3 propensity over trial cases to beat a dead horse, as the case
4 might be, or to skirt the issue on propensity evidence and to
5 tiptoe around the edges and come right close and try not to
6 walk across the line. The Court made it plain that the reason
7 that they don't treat that type of evidence any more harshly
8 than simply to comment upon it was because it dealt with
9 evidentiary points that were not challenged in this particular
10 case, and so that, of course, is always a concern. I'm very
11 familiar with the venue here, it's my home circuit. I tried
12 cases in there for about 20 years before I retired and started
13 doing other things and I echo Judge Hill's concern about
14 over-trying cases. I've now found that true here, you folks,
15 at least in my experience have been a vast exercise of
16 restraint and not to use the burden of proof beyond a
17 reasonable doubt to simply lure the gate to anything that
18 passes a smell test to be offered into evidence, as you've
19 outlined it Mr. Holford, I don't think you have that in your
20 plan in this particular case. This appears to be very narrowly
21 tailored to a narrow set of evidence in a very confined space
22 of time and directed toward motive, at least, reason, motive,
23 whatever it happens to be, for these things to have occurred.
24 The Johnson case referred in part to the fact that it was, in
25 that case, I think, offered somewhere I read this as an

1 explanation for a killing that would otherwise would appear to
2 be completely senseless, and apparently that was something that
3 the Court took into account for some limited purpose. I will
4 allow the very limited evidence as it has been outlined to me
5 assuming it meets the other test of admissibility and does not
6 belabor the record with continued repetition or could tend to
7 tilt the balance of probative versus prejudice in an entirely
8 different way. It certainly it is prejudice. It is only
9 unfair prejudice that attracts the attention of judges and
10 appellate courts, but I recognize that unfair depends on the
11 point of view, really. One person's unfair is another person's
12 pristine proof, and so I will be monitoring this very clearly
13 at the conclusion of trial, of course I will -- and during the
14 trial, if you request it, Mr. Fox, I will be glad to give a
15 limiting instruction during the time this is offered if you
16 wish for that to be done. I will allow the evidence as it has
17 been presented over objection of defense counsel for the
18 reasons that we have talked about and with the restrictions
19 that I have outlined as they have been explained to me. Does
20 everybody understand where we are on that point?

21 MR. HOLFORD: Yes, Your Honor.

22 MR. FOX: Yes, Your Honor.

23 THE COURT: Thank you. Now, we've got the matter of
24 juror number 317, Patricia Smith, and a possible connection
25 with Winter Parker's mother. We will explore that right now, I

1 need to get juror number 317, Ms. Patricia Smith, if you'll
2 bring her in. Does anyone know Winter Parker's mother's name?

3 MR. HOLFORD: Fatima, Your Honor.

4 THE COURT: Thank you. Ms. Smith, good morning.
5 Come in and have a seat in one of those chairs. I'll need to
6 ask you a couple of questions in a follow up to our questions
7 yesterday when you were being qualified to see if there's a
8 possibility that you might have some connection with one of
9 these witnesses that you don't know about it because we maybe
10 didn't make it clear enough to you. When I was reading
11 indictments yesterday I read that one of the alleged victims of
12 the attempted murder was Winter Parker. Does that name mean
13 anything to you?

14 THE JUROR: Could you ask that name again?

15 THE COURT: Winter Parker.

16 THE JUROR: Uh-uh.

17 THE COURT: No. Does the name Fatima Parker mean
18 anything to you?

19 THE JUROR: No. I would have to see the face because
20 I did go to Loris High School in 1990, but I don't recognize
21 that.

22 THE COURT: We're informed that Winter Parker's
23 mother is Fatima Parker and that she might know you, whether
24 you know her or not.

25 THE JUROR: Do you have a picture of her?

1 THE COURT: Ma'am?

2 THE JUROR: Do you have a picture of her?

3 THE COURT: Will you please stand, Ms. Parker?

4 THE JUROR: I don't know her.

5 THE COURT: You don't know her?

6 THE JUROR: (Shakes head, no.)

7 THE COURT: Alright. Okay. Thank you. Any further
8 questions?

9 MR. HOLFORD: Not from the State, Your Honor.

10 MR. FOX: Just for clarification, how did this come
11 to this? The Solicitor can tell us how this came to his
12 attention. In other words, we've heard the answers from Ms.
13 Smith, but I'm curious why there was even any --

14 THE COURT: We can explore that in Ms. Smith's
15 presence, that would be fine, I was going to ask that anyway.
16 Go ahead.

17 MR. HOLFORD: Your Honor, Ms. Parker alerted my staff
18 that she recognized Ms. Smith.

19 THE COURT: Could you inquire her further exactly in
20 what connection that was?

21 MR. HOLFORD: She says they are friends on Facebook.
22 She knows her sister and her.

23 THE JUROR: I don't know her, but can you ask her how
24 she knows me?

25 THE COURT: She says she knows you on Facebook and

1 she knows your sister.

2 THE JUROR: Oh, okay. Your Honor, I have about 5,000
3 friends on Facebook.

4 THE COURT: Ms. Smith, thank you so much. I
5 appreciate that. I appreciate your candor with us. Mr. Fox,
6 let me hear from you further.

7 MR. FOX: Judge, I'm satisfied with the jurors
8 responses and I believe based on her responses today as well as
9 yesterday she can be a fair and impartial juror.

10 THE COURT: Mr. Holford?

11 MR. HOLFORD: Your Honor, I just always try to do due
12 diligence to make sure that we don't create an issue that would
13 come up later. Since I was notified I wanted to bring it to
14 the Court's attention, but I think if the defense is okay with
15 the juror I'm okay with the juror.

16 THE COURT: I think everybody has done exactly what
17 they were supposed to do. Thank you. Are we now ready for the
18 jury?

19 MR. FOX: Your Honor, there's one last issue.
20 So there has been one -- Eugenia Waller who is on the witness
21 list. Ms. Waller, they respond to her, please do, about an
22 incident that occurred earlier in the evening of the shooting,
23 okay, so not related specifically, but from Ms. Waller they
24 learned the names of some of the people that you'll hear today,
25 Heath Reaves, and again, she is related through marriage to Joe

1 Rich, and ultimately to Mr. Tyshawn Brown. That incident
2 involved Mr. Rich confronting Ms. Waller, and I don't believe
3 her husband was there at the time but over family nonsense and
4 waiving a gun around, and I expect based on her statements to
5 police that Ms. Waller may well place Mr. Brown there at the
6 time, which again, is within an hour or two of the shooting
7 that occurred later. Mr. Rich -- and in fact, Mr. Rich was
8 charged with pointing and presenting a firearm and Mr. Brown
9 was not charged with anything relating to that incident but
10 it's I would say a other or prior bad act, and I don't know if
11 they are going to get into that with Ms. Waller, but so that we
12 can address it before she comes in.

13 THE COURT: Let's deal with that now then. Mr.
14 Holford?

15 MR. HOLFORD: Your Honor, at this time she is on the
16 witness list and I do not intend to call her as a witness and
17 if I did I would limit that discussion to Joe Rich's, I guess
18 involvement. Tyshawn was never charged with the pointing and
19 presenting involving Ms. Waller.

20 THE COURT: So we'll deal with what that probative
21 value that might have on anything if she testifies, but I would
22 permit you to lead her around any potential problems with this
23 defendant. Okay?

24 MR. HOLFORD: Yes, sir. Thank you.

25 THE COURT: Thank you. Mr. Fox, does that satisfy

1 that issue?

2 MR. FOX: Yes, Your Honor, that does. Nothing
3 further at this time, Your Honor.

4 THE COURT: Who will be open for the State?

5 MR. HARRELSON: Your Honor, Adam Harrelson for the
6 State will be opening.

7 THE COURT: Mr. Harrelson, thank you. Who will open
8 for the defense?

9 MR. O'NEILL: Nick O'Neill will open for the defense.

10 THE COURT: Thank you, Mr. O'Neill. We'll bring in
11 the jury now, then ladies and gentlemen, I will appoint the
12 foreperson, the jury will be sworn, and I'll make some brief
13 introductory remarks and then we'll begin with the opening
14 statements. Okay?

15 MR. HOLFORD: Your Honor?

16 THE COURT: Yes?

17 MR. HOLFORD: Before the jury comes in, since the
18 sequestration will begin after openings, I just want to read a
19 list of names with any of these people present in the courtroom
20 that would need to be sequestered. That's King Hemingway; Sean
21 Wydra; Chris Hunt; Chris Britt; Cory Dulina; John Brantly;
22 Brandon Strickland; Daniel Spencer; DJ Dudley; Mark Johnson;
23 Merrell Hawkins; Jack Johnson; Robbie Caulder; Matthew
24 Singleton; Jason Vaught; Jack Lee; Virginia Grant; Christian
25 Lara; Michele Eichenmiller; Dr. Proctor; Dr. Thomas Beaver;

1 Heath Reaves; Joe Rich; Eugenia Waller; Dawn Ward; Brittany
2 Burks; Lashaye Washington; Angelica Knox; Annette Singleton;
3 Bob Prajapati; Mark Patel; Crystal Rich; Telina Jackson and
4 Fantasia Ford.

5 THE COURT: If you just heard your name read, ladies
6 and gentlemen, when the opening arguments have been made you
7 must get out of the courtroom. Does everybody understand that?
8 Thank you.

9 (Jury entered the courtroom at this time.)

10 THE COURT: Good morning, ladies and gentlemen.

11 THE JURORS: Good morning.

12 THE COURT: We have been working out here even though
13 you didn't know about it. I asked you to be here at 9:30 and
14 you were. I thank you for that. As is always the case on the
15 opening day of trial there are a lot of preliminary issues that
16 have to be dealt with. Among them in this particular case is
17 the pre-marking of evidence, exhibits which will be presented
18 to you. They do that before you get in so that once the case
19 starts we don't have to take time to do that, and so that's the
20 purpose behind that. Ms. Cox, I want you to swap places with
21 this gentleman right here in the front row, sir, would you mind
22 swapping places with her. Thank you, sir. There you go. Ms.
23 Cox, I've asked you to occupy that place because I want you to
24 serve as the Forelady of the jury. You'll be responsible when
25 the trial is over for writing the verdict of the jury, you'll

1 be the jury spokesperson here in court. I'll tell you more
2 about that long before you have to do it, don't worry about
3 that right now. All you've got to remember is that's your
4 chair. You will occupy that chair throughout the trial of the
5 case.

6 THE JUROR: Yes, Your Honor.

7 THE COURT: Ms. Blake and Mr. Sibalich, folks, you
8 all will be the alternate jurors during the trial of the case
9 and you'll occupy those chairs throughout the trial unless I
10 ask you to sit somewhere else. Okay? The rest of you folks
11 don't reserved seats. You've got to do the best you can when
12 you come in, all are equally comfortable and will provide an
13 equal prospective of what is going in the courtroom. You'll be
14 sworn now, ladies and gentlemen, as jurors. I want you to pay
15 particular attention to the oath you're about to take. It is a
16 time honored and it's an artfully worded oath. I'm going to be
17 reminding you during the trial and after the trial as to
18 exactly what you're sworn to do when you're going to take this
19 oath, so please give your attention now to the Clerk as she
20 administers the oath. Madam Clerk?

21 (Jury sworn.)

22 THE COURT: Folks, let me take just a few minutes now
23 before we actually start the trial of this case to tell you the
24 process that we will be involved in in the trial of the case
25 and tell you and explain to you a little more in detail of what

Jury Instructions

1 your role as jurors will be in the trial of this case. In just
2 a minute when I finish talking to you Mr. Harrelson on behalf
3 of the State is going to stand before you and make a brief
4 opening statement and in that opening statement he is going to
5 outline for you in something of a preview fashion what this
6 case is all about from the State's point of view, and after the
7 State has presented its opening statement then the defendant,
8 Mr. Brown, has the right through his attorneys, and in this
9 case it will be Mr. O'Neill, to make an opening statement on
10 his behalf. He doesn't have to do that, but he's allowed to do
11 that if he chooses to do so. After the opening statements have
12 been made then you will actually begin to see and hear the
13 presentation of evidence that will be presented to you.
14 Evidence for the most part will be the testimony of witnesses
15 who will take an oath sitting right here in this chair between
16 you and me and answer questions that the lawyers will put to
17 them, both sides will ask them questions. Evidence will also
18 take the form, I can look at it from here and see that there
19 are photographs out here, there will be other things, items and
20 documents and things like that that may come into evidence in
21 the trial of this particular case. The State will present its
22 evidence and testimony first and after the evidence and
23 testimony has been presented on behalf of the State the
24 defendant has a right to present evidence and testimony, and
25 once again, is under no obligation to present evidence or

1 testimony on his behalf. After all of the evidence is in then
2 the lawyers will come back before you and make their final or
3 closing arguments and then when they've done that I will
4 instruct you or tell you as to what the law is in this case,
5 and then you'll be allowed to go into your jury room and
6 deliberate and reach a verdict in this case. I remind you
7 again that you are not allowed to talk about this case during
8 the trial of the case, even among yourselves. You might hear
9 something out there and you go back in there for a break and
10 you might have some questions, gosh, I'd like to know a little
11 more about that, what do you all think? Well, you can't do
12 that, you can't do it then, and the reason you can't do it then
13 is because when you start talking about the evidence and the
14 testimony you're going to start to make up your mind about the
15 evidence and testimony. It could be that later in the trial of
16 the case you might hear somebody tell you something that's
17 decidedly different from what you've heard and what you've
18 started to talk about, but if you've already started to talk
19 about it you're not going to receive that later evidence even
20 though it's different with an open mind because you've already
21 started to make up your mind. And so what we ask you to do is
22 keep an open mind throughout the trial of this case. You'll be
23 thinking as you go, it's the process, obviously, and that's the
24 fine, that's the way it's supposed to work, but you won't start
25 your discussions among yourselves and start working back your

1 collective opinions until you've heard it all. Then you can
2 take as much time as you want to, talk about it as long as you
3 want to in making the decisions that you're going to have to
4 make in this case, but not until then, and I remind you again
5 not to talk about it with anybody else, don't expose yourself
6 to any information about it from any other sources. All you're
7 allowed to know you will learn from this courtroom and from no
8 other source. Now, I talked with you about the opening
9 statements and the closing statements and things of that nature
10 and you took an oath to decide this case based on the law and
11 the evidence. Let's talk about evidence for a moment, because
12 when it comes to evidence, ladies and gentlemen, you, ladies
13 and gentlemen are actually judges. Those badges say "juror,"
14 and that's exactly who you are, but when it comes to evidence,
15 you are the judges. You must listen to the testimony that you
16 will hear and view the evidence. You're the ones that have to
17 assign weight to it. You have to decide what actually
18 happened. You have to decide the facts of the case, and so you
19 are the judges of the evidence in that respect. I'm the judge
20 of the law, I've got the easy job. All I've got to do is to
21 decide as a matter of law whether you can hear somebody tell
22 you something from this witness chair or whether you can look
23 at one of these photographs or not, but once I decide that you
24 can hear that testimony or look at the photograph or look at
25 any other item of evidence, what you do with it from that point

1 on is entirely up to you, you've got the right to believe it or
2 not to believe it. You have the right to decide how important
3 it is to the decision that you're about to make. Now, evidence
4 in this case, as I have said, is the testimony from this
5 witness chair and those items and those documents. The opening
6 statements themselves, closing statements, are not evidence.
7 The questions that the lawyers ask are not evidence. It is the
8 answers to those questions that are the evidence. I tell you
9 at that point because some of you have asked whether you can
10 take notes or not. There's no rule against it, it's really up
11 to the judge to decide whether you are allowed to take them,
12 you don't have to take notes, but if you decide that you want
13 to take some notes let me caution you about what you can and
14 cannot do and what you should and should not do in deciding
15 what you would write down on the notepad. First of all, if
16 you're taking notes don't write down the question. Why?
17 Because the question ain't evidence, and you're making your
18 decision based on the evidence. You will not be allowed to
19 take notes during the closing arguments or the opening
20 arguments, same reason, they're not evidence. And so when
21 you're writing things make sure that you're writing things
22 down, first of all, that is evidence, and don't get so consumed
23 in writing down that answer that something else slips by: What
24 did he say? I don't know. Some of us remember from school
25 days when we'd have to write notes and we got fairly good at it

1 for a while in what we could do or not do, but there's always
2 something we left out, there was always something important
3 that we heard but didn't write down and therefore didn't
4 remember it, and when our memory alone would have sufficed, at
5 least we would have been listening to it all and not writing
6 during part of it. So there you go, if you want to take notes
7 you can, but make sure you stand within those limits and don't
8 go beyond them and when you get into the jury room at the
9 conclusion of this trial and you start talking about this case
10 and everybody's collective memory says one thing and your notes
11 say something else, it's the collective memory that's
12 important, not one person's notes. I told you just a few
13 moments ago that the defendant in this case does not have to
14 make an opening statement, doesn't have to present evidence if
15 he chooses not to do so, and the reason for that is, as I
16 indicated yesterday, the defendant in this case has pled not
17 guilty to the charges against him in this case and when Mr.
18 Brown pled not guilty to the charges in these indictments he is
19 presumed in the law to be innocent of those charges. That
20 means that he doesn't have to take the stand and convince you
21 that he didn't do the things he's accused of doing. He doesn't
22 have to bring in a slew of witnesses to try to make you believe
23 that he's innocent or that he did not do the things he is
24 charged with doing. He is presumed to be innocent of those
25 charges. He has no burden of proof. He does not have to

1 convince you. The State, on the other hand, not just in this
2 case but in every case like this has the burden of convincing
3 you that he is guilty beyond a reasonable doubt. The State has
4 to convince all 12 of you beyond a reasonable doubt of his
5 guilty, that's its burden in every case like this. When the
6 trial is over I'll tell you what we mean by proof beyond a
7 reasonable doubt, but right now for these limited preliminary
8 instructions, let me tell you that proof beyond a reasonable
9 doubt is proof that leaves you firmly convinced to the
10 defendant's guilt. So after you've heard everything in this
11 trial that's going to be heard and you go back in your jury
12 room and start talking about it amongst yourselves and if you
13 are firmly convinced that the defendant is guilty of the crimes
14 charged and the State has met its burden of proof, he would be
15 entitled to a verdict of guilty at your hands. But after
16 you've heard it all and you go back in there and start talking
17 about the case among yourselves, if you think there is a real
18 possibility that he is not guilty, the State has not met its
19 burden of proof, in that case Mr. Brown would be entitled to a
20 verdict of not guilty at your hands. So there you go, that's
21 what's going to happen today and tomorrow, maybe into Thursday,
22 we don't know yet, and when you've heard it all you're going to
23 go back into your jury room and you'll start talking about this
24 case among yourselves and when you are finished talking about
25 it among yourselves you are going to write down a verdict on a

Opening by Mr. Harrelson

1 sheet of paper that will be given to you and on that verdict
2 you will express your opinion as to whether or not the State
3 has met its burden of proof, and you will express that opinion
4 in written form on that verdict form that says we find the
5 defendant guilty or we find the defendant not guilty, according
6 to your view of the evidence. Thank you, folks, for your
7 attention. Now, please listen to the lawyers as they make
8 their opening statements. Mr. Harrelson?

9 MR. HARRELSON: Thank you, Your Honor. May it please
10 the Court?

11 THE COURT: Yes, sir.

12 (Attorney Harrelson presented an opening statement
13 on behalf of the State at this time.)

14 MR. HARRELSON: Good morning everyone.

15 THE JURORS: Good morning.

16 MR. HARRELSON: This week you're going to hear about
17 a cold blooded night. You're going to hear how this defendant,
18 Tyshawn Brown, he was with a group of friends at a gas station
19 in Loris. He made contact with the victim, Charles Durant.
20 Now, the defendant, he waited for Charles to leave the gas
21 station and he took that opportunity to follow Charles a few
22 miles down the road. Once Charles made it to the stop sign the
23 defendant took that opportunity and he drove right beside the
24 victim, parked his vehicle right in front of him and then he
25 got out of the driver's side of the vehicle, walked around,

1 raised his firearm and murdered Charles Durant. He then moved
2 his firearm over and he attempted to murder Charles' girlfriend
3 at the time, Winter Parker, who was sitting in the passenger
4 seat of the vehicle. Now, that is why the defendant is charged
5 with murder and attempted murder. Now, as the prosecutors,
6 Josh and I have the burden to prove to you all beyond a
7 reasonable doubt that the defendant did, indeed, murder Charles
8 and attempted to murder Winter, and beyond a reasonable doubt,
9 the defense is going to try to make you all believe that that's
10 a burden that's impossible to achieve, but it's not. Beyond a
11 reasonable doubt is a burden of proof that must be proven in
12 all criminal cases throughout this nation. Beyond a reasonable
13 doubt means that you are firmly convinced, it means that you
14 know that you know that you know that something's been done and
15 as the prosecutors we're going to bring you the evidence. It
16 will be right here on this stand and after you listen to the
17 testimony of the officers who investigated the crime and after
18 you see the surveillance from the gas station and you will also
19 hear testimony from those who were present during the shooting,
20 you too will be firmly convinced, and you too will find beyond
21 a reasonable doubt that Tyshawn Brown, that defendant, he
22 murdered Charles Durant, and he attempted to murder Winter
23 Parker and at that time you'll return a guilty verdict for
24 murder and attempted murder. Thank you.

25 THE COURT: Thank you, Mr. Harrelson. Mr. O'Neill?

Opening by Mr. O'Neill

1 (Attorney O'Neill presented an opening statement on
2 behalf of the Defendant at this time.)

3 MR. O'NEILL: Good morning.

4 THE JURORS: Good morning.

5 MR. O'NEILL: Members of the jury, my name is Nick
6 O'Neill and I along with Eric Fox represent Tyshawn. Now,
7 Tyshawn has been charged with murder and attempted murder.
8 Like the judge said, the burden of proof in this case is beyond
9 a reasonable doubt. It's not an impossible burden but it is a
10 difficult one. It's the highest burden we have in the American
11 judicial system and the State is going to have to try and prove
12 that burden to you by physical evidence and witness testimony.
13 Now, the physical evidence in this case, they've got a lot of
14 pictures, but I want you to be on the look out for what they
15 have and what they don't have. Is there DNA, are there
16 fingerprints? Is there any physical evidence, tying Tyshawn
17 Brown to that crime scene? The other thing you're going to use
18 is witness testimony. Now, just because somebody sits in that
19 jury box or sits in that witness stand and says something
20 doesn't make it a fact. You all are the fact finders in this
21 case. An important part of that job is judging the credibility
22 of witnesses. Who is saying it and why are they saying what
23 they're saying? Some of the witnesses in this case might have
24 some reasons to lie, might have some biases, might have some
25 motivations. Why would they be pointing the finger at Tyshawn

1 Brown? What was their involvement in this crime? When you
2 look at the physical evidence or lack thereof in this case and
3 when you look at the credibility of the State's witnesses and
4 you put those together, I think you'll find that the State
5 cannot meet its burden. The two main witnesses I think the
6 State will bring are going to be Joe Rich and Heath Reaves, the
7 two supposedly other people in the van at the time of the
8 shooting. It was not Tyshawn Brown by himself, if it was at
9 all Tyshawn Brown there. So I want you to pay attention to
10 those witnesses, really what they say and why they might be
11 saying what they're saying, why they would be pointing the
12 finger at Tyshawn and away from themselves, and at the end of
13 this trial we're going to ask you to really think about what
14 physical evidence was presented, what the witnesses said, why
15 they might have said that. With those together I think you'll
16 find that the State cannot meet its burden and then you'll have
17 to find Tyshawn Brown not guilty of these charges. Thank you.

18 THE COURT: Thank you, Mr. O'Neill. A sequestration
19 order is now in effect. You can call your first witness.

20 THE COURT: The Clerk is handing out notepads if you
21 choose to use them. You will leave them in the jury room
22 tonight, of course. You're not required to take notes, we're
23 not trying to guilt you into taking notes, they're available if
24 you choose to. You can call your first witness.

25 MR. HARRELSON: Yes, Your Honor. At this time the

Jason Vaught-Direct by Mr. Harrelson

1 State calls Jason Vaught.

2 THE COURT: Mr. Harrelson?

3 MR. HARRELSON: Thank you, Your Honor.

4 **Jason Vaught being first duly sworn, testified as**
5 **follows:**

6 DIRECT EXAMINATION

7 BY MR. HARRELSON:

8 Q. Good morning, Jason, how are you?

9 A. Good morning. Good. Thank you.

10 Q. Thank you for being with us. Jason, I'm just going to
11 ask you a few questions, if you don't mind. Who is your
12 current employer?

13 A. I am currently employed with South Carolina Probation
14 and Parole.

15 Q. How long have worked with them for?

16 A. For about seven months.

17 Q. So did you work for them back in 2018?

18 A. No, sir, I did not. I was employed with the Horry
19 County Police Department at that time.

20 Q. Now, at that time what did you have to do at Horry
21 County?

22 A. I was a patrol officer. I responded to all crimes, of
23 course, in the county.

24 Q. And back in 2018 did you respond to an incident that
25 happened on April 24, 2018?

1 A. Yes, sir, I did.

2 Q. Where was that incident located?

3 A. That incident was at [REDACTED] Spring Street in the City of
4 Loris.

5 Q. And the City of Loris, which county is that in?

6 A. Horry County.

7 (State's Exhibit No. 1 was marked for identification.)

8 Q. If you don't mind, I'm going to approach with a map.
9 I'm going to show you what's State's Exhibit Number 1. What is
10 this a map of?

11 A. That is the city of Loris.

12 Q. How do you know this is a fair and accurate
13 representation of the City of Loris?

14 A. I'm just very familiar with the area.

15 Q. And has this been changed or altered in any format?

16 A. No, sir, not that I'm aware of, no.

17 MR. HARRELSON: Your Honor, at this time the State
18 would like to offer State's Exhibit Number 1 into evidence.

19 MR. FOX: No objection, Your Honor.

20 THE COURT: Without objection, State's 1 into
21 evidence. Thank you.

22 MR. HARRELSON: Your Honor, at this time the State
23 would like to publish State's evidence.

24 THE COURT: Sure.

25 Q. What is this address at the red dot?

Jason Vaught-Direct by Mr. Harrelson

1 A. [REDACTED] Spring Street.

2 Q. Did you respond to that address?

3 A. Yes, sir, I did.

4 Q. When you responded, what did you see, what did you
5 observe?

6 A. When I arrived which was on April 24, 2018 on or around
7 9:41 p.m. I responded to a shots fired call in the area. Upon
8 arriving I was the first officer on the scene, or the on scene
9 reporting officer. I seen a green S10 --

10 THE WITNESS: Excuse me.

11 MR. HARRELSON: That's fine, look at your notes.

12 A. Yeah, a S10 Chevrolet green pickup truck which was
13 occupied by victim number one in the vehicle.

14 MR. HARRELSON: Court's indulgence, please.

15 (State's Exhibit 17 through 23 were marked for identification.)

16 Q. If you don't mind I'm going to approach with State's
17 Exhibit 17 through 23. I'm going to hand these photos to you.
18 What are these photos of?

19 A. These photos are photos of the vehicle that was involved
20 in the incident that night.

21 Q. If you can just go through. Do they look like fair and
22 accurate representations of what you saw when you arrived?

23 A. Yes, sir, they do. They look exactly like what I recall
24 that night, yes, sir.

25 Q. Nothing has been altered or changed?

1 A. No, sir.

2 MR. HARRELSON: Your Honor, at this time the State
3 would like to offer State's exhibits into evidence.

4 THE COURT: Mr. Fox?

5 MR. FOX: No objection. If the State could indicate
6 the numbers of the exhibits.

7 MR. HARRELSON: Yes, Your Honor, the State would like
8 to offer State's Exhibits 17 through 23, Your Honor.

9 (State's Exhibits 17, 18, 19, 20, 21, 22, & 23 were
10 admitted into evidence.)

11 Q. While we're getting this set up, did you take these
12 photos?

13 A. No, sir, I did not.

14 Q. Who took these photos?

15 A. Those photos would have been taken by our crime scene
16 division.

17 Q. And roughly how much longer I guess after you showed up
18 to the scene would you say these photos were taken?

19 A. Again, I arrived on scene at 9:41 p.m. and actually I
20 released to scene over to CID at 2233, which would be 10:33
21 p.m.

22 MR. HARRELSON: Thank you. Court's indulgence as we
23 set this up?

24 THE COURT: Okay.

25 MR. HARRELSON: Your Honor, the witness is not able

Jason Vaught-Direct by Mr. Harrelson

1 to see the screen. Would you mind if he steps away?

2 THE COURT: You can step down if you wish. I want
3 you to stand on the other side of the screen and face this
4 direction, if you'll do that, so that you'll be facing the
5 court reporter.

6 Q. I want to show you what State's evidence number 17 is.
7 Can you tell the jury, what is this a photo of?

8 A. This is a photo of the vehicle that I found responding
9 to the incident that was involved in the shooting.

10 Q. I'm going to show you State's evidence number 18. Is
11 the same vehicle that you observed?

12 A. Yes, sir, it is.

13 Q. And do you remember what the make and model of the
14 vehicle was?

15 A. Yes, sir, I do. It was a green in color S10 pickup
16 truck and it was bearing South Carolina tag of NSF189.

17 Q. I'm going to show you State's evidence number 19. What
18 is this a photo of, the same truck?

19 A. Yes, sir, it is, the same vehicle that was involved.

20 Q. Now, when you arrived did you see anybody inside the
21 pickup truck?

22 A. Yes, sir, I did. The vehicle was occupied by victim
23 number one.

24 Q. I'm going to show you State's evidence 20. Is this how
25 the scene appeared when you showed up?

1 A. Yes, sir, that's correct.

2 Q. I'm going show you State's evidence number 21. Did you
3 see anybody else, I guess, near this truck whenever you showed
4 up?

5 A. No, sir, I did not. Once we -- obviously when I arrived
6 on the scene we secured the location, it was immediately
7 secured and flagged as crime scene and nobody was around or
8 tampered with anything dealing with that vehicle or the crime
9 scene in general.

10 Q. I'm going to show you State's evidence number 22. This
11 is located within the cab of the vehicle, correct?

12 A. Yes, sir.

13 Q. And State's evidence number 23. From the picture of a
14 window, did that appear as if the window was rolled down or was
15 the glass shattered?

16 A. Yes, sir, the glass was shattered.

17 MR. HARRELSON: Thank you. You can sit down.

18 THE WITNESS: Yes, sir.

19 Q. So when you appeared on scene, so you saw the victim,
20 Charles, correct?

21 A. Yes, sir.

22 Q. And did you see Winter Parker when you arrived?

23 A. I did not.

24 Q. And did you know where Winter Parker was at the time?

25 A. It was brought to my attention with officers who also

Jason Vaught-Cross by Mr. Fox

1 responded that that victim was in the house at the time of the
2 Complainant that had called.

3 Q. And what else did you do? Did you start a crime scene
4 log?

5 A. Yes, sir, I did. I immediately, again, secured the
6 scene and a crime scene log was started and maintained until
7 CID arrived.

8 Q. And did you speak to any witnesses?

9 A. I did not, at that time I did not.

10 MR. HARRELSON: Court's indulgence?

11 THE COURT: Okay.

12 Q. And while you were on the scene did you find any casings
13 out there from firearms?

14 A. Personally, I did not, no, sir.

15 MR. HARRELSON: Thank you. No further questions from
16 the State.

17 THE COURT: Thank you. Cross-examination, Mr. Fox?

18 MR. FOX: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. FOX:

21 Q. Officer, in securing the scene did you look for any --
22 was that part of your responsibility to look for any evidence,
23 casings, for example, shell casings, anything of that nature?

24 A. No, sir. At that particular time that was not -- again,
25 it was the officers on scene, you know, were working with me.

1 My job after I responded to was to secure the scene until CID
2 arrived.

3 Q. You have people for that, right?

4 A. Yes.

5 Q. You have people whose job it is to specifically do that,
6 including taking pictures?

7 A. Yes, sir.

8 Q. And these pictures, the truck, at least the up close,
9 very well lit, but that's because of either a flash, or I don't
10 know if you all had lights out, correct?

11 A. Yes. Well, the area was pretty well lit, the
12 streetlights.

13 Q. One streetlight out there, correct?

14 A. I do not know the exact number, I do know there is
15 streetlights, you know, in that location.

16 Q. But it was dark, you responded at 9:41?

17 A. Absolutely, it was nighttime, of course.

18 Q. Right. This was, what, April, spring, so not daylight
19 savings time yet?

20 A. Right.

21 Q. And certainly by the time crime scene folks were there
22 and taking pictures, of course still dark an hour later?

23 A. Yes, sir.

24 Q. And you said you didn't interview any witnesses,
25 correct?

1 A. Yes, sir.

2 Q. No one else on the scene when you arrived other than the
3 other officer with you?

4 A. Correct.

5 Q. Okay. And that is the extent of your involvement?

6 A. Yes, sir, that is the extent of my involvement.

7 MR. FOX: Thank you very much.

8 THE COURT: Redirect, Mr. Harrelson?

9 MR. HARRELSON: No further questions, Your Honor.

10 THE COURT: Mr. Vaught, you may step down. Thank
11 you, sir.

12 THE WITNESS: Yes, sir. Thank you.

13 THE COURT: No further questions. He can be excused.
14 Mr. Holford?

15 MR. HOLFORD: Your Honor, the State calls Mark Patel.

16 THE COURT: Come forward please, be sworn.

17 Thank you.

18 **Manthen Patel being first duly sworn, testified as**
19 **follows:**

20 THE CLERK: State your name and spell it for the
21 Court.

22 THE WITNESS: My name is Manthen Patel,
23 M-a-n-t-h-e-n, last name P-a-t-e-l.

24

25

1 DIRECT EXAMINATION

2 BY MR. HOLFORD:

3 Q. Mr. Patel, where are you employed?

4 A. I work at the Exxon in Loris.

5 Q. If I showed you a map would you be able to identify
6 where that location is?

7 MR. HOLFORD: May I approach, Your Honor?

8 THE COURT: Sure.

9 Q. I'm going to show you what's been entered as State's
10 Exhibit 1.

11 A. Yes.

12 Q. Is that 4811 Broad Street?

13 A. Yes.

14 Q. That's the Exxon you're a manager for?

15 A. Yes.

16 Q. Does that Exxon have a surveillance video?

17 A. Yes, we do have.

18 Q. Do you have access to that surveillance video?

19 A. Yes. We give the free access to the police department
20 in Loris. They can come any time. They have the password,
21 they can log in by themselves and they can take any video they
22 want without our permission.

23 Q. Have you reviewed surveillance video in this case prior
24 to?

25 A. I did review the lady, yes. That's from our store, yes.

Mathen Patel-Direct by Mr. Holford

1 Q. It's from your store?

2 A. Yes.

3 (State's Exhibit No. 68 was marked for identification.)

4 Q. I'm going to hand you what's been marked as State's 68.

5 A. Correct, that's the one, yes.

6 Q. How do you know that's the DVD that you reviewed?

7 A. The lady, like, she showed me when I came today.

8 Q. And did you initial this disc?

9 A. Yes.

10 Q. And that surveillance from your store at that 4811 in
11 Loris?

12 A. The store, yes.

13 MR. HOLFORD: Your Honor, at this time State seeks to
14 introduce 68 into evidence.

15 THE COURT: Any objection?

16 MR. FOX: No, Your Honor.

17 THE COURT: Without objection State's 68 into
18 evidence.

19 (State's Exhibit No. 68 was admitted into evidence.)

20 (video playing)

21 Q. On this video it has cam 16 2018 0424 at 212554. Is
22 that a date and time stamp what your security system does?

23 A. Yes.

24 Q. And is that timestamp on all your videos?

25 A. Like what?

1 Q. Does that timestamp appear on any videos that you
2 provide to law enforcement?

3 A. Yeah, the time is like whatever the time is that, like,
4 that was the time.

5 Q. There's no sound, is there?

6 A. No. We have now but that's an old system, so I don't
7 know. I mean, at that time we did not have any sound.

8 Q. Now, we're going watch this video. I'm not going to ask
9 you questions about it because this is just video from your
10 store, but you don't have any testimony about what we see or
11 what happened; is that correct?

12 A. Correct. I don't know anything, sir.

13 Q. The video just switched views. Do you have multiple
14 cameras at the store?

15 A. Yes.

16 Q. And they capture different angles?

17 A. Yes.

18 (State's Exhibits 3-14 were marked for identification.)

19 Q. Now, we just watched video of four different cameras
20 from that store. I'm going to approach you with what's been
21 marked as State's Exhibits 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
22 and 14. These appear to be screen grabs from the video we just
23 watched. Are they?

24 A. Yes.

25 Q. And again, these all have the camera numbers, the date

Manthen Patel-Cross by Mr. Fox

1 and time?

2 A. Correct.

3 MR. HOLFORD: Your Honor, at this time the State
4 would seek to introduce State's 3 through 14.

5 MR. FOX: Without objection, Your Honor.

6 THE COURT: Three through 14 into evidence.

7 MR. HOLFORD: Thank you.

8 (State's Exhibits 3-14 were admitted into evidence.)

9 Q. Now, Mr. Patel, I've served you a subpoena to be here
10 today; is that correct?

11 A. Yes.

12 Q. You did not necessarily want to come to court, did you?

13 A. No. Because I don't know anything about the incident,
14 so.

15 MR. HOLFORD: I have no other questions.

16 THE COURT: Mr. Fox?

17 MR. FOX: Just a couple, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. FOX:

20 Q. Mr. Patel, that was you in the video working that night?

21 A. Yes, I was.

22 Q. Okay. But you just said, you don't really know anything
23 that happened that night, later?

24 A. No, I do not.

25 Q. And there was nothing that came to your attention there

1 at your store, no fights, quarrels, anything like that?

2 A. No, I mean, all my customers are good. I mean, I don't
3 see, like you know -- I didn't see -- I didn't feel anything
4 that day, so.

5 Q. And there was nothing that you remember yourself? You
6 yourself don't remember anything, a ruckus or a disturbance or
7 anything that night, correct?

8 A. I did not, no, I did not.

9 Q. And today watching again, watching these videos again,
10 there was nothing on there that indicated there was any kind of
11 trouble there at your store?

12 A. No, it did not look like, I mean.

13 Q. Okay. Everyone seemed to be walking around --

14 A. Everyone seemed to be okay, you know, just like a
15 regular day.

16 Q. Right, regular day. Everyone's kind of casually walking
17 in and out --

18 A. Yes.

19 Q. -- taking care of their business?

20 A. Yes.

21 MR. FOX: Thank you, Mr. Patel.

22 THE COURT: Redirect, Mr. Holford?

23 MR. HOLFORD: Nothing further. I'd ask that Mr.
24 Patel be excused from his subpoena, Your Honor.

25 MR. FOX: Without objection, Your Honor.

Annette Singleton-Direct by Mr. Harrelson

1 THE COURT: Thank you. Mr. Patel. You can step
2 down. Nothing further. You can be excused and go back to
3 work.

4 THE WITNESS: Thank you so much.

5 MR. HARRELSON: Your Honor, at this time the State
6 will call Annette Singleton.

7 THE COURT: Ms. Singleton, please come forward and be
8 sworn up front.

9 **Annette Singleton being first duly sworn, testified**
10 **as follows:**

11 THE CLERK: Please state your name and spell it for
12 the Court.

13 THE WITNESS: My name is Annette Singleton,
14 A-n-n-e-t-t-e, S-i-n-g-l-e-t-o-n.

15 DIRECT EXAMINATION

16 BY MR. HARRELSON:

17 Q. Good morning, Ms. Singleton.

18 A. Good morning.

19 Q. How are you? I wanted to ask you a few questions, okay?
20 I'm going to approach real quick with State's evidence number
21 1. Did you live in Horry County back in 2018?

22 A. Yes.

23 Q. What address did you live at?

24 A. [REDACTED] Spring Street.

25 Q. I'm going to show you State's evidence one. Where the

1 red dot is right there, is that the address that you lived at?

2 A. Uh-huh.

3 Q. It is?

4 A. Uh-huh.

5 Q. If you don't mind, whenever I ask questions say yes or
6 no. The reason why is because this court reporter has to
7 record your answer. Okay?

8 A. Okay.

9 Q. Thank you. So is this the address or was your address
10 back in 2018?

11 A. Uh-huh.

12 Q. So do you remember an incident occurring back in 2018?

13 A. Yeah.

14 Q. And if you will, what do you remember happening while
15 you were at home that night?

16 A. I had just got out of the shower and I went to go sit
17 down and watch TV and then I had got up and looked out the
18 window and I seen cars coming down the road and when he stopped
19 to the stop sign and the van swung around by this truck and
20 then I just sat down and all the sudden I just started hearing
21 the shooting.

22 Q. So what did you hear?

23 A. Shooting. Gunshots.

24 Q. And where in your house were you sitting when you saw
25 this incident?

Annette Singleton-Direct by Mr. Harrelson

1 A. I was in my back living room.

2 Q. So you weren't outside, were you?

3 A. No.

4 Q. So was there a big window, a little window, how did you
5 see this?

6 A. I have a window here and a window there (indicating.)

7 Q. And you said you saw a van?

8 A. Yeah.

9 Q. And what exactly did you see the van do?

10 A. Swung around the truck.

11 Q. Where was the truck located?

12 A. The truck was right into the stop sign.

13 Q. And at any point in time did you hear gunshots or any
14 noise?

15 A. No, not at first when I sat down, or whatever, when the
16 van swung around at the truck. When I sat down that's when I
17 started hearing it.

18 Q. You heard what?

19 A. The shooting.

20 Q. Do you recall how many times you heard the noise of the
21 firearm?

22 A. About four times.

23 Q. And whenever you saw the van were there any lights on
24 within that van?

25 A. Yeah.

1 Q. Did you see anybody in the van?

2 A. I couldn't hardly see nobody in the van. Both of the
3 sliding doors was open. I couldn't hardly see, it was dark.

4 Q. So when you say the sliding doors, are you saying that
5 the van, on the backside of the van, it had the two sliding
6 doors?

7 A. Yeah. It was one sliding door on this side and a
8 sliding door on the other side.

9 Q. And did you see anybody inside the van?

10 A. It was dark. I couldn't hardly see who the person was.

11 Q. Could you see how many people were in the van?

12 A. No, uh-uh.

13 Q. So at any point in time that night did you come in
14 contact with anyone who was a victim of --

15 A. No.

16 Q. You did not? Okay. And were you at home when anybody
17 did come to your home?

18 A. No.

19 Q. You were not. Do you remember a Winter Parker?

20 A. That was her that came when she got out of the truck,
21 ran out of the truck and came in the house.

22 Q. And so did you make contact with Winter Parker?

23 A. Uh-uh.

24 Q. You did not. Were you at home whenever she came to your
25 home?

Annette Singleton-Direct by Mr. Harrelson

1 A. Yeah, I was home.

2 (State's Exhibit No. 15 & 16 were marked for identification.)

3 Q. I'm going to show you what's marked as State's Exhibit
4 15 and 16. What are these two pictures of?

5 A. This is the porch, this is my porch right here.

6 Q. What about 16?

7 A. That's the kitchen. That's where she landed at when she
8 came in the house.

9 Q. So are these true and accurate representations of your
10 home?

11 A. Uh-huh.

12 MR. HARRELSON: Your Honor, at this time the State
13 would like to offer State's Exhibits 15 and 16 into evidence.

14 MR. FOX: No Objection.

15 THE COURT: Without objection, 15 and 16 are entered
16 into evidence.

17 (State's Exhibits Nos. 15 & 16 were admitted into evidence.)

18 MR. HARRELSON: Your Honor, at this time the State
19 would like to publish to the jury.

20 THE COURT: You may publish.

21 Q. Ms. Singleton, so what is this effect -- can you see
22 this clearly?

23 A. No, not really, I can't.

24 Q. Your Honor, would you mind if she stepped aside?

25 THE COURT: You can step down if you'd like, Ms.

1 Singleton. You can stand over to the side and go over to the
2 photograph if you need to, to the screen.

3 THE COURT: If you step down to the screen I want you
4 to step to the other side and face in this direction. You're
5 good there if you can see it from there.

6 THE WITNESS: I can see it from here.

7 THE COURT: That's good.

8 BY MR. HARRELSON:

9 Q. Ms. Singleton, what is this a photo of?

10 A. My port.

11 Q. And do you see anything, I guess, that's red in the
12 photo on the ground?

13 A. Yeah, a little bit of blood.

14 Q. A little bit of blood?

15 A. Uh-huh.

16 Q. So do you know where that blood came from?

17 A. It came from Winter.

18 Q. Winter? So Winter came to your home, correct?

19 A. Yes.

20 Q. I'm going to also show you what is State's evidence
21 number 16. If you will tell me, what is this a photo of?

22 A. That's my kitchen.

23 Q. And is this blood, as well?

24 A. Yeah, that's Winter's blood.

25 Q. And where did this blood come from?

Annette Singleton-Direct by Mr. Harrelson

1 A. It came from Winter.

2 Q. Do you know why Winter came to your home that night?

3 A. After they shot the truck, or whatever, and I went to
4 the door, opened the door, and I said somebody's shooting and
5 then as soon as I said that she jumped out of the truck, ran in
6 my house, and right when she ran in my house, that's where she
7 landed at right there.

8 Q. And were you informed of anything during this incident?

9 A. No.

10 MR. HARRELSON: Court's indulgence?

11 THE COURT: Okay.

12 Q. Ms. Singleton, just a few more questions, okay?

13 A. Okay.

14 Q. What did you do after you came in contact with Winter?

15 A. That night when she came in the house she was saying
16 that --

17 MR. FOX: Objection. That would be hearsay.

18 Q. What did you do?

19 A. What did I do?

20 Q. Yes, ma'am.

21 A. Tried to calm her down.

22 Q. Did you contact 911 or the police?

23 A. Yeah, I called 911.

24 Q. Did you contact her mother or anything?

25 A. Yeah. I called her mother and let her know where she

1 was.

2 Q. And did you give a report or anything to police whenever
3 they showed up?

4 A. Yeah, yes, I did.

5 Q. Within that report, did you just tell them what you
6 observed?

7 A. Yes.

8 Q. And what you heard?

9 A. Yes.

10 Q. And during while you spoke with police, did you describe
11 what you observed with the van?

12 A. Yes.

13 Q. And how did you describe the van to the police?

14 A. I told them that I seen the truck and the van coming
15 down the road and I seen the van swung around the truck and
16 then I started hearing shooting and told them it was a gray
17 truck and it had two sliding doors.

18 Q. It was a gray truck or a gray van?

19 A. It was a gray van.

20 Q. Gray van.

21 A. Gray van.

22 Q. Whenever you heard the shooting did you see anybody else
23 outside?

24 A. No.

25 Q. Did you see any other vehicles?

Annette Singleton-Cross by Mr. Fox

1 A. No.

2 Q. Just those two vehicles?

3 A. Uh-huh.

4 MR. HARRELSON: Thank you. No further questions.

5 THE COURT: Mr. Fox?

6 CROSS-EXAMINATION

7 BY MR. FOX:

8 Q. Ms. Singleton, so you heard but did not see the
9 shooting, correct?

10 A. No, I didn't see the shooting.

11 Q. You don't know who fired --

12 A. No.

13 Q. And you took them to be gunshots, they sounded to you
14 like gunshots?

15 A. Sir?

16 Q. What you heard to you sounded like gunshots, correct?

17 A. Yes.

18 Q. But you did not see who fired?

19 A. No, sir.

20 Q. You don't know how many people shot weapons?

21 A. No, sir.

22 Q. I think you just testified you could not see anyone in
23 the van?

24 A. No, sir.

25 Q. But you could tell that it's one of those vans that has

1 sliding doors at both sides?

2 A. Yes, sir.

3 Q. And they were both open?

4 A. Yes, sir.

5 Q. You could not see inside the truck?

6 A. No, sir.

7 Q. So you saw them come down the road, went back to your
8 business watching TV, or whatever, then you heard some shots --

9 A. Yes.

10 Q. -- and then Ms. Parker came down to your house after,
11 correct?

12 A. Yes.

13 Q. And that's basically what you know about the incident?

14 A. Yes.

15 MR. FOX: Thank you.

16 THE COURT: Thank you. Mr. Harrelson, Redirect?

17 MR. HARRELSON: Just briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. HARRELSON:

20 Q. So you said you called police, correct?

21 A. Yes.

22 Q. And whenever you called police did you inform them of
23 how many people you saw in the van?

24 A. No.

25 Q. So you didn't tell them that you saw three people in the

John Brantly-Direct by Mr. Harrelson

1 van?

2 A. No, not that I recall.

3 MR. HARRELSON: Thank you. No further questions.

4 THE COURT: Thank you. You can step down, Ms.

5 Singleton. Thank you, ma'am.

6 MR. HARRELSON: Your Honor, at this time the State

7 would like to call Detective John Brantly.

8 THE COURT: Detective Brantly, come forward, please,

9 and be sworn.

10 **Detective John Brantly being first duly sworn,**

11 **testified as follows:**

12 THE CLERK: Please state your name for the Court.

13 THE WITNESS: John Brantly, B-r-a-n-t-l-y.

14 DIRECT EXAMINATION

15 BY MR. HARRELSON:

16 Q. Detective, who is your current employer?

17 A. Horry County Police Department.

18 Q. What are your duties at the Horry County Police

19 Department?

20 A. I am a detective with the Special Victims unit.

21 Q. And how long have you worked for Horry County?

22 A. Fifteen years.

23 Q. So what were your duties back in 2018?

24 A. I was detective at the homicide unit.

25 Q. At that time back in 2018 were you working on April 24th

1 or 25th?

2 A. Yes, I was.

3 Q. And at that time did you become involved in an
4 investigation with Tyshawn Brown?

5 A. Yes, I did.

6 Q. Did you ever speak to an individual named Joe Rich?

7 A. Yes, I did.

8 Q. And how did that name come to your knowledge? I can
9 rephrase that question. Did you ever observe any videos from
10 Exxon?

11 A. Yes, I did.

12 Q. You did? And within those videos were you able to pick
13 an individual out within those videos?

14 A. Yes, I was.

15 Q. And who was that individual?

16 A. It was later identified as Joe Rich.

17 MR. HARRELSON: Your Honor, if I may approach with
18 State's Exhibit 3, 6 and 7?

19 THE COURT: Yes, sir.

20 Q. I'll show you State's 3, 6 and 7. Are these fair or
21 true and accurate representations of what you saw that night
22 from the video?

23 A. Off the surveillance video, yes.

24 Q. Has anything been altered or manipulated in any format?

25 A. It does not appear to be.

John Brantly-Direct by Mr. Harrelson

1 MR. HARRELSON: Your Honor, at this time the State
2 would like to offer State's Exhibits 3, 6 & 7 into evidence.

3 THE COURT: Aren't they already in evidence?

4 MR. HARRELSON: Yes. Your Honor, at this time the
5 State would like to publish evidence 3, 6 and 7.

6 THE COURT: Go ahead.

7 MR. HARRELSON: I'm going to show you what is
8 evidence number 3.

9 Q. From this photograph can you tell who this individual
10 is?

11 THE COURT: You can step out the chair if you'd
12 like to, Detective, and get a better view of it.

13 THE WITNESS: Yes, sir.

14 A. Front passenger seat next to the defendant.

15 Q. And were you all able to identify -- and I'm going to
16 show you State's evidence number 12. Were you all able to
17 identify this individual, at the cash register?

18 A. Yes.

19 Q. And who was that?

20 A. That would have been Joe Rich.

21 Q. And how did it come to your knowledge that that was Joe
22 Rich?

23 A. Just confirm real quick.

24 Q. I'll ask you another question. Did you execute a search
25 warrant at Joe Rich's home?

1 A. Yes.

2 Q. And during that investigation while the execution of the
3 search warrant, did you locate anything within his home?

4 A. There was a -- after obtaining the second search warrant
5 there was clothing that was located in the house there that
6 matched the same clothing that you would see.

7 Q. So are you saying that the clothing that you found
8 within the home, did it match the clothing within this photo?

9 A. Yes.

10 Q. Did you ever interview Joe Rich?

11 A. Yes, we did.

12 Q. And how many times did you interview Joe?

13 A. I believe I spoke with him, spoke with him one time.

14 Q. And during your interview, did you learn anything new
15 regarding the investigation?

16 A. I was able to -- we were able to learn after showing him
17 a photograph of an individual, individual to be able to
18 identify another individual.

19 MR. HARRELSON: Court's indulgence.

20 Q. And while you were interviewing Joe, who was the other
21 individual that he informed you of?

22 A. We showed a photograph to him inquiring whether or not
23 that individual was referred to as, quote, "Young Boy".

24 MR. HARRELSON: Your Honor, if I may approach?

25 THE COURT: Yes, sir.

John Brantly-Direct by Mr. Harrelson

1 MR. HARRELSON: I'm going to show State's Exhibits 64
2 and 65.

3 Q. What are these two exhibits photos of?

4 A. Of the photographs that I would show Joe Rich.

5 Q. And are they true and accurate?

6 A. Yes.

7 Q. Have they been altered in any format?

8 A. None.

9 MR. HARRELSON: Your Honor, at this time the State
10 would like to offer State's 64 and 65 into evidence.

11 THE COURT: Mr. Fox?

12 MR. FOX: No objection.

13 THE COURT: Thank you. Without objection.

14 (State's Exhibits 64 & 65 were admitted into evidence.)

15 MR. HARRELSON: Your Honor, at this time the State
16 would like to publish to the jury?

17 THE COURT: You can.

18 Q. So during the interview of Joe Rich you learned of an
19 individual name who?

20 A. We inquired it as to do with "Young Boy".

21 Q. And is this a photo of who Young Boy -- or what is Young
22 Boy's real name?

23 A. Orlando Barber.

24 Q. Is this Orlando Barber?

25 A. Yes, it is.

1 Q. I'm going to show what I presented to you as State's
2 evidence 64. Who is this a photo of?

3 A. One of the same.

4 Q. So that is Orlando Barber?

5 A. Yes, it is.

6 Q. So did you all investigate and see if Orlando Barber
7 was, indeed, the individual within the vehicle?

8 A. Yes.

9 Q. What did you learn through your investigation?

10 A. That Orlando Barber did have gang ties and would have
11 been one of the same as the previous picture there.

12 Q. I'm going to go back to whenever we were speaking of Joe
13 Rich about you executing the search warrant.

14 A. Okay.

15 Q. Let me show you State's Exhibit 51 and 52. What are
16 these photos of?

17 A. Those are photos of the residence where we executed the
18 search warrant?

19 Q. Are these a true and accurate representation?

20 A. Yes.

21 Q. Have they been altered in any way?

22 A. They have not.

23 MR. HARRELSON: Your Honor, at this time the State
24 would like to offer State's Exhibit 50, 51 and 52 into
25 evidence.

John Brantly-Direct by Mr. Harrelson

1 MR. FOX: Without objection, Your Honor.

2 THE COURT: Exhibits 51 and 52 without objection into
3 evidence.

4 (State's Exhibits 50, 51 & 52 were admitted into
5 evidence.)

6 MR. HARRELSON: Your Honor, at this time the State
7 would like to publish State's Exhibit 50 to the jury.

8 Q. So State's evidence 50, what is this a photo of?

9 A. That would have been a photograph of the house where we
10 executed the search warrant at 4375 Harrelson Avenue in Loris.

11 Q. Whose home was this?

12 A. My understanding it would have been his residence.

13 Q. Is this Joe Rich's home?

14 A. Yes.

15 Q. I'm going to show you what's State's evidence 51. So
16 where was this photo taken?

17 A. I believe -- the photo itself I believe was taken by
18 Detective Britt and showing the photograph of the bedroom.

19 Q. I'm going to show you State's evidence 52. What is this
20 a photo of?

21 A. The gun that was located in the bedroom.

22 Q. What type of firearm is this? Would you say this is a
23 revolver or is this a firearm that would eject its casings?

24 A. It would be a handgun that would eject its casings.

25 Q. And who did this handgun belong to?

1 A. I don't believe I have that information.

2 Q. Sir, during your investigation did you ever interview a
3 Fantasia Ford?

4 A. Yes.

5 MR. HARRELSON: Your Honor, if I may approach?

6 THE COURT: Yes, sir.

7 MR. HARRELSON: Disregard, Your Honor.

8 Q. I want to show you State's evidence 6 and 7. How did
9 you come in contact with this photo -- or this surveillance?

10 A. It was the surveillance I retrieved from the gas
11 station.

12 Q. And do you know who this individual is right here?

13 A. That would have been the driver of the white vehicle,
14 that would have been Fantasia Ford.

15 Q. I'm going to show you State's evidence number 7. Is
16 this the same individual?

17 A. Yes, it is.

18 Q. Do you recall who this individual is?

19 A. That would have been the individual that's seated in the
20 backseat of the van.

21 Q. During your interview with Fantasia Ford did she
22 identify who the individual was with the red pants on or who
23 she was speaking to?

24 MR. FOX: Your Honor, objection. What Ms. Ford said
25 would be hearsay.

John Brantly-Direct by Mr. Harrelson

1 Q. During your investigation -- how did you learn who the
2 individual in the red shorts were?

3 A. After speaking with her we inquired of her who the black
4 male that was approaching her wearing the red pants while she
5 was at the gas station. She stated had his name was Heath
6 Reaves.

7 MR. FOX: Objection.

8 THE COURT: First of all, actually that's double
9 hearsay and I think it's sustained. You can't talk about what
10 somebody else told you that's not in court to answer those
11 questions --

12 MR. FOX: Your Honor, may we approach?

13 THE COURT: Yes.

14 (Discussion was held off the record at the bench by
15 Court and counsel.)

16 MR. HARRELSON: Your Honor, I'll rephrase those
17 questions.

18 Q. Did you make contact with Fantasia Ford?

19 A. Yes.

20 Q. Were you able to make contact with Heath Reaves, or
21 through your investigation did you learn who Heath Reaves was?

22 A. Through the investigation we were able to make contact
23 and learn who he was.

24 THE COURT: What's that name?

25 THE WITNESS: Heath Reaves.

1 THE COURT: Thank you.

2 Q. So Detective, if you will tell me, during your
3 investigation, after that did you ever make contact with
4 Greyhound?

5 A. Yes.

6 Q. What is Greyhound?

7 A. Greyhound is a bus station, national chain that utilizes
8 buses to transport people all across the country.

9 Q. Why did you make contact with Greyhound?

10 A. There was information we received that the individuals
11 that were suspected in this crime would have utilized Greyhound
12 to leave the area and flee.

13 Q. And who were the individuals that you believed were
14 suspects of the crime?

15 A. It would have been the defendant.

16 Q. And at any time while you were talking to Detective Park
17 (Ph) with her investigation did you initiate extradition
18 paperwork for the defendant?

19 A. Yes. Once signed for murder and other charges,
20 extradition -- excuse me, the extradition was requested and
21 signed to be able to locate the defendant from that area and
22 bring him back.

23 Q. And did you do anything else with the investigation?

24 A. I don't believe so.

25 MR. HARRELSON: Court's indulgence?

John Brantly-Cross by Mr. Fox

1 THE COURT: Okay.

2 MR. HARRELSON: No further questions.

3 THE COURT: Thank you. Mr. Fox?

4 MR. FOX: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. FOX:

7 Q. Mr. Brantley, you didn't make contact with Heath Reaves
8 any time soon after you began investigating because he wasn't
9 around the area anymore, was he?

10 A. Not directly, no.

11 Q. Not directly he wasn't around, or you didn't directly
12 contact him?

13 A. I didn't directly contact him.

14 Q. Okay. Because in fact, he had gone to Philadelphia?

15 A. Once we had later found out, yes.

16 Q. And he was there for several months?

17 A. To my with knowledge, yes.

18 Q. And you checked into Greyhound, did you find anything
19 from Greyhound?

20 A. No.

21 Q. So you checked into that, you had the information that
22 perhaps that was Mr. Brown and Mr. Reaves, but you didn't have
23 any tickets or documentation or credit card receipts or
24 anything like that that showed specifically Mr. Brown purchased
25 a Greyhound Bus ticket anywhere?

1 A. No. The information we received from Greyhound was that
2 they could have also possibly used other names or metaphors to
3 leave the area.

4 Q. Well, that was just what you had guessed? Anything's
5 possible, but you have nothing that connects Mr. Brown, the
6 ticket from Greyhound in Horry County to anywhere else?

7 A. No. The information they told us was that no other
8 means or whatnot are associated with the area.

9 THE COURT: Just respond to his questions if you
10 will, if you need to explain it then you can, but just answer
11 his question.

12 MR. FOX: Thank you, Your Honor.

13 Q. I certainly didn't mean to cut you off. Now, when you
14 interviewed, you and Detective Britt interviewed Joe Rich and
15 he's the gentleman that's been identified in that gray van, one
16 of the gentlemen, right, you identified him as the passenger
17 seat?

18 A. Uh-huh.

19 Q. Correct? Alright. And Mr. Rich, you asked him to
20 identify the pictures of Mr. Barber, correct?

21 A. Correct.

22 Q. And he was able to do that, or at least he said he
23 could?

24 A. Yes.

25 Q. And he knew him as "Young Boy"?

John Brantly-Cross by Mr. Fox

1 A. Yes.

2 Q. And he was very sure of that, "Young Boy" is Orlando
3 Barber?

4 A. That's what he told us, yes.

5 Q. And you all checked that out, correct?

6 A. The information was passed on, yes.

7 Q. And you were able to determine -- and it wasn't just in
8 the picture, Mr. Rich indicated that Young Boy was in the van
9 with him that night, didn't he?

10 A. Okay.

11 Q. Did he?

12 A. Yes.

13 Q. And to check that out you all went Mr. Barber's place of
14 employment, correct?

15 A. I did not.

16 Q. Are you aware that someone from Horry County PD went to
17 his employer, he worked at a hotel or some place down the
18 beach, right?

19 A. I was not, no.

20 Q. Are aware that someone checked out whether he was
21 working that night?

22 A. I don't have information that somebody went to his
23 employment or that he was working that night, no.

24 Q. So you weren't part of any of that, you all didn't talk
25 to each other, you weren't aware? You did your part and you

1 didn't talk to any other officers?

2 A. I made contact with the case agent but I was not aware
3 of that information.

4 Q. So no one came back to you and said, hey, Barber wasn't
5 in that van because we got him on video at his place of
6 employment down at the beach 30 miles away?

7 A. I was not given that information.

8 Q. Okay. Are you aware that based on the evidence
9 information, specifically, about Young Boy being Orlando Barber
10 that were you aware that Joe Rich was charged with obstruction
11 of justice for lying to the police?

12 A. No, I was not.

13 Q. You're not familiar with that at all?

14 A. No, I'm not.

15 Q. Thank you. No further questions, Your Honor.

16 THE COURT: Redirect?

17 MR. HARRELSON: No further questions, Your Honor.

18 THE COURT: Detective, you can step down. Thank you.

19 (Off the record discussion was held at the bench by
20 Court and counsel.)

21 MR. HARRELSON: Your Honor, at this time the State
22 would call Detective King Hemingway.

23 THE COURT: Detective Hemingway, come forward, please
24 and be sworn.

25 THE CLERK: Please state your name and spell it for

King Hemingway-Direct by Mr. Harrelson

1 the Court.

2 THE WITNESS: King Hemingway, K-i-n-g,
3 H-e-m-i-n-g-w-a-y.

4 **Detective King Hemingway being first duly sworn,**
5 **testified as follows:**

6 DIRECT EXAMINATION

7 BY MR. HARRELSON:

8 Q. Good morning, Detective.

9 A. Good morning.

10 Q. Who is your current employer?

11 A. Horry County Police Department.

12 Q. How long have you worked for Horry County Police?

13 A. Nineteen years.

14 Q. What are your current duties right now?

15 A. I'm in the office of professional standards.

16 Q. And what were your duties back in 2018?

17 A. I was in the homicide unit.

18 Q. And did you have the chance to become involved in this
19 investigation with Tyshawn Brown?

20 A. I did.

21 Q. And at any point in time how did you come in contact
22 with a Eugene Waller?

23 A. We initially responded to the scene. The sergeant on
24 duty at that time, Mr. Christopher Hunt, informed us of the
25 incident that they responded to, his shift, responded to prior

1 to the shooting involving a gray van and certain individuals.

2 Q. Who is Eugene Waller?

3 A. Eugene Waller was the victim of the alleged incident
4 that happened prior to the shooting that we were informed
5 about.

6 Q. While speaking with Eugene Waller did you hear -- or did
7 you learn of any other individuals as you continued your
8 investigation?

9 A. We did.

10 Q. Who was that?

11 A. We learned of an individual named Joe Rich and someone
12 that she identified as known to be "Smoke" and --

13 MR. FOX: Objection, Your Honor. That will be
14 hearsay.

15 THE COURT: I'll sustain the objection as to that.
16 Thank you.

17 Q. So you did interview Eugene Waller?

18 A. Yes, sir.

19 Q. And from that investigation did you then interview Joe
20 Rich?

21 A. We did.

22 Q. And after that did you interview an individual named
23 Brittany Burks?

24 A. I did.

25 Q. Who is Brittany Burks?

King Hemingway-Direct by Mr. Harrelson

1 A. She is the girlfriend of the defendant, Tyshawn Brown.

2 Q. During your investigation when you interviewed Brittany,
3 did become within knowledge of her owning a vehicle of any
4 sort?

5 A. Yes, sir.

6 Q. And what type of vehicle did she own?

7 A. I believe it was a Kia van. I think it was a Kia.

8 Q. Do you recall what color the van was?

9 A. It was gray in color.

10 Q. So was she the owner of the vehicle?

11 A. Yes, sir, she was.

12 Q. At any point in time did you interview a -- or how did
13 you -- did you know who Winter Parker was?

14 A. Yes, sir. She was one of the victims of the shooting
15 incident.

16 Q. And how did you learn of Winter Parker?

17 A. From the 911 call, and once we arrived on the scene she
18 was identified as a victim.

19 MR. HARRELSON: Court's indulgence?

20 THE COURT: Okay.

21 Q. Did you make contact with Winter Parker?

22 A. We did.

23 Q. Where was she located when you made contact with her?

24 A. Grand Strand Hospital.

25 Q. When you arrived at Grand Strand did you see anything

1 that belonged to Winter, any clothing or any items?

2 A. I don't recall.

3 MR. HARRELSON: Thank you. Court's indulgence?

4 THE COURT: Okay.

5 MR. HARRELSON: No further questions.

6 THE COURT: Okay.

7 MR. FOX: Just a moment, Your Honor.

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. FOX:

11 Q. Thank you, Officer, I appreciate it. So you interviewed
12 Mr. Rich at the jail, correct? Or you interviewed Mr. Rich,
13 I'm not sure if it was at the jail but along with Detective
14 Hardwick, now Jackson?

15 A. Yes, sir.

16 Q. Okay. And it would be fair to say that after that
17 conversation led you to continue your investigation, right,
18 based on things that he indicated to you, that he told you?

19 A. Yes, sir.

20 Q. In other words, you took his information and went
21 further, and in fact, you determined that he was being less
22 than truthful with you all, is that fair to say?

23 A. Yes, sir.

24 Q. In fact, he caught an obstruction of justice charge for
25 that the very fact, didn't he?

King Hemingway-Cross by Mr. Fox

1 A. Yes, sir.

2 Q. And specifically one of the things was his
3 identification of Young Boy as being Orlando Barber?

4 A. Yes, sir.

5 Q. And claiming that Orlando Barber was in the van with
6 him?

7 A. Yes, sir.

8 Q. On the night of the shooting?

9 A. Correct.

10 Q. And in fact, you all determined that Orlando Barber was
11 many miles away at his job that night?

12 A. Yes, sir.

13 Q. And are you aware that -- now you interviewed the first
14 time, Mr. Rich was interviewed a second time, was he not?

15 A. At the jail, yes, sir.

16 Q. Were you a part of that interview?

17 A. Yes, sir.

18 Q. And he modified some things, shall we say, his version
19 of the event --

20 A. He came forward with more information, yes, sir.

21 Q. Okay. He came forward with more information. And he
22 was very -- in fact, he was willing and indicated to you that
23 he would be happy to do whatever it took to avoid catching a
24 murder rap himself, he made that plain didn't he?

25 A. He indicated that he was prepared to tell the truth

1 about what happened.

2 Q. Right. But he also said, why should I testify if I
3 still catch a murder rap, right?

4 A. I don't recall him making that statement.

5 Q. And he was in the van, right? You all -- he put himself
6 in the van, you've identified on the Tiger Mart video, so he
7 was in the van that night, right?

8 A. Yes, sir.

9 Q. No question about it?

10 A. Yes, sir.

11 Q. His house was searched and you're aware they found
12 weapons and ammunition in his house, right?

13 A. Yes, sir.

14 Q. And as well as, I think, they called it indications of
15 selling drugs, right, marijuana anyway, right, in the search
16 warrant of his house, digital scales and packaging for drug
17 sales?

18 A. I'm not sure what was recovered.

19 Q. Okay. That's fine. Were you a part of serving that
20 search warrant on his house?

21 A. No, sir.

22 Q. But he was not, in fact -- but he was in the van, there
23 were weapons, you had information that there were several
24 weapons in the van, correct?

25 A. We had information that there was weapons seen, yes,

King Hemingway-Cross by Mr. Fox

1 sir.

2 Q. And he did not, however -- and Mr. Reaves was charged
3 with murder, he three was he was charged with murder?

4 A. Yes, sir.

5 Q. Tyshawn Brown was sure charged with murder because he's
6 here today, right?

7 A. Yes, sir.

8 Q. Joe Rich was not charged with murder?

9 A. No, sir.

10 Q. In fact, his obstruction of justice charge is
11 subsequently after he spoke to you the second time, his
12 obstruction of justice charge has been dismissed, were you
13 aware of that?

14 A. I was not aware of that, no.

15 Q. And that would not have been your call anyway, right?

16 A. Yes, sir.

17 Q. Once the warrant is served then the charge is there then
18 it becomes the discretion of the Solicitor's Office?

19 A. Yes, sir.

20 MR. FOX: Thank you. No further questions.

21 THE COURT: Redirect?

22 MR. HARRELSON: No further questions from the State,
23 Your Honor.

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

1 MR. HARRELSON: Your Honor, we'd ask that King
2 Hemingway be excused from the subpoena.

3 THE COURT: Without objection?

4 MR. FOX: No objection.

5 MR. HARRELSON: As well as we failed to do so for
6 John Brantley and Annette Singleton, Your Honor.

7 MR. FOX: That's fine.

8 THE COURT: They are both released. Is this a good
9 time on your schedule for us to stop?

10 MR. HARRELSON: Yes, Your Honor.

11 THE COURT: Folks, we're going to take a lunch break,
12 it's 12:00. Normally our schedule, we start at 9:30 and we'll
13 take a break somewhere during the mid-morning and we'll stop
14 for lunch around 1:00, or something like that, but we didn't
15 start until 10:20 today and we worked straight through without
16 a break so without testing your tolerance anymore we're going
17 to take our lunch break now and ask that you be back in the
18 jury room at 1:30. Don't talk about the case, don't talk about
19 it to anybody else. Enjoy your lunch. I'll see you at 1:30.

20 (Jury exited the courtroom.)

21 (Recess taken.)

22 THE COURT: Are we ready for the jury?

23 (Jury entered the courtroom.)

24 THE COURT: Thank you, folks, for your prompt return
25 from lunch. We are ready now to pick up where we left off this

David Dudley-Direct by Mr. Holford

1 morning. The State's continued to offer evidence and testimony
2 in this case. Gentlemen, Mr. Holford?

3 MR. HOLFORD: Thank you, Your Honor. The State calls
4 Sergeant Dudley.

5 THE COURT: Please come forward to be sworn.

6 **Sergeant David Dudley being first duly sworn,**
7 **testified as follows:**

8 THE CLERK: Please state your name and spell it for
9 the Court.

10 THE WITNESS: David Dudley, D-u-d-l-e-y.

11 DIRECT EXAMINATION

12 BY MR. HOLFORD:

13 Q. Sergeant Dudley, where are you currently employed?

14 A. Horry County Police Department.

15 Q. And what is your current assignment right now?

16 A. I'm the sergeant of the Special Victim's Unit.

17 Q. How long have you been the Sergeant of the Special
18 Victim's Unit?

19 A. About six months.

20 Q. How long have you been with Horry County?

21 A. Thirteen years.

22 Q. Back in 2018 in April, what was your assignment then?

23 A. I was a detective in the homicide unit.

24 Q. As a detective in the homicide unit, about how many
25 detectives are there, are there a number of you?

1 A. Seven.

2 Q. When you respond to a crime is it -- does one person
3 handle the entire thing or multiple detectives involved, just
4 tell us a little bit about how that works.

5 A. When a homicide occurs there's several different things
6 that have to take place almost simultaneously, so usually as
7 many detectives as can respond at one time will come out to the
8 call. If the whole unit can come the whole unit will come.

9 Q. And are you often tasked with doing parts of the
10 investigation but not every single thing related to it?

11 A. Yes, sir.

12 Q. And were you tasked with anything in the case against
13 Tyshawn Brown while we're here today?

14 A. I was.

15 Q. What were you tasked with initially?

16 A. Initially it was to help with the overall investigation
17 and then I was tasked to attempt to locate a gentleman named
18 Orlando.

19 Q. Now, let's back up with the initial. Did you search for
20 a video anywhere?

21 A. I did.

22 Q. And let me ask you this, did you go to a CVS and try to
23 find a video?

24 A. Yes.

25 Q. Were you able to find anything there?

David Dudley-Direct by Mr. Holford

1 A. No.

2 Q. I'm going show you this map, this is entered as State's

3 1. Where were you looking for a video?

4 A. At the CVS right here, just to the left of the red dot
5 that says 4811 Broad Street.

6 Q. Was video located at that Exxon?

7 A. Yes, there was.

8 Q. Were you involved in the that, as well?

9 A. Yes.

10 Q. And so you also looked at the CVS but were unable to
11 locate anything?

12 A. That's correct.

13 Q. Did you look at any other stores around that area?

14 A. Yes, the carwash directly across the street.

15 Q. Was there any relevant video to this case at the
16 carwash?

17 A. There was not.

18 Q. But the relative video to this case was obtained --

19 A. Yes.

20 Q. -- from that Exxon?

21 A. Correct.

22 Q. Now, let me ask you this. You said you were tasked with
23 trying to locate a guy, Orlando. Did you have knowledge at
24 that point of how that came about?

25 A. I did not.

1 Q. So you were just tasked with, let's find this guy,
2 right?

3 A. Correct.

4 Q. What would you call him at that time, would you call him
5 a suspect, person of interest, was he arrested?

6 A. A person of interest, someone we needed to talk to whose
7 name had come up.

8 Q. I'm going to hand you what's been entered as State's 64
9 and 65, and then I'm going to show you, 66 is just for ID at
10 this point. Are you familiar with those pictures?

11 (State's Exhibit No. 66 was marked for identification.)

12 A. Yes, sir.

13 Q. And how are you familiar with them?

14 A. These are the pictures. This is from his driver's
15 license and these other ones come off of social media.

16 Q. And so tell me about your investigation. What did you
17 do in order to try to track down an Orlando Barber?

18 A. The first thing I did with being tasked with finding him
19 was I ran a search of his name in Facebook, you can type in a
20 name to see if you can search anybody, or if you can find them
21 using key words or just names as a whole.

22 Q. Now, 64 and 65 are in evidence. Is 66 an accurate
23 reflection of what you found on social media for this person?

24 A. It is.

25 MR. HOLFORD: At this time the State would seek to

David Dudley-Direct by Mr. Holford

1 introduce 66 into evidence.

2 THE COURT: Okay.

3 MR. FOX: No objection, Your Honor.

4 THE COURT: Exhibit 66 without objection.

5 (State's Exhibit No. 66 was admitted into evidence.)

6 BY MR. HOLFORD:

7 Q. As we're turning this TV on, let me ask you this: When
8 you found this Orlando Barber, what did that lead you to do at
9 that point?

10 A. I searched his social media profile, his Facebook
11 profile, looking for any information as to where we may be able
12 to locate him, any contact information, acquaintances, anything
13 like that.

14 Q. And what did you find?

15 A. I found in a photo that he had uploaded to his Facebook
16 page he was wearing a black Polo shirt with an emblem on the
17 side of the shirt that read "Four of a Kind."

18 Q. What's "Four of a Kind"?

19 A. "Four of a Kind" is a contractual cleaning service based
20 out of Myrtle Beach.

21 Q. Did you go there?

22 A. I did.

23 Q. And what did you determine when you went to Four of a
24 Kind?

25 A. That Orlando did, in fact, work for Four of a Kind.

1 Q. And did you determine if he was working at the time of
2 the shooting?

3 A. Yes, I did.

4 Q. And let me ask you this: How do you know that?

5 A. The company utilizes the cell phones of the individuals
6 so they can clock in and out, and when we looked at his time
7 card we saw that he had clocked in and clocked out on the night
8 of the shooting.

9 Q. Alright, so is it possible he clocked in, went somewhere
10 and then clocked back out? Did you do any further
11 investigation?

12 A. Yes, we did do further.

13 Q. And when was that?

14 A. We found that he was working at the Landmark Hotel in
15 Myrtle Beach that night of the incident and he did go to the
16 Landmark Resort and spoke with personnel who worked at the
17 hotel and we reviewed video footage, surveillance footage from
18 the surveillance footage from the security system of the hotel
19 that showed that Orlando was, in fact, at the hotel at the time
20 of the shooting.

21 Q. So you don't know how he was identified as a person of
22 interest?

23 A. I do not.

24 Q. But you can tell the jury that this Orlando Barber was
25 not at the shooting?

David Dudley-Cross by Mr. Fox

1 A. That's correct.

2 Q. So he was ruled out as a suspect or a person of interest
3 at that point, is that what you're saying?

4 A. Yes, he was, he was ruled out.

5 MR. HOLFORD: Your Honor, I have no further
6 questions.

7 THE COURT: Mr. Fox?

8 CROSS-EXAMINATION

9 BY MR. FOX:

10 Q. And just one, Detective. On State 66, which is the,
11 that's from the Facebook?

12 A. Yes, sir, that's his Facebook profile.

13 Q. And that's got his name, Orlando Barber, right?

14 A. Yes, sir.

15 Q. And under that it's got, I'm going to take to be some
16 nickname or handle, what's that nickname under his name?

17 A. Pretty Boy Orlando.

18 Q. "Pretty Boy Orlando," not Young Boy?

19 A. No, sir.

20 MR. FOX: Thank you. That's all.

21 THE COURT: Redirect?

22 MR. HOLFORD: Nothing, Your Honor.

23 THE COURT: Detective, you may step down. Thank you,
24 sir.

25 THE WITNESS: Thank you.

1 MR. HOLFORD: I would ask that Sergeant Dudley be
2 released from his subpoena, Your Honor.

3 THE COURT: Without objection, Mr. Fox?

4 MR. FOX: Yes, Your Honor, no objection.

5 THE COURT: Detective, you're free to go. Thank you.

6 MR. HARRELSON: Court's indulgence, Your Honor?

7 THE COURT: Yes, sir.

8 MR. HARRELSON: Your Honor, at this time the State
9 would call Detective Cory Dulina.

10 THE COURT: Detective, will you come forward, please
11 and be sworn?

12 **Officer Cory Dulina being first duly sworn, testified**
13 **as follows:**

14 THE CLERK: Please state your name and spell it for
15 the Court.

16 THE WITNESS: Cory Dulina, C-o-r-y, D-u-l-i-n-a.

17 DIRECT EXAMINATION

18 BY MR. HARRELSON:

19 Q. Detective, who do you currently work for?

20 A. Horry County Police Department.

21 Q. How long have you worked for Horry County?

22 A. Since September of 2012.

23 Q. What are your current duties?

24 A. Currently I'm the sergeant in the narcotics vice section
25 in the criminal investigations division.

Cory Dulina-Direct by Mr. Harrelson

1 Q. Were those your duties back in 2018?

2 A. No, sir.

3 Q. What were your duties back in 2018?

4 A. I was a detective in the homicide unit.

5 Q. At that time were you involved in the investigation of
6 Tyshawn Brown?

7 A. I was.

8 Q. At that time did you execute a search warrant for a Joe
9 Rich at the residence?

10 A. Yes, sir.

11 Q. I'm going to approach you with State's evidence 50, as
12 well as State's evidence 51 and 52. Do these look familiar to
13 you?

14 A. Yes. That's the house on Harrelson Avenue.

15 Q. What about State's 51, I'll go into more detail and put
16 it on the screen for you, okay?

17 A. Yes.

18 Q. State's 51, does this look familiar to you?

19 A. Yes, sir.

20 Q. And State's evidence 52?

21 A. Yes, sir.

22 THE COURT: Can you see the screen from that angle,
23 Detective?

24 THE WITNESS: Judge, I'd have to move just slightly.

25 THE COURT: You can. If you need to get out of your

1 chair and stand, you can.

2 THE WITNESS: Okay. Can I stand, Your Honor?

3 THE COURT: Yes, sir, you can. Just keep your voice
4 up while away from the microphone, please.

5 THE WITNESS: Sure.

6 BY MR. HARRELSON:

7 Q. I'm going to show you what's marked as State's evidence
8 50, what is this a photo of?

9 A. That's a picture of the front of the house on house on
10 Harrelson Avenue.

11 Q. And was that Joe Rich's home?

12 A. It was.

13 Q. During that time did you locate any clothing at Joe
14 Rich's home?

15 A. We did.

16 Q. I'm going to show you State's evidence 12. Is this the
17 clothing -- or the clothing that you found at Joe Rich's home,
18 did it match this clothing?

19 A. Yes.

20 Q. Did you all locate a firearm at Joe's home?

21 A. We did.

22 Q. I'm going to show you State's evidence 52. Is this the
23 firearm that you all located?

24 A. Yes, sir.

25 Q. And what type of caliber is this firearm?

Cory Dulina-Direct by Mr. Harrelson

1 A. Nine millimeter, I believe.

2 Q. And is this an auto -- semi-automatic or is it a
3 revolver?

4 A. That's a semi-automatic handgun, it's not a revolver.

5 Q. During your investigation did you ever speak with a
6 Lashaye Washington?

7 A. I did, yes, sir.

8 Q. And who is Ms. Washington? Was she the sister?

9 A. She was.

10 MR. FOX: Objection. Leading, Your Honor.

11 MR. HARRELSON: I'll strike that, Your Honor.

12 THE COURT: I'll sustain the objection. Go ahead.

13 Q. Who was Ms. Washington?

14 A. She was the sister to Tyshawn Brown.

15 (State's Exhibits 53, 54, 56 & 63 were marked for
16 identification.)

17 Q. I'm going to approach with State's Exhibit 53, 54, 56
18 and 63.

19 MR. HARRELSON: If I may approach, Your Honor?

20 THE COURT: Yes, sir.

21 Q. Do you recall these photos, or do you recall this
22 vehicle?

23 A. Yes.

24 Q. And what is this a photo of?

25 A. That's a photo of the Kia van that was located on

1 Stonebrook at Ms. Washington's house.

2 Q. Is this a true and accurate representation of the
3 vehicle?

4 A. Yes.

5 Q. Has it been altered in any way?

6 A. No, sir.

7 Q. What about this document? Did you ever see this?

8 A. Yeah. That's the registration from South Carolina
9 Department of Motor Vehicles which returns the owner of the Kia
10 van to a Brittany Burk.

11 THE COURT: What is number on that, please, sir?

12 MR. HARRELSON: Yes, Your Honor, it's State's exhibit
13 63.

14 THE COURT: Okay. Thanks.

15 MR. HARRELSON: Your Honor, at this time the State
16 would like to offer State's Exhibits 63, 53, 54 and 56 into
17 evidence.

18 MR. FOX: Without objection.

19 THE COURT: Admitted without objection. Thank you.

20 MR. HARRELSON: Your Honor, at this time we'd like to
21 publish it to the jury.

22 THE COURT: Yes, sir.

23 (State's Exhibits Nos. 53, 54, 56 & 63 were admitted
24 into evidence.)

25 Q. So while you were at Ms. Washington's what did you

Cory Dulina-Direct by Mr. Harrelson

1 observe at her house? Did you on observe a van?

2 A. I did. There was a van parked at her residence, that
3 specific van there.

4 Q. Was this the same van that you all saw there at the
5 residence?

6 A. Yes.

7 Q. I'm going to show you State's Exhibit 53, State's
8 Exhibit 54. I'm going to show you State's evidence 63. So
9 whenever you investigated this did you all find the
10 registration?

11 A. We did.

12 Q. And when you found the registration who was the van
13 registered to?

14 A. Brittany Nicole Burk.

15 Q. Through your investigation did you learn who that was?

16 A. Yes.

17 Q. And who was that?

18 A. Brittany Nicole Burk was the girlfriend of Tyshawn
19 Brown.

20 Q. And whenever you were at Ms. Washington's residence did
21 you observe anybody else there besides Ms. Washington?

22 A. Yeah. Ms. Washington's girlfriend, an Angelica Knox.

23 Q. Were there any males at the residence?

24 A. No.

25 Q. Was the owner of the gray van at the residence?

1 A. No.

2 MR. HARRELSON: Court's indulgence?

3 THE COURT: Okay.

4 Q. And during your investigation did you interview Angelica
5 Knox?

6 A. I did.

7 Q. And did you interview Lashaye Washington?

8 A. Yes, sir, I did.

9 MR. HARRELSON: No further questions.

10 THE COURT: Thank you. Mr. Fox, Cross-examine?

11 MR. FOX: Thank you.

12 CROSS-EXAMINATION

13 BY MR. HARRELSON:

14 Q. Officer Dulina, you said there was a nine-millimeter
15 handgun located at the residence of Mr. Rich on Harrelson
16 Avenue which was the residence of Joe Rich, correct?

17 A. Correct.

18 Q. You would agree with the fact that that handgun was
19 there wouldn't limit Mr. Rich to only, I don't know if he ever
20 touched that gun, but the fact that that particular handgun of
21 that the particular caliber was located at his residence
22 wouldn't preclude him from using another weapon of another
23 caliber, correct?

24 A. Can you rephrase your question?

25 Q. So in other words, any person can use any number or have

Cory Dulina-Cross by Mr. Fox

1 access to any number of guns in theory, right?

2 A. I don't know what his ability was in access to what,
3 yes, sir.

4 Q. In other words, the fact that there's a nine millimeter
5 handgun there means absolutely nothing as to whether or not he
6 might have used a different caliber weapon or a type of weapon,
7 perhaps, in this shooting?

8 A. I'm not sure, sir. I just know that that gun was
9 recovered at his house.

10 Q. Okay, right. Now, also located with some ammunition,
11 small amounts of ammunition, some nine millimeter bullets, the
12 a 40 caliber bullet, two magazines, does that ring a bell?

13 A. Yes, sir.

14 Q. Okay. Digital scales and packaging evidence for drug
15 sales, do you recall that?

16 A. I don't recall that, specifically, no, sir.

17 MR. FOX: Thank you. No further questions.

18 THE COURT: Redirect?

19 MR. HARRELSON: No further questions, Your Honor.

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

21 THE WITNESS: Thank you, Your Honor.

22 MR. HARRELSON: Your Honor, the State would request
23 that Detective Dulina be released from his subpoena.

24 THE COURT: Without objection?

25 MR. FOX: Yes, sir, without objection.

1 THE COURT: Thank you, Detective Dulina, you're
2 released from your subpoena.

3 MR. HARRELSON: Your Honor, may we approach?

4 THE COURT: Yes, sir.

5 (Discussion was held off the record by Court and counsel.)

6 THE COURT: Folks, we're waiting for the arrival of
7 one additional person who is actually is the next witness who
8 is going to testify. That person, from my understanding, is on
9 the way. Back in my hometown in Manning, "on the way" could
10 mean right downstairs, or it could mean he's leaving Aynor
11 right now. I don't know what it means, but we're going to find
12 that out right now. We're not going to keep you waiting while
13 we are waiting. I'm sure it's comfortable and all that sort of
14 stuff, but it's not as comfortable as you are in the jury room
15 so I'm going to send you to the jury room just very briefly, we
16 hope, and we will keep you posted if it looks like we're going
17 to be longer than just a few minutes. Okay? Don't talk about
18 the case yet. Thank you.

19 (Jury exited the courtroom)

20 THE COURT: Folks, we'll just stand at ease where we
21 are and we'll try to get a report on location on the gentleman
22 that we need.

23 MR. HOLFORD: While the jury is out, Your Honor, my
24 next witness would be Robbie Caulder. He was formally Horry
25 County Department CSI. In that, I have shown defense counsel

Cory Dulina-Cross by Mr. Fox

1 State's 31 and 32. They are photographs of a projectile or the
2 bullet part, the projectile part of a bullet. Thirty-one is a
3 larger portion and 32 is a smaller fragment. Both were
4 recovered. The testimony would be that both were recovered
5 from the autopsy of the victim, Mr. Charles Durant. We also
6 have the fragment and the casings themselves, and the State
7 would seek to introduce those. I had marked other exhibits
8 from the autopsy but we will not seek to introduce those
9 through this witness, and in speaking with defense I believe
10 there may be an objection or a question about one of the
11 exhibits.

12 MR. FOX: We do, Judge, and I'll hand up -- I'll hand
13 both of them up. Thirty-one -- again, both are recovered at
14 the autopsy of Mr. Durant. Thirty-one, I don't have any
15 particular objection. It's simply a bullet, the better part of
16 what's left over and nothing particular, but 32 which is the
17 fragment, he's just covered in what appears to be, you know,
18 human blood and flesh. I think it's cumulative, Judge. Number
19 one, obviously, I assume the doctor who did the autopsy will be
20 testifying. He can testify about the wounds. And they have
21 the actual bullet, so they have that bullet which I believe
22 will be in evidence, just cleaned up. They were sent later,
23 they were sent to SLED for ballistics testing and so I believe
24 they'll be able to testify about that bullet and they'll be
25 able to have the actual bullet to show the jury and we can

1 avoid that, somewhat, gruesome picture.

2 THE COURT: Mr. Holford, what is the evidentiary
3 value of the photograph itself that could not be met with the
4 real bullet itself and testimony thereafter?

5 MR. HOLFORD: Your Honor, of the bullet itself, the
6 me address 31, because I don't necessarily -- I'm sorry.
7 There's an objection to 32?

8 MR. FOX: The fragment.

9 THE COURT: Yes, 31 is okay, it's not objected to.

10 MR. HOLFORD: Your Honor, I think we can get the
11 fragment in itself.

12 THE COURT: Okay. Thirty-one in evidence, 32 is
13 marked as not allowed or you can just withdraw it.

14 MR. HOLFORD: I'll withdraw that.

15 (Jury entered the courtroom.)

16 THE COURT: Okay. The State has been able to make
17 take up the next witness.

18 MR. HOLFORD: This is not the witness we were waiting
19 for, but the State would call Robbie Caulder at this time.

20 THE COURT: The State's going to make some
21 adjustments on the next witness so we don't have to wait longer
22 on the planned witness and we'll move on down the line and take
23 up the next witness. Mr. Holford?

24 MR. HOLFORD: Yes, Your Honor, this is not the
25 witness we were waiting for, he was here, but the State would

Robbie Caulder-Direct by Mr. Holford

1 call Robbie Caulder at this time.

2 THE COURT: Mr. Caulder, come forward, please, and be
3 sworn.

4 **Robbie Caulder II being first duly sworn, testified**
5 **as follows:**

6 THE CLERK: Please state your name and spell it for
7 the Court.

8 THE WITNESS: John Robert Caulder II, last name
9 spelled C-a-u-l-d-e-r.

10 DIRECT EXAMINATION

11 BY MR. HOLFORD:

12 Q. Mr. Caulder, where are you currently employed?

13 A. I am currently employed with Action Fence Company.

14 Q. How long have you been with the Action Fence Company?

15 A. Since I retired in 2019.

16 Q. Back in 2018 where were you employed?

17 A. I was employed with the Horry County Police Department.

18 Q. And how long had you been with the police department?

19 A. At that point in time, 23 years.

20 Q. What was your assignment back in 2018?

21 A. I was a crime scene investigator in the crime scene
22 unit.

23 Q. What kinds of things did you do as a crime scene
24 investigator?

25 A. Typically, on the daily, we would process items of

1 evidence looking for things like DNA, fingerprints, footwear,
2 footwear evidence, as far as collecting it on cases, road
3 patrol and things like that, testing of certain drugs and
4 things like that. Then occasionally we would respond out to
5 calls such as homicides, things like that where extra help was
6 needed or a crime scene was established.

7 Q. Now, I'm sure we've all seen CSI, movies like that, is
8 that what we're talking about?

9 A. Unfortunately, I didn't reap any benefit on those. It's
10 similar to what you see on TV, but there's way more involved
11 than 30 minutes.

12 Q. You don't get to solve the case in an hour?

13 A. No, sir.

14 Q. Let me ask you, in this case from the April 24, 2018,
15 did you respond to a call involving Tyshawn Brown as a
16 defendant?

17 A. At the time I didn't know who it was. I got a call from
18 my lieutenant, Peter Cestare, who said that there had been a
19 shooting in the City of Loris and that our assistance was
20 needed and I responded to that.

21 Q. I'm going to show you what has been already entered into
22 evidence. Can you see that TV screen?

23 THE WITNESS: Your Honor, can I slide out?

24 THE COURT: Wherever you need to.

25 THE WITNESS: Thank you, Your Honor.

Robbie Caulder-Direct by Mr. Holford

1 Q. So State's 17, is that a picture you would have taken?

2 A. Yes, sir.

3 Q. So State's 17, 18, these are all at the scene?

4 A. Yes, sir. Upon arrival first thing we do is we try to
5 get as much information from detectives and officers that were
6 on the scene, then we immediately photograph everything as we
7 see it when we arrive.

8 Q. Okay. And State's 20. So at this point you haven't
9 moved anyone or anything, you're just trying to document it as
10 it appears at the time?

11 A. That's correct. This is exactly how it was seen when I
12 arrived.

13 Q. And that's all the way through 23. Now, you took this
14 picture of State's 23, what's the relevance of that picture as
15 a CSI investigator?

16 A. In the center of the frame it shows that there is an
17 entrance of some kind of fired projectile into the A-frame of
18 the vehicle there in about the center of that photograph.

19 Q. And you didn't see anything with the windshield, as
20 well, or the driver's side window?

21 A. You can see that the photograph was just for that. You
22 get to see also the driver's door that's busted out, or the
23 window on the driver's door, and also the bullet hole in the
24 front windshield.

25 Q. Now, after you take pictures on the scene do you then do

1 further processing of the vehicle?

2 A. Yes. Typically we do minor there until we got back to a
3 controlled environment, but typically once the victim was
4 removed from here just a glanced photograph and then the truck
5 was sealed and towed to the Horry County Police Department
6 where it was searched where we can certainly do a better search
7 of it in a controlled environment.

8 (State's Exhibits 33-49 were marked for identification.)

9 MR. HOLFORD: I'm going to hand you, these have not
10 been entered yet, so they're for I.D., State's 33, 34, 35, 36,
11 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49.

12 Q. I'm going to ask you to just briefly flip through those.
13 And are you familiar with what those photographs are?

14 A. These are all photographs of the truck that the victim
15 was in and when that was towed back to the police department,
16 these are photographs of us searching and collecting items out
17 of that same truck.

18 Q. And were those photographs you, sir?

19 A. Yes, sir.

20 Q. Now, tell the jury a little bit about, you said a
21 controlled environment, why do you do that?

22 A. So we have more time to process. Kind of like in your
23 every day lives, you're kind of in a rush, but if you're at the
24 scene you're in people's yards, you have persons gathering
25 around, it's dark, we can control the lighting and things like

Robbie Caulder-Direct by Mr. Holford

1 that and people that are around the vehicle when we're there.
2 It's easier for us to search things for evidence and go through
3 it thoroughly in case we have to take something out, we have
4 tools available, we have to remove seats, things like that, we
5 have more things available at the office at the time to be able
6 to help process vehicles than we would on the scene.

7 Q. Are these true and accurate reflections of the pictures
8 you took of that vehicle when you did the search?

9 A. Yes, sir, that's correct.

10 MR. HOLFORD: Your Honor, at this time State would
11 seek to introduce State's 33 through 49 into evidence.

12 THE COURT: Okay. Mr. Fox, without objection?

13 MR. FOX: No objection.

14 THE COURT: Thirty-three through 49 in evidence.

15 (State's Exhibits 33 to 49 were admitted into evidence)

16 Q. I'm going to show you back on the TV if you can --

17 THE WITNESS: Your Honor?

18 THE COURT: Yes, sir, you can step down and wherever
19 you need to, just keep your voice up while you're away from the
20 microphone.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Thank you.

23 BY MR. HOLFORD:

24 Q. So just, if you don't mind, just talk through, as a CSI
25 you're taking photographs, what are you trying to depict in

1 State's 33? What do we see that's relevant?

2 A. Mainly, all photographs of the vehicle are just to show
3 every aspect of the vehicle, so the first thing we would do or
4 I would do and how I trained others to do, is you want to
5 immediately start photographing the outside, and that's
6 typical, take a front, side, rear, both sides, then going into
7 under the hood, the bed of the truck, there's a toolbox,
8 anything like that, you photograph everything, just so you
9 don't miss anything. Smaller items, things that seem
10 insignificant at the time may be something later on that you
11 may have to go back and readdress, because during the course of
12 all of the photographs and searching we're also getting
13 information back from the field detective who passes new
14 information on to us that may -- we'd look around in that
15 vehicle for.

16 Q. In State's 33, what do we see on the windshield?

17 A. On the front windshield here you see two bullet holes to
18 appear to be entry holes here on the front windshield.

19 Q. What about State's 34?

20 A. This is the open, the inside view of the driver's side
21 truck door. You'll see the broken glass and floor board.
22 Here's where the glass used to be in the window of the door.

23 Q. State's 35?

24 A. This is just the front driver's seat, and the only
25 driver's seat in this vehicle. It's just depicting the broken

Robbie Caulder-Direct by Mr. Holford

1 glass all around, the cell phone, the two cigarette lighters,
2 there, again, it's just harder to document everything that was
3 inside of the vehicle.

4 Q. Thirty-six?

5 A. This depicts just a shot as if you're sitting in the
6 front driver's seat looking out the front windshield. Here you
7 can see that one bullet hole from the original first picture.
8 The other is stuff over here that's out of the picture.

9 Q. Thirty-seven?

10 A. Here again, this is a shot later own during the course
11 of searching the vehicle. This is one we put trajectory rods
12 inside the bullet holes. Basically what these are, just hard
13 plastic dowel rods that go into the holes. You don't make the
14 holes any bigger. The rods are sized so if you find the hole,
15 the size you stick the trajectory rod in kind of gives you an
16 idea of where possibly the shooter could have been, so that's
17 the purpose of this in depicting that.

18 Q. Thirty-eight?

19 A. This is the inside if we're standing outside of the
20 truck on the driver's side looking in and this shows the
21 trajectory rods from the inside of the vehicle.

22 Q. Thirty-nine?

23 A. This is from the same, it's just the opposite side of
24 the truck. This is the passenger's side looking back towards
25 the driver's side, window missing, and you can see the

1 trajectory rods through the A-frame here and these are the
2 trajectory rods through the front windshield.

3 Q. Forty?

4 A. Showing the front passenger -- or the front driver's
5 seat, over toward the passenger seat we see some red substance
6 here and broken glass on the driver floor board.

7 Q. Forty-one?

8 A. Passenger side, you can see the red substance on the
9 seatbelt and the seat itself and just what's inside of the
10 truck.

11 Q. Forty-two?

12 A. That's just an overview of the center console area from
13 the front dash to the armrest.

14 Q. Forty-three?

15 A. This is the backseat where it sits up. It's got not
16 really a cab, but it's got somewhere for small children to sit,
17 I guess. These are two seats, but it's just showing the items
18 in the backseat and then you can see the seat in this was
19 folded up.

20 Q. Now, let me ask you about seven and eight. Was that in
21 the vehicle when you -- tell me about seven and eight.

22 A. Basically what this is, there's another correlated
23 photograph that shows the same thing, it's just missing these
24 two numbers. There's two documentation photographs, one that
25 shows it as is, and then this one is after we're done

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1 photographing now we're starting to collect evidence. These
2 are two items that were collected as V.S. seven and V.S. eight.
3 "V.S." just simply stands for vehicle search.

4 Q. Forty-four?

5 A. This is depicting on the passenger side of the truck
6 now, you're looking into the backseat, this is where the back
7 window was, this is how it was, nothing has been altered or
8 changed, we didn't put the plastic bag there, it was there.
9 And you can see a bullet hole here to the back. Right about
10 there is the next photograph you'll see is a fragment.

11 Q. Forty-five?

12 A. And that's that. You can see the original photograph
13 and the number of fragment, so we collect it as V.S. nine and
14 this was the fragment that was collected from the trash bag.

15 Q. Now, what is a fragment?

16 A. Fragments, according to the way we were taught, I was
17 trained is that these are, fragments are part of a fired
18 projectile that cannot be -- they can't track that fragment
19 back to anything, there's not enough detailing for a forensic
20 lab to be able to go back and look at that fragment and say it
21 belonged to -- or it was fired from a certain weapon because
22 there's just not enough detail to it.

23 Q. Now, did you collect that item nine?

24 A. Yes.

25 Q. I'm going to hand you what's been marked for I.D. as

1 State's 69. Are you familiar with State's 69?

2 A. That was collected as V.S. nine which correlates to this
3 number, it has the identifying case number, the date, the
4 person that collected it, which was me, and then it kind of
5 says the description that I write down, and then I seal it on
6 the back from side to side to cover the gaps, and then I sign
7 and date with the evidence tape.

8 Q. And so is that how we know that what's in this package
9 is what's in that paragraph?

10 A. That's correct.

11 MR. HOLFORD: Your Honor, at this time the State
12 would seek to introduce State's 69 into evidence.

13 MR. FOX: Without objection?

14 THE COURT: Thank you. Sixty-nine into evidence
15 without objection.

16 (State's Exhibit No. 69 was admitted into evidence.)

17 Q. I'm sorry, I'm kind of going to jump a little bit back
18 and forth.

19 THE WITNESS: So I'll stand up.

20 Q. Forty-six?

21 A. So we still got the same bag. Here, you see the black
22 trash bag over the back window. This was the plastic that's
23 just over the window. Here you can see an indentation or
24 something that struck it.

25 Q. Forty-seven?

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1 A. This is close-up view of that same area. This is the
2 identifying tag number V.S. 10, and the inside appears what
3 we've got as a piece fired bullet or a fragment.

4 Q. And then I'm going to hand you now what's been marked
5 for I.D., it's not in evidence yet, as State's 70. Are you
6 familiar with State's 70?

7 A. State's 70 is V.S. 10 which corrolates to that
8 photograph. It has the fire projectile in it and it has the
9 case number, my initials, the date, and a three description of
10 it, and it also has my seal on the back of it.

11 MR. HOLFORD: Your Honor, at this time the State
12 would seek to introduce State's 70 into evidence.

13 MR. FOX: No objection.

14 THE COURT: Without objection.

15 (State's Exhibit No. 70 was admitted into evidence.)

16 Q. Let's go back to State's 48 photograph.

17 A. So this is the passenger -- looking into the passenger
18 truck. There again, always remember all the original
19 photographs have already been taken. This is just going back
20 now and collecting evidence and identifying. There it is,
21 that's just the number, but this is the number 11 of the V.S.
22 11 that was collected from the passenger floor board of the
23 truck and there you're going to get a fired bullet or a
24 projectile.

25 Q. So then State's 49?

1 A. That's just a close-up view of it.

2 (State's Exhibit No. 71 was marked for identification.)

3 Q. So I'm going to hand you what's been marked as I.D. as
4 State's 71. Are you able to identify what State's 71 is?

5 A. Yes, sir. It also correlates to the photograph V.S. 11
6 and has the case number, the date, my initials and a
7 description of it, and there again, sealed and taped inside.

8 MR. HOLFORD: Your Honor, the State would seek to
9 introduce State's 71 into evidence.

10 MR. FOX: Also without objection.

11 THE COURT: Thank you. Admitted without objection.

12 (State's Exhibit No. 71 was admitted into evidence.)

13 Q. Did you search another vehicle in connection with this
14 case?

15 A. Yes, sir.

16 Q. I'm going to hand you, 53, 54 and 56 are in evidence.
17 If you'll just flip through those and see if you're familiar
18 with them, and then I'm going to hand you what's been marked
19 for I.D. as 55, 57, 58, 59, 60, 61 and 62.

20 A. Yes, sir. This was a search of a Kia van that was
21 brought in to be searched. That's the information we get is to
22 search the vehicle, search warrant.

23 Q. Are these pictures that you took?

24 A. Yes, sir.

25 Q. Is that how the van appeared at the time it was

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1 impounded and you searched it?

2 A. Yes, sir. Nobody has access to the impound lot and once
3 the tow truck driver drops it back there, pretty much it's
4 limited access to that.

5 MR. HOLFORD: Your Honor, the State would seek to
6 introduce State's 55, 57, 58, 59, 60, 61 and 62 into evidence.

7 MR. FOX: Without objection, Your Honor.

8 THE COURT: Thank you.

9 (State's Exhibits Nos. 55, 57, 58, 59, 60, 61 & 62
10 were admitted into evidence.)

11 Q. So State's 53, again, the process of documenting a
12 vehicle, you said you started on the outside?

13 A. Yes. Always start on the outside. It becomes a
14 creature habit, always start at the front of the truck. That's
15 my first photograph, I walk around the driver's side, side,
16 rear, and there would be just documenting the outside as is
17 when I conclude.

18 Q. And you might have taken more pictures than I've
19 selected?

20 A. Yes, sir, yes, way more. This is just how it came when
21 they towed it into the police department, this is the date, and
22 when they bring it in they wrap the vehicle with the crime
23 scene tape so we know if anybody has tried to access it. So
24 it's taped, you probably don't see it on here but sometimes
25 there on the doors at the doors they'll tape it, put a little

1 piece of tape on the back of that box they'll put a piece of
2 tape so nobody opens the doors.

3 Q. State's 55?

4 A. It's just showing the South Carolina license tag that
5 was displayed on the vehicle.

6 Q. State's 56?

7 A. The passenger's side of that same vehicle.

8 Q. State's 57?

9 A. This is one of the photographs we take, it's of the VIN
10 that's on the vehicle and this is what you're looking at,
11 you're looking at the VIN plate, this is a front dash in every
12 vehicle and like it has been scratched through trying to hide
13 it, alter it.

14 Q. Are you able to tell what the VIN number was on this
15 vehicle?

16 A. Not from that, no, sir.

17 Q. How were you able to identify a VIN number that's been
18 scratched?

19 A. If the VIN number is missing from here there is also a
20 VIN information, or information tag that's in the doors of all
21 vehicles. Also, on the motor itself is a VIN number and
22 somewhere else on the body there's a VIN number located.

23 Q. State's 58.

24 A. This is view inside the van when we open up the door,
25 this is the passenger side looking through to the driver's

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1 side.

2 Q. State's 59?

3 A. I think this is the driver's seat and this is the
4 passenger's seat. This flips up between the two and that's
5 just the front center console there.

6 Q. State's 60?

7 A. That's the tag that you just saw on the other photograph
8 that was clear.

9 Q. Sixty-one?

10 A. This is behind the front driver's seat. You see, this
11 is a red bandanna.

12 Q. Sixty-two?

13 A. And this is where the red bandanna was collected.

14 Q. And you put a marker 7 there, is that because you intend
15 to collect that as evidence?

16 A. That is correct.

17 (State's Exhibit No. 72 was marked for identification.)

18 Q. I'm going to show you what's been marked as I.D. as
19 State's 72. Well, let me ask you this, after you collect
20 something as evidence you mark them as numbers, do you then
21 have the property and evidence sheet?

22 A. Yes. Basically, when this is collected, it's
23 photographed, you know, before, as the vehicle is, take a
24 photograph of it again and then a photograph with the number,
25 that way it can always be tracked back in case something

1 happens when questions arise. It is then bagged into a paper
2 bag, anything like this that has a little paper, it may be a
3 little damp, paper allows it to dry, it is then sealed,
4 labeled, and placed into evidence, and there's also an evidence
5 sheet that tracks all of that that goes along with all the
6 paperwork.

7 Q. And then do you have tags on the bags or the boxes or
8 anything that would identify case numbers?

9 A. Yeah, once all the evidence is collected, things that go
10 up for further testing to the state agency, maybe boxed in some
11 different way and sent there. Anything else is going to stay
12 at the police department in their evidence section. They are
13 put in big boxes and each box is labeled to show all of the
14 different items that may be in that box.

15 Q. And so with State's 71, are you familiar with what's
16 actually in that bag?

17 A. This is the red bandanna that you see here in this
18 photograph.

19 MR. HOLFORD: Your Honor, at this time State would
20 seek to introduce State's 72 into evidence.

21 MR. FOX: Without objection.

22 THE COURT: Thank you. Without objection 72 is in
23 evidence.

24 (State's Exhibit No. 72 was admitted into evidence.)

25 Q. Did you attend an autopsy in this case?

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1 A. Yes, sir.

2 Q. And why do you attend the autopsy?

3 A. To document the victim and also collect any evidence if
4 evidence is to be collected.

5 Q. I'm going to show you what's been marked as State's 31.
6 Are you familiar with what State's 31 is a picture of?

7 A. Yes, sir.

8 Q. And what is that?

9 A. It is one of the projectiles that was recovered at the
10 autopsy.

11 Q. Did you can take that picture.

12 A. I did.

13 MR. HOLFORD: State would seek to introduce State's
14 Exhibit 31 into evidence?

15 MR. FOX: Without objection.

16 THE COURT: Without objection.

17 (State's Exhibit No. 31 was admitted into evidence.)

18 A. So we've seen a couple projectiles, but State's 31,
19 where did you collect this from?

20 A. This was Dr. Proctor, the forensic pathologist that was
21 doing the autopsy. Once he collected it, he turns everything
22 over to me right there, in the same room, once he collects it
23 he'll kind of clean it up, he'll hand it to me and then I'll
24 place it, photograph it, collect it, seal it, just like
25 anything else and take it back to the evidence.

1 Q. This isn't the only photo you took, is it?

2 A. No, sir.

3 Q. You take a lot of photos?

4 A. A lot of photos.

5 Q. Some may be relevant, some may not be relevant?

6 A. That's correct.

7 (State's Exhibit No. 73 was marked for identification.)

8 Q. I'm going to hand you what's been marked for I.D. as
9 State's 73. Are you familiar with what State's 73 is?

10 A. Yes, sir, it is a fired bullet that was collected as
11 item number one on the 25th day of April, 2018, from the
12 autopsy.

13 Q. And this picture, State's 31, is that what --

14 A. Yes, sir, that's correct.

15 Q. -- the physical evidence and there it is?

16 A. Yes, sir.

17 MR. HOLFORD: Your Honor, the State would seek to
18 introduce 73 into evidence.

19 MR. FOX: Without objection.

20 THE COURT: Thank you.

21 (State's Exhibit No. 73 was admitted into evidence.)

22 Q. And now, I'm going to hand you State's 74. Are you
23 familiar with what State's 74 is?

24 A. It is a fragment that was collected that same day in the
25 autopsy, but it's just a fragment of the bullet.

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1 Q. And would you have photographed that as well?

2 A. Probably not because it was so small, things like -- I'm
3 not saying it was situation, but something like this would have
4 been something that the doctor would have felt and then said, I
5 think this is what this is, and then until he cleans it up you
6 don't know because most of the time it's covered so it's kind
7 of hard to see, it's covered.

8 Q. But this is a fragment you collected at the autopsy?

9 A. That is correct.

10 MR. HOLFORD: Your Honor, the State would seek to
11 introduce State's 74 into evidence.

12 MR. FOX: No objection.

13 THE COURT: Without objection.

14 (State's Exhibit No. 74 was marked for identification
15 and admitted into evidence.)

16 Q. Now, when we're talking about the boxes, you had
17 mentioned something and I didn't take a second at that time but
18 I want to now. You said that someone cut through it, it could
19 have been SLED. What is SLED?

20 A. SLED is the State Law Enforcement Division and they have
21 a forensic lab that's located in the middle of the state in
22 Columbia and it's available to every agency, policing agency in
23 the state.

24 Q. I'm going to use State's 73 as an example for us. Is
25 the actual projectile moving around in that bag?

1 A. I see it.

2 Q. Okay. Now, when we look at this box and we see, I've
3 got it marked as State's 73 for this trial, but then the case
4 number, who writes the case number on there?

5 A. I do. All of that is my -- all of the information is
6 put on there by me.

7 Q. So what's the case number identified as, is that your
8 number?

9 A. On there it is 18034981, and the case number is
10 generated by the call of service through 911.

11 Q. And then you put a date that it's collected?

12 A. Yes, sir.

13 Q. And then these initials here, are those yours?

14 A. Yes, sir.

15 Q. And then you write a brief description?

16 A. Yes, sir.

17 Q. What's this number A-1, who puts that on there?

18 A. I put that as well. We only have numbers one, two,
19 three, and so forth, so the A is kind of distinctive to me.
20 That's something I use so I can identify as autopsy one, so I
21 know correlating for court purposes.

22 Q. So you could have a V.S. 1, and A-1 and --

23 A. Yes, sir. There can be different amounts of 1's, and
24 that's what we found over time became confusing, so we started
25 separating them in the vehicle searches, autopsies, are

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1 regularly just crime scene. So it could say C.S., V.S., A.

2 Q. Now, on this, it's hard to see, there's an L 18 6385.

3 Is that your number?

4 A. No, sir. That is an identifier given by SLED when it is
5 taken into evidence intake.

6 Q. Now, why do you send things to SLED? Why would you?

7 A. We don't have a forensic lab so anything forensically
8 with that would have been to a firearms lab and we don't have
9 one in Horry County so we had to send to SLED so they can
10 examine the fired bullets.

11 Q. All those bullets that we just looked at, are they --
12 let me ask you this. We talked about the term bullet, or a
13 round, what are the components of a round?

14 A. Well, basically, it's made, a whole bunch of lead. I
15 mean, are you talking about the makeup of a bullet?

16 Q. I'm sorry. Yeah, what makes up a full bullet? Is this
17 a full?

18 A. No, it is not. A full bullet that everybody is familiar
19 with is a casing, a primer, black powder, some type of
20 separator, which sometimes is a wadding, and then the actual
21 what everybody calls the bullet, which used to be made out of
22 lead, different composed of now, but that's the part that
23 everybody sees makes impact and the casing on the ground that
24 you never see, the primer and the black powder is what actually
25 makes the bullet leave the gun.

1 Q. So you collected bullets in this case or the projectile
2 out of the end of it?

3 A. That's correct.

4 Q. Is that after they are fired or before they're fired?

5 A. That's after they're fired.

6 Q. Did you collect any casings in this case?

7 A. I'll have to look back.

8 Q. Do you write a report and document everything you
9 collect?

10 A. Yes, sir. I take hand notes at the scene and then
11 transfer those handwritten notes into a typed summary of my
12 investigation.

13 Q. Would it help you if I gave you a copy to refresh your
14 recollection?

15 A. It would sir, yes, sir.

16 Q. This is back in 2018; is that right?

17 A. Yes, sir. No shell casings.

18 Q. No shell casings. And you would you have, when you went
19 to the scene, would you have collected shell casings if you had
20 seen them out there?

21 A. Yes, sir.

22 Q. Why would you collect shell casings if they're out
23 there?

24 A. To be able to aid to match the casing to a weapon and to
25 also match the fired bullet to the casing and to the weapon.

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1 Q. Did you search the area for casings?

2 A. Yes, sir. There was about within 100 feet from where
3 the truck was located, and it's kind of like where Spring
4 Street and different streets come together in Loris and kind of
5 like an apex, so there was glass up the street so we walked the
6 streets to see if we could find anything and we found shattered
7 glass and cigarette lighters was pretty much all we were able
8 to locate.

9 Q. So you found four bullets, three in the truck, one at
10 the autopsy, but no casings?

11 A. Yes, sir.

12 Q. What are you able to make of that?

13 A. It typically states that you're looking at a secondary
14 crime scene or the original crime scene because it didn't -- we
15 knew that at this point it didn't happen there because the
16 truck was still running when we got there so -- which is
17 evident that they were fleeing from something when the gunshots
18 were fired. He hit and wrecked into the tree. So since
19 there's no casings we know we have an initial crime scene
20 somewhere else.

21 Q. If you don't have casings could there be any other
22 reason?

23 A. It could be from a revolver. I mean, that's typical,
24 you know, because mostly they want to empty it out, but
25 revolvers don't eject the casing. It could be one thing. I

1 mean, it could go on for days of possibilities, but we just
2 didn't find any there close by which, in our minds, from a law
3 enforcement standpoint this was a secondary scene and not the
4 initial scene.

5 Q. Where the truck actual truck ended up was the secondary
6 scene?

7 A. Yes, sir.

8 Q. But did you search that street there right at the stop
9 sign?

10 A. Yes, sir.

11 Q. Okay. And you didn't find any casings along the street?

12 A. Just evidence of the shattered glass and a cigarette
13 lighter.

14 Q. But the shattered glass was there on the street?

15 A. Yes.

16 MR. HOLFORD: I have no further questions at this
17 time.

18 THE COURT: Mr. Fox, cross-examine?

19 MR. FOX: Thank you.

20 CROSS-EXAMINATION

21 BY MR. FOX:

22 Q. In that report that you referred to, you typically note
23 conditions, weather, temperature even --

24 A. Yes, sir.

25 Q. Certain cases that can be important and I think in this

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1 instance you noted there's limited lighting in that area?

2 A. Yes, sir, correct.

3 Q. And of course, you had the ability in taking pictures I
4 guess you had the flash or maybe lights and you were able to --

5 A. Yes, sir.

6 Q. -- illuminate the Chevy on scene?

7 A. We carry exterior lights.

8 Q. Right. Because you can't necessarily wait until
9 daylight to do what you need to do.

10 A. Yes, sir.

11 Q. Okay. So the light that you saw in those pictures on
12 the scene of the Chevy up against the tree --

13 A. Yes, sir, the lights were created by the camera.

14 Q. Thank you. You've got, from the autopsy, you said there
15 are a bullet and a fragment in Mr. Durant's body, correct?

16 A. Yes, sir.

17 Q. And in fact, Dr. Proctor included those were separate,
18 there were two separate wounds?

19 A. Yes, sir.

20 Q. In other words, one bullet did not cause both of his
21 wounds, correct?

22 A. Yes, sir.

23 Q. Okay. There are then three bullets or fragments
24 recovered from the truck, correct?

25 A. Yes, sir.

1 Q. Two in the plastic bag at the back window and another
2 one under the passenger side mat, floor mat?

3 A. Yes, sir.

4 Q. And then are you aware -- were you aware that there was
5 another person in that vehicle besides Mr. Durant?

6 A. I did not, no, sir.

7 Q. That wouldn't have been anything that came up?

8 A. No, sir.

9 Q. Okay. But that's at least, potentially, five, right,
10 between two and Mr. Durant's person and three in the truck?
11 Potentially that could be up to five shots?

12 A. Yes, sir, potentially, yes, sir.

13 Q. Now, you indicated that there was -- you're talking
14 about fragments and explaining what a fragment is. What was
15 the issue with fragments again? You explained that that's a
16 portion of a fired, and I use the word the word bullet, the lay
17 term for bullet, but what's the problem with fragments?

18 A. There's not enough metal, brass, there's not enough of
19 the bullet to actually say it came or it was fired from any
20 particular unit. There's no striate, anything like that to be
21 able to say, okay, this the fragment came from this bullet that
22 came from this gun.

23 Q. How long were you a crime scene investigator?

24 A. Seventeen years.

25 Q. So that's based on your experience processing hundreds

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1 if not thousands of crime scenes?

2 A. Yes, sir.

3 Q. Who makes a decision -- are you aware in this case
4 whether any of the material you collected was sent to SLED?

5 A. That, I do not know.

6 Q. Who would make the decision whether to submit a
7 particular item to SLED?

8 A. Typically everything is sent to SLED, I mean, as far as
9 everything we can. Now, that's kind of a hard question to
10 answer because they do limit the amount of items you can send
11 on certain cases, whether it's homicide or property crimes, you
12 can't do as much DNA or firearms as you can with the homicide
13 cases, so kind of between the detective, myself and others just
14 sit down and say, okay, let's send what we can.

15 Q. Okay. So it's a --

16 A. Community --

17 Q. -- not your decision, but it's everyone together?

18 A. Involved in the case.

19 Q. But it would be possible to send a projectile, and don't
20 know what the outcome would be, but they have ballistics lab at
21 SLED to do just that, test bullets, test firearms to attempt to
22 determine if they were fired by the same gun. You can't always
23 do that, but okay, so that can be done. Alright. You just
24 don't recall in this case, correct? You just don't recall in
25 this case whether that was done?

1 A. I don't know what was sent or not, I'm sorry.

2 Q. Okay. Can, in your experience, cloth, clothes, things
3 like that, be submitted, have they been submitted, for DNA
4 testing?

5 A. In this case?

6 Q. Just in general, in your experience?

7 A. You can send up clothing, items of clothing, for DNA,
8 yes, sir.

9 Q. You never know what the results going to be until it's
10 sent, obviously, you don't know on the front end, but that's
11 something that can be done, they can take a cutting or a swab
12 from, in this case a bandanna, and compare it to a suspect's
13 DNA?

14 A. Yes, sir.

15 Q. Where they can collect, take that little Q-tip and swab
16 the inside of the cheek and --

17 A. Yes, sir --

18 Q. -- and potentially compare?

19 A. If DNA was gotten off of the bandanna and the buccal
20 swab was taken from the suspect, you could potentially compare
21 the two.

22 Q. But no guarantee that you could get a sample off, in
23 this case a bandanna, but you can't if you don't try, right?

24 A. Yes, sir.

25 MR. FOX: Thank you. No further questions, Mr.

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1 Caulder.

2 THE COURT: Redirect?

3 MR. HOLFORD: Nothing further, Your Honor.

4 THE COURT: Thank you. Thank you, Mr. Caulder, for
5 coming.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: You can step down and be excused. Thank
8 you very much.

9 THE WITNESS: Thank you, Your Honor.

10 MR. HOLFORD: Your Honor, the State would call Heath
11 Reaves.

12 THE COURT: Come forward, Mr. Reaves, please, be
13 sworn.

14 MR. HOLFORD: Your Honor, may we approach?

15 THE COURT: Yes, sir.

16 (Off the record discussion was held at the bench by
17 court and counsel.)

18 **Heath Reaves being first duly sworn, testified as**
19 **follows:**

20 THE CLERK: Please state your name and spell it for
21 the Court.

22 THE WITNESS: Heath Reaves, H-e-a-t-h, R-e-a-v-e-s.

23 DIRECT EXAMINATION

24 BY MR. HOLFORD:

25 Q. Mr. Reaves, how old are you?

1 A. Twenty-four.

2 Q. Let me ask you this. Have you been charged with crimes
3 in connection with this case?

4 A. Yes, sir.

5 Q. What were you charged with?

6 A. Murder and attempted murder.

7 Q. And have you met with me before today?

8 A. Like in what, saying what?

9 Q. Have you sat down and given a statement about this case?

10 A. Yes, sir.

11 Q. And did I give you a letter that we call a proffer
12 letter?

13 A. Yes, sir.

14 Q. And let me ask you this: Are you represented by an
15 attorney at this time?

16 A. Yes, sir, Kevin Kearse.

17 Q. And is he present in the courtroom with you?

18 A. Yes, sir.

19 Q. Was he present during that interview?

20 A. Yes, sir.

21 Q. During that interview did you agree to speak with me as
22 a state representative prosecuting your case?

23 A. Yes, sir.

24 Q. And you're fully aware that I'm the prosecutor and
25 you're charge is murder and attempted murder?

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1 A. Yes, sir.

2 Q. When I gave you that letter that you read through, we
3 often call it a proffer letter. Will you tell the jury what
4 your understanding of a proffer is?

5 A. That I just tell the truth and tell what happened.

6 Q. Did I promise you anything?

7 A. No, sir.

8 Q. Are you hopeful that you may not go to trial for murder
9 and attempted murder?

10 A. Yes, I am hopeful.

11 Q. That's fair, there's no question about that, but have I
12 promised you anything?

13 A. No, sir, you haven't.

14 Q. Have I threatened you in any way?

15 A. No, sir.

16 (State's Exhibit No. 76 was marked for identification.)

17 MR. HOLFORD: I'm going to just mark this for
18 identification. This is State's Exhibit 76, it's three pages.

19 Q. Are you familiar with what State's 76 is?

20 A. Is this the proffer agreement?

21 Q. And did you initial on there?

22 A. Yes, sir.

23 Q. And on the third page did you sign that?

24 A. Yes, sir.

25 Q. And does this proffer agreement, to your knowledge,

1 contain the full terms of our agreement?

2 A. Yes, sir.

3 Q. Back in April 24, 2018, let's start with the Exxon gas
4 station. Did you go to the Exxon gas station?

5 A. Yes, sir.

6 Q. Can you see this video screen?

7 THE COURT: You can step out of the chair, Mr.
8 Reaves, if you'd like, to stand on the side, that way you can
9 get a better view. Just keep your voice up. You're soft
10 spoke, we need to be able to hear you. Okay?

11 THE WITNESS: Yes, sir.

12 BY MR. HOLFORD:

13 Q. Now, we've seen the surveillance video and these are --
14 well, you can tell me. I'm going to show you what's State's 3.
15 Are you familiar with what the picture State's 3 is showing?

16 A. Yes, sir.

17 Q. And how are you familiar with it?

18 A. Because I was there.

19 Q. And where were you in this picture?

20 A. Inside the van.

21 Q. Inside the gray van?

22 A. Yes, sir, in the backseat.

23 Q. Who is this walking away right there?

24 A. Joe Rich.

25 Q. How did you know Joe Rich?

Heath Reaves-Direct by Mr. Holford

- 1 A. From Tyshawn.
- 2 Q. I'm sorry, what?
- 3 A. From Tyshawn.
- 4 Q. Who is Tyshawn?
- 5 A. Smoke.
- 6 Q. Who is Smoke?
- 7 A. The man sitting over there.
- 8 Q. The defendant in this case?
- 9 A. Yes, sir.
- 10 Q. Is he in this picture?
- 11 A. In the driver's seat in the van.
- 12 Q. What's he wearing?
- 13 A. A red shirt and some pants.
- 14 Q. The driver of the van that you were in is the defendant?
- 15 A. Yes, sir.
- 16 Q. Was there anyone else in that van?
- 17 A. No, sir.
- 18 Q. In State's 4 there's an individual approaching the
- 19 passenger's side, who was that?
- 20 A. Charles Durant.
- 21 Q. Did you know Charles Durant?
- 22 A. Yes, sir.
- 23 Q. How did you with know Charles?
- 24 A. We went to school together.
- 25 Q. This one, State's 5, on the right side of that van, who

- 1 is that?
- 2 A. That's me getting out of the backseat.
- 3 Q. And what are you wearing?
- 4 A. A gray Polo shirt, I think, and some Polo pajamas.
- 5 Q. State's 6, who is in this photo?
- 6 A. That's me and Fantasia Ford.
- 7 Q. Fantasia Ford. State's 7?
- 8 A. Same, me and Fantasia Ford.
- 9 Q. Now, Fantasia Ford, was she connected to this at all?
- 10 A. No, sir.
- 11 Q. But would she have known who you were?
- 12 A. Yes, sir.
- 13 Q. State's 8, who is sitting in the front passenger seat
- 14 now?
- 15 A. Joe Rich.
- 16 Q. And the defendant, Tyshawn Brown, is he still in the
- 17 driver's seat?
- 18 A. Yes, sir.
- 19 Q. And where are you going?
- 20 A. Into the backseat.
- 21 Q. State's 9, this is camera 16 at 2:18, 4:24, 9:31. Do
- 22 you know whose truck that is?
- 23 A. Charles Durant.
- 24 Q. And is the van still there?
- 25 A. Yes, sir.

Heath Reaves-Direct by Mr. Holford

1 Q. And then in State's 10 at 9:32 at 18 seconds, where's
2 the van going?

3 A. Initially back to Tall Pines.

4 Q. I'm just going to go through this real quick because
5 we've seen them, but State's 11, who is that in that picture?

6 A. That's me.

7 Q. State's 12, at the register?

8 A. Joe Rich.

9 Q. State's 13?

10 A. Charles Durant.

11 Q. And State's 14?

12 A. That's me and someone's name I can't remember.

13 Q. This guy, you said you can't remember his name, was he
14 in the van?

15 A. No, sir.

16 Q. He came in a different vehicle?

17 A. Yes, sir.

18 Q. We've talked about this, and I think cleared it up, but
19 this Orlando Barber, "Pretty Boy," that's not you, is it?

20 A. No, sir.

21 Q. Was he in the van with you?

22 A. No, sir.

23 Q. So if someone said he was in the van you don't know how
24 that happened?

25 A. No, sir.

1 Q. Did you have hair similar to that back in 2018?

2 A. Kind of.

3 Q. Kind of? Was it shaved like it is now?

4 A. No, sir.

5 Q. What would you say your hairstyle was?

6 A. I had Wicks.

7 Q. Wicks? Okay. And is Orlando light-skinned, as well?

8 A. From the picture it looked like it.

9 Q. And I apologize, I don't mean to assume, but would you
10 classify yourself as light-skinned?

11 A. I guess, basically, yes, sir.

12 Q. If someone like me were trying to describe you, to be
13 fair, would they say you're light or dark-skinned?

14 A. Light.

15 Q. I'm trying to be as respectful as possible, I just
16 wanted to see how that could have been confusing. Do you go by
17 another name other than Heath Reaves?

18 A. Just "J".

19 Q. Now, let's go back to that van. You were in the van
20 with Joe Rich and Tyshawn Brown. You said initially you were
21 going to go back Tall Pines, what happened?

22 A. When we got past the railroad tracks the defendant asked
23 me what did I want to do, and I told him it was up to him, so
24 he pulled on the side of the van and he told me to shoot him,
25 but I never did it so he pulled in front of him and got out and

Heath Reaves-Direct by Mr. Holford

1 shot him.

2 Q. I'm going to show you, this is State's 1. Are you
3 familiar with this area?

4 A. Yes, sir.

5 Q. And then are the railroad tracks on here, if this is the
6 gas station (indicating)?

7 A. That's the railroad tracks.

8 Q. And so which way did the truck go, which way did Charles
9 go?

10 A. Like this (indicating.)

11 Q. And which way did the van go that you were in?

12 A. Same way.

13 Q. Same way? Okay. So Tyshawn asked you what you want to
14 do. What do you mean? Why would he ask you what do you want
15 to do?

16 A. At the time I didn't know and when he pulled on the side
17 of him he told me to shoot him.

18 Q. Why did Tyshawn tell you to shoot Charles Durant?

19 A. Because he wanted to get out of the gang.

20 MR. FOX: Objection. Speculative. He's asking why
21 would Tyshawn ask him to do something, he would have to
22 speculate as to what Mr. Brown was thinking.

23 THE COURT: Let's see what the foundation, because
24 knowing that he had been told.

25 Q. Did you have a conversation about what was going to

1 happen?

2 A. We didn't have a conversation about it, but Tyshawn knew
3 that Charles Durant was trying to get out of the gang and he
4 didn't want that.

5 Q. What gang?

6 A. Food Town Brant (phonetic).

7 Q. Were you a member of that gang?

8 A. Yes, sir.

9 Q. Was Tyshawn a member of that gang?

10 A. Yes, sir.

11 Q. And Charles Durant, the victim, wanted out?

12 A. Yes, sir.

13 Q. Were you supposed to shoot him?

14 A. Yes, sir.

15 Q. What did you do?

16 A. I didn't shoot him.

17 Q. Did you open up the side door?

18 A. Yes, sir.

19 Q. Did have a gun?

20 A. Yes, sir.

21 Q. What kind of gun did you have?

22 A. AR-15.

23 Q. Did you point it at the victim?

24 A. Yes, sir.

25 Q. Did you ever fire any shots?

Heath Reaves-Direct by Mr. Holford

1 A. No, sir. I was hoping that they would see the gun and
2 pull off.

3 Q. When you did not fire shots what happened?

4 A. He pulled out in front of him and he got out and shot
5 him.

6 Q. What kind of gun did Tyshawn Brown have?

7 A. A 44 Magnum Revolver.

8 Q. How many times did he shoot with it?

9 A. Five.

10 Q. Was there anyone else in the car with Charles Durant at
11 the time?

12 A. Winter Parker.

13 Q. Did you know Winter?

14 A. Yes, sir.

15 Q. Did you or Joe Rich at any time fire any shots from that
16 vehicle?

17 A. No, sir.

18 Q. After Tyshawn Brown fired five shots, what happened,
19 where did you go?

20 A. We pulled off like going towards Harrelson Avenue and
21 Joe Rich wanted to get out of the car so he got out and then we
22 went to Green Sea.

23 Q. When Joe Rich got out of the vehicle where did you go?

24 A. To my house.

25 Q. Are you still in the car with Tyshawn?

- 1 A. Yes, sir.
- 2 Q. What did you get at your house?
- 3 A. A change of clothes and some money.
- 4 Q. Where did you go after that?
- 5 A. To his sister's house, Tyshawn's sister's house.
- 6 Q. Who is Tyshawn's sister?
- 7 A. I don't remember her name, that was my only time meeting
8 her.
- 9 Q. Who did the van belong to?
- 10 A. Tyshawn and his girlfriend.
- 11 Q. Do you know his girlfriend's name?
- 12 A. Brittany.
- 13 Q. When you went to Tyshawn's sister's house what did you
14 do?
- 15 A. Burned our clothes and wiped the van down.
- 16 Q. Why did you wipe the van down?
- 17 A. To get any fingerprints or whatever out of it because he
18 was going to report it stolen.
- 19 Q. Where did you go after that?
- 20 A. Back to my house and then to Philadelphia.
- 21 Q. You left and went to Philadelphia?
- 22 A. Yes, sir.
- 23 Q. Did police pick you up in July?
- 24 A. From Philadelphia, they did, but I got -- I turned
25 myself in in May.

Heath Reaves-Cross by Mr. Fox

1 Q. And so you turned yourself in in Philadelphia in May?

2 A. Yes, sir.

3 Q. But then the paperwork processed to get you back here,
4 we did not get you back until July of 2018?

5 A. Yes, sir.

6 MR. HOLFORD: Your Honor, I have no further
7 questions.

8 THE COURT: Thank you. Mr. Fox, cross-examine?

9 MR. FOX: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. FOX:

12 Q. Mr. Reaves, you went after this shooting, you went first
13 to your house in Green Sea?

14 A. Yes, sir.

15 Q. And anybody see you there?

16 A. My mom, my little sister and my stepfather.

17 Q. And how long were you there?

18 A. Approximately five minutes.

19 Q. Explained where you were going, did they ask you what's
20 going on, why you leaving so quick?

21 A. They did, I just told them I had to leave.

22 Q. And then you went, you say, to Mr. Brown's sister's
23 house?

24 A. Yes, sir.

25 Q. And you wiped down the van?

- 1 A. Yes, sir.
- 2 Q. And then you all got back in the van to leave?
- 3 A. Yes, sir.
- 4 Q. So you wiped it down, the fingerprints, to hide your
5 tracks, but then you got back in the van?
- 6 A. Yes, sir.
- 7 Q. Now, you had an AR-15 with you, correct?
- 8 A. Yes, sir.
- 9 Q. And Joe Rich had an AR-15 with him in the front seat,
10 didn't he?
- 11 A. Yes, sir.
- 12 Q. And you opened, yourself, opened the back sliding door,
13 right, on the van?
- 14 A. Yes, sir.
- 15 Q. And I'm talking about, I'm sorry, let me clarify, when
16 you all drove away from Tiger Mart and drove off, the door was
17 already open, wasn't it?
- 18 A. When we drove off --
- 19 Q. Yeah.
- 20 A. -- from Exxon?
- 21 Q. Yeah.
- 22 A. No, sir, the door was closed.
- 23 Q. Okay. So you had to open it?
- 24 A. Yes, sir.
- 25 Q. Okay. With the intention of shooting your AR-15 at

Heath Reaves-Cross by Mr. Fox

1 Charles Durant and Winter Parker?

2 A. No, sir, I never had the intention.

3 Q. Okay. You had a gun and you opened, you took the step
4 to open the sliding door, correct?

5 A. Yes, sir, so they could see it and drive away.

6 Q. Okay. They didn't drive away, did they?

7 A. No, sir, and I did not fire my firearm.

8 Q. Okay. You didn't say, it jammed, it jammed?

9 A. No, sir.

10 Q. And you told the police, or let me clarify that, when
11 you met with the Solicitor, both of them, and their
12 investigator, right --

13 A. Yes, sir.

14 Q. -- earlier this year, correct?

15 A. Yes, sir.

16 Q. You did that proffer agreement, we'll talk more about
17 that, do you remember telling them that if you had wanted to
18 shoot, that gun you would have shot it?

19 A. Yes, sir.

20 Q. Because it was an American AR-15 --

21 A. American tactical --

22 Q. Excuse me?

23 A. American Tactical AR-15.

24 Q. So you're very familiar with that gun?

25 A. Yes, sir.

1 Q. You knew how to use it?

2 A. Yes, sir.

3 Q. You used it before?

4 A. Yes, sir.

5 Q. Okay. Did you shoot people with it?

6 A. No, sir.

7 Q. Now, no question in your mind Joe Rich, there was a
8 weapon within his reach. Did he carry it, where was it?

9 A. It was beside his leg.

10 Q. So which leg, left leg, right leg?

11 A. Left.

12 Q. I'm sorry, left?

13 A. Yes, sir.

14 Q. So like, towards the middle of the vehicle, alright. So
15 well within his reach?

16 A. Yes, sir.

17 Q. Okay. And you claim that you and Mr. Brown and Mr.
18 Durant were all members of the same gang?

19 A. Yes, sir.

20 Q. Was Mr. Rich a part of that gang?

21 A. No, sir.

22 Q. Just hung around?

23 A. Yes, sir.

24 Q. He's familiar with you all, though?

25 A. Yes, sir.

Heath Reaves-Cross by Mr. Fox

- 1 Q. Caught rides, with you, hung out with you?
- 2 A. Yes, sir.
- 3 Q. Had access to your all's weapons?
- 4 A. Yes, sir.
- 5 Q. So he was everything but a member?
- 6 A. If that's what you want to say.
- 7 Q. Okay. What do you want to say?
- 8 A. I don't know. It don't really matter what he was.
- 9 Q. He was trusted enough to ride with you, and on this,
- 10 supposedly, assassination road trip you all went on --
- 11 A. Yes, I guess.
- 12 Q. -- no one thought to get rid of him and say we might
- 13 want to get this witness out of the car?
- 14 A. He trusted him.
- 15 Q. Right, he trusted him. He was allowed to leave
- 16 afterward, right?
- 17 A. Yes, sir.
- 18 Q. According to what you just testified, Mr. Rich wanted to
- 19 go home and he was allowed to get out of the car and go home?
- 20 A. Yes, sir.
- 21 Q. You knew Mr. Durant and Ms. Parker, correct?
- 22 A. Yes, sir.
- 23 Q. Winter Parker was actually your cousin?
- 24 A. Yes, sir.
- 25 Q. You went to school with Mr. Durant?

- 1 A. Yes, sir.
- 2 Q. Okay. You grew up in Loris?
- 3 A. No, sir.
- 4 Q. Okay. Is that where you went to school with him?
- 5 A. I went to school with Winter Parker in Loris.
- 6 Q. Okay. Now, according to you, Mr. Brown asked you what
7 you want to do?
- 8 A. Yes, sir.
- 9 Q. Why is he bothering to ask you?
- 10 A. Because I brought Charles Durant to the table.
- 11 Q. When you say brought him to the table, that means --
- 12 A. I introduced him to the gang.
- 13 Q. Brought him into the gang, that was you that brought him
14 into the gang?
- 15 A. Yes, sir.
- 16 Q. Because, I believe, in that same proffer, you told the
17 solicitors that you had rank at that time?
- 18 A. Yes, sir.
- 19 Q. In other words, you had influence, some authority at
20 that time?
- 21 A. Yes, sir.
- 22 Q. So to the point where you could suggest and bring people
23 into the gang?
- 24 A. Yes, sir.
- 25 Q. You also said during that proffer agreement you didn't

Heath Reaves-Cross by Mr. Fox

1 really know what Mr. Brown meant when he said, what you wanna
2 do? So why did you assume that you're going to be shooting
3 somebody? He didn't say shoot him, he said, what you wanna do?

4 A. He said shoot him when he pulled on the side.

5 Q. He was asking permission, what you wanna do, boss? What
6 am I gonna do?

7 A. And I said, whatever you want to do.

8 Q. But the van followed him?

9 A. Yes, sir.

10 Q. According to you. You denied that the gun jammed?

11 A. No, sir, it did not jam.

12 Q. Alright. And you admit that you had an AR-15 at your
13 disposal and Mr. Rich, as well?

14 A. Yes, sir.

15 Q. Any other weapons, what other guns did you have?

16 A. That's it.

17 Q. Now, let's talk about this proffer you had with the
18 Solicitor. Proffer is just a lawyer's word for some kind of
19 agreement, right? What's your understanding? I don't want to
20 put words in your mouth. What's your understanding of what
21 that means?

22 A. Just tell the truth.

23 Q. And you say no one promised you anything?

24 A. No, sir.

25 Q. But you're hopeful that something good will come out

1 your testifying, correct?

2 A. I mean, anybody that gets on the stand would be hopeful.

3 Q. So that's a yes, you hope?

4 A. Yes, I'm hopeful.

5 Q. And let's be specific, when we say, hopeful, what you're
6 hopeful is you won't do time for murder?

7 A. No. I don't think anyone wants to go to prison for
8 murder.

9 Q. Right, and or attempted murder?

10 A. Anything.

11 Q. Let's talk about what else is going on, the timing. So
12 when this happened, first, you got some money, you changed your
13 clothes and you hightailed for Philadelphia, correct?

14 A. Yes, sir, basically.

15 Q. And you say you turned yourself in, but you didn't turn
16 yourself in until you started to hear your name? People that
17 you know, hey, your name is being called down here, police
18 think you might be involved, so you didn't say anything for a
19 month or so when you went to Philadelphia, did you?

20 A. I mean, why would I turn myself in if I'm not wanted?

21 Q. So, but you ran to Philadelphia?

22 A. Yes, sir, I did.

23 Q. To avoid trouble?

24 A. To avoid anybody trying to do anything to me for what
25 happened.

Heath Reaves-Cross by Mr. Fox

1 Q. So you're in Philadelphia and for over a month you
2 didn't bother, but you hadn't done anything, according to you,
3 you hadn't done anything, you were just there, right? You were
4 just in the van, you didn't do anything?

5 A. That doesn't stop anybody from trying do anything to me,
6 sir.

7 Q. So you went to Philadelphia, and it wasn't until you
8 began to be worried that the police were coming for you, so you
9 went and you turned yourself in?

10 A. Yes, sir.

11 Q. Now, that was in May of 2018?

12 A. Yes, sir.

13 Q. When did you speak -- you didn't give any statements to
14 the police when you turned yourself in in Philadelphia, did
15 you?

16 A. No, sir.

17 Q. You didn't give any when you came back to South
18 Carolina, right?

19 A. Yes, sir.

20 Q. They brought you to J. Reuben Long out here on 701,
21 right?

22 A. Yes, sir.

23 Q. Okay. Didn't give statements to the police then?

24 A. No, sir.

25 Q. Did you stay at J. Reuben Long until today?

- 1 A. No, sir.
- 2 Q. Alright. You got bond on the murder charge, didn't you?
- 3 A. Yes, sir.
- 4 Q. Was Mr. Kearse your attorney for that?
- 5 A. Yes, sir.
- 6 Q. And very capably, he got you a \$70,000.00 bond --
- 7 A. \$75,000.00.
- 8 Q. -- a \$75,000.00 bond on a murder charge, right?
- 9 A. Yes, sir.
- 10 Q. Okay. And you had home detention, but when was that,
- 11 when did you get out?
- 12 A. I got out October 4, 2019.
- 13 Q. Okay. So from October 4, 2019 all through 2020, 2021,
- 14 you were free and out?
- 15 A. Yes, sir.
- 16 Q. Didn't talk to the police at any time during that,
- 17 right?
- 18 A. No, sir.
- 19 Q. In fact, you didn't talk to police until February 25th
- 20 of this year, correct?
- 21 A. Somewhere around that time, yes, sir.
- 22 Q. Right. And that was back at J. Reuben Long?
- 23 A. Yes, sir.
- 24 Q. And that's because you've been arrested again?
- 25 A. Yes, sir.

Heath Reaves-Cross by Mr. Fox

1 Q. And in fact, you've been arrested -- let's talk about
2 what you're facing on all of this stuff. So murder, have you
3 talked with your lawyer about what you could get if you were
4 found guilty of a murder?

5 A. Life.

6 Q. Right? And attempted murder?

7 A. I think it's, like, 30 years.

8 Q. Thirty years, so 30 years, plus life, just for the
9 incident we're here for today?

10 A. Yes, sir.

11 Q. Then you got arrested again. So you're out on bond on
12 the most serious charge you could possibly have in the State of
13 South Carolina, anywhere, murder, and out on bond, on home
14 detention, which means what? What does home detention mean?

15 A. I wasn't out on bond, went home detention from 2019 to
16 2020.

17 Q. Okay. I apologize for talking over you. I didn't mean
18 to cut off any of your answers. So you did not have home
19 detention as a condition of your murder bond?

20 A. No, sir.

21 Q. Okay. But you're on bond?

22 A. Yes, sir.

23 Q. One of the conditions of bond would have been explained
24 to you was to be on good behavior while you're out on bond,
25 right?

1 A. Yes, sir.

2 Q. The first rule would be, don't break the law again,
3 right?

4 A. Yes, sir.

5 Q. And in January of this year, 2022, you were arrested
6 again?

7 A. Yes, sir.

8 Q. And you were arrested for trafficking heroin, more than
9 28 grams, correct?

10 A. Yes, sir.

11 Q. And you're also arrested for trafficking cocaine, 100 to
12 200 grams, correct?

13 A. Yes, sir.

14 Q. And you were arrested for trafficking methamphetamine,
15 or crack, same statute, ten to 28 grams?

16 A. Yes, sir.

17 Q. So three different drugs, and two counts of possession
18 of a weapon during the commission of a violent crime, right?

19 A. Yes, sir.

20 Q. You can get, and I'm sure Mr. Kearse covered this with
21 you, from 25 to 40 years on the heroin charge, did he tell you
22 that?

23 A. Yes, sir.

24 Q. And you can get, just a flat 25 on the cocaine charge,
25 right?

Heath Reaves-Cross by Mr. Fox

1 A. Yes, sir.

2 Q. And three to ten on the methamphetamine charge?

3 A. Yes, sir.

4 Q. The two gun charges have to be, if you're found guilty
5 of that, consecutive to the underlying charges, five years a
6 piece, right?

7 A. Yes, sir.

8 Q. So if my math is correct, you could get between 63 and
9 85 years on this new stuff?

10 A. Yes, sir.

11 Q. We're not even talking about the fines, the fines are
12 over a quarter million dollars, right?

13 A. Yes, sir.

14 Q. So I mean, in theory, you could get all the time and the
15 fine, probably wouldn't happen, but, so you're looking at life
16 plus life again, right? As you sit here today, these charges
17 are all still pending --

18 A. Yes, sir.

19 Q. -- the murder and the attempted murder are still on you,
20 right?

21 A. Yes, sir.

22 Q. All of the trafficking charges are on you?

23 A. Yes, sir.

24 Q. Right, all the drug charges. So you were arrested on
25 those on the 27th of January of this year, when did you decide

1 you needed to talk to the Solicitor's office?

2 A. When my lawyer informed me that I should.

3 Q. Okay. So not before that, he's been your lawyer for
4 three years before that, that's the first time you all had that
5 conversation?

6 A. No, sir.

7 Q. Okay. So you didn't decide to talk to the Solicitor
8 until you were charged, haven't been found guilty yet, but you
9 were charged with these very serious drug offenses, correct?

10 A. Yes, sir.

11 Q. Now you're interested in talking with the Solicitor.
12 Alright. And you're telling me that doesn't have any influence
13 on what you're doing here today?

14 A. No, sir.

15 Q. None at all. Okay. Just a coincidence in timing?

16 A. Yes, sir.

17 Q. Alright.

18 MR. FOX: Court's indulgence?

19 THE COURT: Okay.

20 Q. Do you remember telling -- are you still a member of the
21 gang?

22 A. No, sir.

23 Q. Why is that?

24 A. Because they thought I was going to take the stand.

25 Q. In this trial?

1 A. Yes, sir.

2 Q. So they did what?

3 A. Beat me out.

4 Q. So Mr. Durant simply didn't want to be a part of the
5 gang, correct? He decided, not for me, right?

6 A. Yes, sir.

7 Q. And that decision was he got to be killed?

8 A. Yes, sir.

9 Q. You, at least the fear was, that you were going to do
10 exactly what you're doing, which is, testify against a fellow
11 gang member, you say, a fellow gang member, right?

12 A. Yes, sir.

13 Q. But they didn't kill you, right?

14 A. No, sir.

15 Q. Alright. They just beat you out of the gang?

16 A. Yes, sir.

17 Q. Durant just wants to leave, he's not gonna say nothin'
18 about nobody, but him, they got to kill?

19 A. Yeah, because there's different people on the streets,
20 sir.

21 MR. FOX: Thank you. No further questions.

22 THE COURT: Thank you. Mr. Holford? Redirect?

23 REDIRECT EXAMINATION

24 BY MR. HOLFORD:

25 Q. Mr. Reaves, why were you reluctant to talk to me or to

1 law enforcement up until 2022?

2 A. Because I honestly thought that when you all did catch
3 him he would say that he did it and he would clear me.

4 Q. Are you excited about being called to testify in this
5 trial?

6 A. No, sir.

7 Q. Did you want to take the stand in this case?

8 A. No, sir.

9 Q. Why?

10 A. Because this is kind of a hard thing to do.

11 Q. Were you scared to testify?

12 A. Yes, sir.

13 Q. Do you outrank Tyshawn Brown?

14 A. No, sir.

15 Q. Do you ever give him orders?

16 A. No, sir.

17 Q. Who gives the orders?

18 A. Tyshawn.

19 Q. He ordered you to shoot him?

20 A. Yes, sir.

21 Q. You didn't?

22 A. No, sir.

23 Q. And what did he do when you wouldn't do it?

24 A. He asked me why I didn't do it.

25 Q. And did this defendant shoot Charles Durant?

Heath Reaves-Recross by Mr. Fox

1 A. Yes, sir.

2 Q. Did he shoot Winter Parker?

3 A. Yes, sir.

4 Q. Did anyone else shoot those two people?

5 A. No, sir.

6 MR. HOLFORD: I have no further questions.

7 THE COURT: Any follow-up on those ones?

8 MR. FOX: Just one.

9 RE-CROSS-EXAMINATION

10 BY MR. FOX:

11 Q. You testified that Mr. Brown outranks you, or outranked
12 you, that you defied a direct order from him to shoot somebody?

13 A. Yes, sir.

14 Q. But then he took to get clothes, change of clothes, he
15 didn't shoot you?

16 A. No, sir.

17 Q. He didn't --

18 A. I didn't have rank no more.

19 Q. I'm sorry, what were you saying?

20 A. I didn't have any rank and I didn't do it.

21 Q. But I'm saying, you defied the person, you said, the
22 boss, right?

23 A. Yes, sir.

24 Q. He gave you a direct order, kill that man who's trying
25 to leave our gang, you didn't do it, and yet, you say, he drove

1 you back home, he helped you, according to you, get away to
2 Philadelphia, letting you go back and get money, clothes,
3 right?

4 A. Yes, sir. He didn't help me get to Philadelphia,
5 though.

6 Q. Right. But he didn't kill you, he didn't beat you out
7 of the gang, he didn't do any of those things? Leaving the
8 gang when you defied him, he didn't do any of those things?

9 A. No.

10 THE COURT: You've got the last word, Mr. Holford.
11 He's your witness.

12 MR. HOLFORD: Nothing further, Your Honor.

13 THE COURT: Thank you. You can step down, Mr.
14 Reaves.

15 MR. HOLFORD: Your Honor, I'd ask that he please be
16 excused from his subpoena.

17 MR. FOX: No objection, Your Honor.

18 THE COURT: Mr. Reaves, you may be excused from your
19 subpoena. Ladies and gentlemen, we're going to take an
20 afternoon recess at this time. I'm going to send you to the
21 jury room. We'll get you back in here at about quarter of the
22 hour, it's about 15 minutes, so enjoy the afternoon recess as
23 it is and don't talk about this case among yourselves. We'll
24 start back at a quarter till. Thank you.

25 (Jury exited the courtroom.)

1 (Recess taken.)

2 THE COURT: Are both sides ready for the jury?

3 MR. HOLFORD: Your Honor, if I could put one matter
4 on the record first. As my next witness is going to be Joe
5 Rich, I do have a copy of his NCIC. I conferred with Mr. Fox
6 that I had shown him a copy of Heath Reaves' NCIC which did not
7 have relevant convictions for impeachment. I don't believe
8 that at this time Mr. Rich has relevant convictions, but I will
9 turn over the NCIC of the next lay witness.

10 THE COURT: Okay. Is Mr. Rich in the courtroom?

11 MR. HOLFORD: He is in the waiting room, Your Honor.

12 THE COURT: Okay. If you want to bring him in.

13 MR. HOLFORD: Yes, sir.

14 THE COURT: Are you ready for the jury now? Bring in
15 the jury. We'll bring you up and swear you in. The jury is
16 going to need to come where you are.

17 THE WITNESS: That's fine.

18 THE COURT: Thank you.

19 (Jury entered the courtroom.)

20 THE COURT: Mr. Holford, you can call your next
21 witness.

22 MR. HOLFORD: Your Honor, the State calls Joe Rich.

23 THE COURT: Mr. Rich, come forward, please, be sworn.

24 **Joe Rich being first duly sworn, testified as**

25 **follows:**

1 THE CLERK: Please state your name and spell it for
2 the Court.

3 THE WITNESS: Joe Rich, J-o-e, R-i-c-h.

4 THE COURT: Mr. Rich, if you will pull that
5 microphone down a little bit closer so you can speak directly
6 into it. Thank you.

7 THE WITNESS: Yes, sir.

8 MR. HOLFORD: Mr. Rich, can you see this TV screen?

9 THE WITNESS: Not really. I have -- I was born with
10 a medical -- I can't see if I don't have my contacts in.

11 MR. HOLFORD: Your Honor, I ask that Mr. Rich be
12 allowed to exit the witness stand and come close to the TV if
13 he needs to.

14 THE COURT: Mr. Rich, you can get as close to it as
15 you need to. I want you to stand on the other side.

16 THE WITNESS: It's going to be blurry either way.

17 THE COURT: I want you to stand on the other side of
18 it and face this way so that the court reporter can hear you.
19 Just so you're close enough so that you can see the screen and
20 answer the questions.

21 THE WITNESS: I just ordered my contacts, sir. I
22 can't drive, read phone, watch TV.

23 MR. HOLFORD: How did you get up here today?

24 THE WITNESS: I got driven.
25

1 DIRECT EXAMINATION

2 BY MR. HOLFORD:

3 Q. I'm going to show you what's been marked as State's 12.

4 Do you know who's in that photograph?

5 A. That's me.

6 Q. That's you?

7 A. Yes, sir.

8 Q. And State's 3?

9 A. That is me in the same shirt, in the same shirt and the
10 same hat going to the store.

11 Q. Now, that night April 24, 2018, what vehicle were you in
12 that night?

13 A. I was in the van that the boy was driving, Tyshawn, I
14 think is his name.

15 Q. Did you know him as Tyshawn at the time?

16 A. No, sir.

17 Q. What did you know him as?

18 A. Smoke.

19 Q. Do you know in State's 4 who's at the front of that van?

20 A. No. That was the boy at the door when I come out the
21 store, that they were talking to, the one that was in the truck
22 when he went around it and stopped at the stop sign and got
23 out.

24 Q. Do you know that guy in the red pants and the white
25 shirt?

- 1 A. I'm guessing it was Heath in the backseat.
- 2 Q. How many people were in that van with you?
- 3 A. Three.
- 4 Q. Three with you or three including you?
- 5 A. Three including me.
- 6 Q. You, Heath and Tyshawn?
- 7 A. Yes, sir.
- 8 Q. You didn't know him as Tyshawn at the time?
- 9 A. No, I knew him as Smoke.
- 10 Q. I'm going to show you State's 50. Are you familiar with
11 what that's a picture of?
- 12 A. Yeah. It looks like the old house we bought in Loris.
- 13 Q. Your house?
- 14 A. Yes, sir, mine and my wife's.
- 15 Q. State's 52, what's that a picture of?
- 16 A. My wife's handgun.
- 17 Q. What color is that handgun?
- 18 A. It was a SCCY, blue, or it had some weird name, but it
19 was a blue, bluish color.
- 20 Q. What caliber handgun is that?
- 21 A. It was a SCCY nine millimeter.
- 22 Q. You can return back to your seat.
- 23 A. Okay.
- 24 Q. Now, you were in the van with Heath and Tyshawn, you
25 know him as Smoke. Tell me what happened after you left the

Joe Rich-Direct by Mr. Holford

1 gas station.

2 A. Come out the gas station, the boy was standing there and
3 they were talking, I come around the corner and stood behind
4 the boy, they finished talking, and the boy they were: We'll
5 holler at you. He walked off of the van, I got in the front,
6 backed out, took a ride up to the side of the gas station,
7 crossed the tracks to the stop sign, took a right. He's
8 saying, there he is, there he is, let's go, let's go. I asked
9 what they were doing, and he runs the little truck down, begins
10 to pass him, the boy in the backseat slides the door open, I
11 guess, he pulled a gun and said, it jammed, it jammed, Smoke
12 pulled over in front of the truck at the stop sign, pops the
13 door, reaches under the right seat and steps out the van, you
14 hear, boom, boom, boom, and a crash into the back of the van.
15 He jumps in and he says, let's get out of here, let's get out
16 of here. They take a right and a left, I tell them to stop, I
17 got out, and I ran home, and the next day at 1:00 the police
18 was in my yard.

19 Q. Did you give an interview to the police?

20 A. Yes, sir, they took me into custody.

21 Q. Did you initially identify a person in the back as an
22 Orlando Barber?

23 A. I have no idea who it was. They were asking me to
24 identify somebody and had no contacts in, I told them that. I
25 said it looks like him. They tried to hit me with obstruction

1 of justice. I mean, you're asking me this in front of the
2 whole cell block on a tiny phone, holding it like this,
3 (indicating,) from half the distance, I'm gonna say, maybe,
4 probably about half the distance you're standing now, probably
5 a good seven, eight steps, maybe.

6 Q. And they did charge you with obstruction of justice?

7 A. Yes, sir, they did.

8 Q. Did they also charge you with a pointing presenting?

9 A. Yes, sir.

10 Q. And what gun did you have for that pointing presenting?

11 A. They said I had my wife's handgun, but my wife had her
12 handgun, because mine was stolen, actually by her brother,
13 because I had a white one and my wife's was at home in the box.
14 I had it, but I didn't go out there pointing no handgun at them
15 and I don't -- it was a blue SCCY nine millimeter, but I didn't
16 point no handgun at nobody. I didn't do nothing. I mean, I
17 don't know, they dropped -- they dropped it and --

18 Q. Let me be clear. That's not the victim we're here for,
19 Charles Durant who was shot, right?

20 A. I didn't know him. That's the first time I've actually
21 heard his name.

22 Q. So the pointing that you talked about with that blue
23 SCCY handgun, was that the same day?

24 A. I didn't point it, but I think it was the day before or
25 that morning, that's been a couple years ago. I'm kind of on

Joe Rich-Direct by Mr. Holford

1 my second panic attack, stroke type thing and, um -- go ahead.

2 Q. I'm sorry, I didn't mean to cut you off. Now, you had
3 said that the victim in that case wanted the case dismissed?

4 A. Yes, sir. I mean, I didn't point a firearm at him. I
5 mean, it was my wife's gun, not mine, and it's my
6 mother-in-law, my brother-in-law, my wife's brothers and
7 sisters and moms, and they had -- my wife and one of her
8 brothers had a problem and it tends to always like steer
9 towards me, so I got to watch over my shoulder for the next one
10 that's gonna, like, sneak me or hit, or things like that, but I
11 never pulled a gun on them, no.

12 Q. So let's go back to driving in the gray van. Where were
13 you sitting in the gray van?

14 A. In the front passenger.

15 Q. And who was in the backseat?

16 A. The boy, Heath.

17 Q. And who was the driver?

18 A. Smoke.

19 Q. And did Heath have a gun?

20 A. Yeah. I think it was, like, an assault rifle with the
21 stock gone off of it, probably, or just a stick, like stick off
22 the end of it with no shoulder thing on it, I think.

23 Q. And who shot that boy Charles Durant out there that
24 night?

25 A. Smoke stopped that van after he got around that truck,

1 stepped out with a big chrome gun from under his seat and shot
2 a few times that struck -- you felt the boom in the back of the
3 van and he jumped back in the van and takes off, I told him to
4 stop, I ran home. I don't know where they went to, whatever,
5 but --

6 Q. Did you shoot anyone that night?

7 A. No, sir. I never had any gun residue or anything on me.
8 My wife's gun was brand new, only been fired one time, but way
9 before that.

10 Q. And what type of gun did the defendant have that night?

11 A. Who, Smoke?

12 Q. Yes.

13 A. It was probably a 357 or a 44. It was a long chrome
14 revolver. It wasn't a short Snub Nose. It was probably about
15 that long, so it was probably a 357 or a 44. It was a big old
16 handgun.

17 MR. HOLFORD: I have no further questions, Your
18 Honor.

19 THE COURT: Thank you. Mr. O'Neill, cross-examine?

20 MR. O'NEILL: Thank you.

21 CROSS-EXAMINATION

22 BY MR. O'NEILL:

23 Q. Mr. Rich, you were charged with obstruction of justice
24 for lying to the police; is that correct?

25 A. That's what they stated, but I informed them that I

Joe Rich-Cross by Mr. O'Neill

1 couldn't see what they were saying, that he had looked like
2 him. I didn't -- I'd seen the boy only at that time in the
3 back of the van earlier that day, but I mean, the boy in the
4 picture from seven, eight steps to me with no contacts in looks
5 where the clear Germ-x bottle is. I told them I couldn't -- it
6 looked like him.

7 Q. Alright. Well, when you talked to police the first time
8 and they asked you who was in the van with you, first you said
9 "B" and Young Boy; is that correct?

10 A. That's -- Smoke would call Heath, "B" and the dude,
11 whoever it was chilling at me before we went to the gas
12 station, across the street at Zaire's house, stays in the
13 apartment next door, because I just knew him from like being
14 across the street.

15 Q. When the cops asked you who was in the van with you and
16 you said "B" and Young Boy, right?

17 A. Yes, sir.

18 Q. And then they asked you to, they give you a picture and
19 they say, is this Young Boy?

20 A. Never handed me a picture.

21 Q. The police never handed you a picture?

22 A. No, sir.

23 Q. And said, is this Young Boy?

24 A. No, sir. They showed me a picture on the phone standing
25 up.

1 Q. Okay. On the phone, they show you a picture and they
2 said, is this Young Boy, and you said, yes?

3 A. I said it looks like him, yeah. I mean, it looked like
4 him. I didn't even have contacts in. I told them that I
5 couldn't see.

6 Q. So you were just putting somebody else in the van?

7 A. No. I didn't know the boy's name. The picture on the
8 man's phone looked like a handgun. I mean, he didn't step
9 close enough to me to even hand me the phone. He held it down
10 on his side, like this, (indicating,) inside of the holding
11 cells right there in the county.

12 Q. When this happened did you know who Heath Reaves was?

13 A. No.

14 Q. You didn't know his name?

15 A. Like, no, I didn't know Heath's real name.

16 Q. What did you call him?

17 A. I didn't know Heath's real name. I didn't really talk
18 to him. He stayed in the third row in the back of the van.

19 Q. What did you call Heath Reaves?

20 A. I didn't really call him nothing. When they arrested
21 me, man, I was overwhelmed. They'd been running on me, this
22 dude done shot somebody, and I had to sit there and tell them
23 what was right and what was wrong, and I mean, I still didn't
24 know Smoke's name even when the Solicitor called me for this.
25 I was like, who?

Joe Rich-Cross by Mr. O'Neill

1 Q. You didn't know Heath Reaves real name, you didn't have
2 a nickname for him?

3 A. No.

4 Q. You never talked to him?

5 A. No. I mean, I spoke to him, that was about it, but I
6 didn't sit and have dinner or breakfast with the man.

7 Q. Then why did you tell the cops it was a person named
8 Young Boy?

9 A. Sir, I just explained and said I was overwhelmed and
10 never been in a situation like that, on top of, I've been a
11 stay-at-home father and it was a wrong place, wrong time. I
12 went to the store only to get cigarettes for my wife and --

13 Q. So you were lying to the police?

14 A. -- I ran back home when it happened.

15 Q. You were telling the police a story?

16 A. I -- I didn't -- nothing.

17 Q. You were lying to the police?

18 A. Sir, I was overwhelmed. I'd explained to them, told
19 them, I straightened it back out and they hit me with
20 obstruction for the picture thing. Man, I told them I can't
21 see, just like I explained here.

22 Q. So you masked it, when you said it was Young Boy and
23 Smoke, you were just saying names to get out of it?

24 A. No. Smoke, that's what his street name is, that's what
25 I knew him as.

1 Q. So Young Boy you made up?

2 A. No, not really. Smoke would call him "B," and, man,
3 I -- when they're shooting people, man, I don't care who they
4 callin' who, I just wanted to get out and go home.

5 Q. And you got in the car with these people to go get
6 cigarettes --

7 A. Sir, I don't have no reason -- I told the story when
8 they -- I was so overwhelmed. I was worried about going to
9 jail being in the wrong place, wrong time. I mean, it's
10 something I had never been through. I was a stay-at-home
11 father for five years, six years, still am, and I mean, I don't
12 have a record. I ain't never, I mean, been in a situation like
13 that and --

14 Q. You'd never been in a situation like that before?

15 A. Not somebody getting shot and/or shooting at somebody,
16 no, sir, I don't have a record.

17 Q. Alright, but just to make clear, you didn't know who
18 Heath Reaves was?

19 A. No. I did not, like, personally know him. I knew he
20 was in the van, spoke to him, that was about as far as that
21 took. I didn't hang out two days with him before that, three
22 days, it was that day.

23 Q. When you were talking about Young Boy to the cops,
24 Heath's who you were talking about?

25 A. Yes, sir.

Joe Rich-Cross by Mr. O'Neill

1 Q. Okay. But you just made up the name, Young Boy?

2 A. No. Zaire would call him Young Boy because he was
3 young, he's younger than us anyway, and we weren't, like,
4 making it up because I did place -- I mean, they call you, two
5 three different names, I call my kids 20 different names a day.

6 Q. Orlando Barber, the person they showed you a picture of,
7 do you know who that is?

8 A. No.

9 Q. That's the random person, and they said, is this him,
10 and you said, yes?

11 A. The boy had looked like him in the picture, I told them
12 that it looks like him, yes, sir, that was my exact words,
13 standing in the booking area.

14 Q. Let's talk about the van. Did you have a gun when you
15 were in the van?

16 A. No, sir. Like, I had my SCCY nine millimeter earlier
17 that day, but it was back in the house, it was my wife's.

18 Q. But earlier in that day you did have a SCCY nine
19 millimeter?

20 A. Yes, sir.

21 Q. And when you had picked up the pointing and presenting
22 charge it was because you had that nine millimeter?

23 A. Yes, sir, and they were claiming that I took it and was
24 pointing it. My kid was out in the yard, why would I -- I had
25 a problem with, after all this mess, my house getting shot.

1 Q. Who else had guns in the car?

2 A. The only guns, because I didn't have mine when I went to
3 the store because I walked out of the house asking if I could
4 ride with them to the store and road with them to the store and
5 he had a gun, and Heath had a gun, and I'm sitting here looking
6 at the truck out the window when he slided the door open and he
7 said, it jammed, it jammed, something, so he whips in front of
8 the truck, stops at the stop sign, the boy could have took a
9 right, and instead, stopped behind it and he -- Smoke opened
10 the door, steps out and starts shooting, gets back in the van
11 and takes off.

12 Q. So you're saying Smoke had a gun, Heath had a gun, you
13 did not have a gun?

14 A. Not at that moment, no, I didn't. I mean --

15 Q. Was there an AR-15 in the front seat?

16 A. No. There was one that Heath had and it was, like --

17 Q. Right next to your left leg?

18 A. Yes, sir.

19 Q. So there was a gun in the front seat?

20 A. I mean, weren't in the front seat. It was in the floor
21 in between the two seats, but I mean, and weren't mine.

22 Q. But it was just sitting there right next to you?

23 A. Yeah. I mean, it's the one he pulled up when he slid
24 the door open and Smoke reached down inside in the front right
25 here and come out with a handgun. I had a SCCY nine

Joe Rich-Cross by Mr. O'Neill

1 millimeter, never had an AR, had a few shotguns, I buy my guns
2 legally, I had not had a reason to own one.

3 Q. Let's talk about the incident itself. You're saying
4 when the van is trailing the truck, Heath opens the door.
5 Which side door does he open?

6 A. He opens up the passenger side door because Smoke goes
7 around him.

8 Q. So it was the passenger side door, he points the gun out
9 the passenger side, right?

10 A. Yes, sir, I assume so.

11 Q. And then you're saying the gun jammed?

12 A. Yeah, that's what he said, it jammed, it jammed, and he
13 never shot a bullet.

14 Q. And then you all pull up in front of the truck; is that
15 right?

16 A. Yes, sir. When they stop at the stop sign when he goes
17 around, yes, sir.

18 Q. And you're saying that Smoke gets out of the driver's
19 side, so he gets out of the driver's side door and turns around
20 and fires at the truck behind him, right?

21 A. Yes, sir.

22 Q. But he's just right outside the driver's side door?

23 A. I mean, yeah. I mean, I didn't turn around and see the
24 man shooting at him and stepped out with the gun, boom, boom
25 boom, then the truck hits whatever hits the back of the van and

1 he jumps in and he says, let's go, let's go, so they take off,
2 and I told them to stop and I ran to my house, which really
3 wasn't that far.

4 Q. Was the door on the driver's side of the van, was it
5 open?

6 A. No. Just, the only door that was open on the driver's
7 side was when he stopped at a stop sign and Smoke got out.

8 Q. Okay. So you're saying that the driver's side van door,
9 the sliding door was not open?

10 A. No, sir.

11 Q. Heath didn't get out of that driver's side van door?

12 A. Not that I know of, no. He just slid the back passenger
13 door open saying, it jammed, it jammed. I wanted to say that
14 he even opened it when he stopped and when Smoke got out -- I
15 want to say that Heath closed the door, I think, and when he
16 stopped Smoke got out of the driver's seat. The driver's side
17 sliding door, I don't remember it being open or Heath getting
18 out of the car, I think.

19 Q. So you're not sure if Heath got out of the car?

20 A. I don't think Heath got out of the car, he didn't fire a
21 bullet.

22 Q. Young Boy wanted to go to Green Sea after the incident;
23 is that right, Young Boy, being Heath?

24 A. Yeah, Heath. He said, take me to Green Sea, take me to
25 Green Sea. Right after he started saying that they turned that

Joe Rich-Cross by Mr. O'Neill

1 right at the stop sign and the left like headed to the
2 Harrelson Avenue and I told him to stop, stop, and he kind of
3 stopped, not even to a complete stop and I just, I got out and
4 I ran home.

5 Q. But so Heath was saying he wanted to go to the Green Sea
6 and he wanted to hide the van, right?

7 A. I don't know what they were going to hide in the van. I
8 mean, he didn't say, hide the van.

9 Q. Did the driver cover his face when he got out of the
10 van?

11 A. No, I don't think so.

12 Q. And what was Smoke wearing that day? You told police he
13 was wearing a black shirt, red tennis shoes?

14 A. I think so, man, it's been three, four years ago.

15 Q. Alright. And you admitted to lying to the police, you
16 told them, I lied in some parts; is that right?

17 A. Yes, sir. I was overwhelmed. I had told them something
18 and then I straightened it out. They --

19 Q. You told them I'll do whatever you all need me to do?

20 A. Yes, sir, and I told them exactly what I'm telling you
21 now.

22 Q. And you said, what is the point of testifying if I catch
23 a murder rap?

24 A. I -- man, I don't know. I'm still -- the man coming
25 there and asking me about having an AR and I didn't have an AR

1 and that was actually kind of surprising because I had an
2 incident with my wife lying, actually, on some paperwork around
3 the same situation in North Carolina.

4 MR. O'NEILL: Court's indulgence?

5 THE COURT: Yes, sir.

6 MR. O'NEILL: May we approach, Your Honor?

7 THE COURT: Yes, sir.

8 (Off the record discussion was held at the bench by
9 Court and counsel.)

10 THE COURT: I'm going to send you back to your jury
11 room for just a moment, I've got a very brief matter of law
12 that I need to take up outside of your presence. Sometimes I
13 can push through it behind your back and take care of it, this
14 is one we need to do on the record. Don't talk about this,
15 this is not going to be long, this the last witness for the
16 day, and so if you'll just bear with me, you'll get out of here
17 early today, so just come back anyways, don't leave just yet.

18 THE WITNESS: If you're going to ask me a legal
19 matter, I understand. I wouldn't respond at the way that can
20 be used against me in the wrong term of --

21 THE COURT: You listen to the question first and then
22 you see if it's something.

23 THE WITNESS: I mean, I asked for a lawyer before I
24 walked in here because of what was asked of me in the room in
25 there because I'm not understanding them asking me about having

Joe Rich-Cross by Mr. O'Neill

1 an AR and I never had one and it was never -- I don't
2 understand where he's coming from now after three or four
3 years.

4 THE COURT: I don't think it's going to have anything
5 to do with the events that night, is my understanding.

6 MR. HOLFORD: That's correct.

7 THE COURT: We're not going to be asking you anything
8 that you did or what you had or your wife's pistol or anything
9 like that. We're going to be talking about something that
10 shows up on your record, they just have a question about it.

11 THE COURT: Mr. O'Neill?

12 MR. O'NEILL: Mr. Rich, we have on your record
13 there's something from 5/2/2014 that says possession of a
14 stolen firearm out of North Carolina. Is that you and do you
15 remember what happened in that case?

16 THE WITNESS: No. They found the gun, the gun was
17 stole before I was even born. It was near me, they put it on
18 me, it ended up getting thrown out. I mean, I didn't have the
19 gun on me. I bought the four-wheeler. It was in the thing
20 with the four-wheeler.

21 MR. O'NEILL: You were charged with a crime, but were
22 you convicted, was it dismissed, did you pay a fine?

23 THE WITNESS: No, sir, it was dismissed and thrown
24 out, they called the guy, the gun was stole, I didn't know it
25 was in there. It was stole before I was even born from Texas.

1 THE COURT: Does that answer your question?

2 MR. O'NEILL: Yes, sir.

3 THE COURT: Is that it?

4 MR. O'NEILL: That is, Your Honor.

5 THE COURT: Okay.

6 MR. HOLFORD: I do just want to make the record
7 clear, as Your Honor was asking him questions and he was
8 responding, he is not charged with any crimes in Horry County
9 at this point. He is not represented by any attorney at this
10 point. I want to make that completely clear for the record.

11 THE COURT: Very good. Okay. We need the jury back.

12 MR. HOLFORD: Yes, sir.

13 THE COURT: Bring us the jury back.

14 MR. HOLFORD: Your Honor, if that's the end of the
15 questions, the State has no further questions.

16 THE COURT: Then you will just say that in front of
17 the jury and that will bring it to the end.

18 (Jury entered the courtroom.)

19 THE COURT: Mr. O'Neill, anymore questions?

20 MR. O'NEILL: No, Your Honor.

21 THE COURT: Anymore questions from the State?

22 MR. HOLFORD: Nothing further, Your Honor.

23 THE COURT: Thank you. Mr. Rich, you can step down.
24 Thank you, sir. Can he be dismissed?

25 MR. HOLFORD: I would ask that he be excused from his

Joe Rich-Cross by Mr. O'Neill

1 subpoena, Your Honor.

2 MR. FOX: No objection.

3 THE COURT: Mr. Rich, you're released from your
4 subpoena. You can go ahead.

5 THE WITNESS: Thank you all.

6 THE COURT: Ladies and gentlemen, as I told you,
7 that's the last witness for today, but some witnesses are
8 coming from out of town and won't be here until tomorrow, but
9 we made good time and I think we're right on schedule. We're
10 where we're supposed to be. We're not running behind, so
11 that's the good news. We'll let you go a little early today.
12 I watch where you sit when you come back and I said you can sit
13 anywhere you want to, but I can tell that there are a lot of
14 Presbyterians on the jury because I'm a Presbyterian, if we sit
15 in the same seat every Sunday, if somebody else sits in your
16 seat in a Presbyterian church they'll fuss at you.

17 THE JUROR: They do that at Baptist, too.

18 THE COURT: Anyway, but, remember, as always, of
19 course, not to discuss this case with anybody, be back in your
20 jury room at 9:30 tomorrow morning. Don't let anybody talk to
21 you overnight and don't talk about it among yourselves in the
22 morning. Leave your notepads, please, in the jury room, unless
23 you've got a grocery list written on one of them sheets, you'll
24 need to tear that off and make sure you get whatever you need
25 to on the way home. Otherwise, leave all your notes that

1 you've taken in court in the jury room. Okay? Thank you,
2 folks, for your cooperation. I'll see you in the morning at
3 9:30.

4 (Jury exited the courtroom.)

5 THE COURT: Anything further before we break for the
6 day from the State?

7 MR. HOLFORD: No, Your Honor.

8 THE COURT: Mr. Fox?

9 MR. FOX: No, Your Honor.

10 THE COURT: We'll start at 9:30 tomorrow morning and
11 I'll be here a few minutes early if you need me.

12 MR. HOLFORD: Thank you, Your Honor.

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14 (Concluded for the day Tuesday, August 9, 2022)

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1 (Whereupon proceedings reconvened Wednesday, August 10, 2022)

2 THE COURT: Mr. Holford, Mr. Fox, are both sides
3 ready for the jury?

4 MR. HOLFORD: Yes, Your Honor.

5 MR. FOX: Yes, sir.

6 THE COURT: Thank you. You can bring in the jury.

7 (Jury entered the courtroom.)

8 THE COURT: Madam, Forelady, members of the jury,
9 thank you very much for your prompt return. Good morning. I
10 hope that you enjoyed your breakfast biscuit as much as I did.
11 The staff here is really good about trying to make your time
12 with us as pleasant as it possibly can be and I know you
13 appreciate that as all of us do. We pick up now where we left
14 off yesterday. The State is going to continue to offer
15 evidence and testimony in the trial of this case. Mr.
16 Harrelson?

17 MR. HARRELSON: Your Honor, the State at this time
18 will be calling Jack Johnson to the stand.

19 THE COURT: Mr. Johnson, please be sworn.

20 **Jack Johnson being first duly sworn, testified as**
21 **follows:**

22 THE CLERK: Please state your name and spell it for
23 the Court.

24 THE WITNESS: My name is Jack Johnson, Jr. J-a-c-k,
25 J-o-h-n-s-o-n, J-r., for junior.

1 THE COURT: Mr. Harrelson?

2 MR. HARRELSON: Thank you. Good morning, Judge.

3 THE COURT: Good morning.

4 DIRECT EXAMINATION

5 BY MR. HARRELSON:

6 Q. Who do you currently work with?

7 A. South Carolina Criminal Justice Academy in Columbia.

8 Q. How long did you work with them?

9 A. A year.

10 Q. Have you ever worked for Horry County Police Department?

11 A. I did.

12 Q. And how long did you work for Horry County for?

13 A. About 17-and-a-half years.

14 Q. So did you work for Horry County back in 2018?

15 A. I did.

16 Q. And what was your assignment at that time?

17 A. I was a member of the homicide unit.

18 Q. And as a member of the homicide unit did you ever get
19 involved in the case of Tyshawn Brown?

20 A. I did.

21 Q. And during your involvement did you respond to the Grand
22 Strand Hospital?

23 A. Yes, I did.

24 Q. And why did you respond to the Grand Strand Hospital?

25 A. On the night of the incident I was contacted by Sergeant

Jack Johnson-Direct by Mr. Harrelson

1 Martin who advised me that there had been a homicide in the
2 Loris area and one of the victims was being transported to
3 Grand Strand Hospital and he asked me if I would respond to see
4 if I could locate the victim and see if there was any evidence
5 to be gathered to further the investigation.

6 Q. And once you responded did you meet with any medic
7 personnel?

8 A. Yes. When I got there I met with the medic unit. I
9 spoke with them real quick, made sure that there was no
10 spontaneous utterances or statements made in the back of the
11 ambulance. They were unable to give me any information at that
12 time to help with the investigation.

13 Q. Were you able to meet with the victim, Winter Parker?

14 A. I met with the victim. She was in the ER in triage.
15 She had wounds to one of her extremities and also her torso. I
16 pretty much just stood back and listened to the doctor talk to
17 her because the doctor was asking a lot of questions and stuff
18 that were helpful towards our investigation and I asked a few
19 questions, like, where you all coming from; where you going to;
20 and little stuff like that so I could relay it back to the lead
21 detective.

22 Q. And what type of condition was Winter in when you
23 arrived?

24 A. She was being triaged, so it was kind of hectic, so she
25 was kind of scared, so I'm not sure if she would have been

1 medicated at that point or not, so, but you can imagine, it was
2 a pretty hectic scene.

3 Q. So while you were at Grand Strand did you seize any
4 clothing or anything from Winter?

5 A. Yes. Just since it got so I could get around the ER and
6 everything, I secured all of her property and all of her
7 clothing and stuff. Her clothing had been cut off of her. I
8 looked at the clothing, some of it was blood soaked, but I saw
9 no bullet holes in the clothing or anything that would indicate
10 a fight or the clothes being torn from a struggle or anything.

11 Q. So after seizing or taking the clothing did you attend
12 any meetings with surgeons or other nurses?

13 A. After they took her up for surgery I stayed with the
14 family for a little while. One of the surgeons came back and I
15 was there during that meeting when the surgeon came back and he
16 explained to her that she'd been shot in the arm and also in
17 the torso and nothing major had been hit except the liver had
18 an injury to it, but they believed that she was going to be
19 okay. The bullet was in her, they were not going to remove the
20 bullet at that time because it would be more intrusive to try
21 to remove the bullet than just leave it, it would cause more
22 damage getting it out than just leaving it there.

23 Q. So what did you do with the clothing that you took from
24 the hospital?

25 A. The clothing, I transported it to the police department

Jack Johnson-Direct by Mr. Harrelson

1 and entered it into evidence.

2 Q. So if you will, let's fast forward to the 25th, the next
3 day, did you work that day as well?

4 A. I did.

5 Q. And during that day did you interview anybody named
6 Zaire Stevenson?

7 A. I did.

8 Q. And who is Mr. Stevenson?

9 A. He was a person of interest. I was helping with a
10 different task and two gentlemen came in and he was one of the
11 gentlemen that came in and I was asked to talk to him and find
12 out what he knew about the homicide the night before. Pretty
13 much, I sat down and talked to him and he said that he was at
14 a --

15 MR. FOX: Objection. That would be hearsay, Your
16 Honor.

17 THE COURT: Yes, sir. Hearsay. Objection, Mr.
18 Harrelson.

19 MR. HARRELSON: Yes, Your Honor.

20 Q. So at the time, Mr. Stevenson, was he a suspect?

21 A. He was a person of interest, I believe. I'm not really
22 sure if he was a suspect or just a person of interest.

23 Q. During the investigation were you all able to excuse him
24 as a suspect?

25 A. Yes. He provided an alibi and that alibi was confirmed.

1 MR. HARRELSON: Court's indulgence?

2 THE COURT: Okay.

3 MR. HARRELSON: No further questions.

4 THE COURT: Thank you. Cross-examine?

5 CROSS-EXAMINATION

6 BY MR. FOX:

7 Q. Officer, Ms. Parker was able -- was that the one time
8 you spoke to Ms. Parker, when she was in triage?

9 A. Yes, sir, they were working on her.

10 Q. And that interview was recorded, I believe?

11 A. I believe so.

12 Q. And she was able to respond to your questions and answer
13 the questions that you asked of her?

14 A. Yes, sir.

15 Q. And with some specificity she could give some details
16 about what happened?

17 A. Yes, sir.

18 Q. Okay, described where she was during the shooting, Mr.
19 Durant, and things of that nature?

20 A. Yes, sir.

21 MR. FOX: Okay. That's all the questions I have.

22 THE COURT: Thank you. Redirect, Mr. Harrelson?

23 MR. HARRELSON: No further questions, Your Honor.

24 THE COURT: Thank you. Mr. Jackson, you can step
25 down and be released from your subpoena. Thank you very much.

Dr. Thomas Beaver-Voir Dire by Mr. Holford

1 THE WITNESS: Thank you, Your Honor.

2 MR. HOLFORD: Thank you, Your Honor. Your Honor, the
3 State calls Dr. Thomas Beaver.

4 THE COURT: Dr. Beaver, come forward, please, sir,
5 and be sworn.

6 **Dr. Thomas Beaver being first duly sworn, testified**
7 **as follows:**

8 THE CLERK: State your name and spell it for the
9 Court.

10 THE WITNESS: My name is Thomas Beaver, B-e-a-v-e-r.

11 VOIR DIRE

12 BY MR. HOLFORD:

13 Q. Dr. Beaver, where are you currently employed?

14 A. I'm currently employed at the Medical University of
15 South Carolina in Charleston.

16 Q. What's your job there?

17 A. I'm a clinical associate professor.

18 Q. As a clinical associate professor what are some of your
19 duties?

20 A. So my duties are to teach, I teach a medical student
21 class for the second-year students, I teach residents, and then
22 I perform autopsies as part of the service of MUSC.

23 Q. How long have you performed autopsies?

24 A. Since 1987.

25 Q. And tell me a little bit or tell us a little about the

Dr. Thomas Beaver-Voir Dire by Mr. Holford

1 schooling you had to go through before you were able to do
2 that?

3 A. Yes, sir. I have an undergraduate degree from the
4 University of California, I have a Medical Degree from St.
5 George's University School of Medicine. I completed a
6 five-year training program in anatomic and clinical pathology
7 at the University of Colorado and I completed a fellowship in
8 forensic pathology at the Denver County Coroner's Office which
9 is affiliated with the University of Colorado.

10 Q. Tell me about forensic pathology, what is that a study
11 of?

12 A. So a forensic pathologist is a physician who has been
13 specifically trained to determine the cause, manner and
14 mechanism of death in cases of sudden and unexpected death.

15 Q. Have you ever been qualified as an expert before in
16 South Carolina?

17 A. Yes, sir.

18 Q. Do you know approximately how many times?

19 A. It's not that many because I came here in 2018, so I've
20 been to court maybe a half a dozen times, maybe ten times.

21 Q. What about back in Colorado?

22 A. So I've been everywhere, and I've been an expert in
23 California, Texas, Florida. I've also been an expert in New
24 York State, and I've done Federal Court in Atlanta, so those
25 places, I've been qualified. I was the Chief Medical Examiner

Dr. Thomas Beaver-Voir Dire by Mr. Fox

1 in Daytona Beach for almost ten years and then I went to Texas
2 Tech University where I was the Director of the Institute of
3 Forensic Science and we provided autopsy services and forensic
4 pathology services to 80 counties of West Texas and our count
5 to population was about 1.2 million and from Texas Tech I went
6 I went back home the Oakland, California and I was the chief in
7 Alameda County where we would do about 2500 cases a year and a
8 lot of homicides, so I've been in court in those places.

9 Q. Okay. Sorry, I didn't mean to cut you off.

10 MR. HOLFORD: Your Honor, at this time the State
11 would tender Dr. Thomas Beaver as an expert in forensic
12 pathology.

13 THE COURT: Voir dire?

14 VOIR DIRE

15 BY MR. FOX:

16 Q. The only question I would have, Doctor, is when you've
17 been qualified as an expert what specifically have you been
18 qualified as an expert in?

19 A. Yes. Forensic pathology is what they usually say.

20 Q. Okay. Thank you.

21 MR. FOX: No further questions, Your Honor. No
22 objection to his being qualified as an expert.

23 THE COURT: Thank you. As we sit here today, Doctor,
24 you're qualified as an expert in forensic pathology. Thank
25 you.

Dr. Thomas Beaver-Direct by Mr. Holford

1 DIRECT EXAMINATION

2 BY MR. HOLFORD:

3 Q. Now, Doctor, in this case did you perform the autopsy in
4 this case?

5 A. No, sir, I did not.

6 Q. Who performed the actual autopsy?

7 A. Dr. Proctor performed the autopsy.

8 Q. And so how do you come to be an expert witness in this
9 case where Dr. Proctor performed the autopsy?

10 A. Well, this happens from time to time in this profession.
11 The forensic pathologist that did the autopsy may not be
12 available to testify. Either they have a time conflict or they
13 have -- sometimes they are deceased, and because these cases
14 take a while to get through the court system, sometimes they
15 retire, sometimes there are other personal things that prohibit
16 them from being able to testify, so that's part of the reason
17 why we write a report is so that another forensic pathologist
18 can look at our report and then testify to those things that
19 are in the report.

20 Q. And have you reviewed the report of an autopsy in this
21 case?

22 A. Yes, sir, I have.

23 Q. And who was the individual that was examined?

24 A. So the individual examined is Charles Edward Durant, the
25 second.

Dr. Thomas Beaver-Direct by Mr. Holford

1 MR. HOLFORD: And Your Honor, I would ask that Dr.
2 Beaver be allowed to refer to the autopsy, specifically.

3 THE COURT: Yes, sir.

4 BY MR. HOLFORD:

5 Q. How old was Mr. Durant?

6 A. He was, let's see, it says here 20 years old, and I
7 don't have a DOB here, but it says, 20 -- oh, DOB is 2-17-98.

8 Q. And will you tell me about the date of the autopsy, and
9 then generally, what does an autopsy include?

10 A. Sure. The date of the autopsy was on April 25, 2018, so
11 as I said, it takes a little while to get through the court
12 system, particularly after COVID. What was the other part of
13 your question?

14 Q. What does an autopsy include?

15 A. So the autopsy starts with an, and that's the case here,
16 it starts with an external examination, so a description of the
17 body externally, hair color, eye color, height, weight, things
18 like that, then it proceeds to an internal exam, and that was
19 done here, and it's done in a systematic way and that
20 systematic way is taught to all forensic pathologists, so we
21 kind of do it all the same way. The incision is made on the
22 chest and abdomen allowing access. The organs are sequentially
23 removed and dissected, biopsied, and then eventually we'll make
24 an incision around the back of the scalp and use the bone saw
25 to cut the skull and look at the brain, so those things were

Dr. Thomas Beaver-Direct by Mr. Holford

1 all done in this case, and it's all described here.

2 Q. What abnormalities were found in this autopsy?

3 A. Yes, sir. So there were two gunshot wounds found, both
4 on the left side of the body. The first one is in the armpit
5 area towards the back of the body. So if you think of your
6 armpit as kind of an oval shape and where your shoulder is in
7 the back, that would be where the wound was, about a foot from
8 the top of the head.

9 Q. Now, in autopsies, when you're examining a body, when
10 you're looking at it, when you say left, it's the person's
11 left, not as you see it; is that correct?

12 A. Correct. And this is often times a little troubling
13 because you kind of psychologically, the mind switches things
14 around, but yes, the person's left, so on the left side of the
15 person's body.

16 Q. So there was a gunshot wound here at the armpit?

17 A. Yes, sir.

18 Q. In which direction of travel for that, I guess, gunshot
19 wound?

20 A. Sure. So the wound of entrance is there in the left
21 armpit towards the back of the body and it travels from left to
22 right and it also travels slightly to the front, so ultimately
23 the bullet fragments, and there was a fragment under the skin
24 on the chest near the left nipple.

25 Q. You said a wound of entrance. How are you able to tell

Dr. Thomas Beaver-Direct by Mr. Holford

1 it's a wound of entrance versus an exit wound?

2 A. Sure. This is an important point for all forensic
3 pathologists, but when the bullet enters the body it creates a
4 defect in the skin that has what's called a marginal abrasion,
5 so that marginal abrasion is the unique identifier for a
6 gunshot wound of entrance. We don't use size and we don't use
7 shape because those are just mythical things on TV.

8 Q. What about, you said, two gunshot wounds?

9 A. Yes, sir.

10 Q. So you described the first as left side and armpit
11 traveling slightly back to front. Where is the other gunshot
12 wound?

13 A. The second one, also on the left side of the body, now
14 it's a little lower down. It's about six inches lower than the
15 first one and it's also more towards the front of the body, so
16 now where the crease is where your arm comes to meet the
17 shoulder and the armpit, we call that the anterior axillary
18 line. So the axilla is the armpit and there's a line that we
19 draw in our imagination down the front of the body that extends
20 from that groove where the arm meets the armpit, and that's the
21 anterior Axillary line, and that's where this gunshot wound is.
22 So the other one is on the posterior axillary line, which is
23 the back of the axilla, this one is on the entrance, so it's a
24 little bit farther front and it's about six inches lower and it
25 goes through the lung, again, so another defect in the lung, it

Dr. Thomas Beaver-Direct by Mr. Holford

1 also goes through the heart.

2 Q. Now, how are you able to tell whether a person is alive
3 when they are shot or already deceased?

4 A. So another good point. The way that we tell is by
5 hemorrhage. So our logic is if you are, if you have a blood
6 pressure then you're considered to be alive, and so that would
7 be a beating heart producing a blood pressure would make you
8 alive, and then that blood pressure will produce hemorrhage.
9 So hemorrhage is our marker. If the person, if the wound is
10 made to the body and there is hemorrhage, then we think that
11 this person was alive because at least they have a blood
12 pressure. Without blood pressure, no hemorrhage. It would be
13 like water in a hose. If the water is turned off, the water
14 just drips out of the hose, there is no flow, but if the
15 pressure is on the water will squirt out of the hose, same
16 thing for blood pressure. So when we see hemorrhage we think
17 of the person as being alive, because wounds that are inflicted
18 post-mortem won't produce hemorrhage. This wound fills the
19 left chest with blood, about two liters of blood in the left
20 chest with blood clots, and blood clots are another thing we
21 use to tell if a person is alive. If you just cut a vessel in
22 a dead person and let the blood leak out, it will not clot. It
23 will kind of coagulate, but it won't make a clot. You have to
24 be alive for the blood to clot, so when we see clots of blood,
25 as described in this report, that means the person was alive

Dr. Thomas Beaver-Direct by Mr. Holford

1 when the wound was inflicted.

2 Q. On either of these gunshot wounds was there any residue
3 or stippling?

4 A. No, sir, no residue.

5 Q. And tell the jury the significance of that.

6 A. So we use that for range of fire. So we want to know
7 how far the muzzle of the gun is from the target, so we look at
8 the things that come out of the muzzle of the gun besides the
9 bullet. So when the shot is fired the bullet comes out first
10 and after the bullet comes this cloud of smoke, of sooty
11 material. That can be positive on the surfaces that we look
12 at, so we would call that soot or residue. The other thing
13 that comes out of the muzzle of the gun besides the bullet and
14 the soot, the smoke, is our unburned powder granules. So the
15 powder granules are like sand, like, grains of sand, and they
16 are burning, and that's producing the gas that's expanding and
17 pushing the bullet out, but some of them are not yet all the
18 way burned so they come flying out of the muzzle of the gun,
19 they're not very heavy, and they are not very aerodynamic, so
20 they don't travel very far, but they will hit the skin and they
21 will make a mark that we call powder tattooing, or the more
22 correct term, powder stippling. So when they hit the skin, it
23 makes a little bruise on the skin, actually, and we can see
24 that, and so we have an idea of how far away the muzzle is
25 based upon what gets deposited on the skin.

Dr. Thomas Beaver-Direct by Mr. Holford

1 MR. FOX: Your Honor, may we approach? Excuse me,
2 Doctor.

3 (Off the record discussion was held at the bench by
4 Court and counsel.)

5 THE COURT: Madam Forelady, we'll go to sidebar
6 conference, we'll memorialize that out of the presence of the
7 jury. Thank you.

8 Q. Do you remember where you were?

9 A. Yes, sir. Is it TMI what I'm doing right now?

10 Q. No, you're okay. I think you were just about to tell us
11 you were able to determine a range or a distance, not a
12 specific, but will you please finish?

13 A. Sure. So we classified a gunshot wound as contact, near
14 contact or close range, intermediate range and distant range.
15 That's how they're classified for a forensic pathologist.
16 Contact is when the muzzle is in contact with the skin. Close
17 range is when we see soot on the skin and no real powder
18 stippling because the powder granules are still all together
19 and they're following the bullet into the hole, and that
20 intermediate range is where we don't see any soot on the skin
21 but we see powder stippling, powder granules have spread out
22 now and they're hitting the skin around where the actual
23 entrance wound where the bullet enters, and that's intermediate
24 range. Now, the exact distance in inches depends upon the
25 ammunition and the type of gun, even a little bit on the type

Dr. Thomas Beaver-Direct by Mr. Holford

1 of powder, but generally our close range wounds are a matter of
2 two or three inches, our intermediate range wounds are up to
3 about a foot, a foot and a half.

4 Q. Let me ask you this: As an expert in forensic
5 pathology, are you trained in determining for cause, manner and
6 mechanism of death with gunshot wounds, is that training you've
7 received to know about the stippling and the close contact in
8 the intermediate range?

9 A. Oh, yes, that's definitely part of the training, and
10 it's part of what we do at the autopsy. If I see stippling or
11 soot I will measure the diameter from the center of the
12 entrance wound to the farthest particle of the soot, then a
13 ballistics expert can testify, or that weapon, shooting it
14 against paper and moving it farther and farther each time until
15 they get the exact diameter that I've measured on the body,
16 then we'd know, we have a scientific demonstration of the
17 distance.

18 Q. But in this case did you find that at that?

19 A. No. Dr. Proctor did not find any, he makes no comments
20 of residue. In fact, he says there is no residue.

21 Q. And so what would a finding of no residue signify?

22 A. A couple of things. We have to have a caveat, as
23 always. If you have a coat on the powder granules will hit the
24 coat and we won't see them on the skin. If there's any kind of
25 intermediate target it can stop the powder granules, it can

1 stop the soot, and we will not see it deposited on the skin
2 when we do the autopsy. So that's one caveat. The other one
3 is that the gun is far away so nothing is being deposited, it's
4 a distant range gunshot wound.

5 Q. So it's consistent with a gunshot wound that's over,
6 what did you say, a foot and a half, two feet?

7 A. Yeah, about that. It depends on, again, the ammunition,
8 larger calibers with more powder gives you stippling to a
9 farther distance.

10 Q. Now, you had mentioned, when we were talking about the
11 first gunshot wound, you had mentioned a fragment at the left,
12 I think you said, left nipple?

13 A. Yes.

14 Q. Tell me about that fragment.

15 A. So Dr. Proctor describes it as a half a centimeter,
16 which is about a quarter of an inch, and it's under the skin of
17 left nipple. So this is the largest fragment of that bullet
18 that they detected, and he recovered that fragment.

19 Q. Tell me about with the first gunshot wound was Dr.
20 Proctor able to recover any bullet or projectile or --

21 A. No. That fragment was the only thing that he could
22 identify.

23 Q. And why would that be?

24 A. So some bullets, there's two possibilities. The first
25 is that the bullet hit some kind of intermediate target and was

Dr. Thomas Beaver-Direct by Mr. Holford

1 starting to come apart when it entered the body, and then it
2 came apart into just small tiny fragments that you really can't
3 find because they are all mixed in the tissues and it's very
4 difficult to find them. They get to be the size of like grains
5 of sand and so it's hard to find. Also, their value is not
6 that great. You need a certain size to be able to make any
7 kind of ballistic mark -- to detect ballistic markings, so the
8 tiny grains of sand are not going to be of any value
9 evidentiary-wise, they don't have any value to us, but he did
10 recover the half centimeter, the quarter-inch fragment. The
11 other thing is that the design of the bullet can -- bullets
12 sometimes are designed to come apart once they enter the
13 target. So once they hit the target they come apart and you
14 don't really recover any fragments.

15 Q. With the second gunshot wound, left side, lower down
16 under the armpit, I think is what you said --

17 A. Yeah.

18 Q. -- a little closer to the front or the anterior, was
19 anything recovered from that gunshot wound?

20 A. Yes. And I just remembered something about the first
21 one that I want to say, because you asked about why it
22 fragmented. This would have also -- it hit the clavicle, so
23 this big heavy bone, collarbone, some people call it, the
24 bullet hit that bone and that can also produce -- cause the
25 bullet to fragment, to come apart, so it's a heavy bone, it's

Dr. Thomas Beaver-Direct by Mr. Holford

1 going to provide some resistance to the bullet and it's going
2 to make it come apart. Now, for the second wound, it enters a
3 little lower down the chest, goes through the lung, through the
4 heart, and then he recovers the projectile. He describes it as
5 a large caliber projectile.

6 Q. When you use in forensic pathology a large caliber
7 projectile, does that mean anything to you?

8 A. Yes, sir, it does. So in forensic pathology we
9 generally, again, describe things as small, medium and large.
10 So small as in the 22 caliber to 25 caliber range, medium
11 caliber is nine millimeter 38 in that range, and large caliber
12 is 40 and above, so 40 caliber and above.

13 Q. Now, you were talking about the first gunshot wound how
14 the projectile was not able to be recovered, or the jacket was
15 not able to be recovered. You talked about it hitting the
16 clavicle, so as an expert in forensic pathology have you seen
17 where a bullet can strike something, whether it be a bone or
18 anything else and does it change direction, does it continue on
19 the same path? I guess what I'm wondering is, if you got a
20 fragment here at the nipple and you have it hitting the left
21 clavicle how can we have particles in other places?

22 A. Yeah, sure, that's the -- it can be a ricochet effect,
23 the bullet can move, and it also could have been coming apart
24 before it hit the clavicle, so you asked me for reasons that it
25 might come apart, and those are reasons.

Dr. Thomas Beaver-Direct by Mr. Holford

1 Q. Now, finally, let's get to what was the mechanism of
2 death?

3 A. So mechanism here is going to be internal bleeding,
4 exsanguination, so he exsanguinated from internal bleeding.

5 Q. And what was the cause of death?

6 A. The cause of death would be gunshot -- Dr. Proctor
7 listed multiple gunshot wounds, so the two gunshot wounds would
8 be the cause of death.

9 Q. Now, you're specific about Dr. Proctor listed that. In
10 your review of the autopsy as an expert, would you agree with
11 that finding or disagree?

12 A. Yes. When there's two wounds like that, even though the
13 second wound is much more devastating, it goes through the
14 heart and the first one doesn't, it only goes through the lung,
15 it's hard to say what contribution each one had, so we
16 generally just put the together and say they both caused the
17 death.

18 Q. And what about the manner of death?

19 A. So the manner of death, in forensic pathology we have
20 five words, and we can use one of these five words and no
21 modifiers, no change to the word, and the words are: Homicide,
22 suicide, accident, natural and undetermined. So undetermined
23 for when we get a small fragment of bone we don't know what's
24 going on, and then the rest for "suicide;" death by your own
25 hand; "homicide," death at the time hands of another.

1 Q. What was the manner of death in this case?

2 A. It's homicide.

3 MR. HOLFORD: Your Honor, I have no further
4 questions.

5 THE COURT: Thank you. Mr. Fox, cross-examine?

6 CROSS-EXAMINATION

7 BY MR. FOX:

8 Q. So no residue or stippling noted -- well, Dr. Proctor's
9 report specifically says no residue, correct?

10 A. Yes, sir, that's correct.

11 Q. It doesn't mention stippling one way or the other, but
12 you could infer that it's not present or he would have noted
13 the presence of stippling?

14 A. Correct. I think he would have said if there was
15 stippling. That's telling us, that, hey, I looked for this and
16 I didn't see it.

17 Q. Okay. And if I understand your testimony, it can be
18 difficult, in general, and it is difficult in this case to
19 estimate a range, with no stippling or residue you couldn't say
20 it's not a contact, you know, the gun wasn't up against the
21 flesh, but because of intervening materials, like clothes, a
22 shirt, perhaps, correct?

23 A. Yes, sir.

24 Q. That might effect a glass?

25 A. Yes, sir.

1 Q. So these things would effect and so beyond saying -- in
2 this particular case beyond saying, not the gun, not up against
3 Mr. Durant's flesh, very hard to determine a range, is that
4 fair to say?

5 A. Absolutely.

6 Q. Okay. And of course, this may seem obvious, but of
7 course, you're unable to determine who fired the projectiles,
8 correct?

9 A. No, sir, I have no idea.

10 Q. Thank you.

11 THE COURT: Mr. Holford, Redirect?

12 MR. HOLFORD: Nothing further. I would ask that
13 Doctor Beaver be excused from his subpoena.

14 THE COURT: Doctor Beaver, we would thank you for
15 coming. You can be excused.

16 THE WITNESS: Thank you, Your Honor.

17 MR. HOLFORD: Your Honor, the State would call Agent
18 Michele Eichenmiller.

19 THE COURT: Ms. Eichenmiller, come forward, please,
20 and be sworn.

21 **Michele Eichenmiller being first duly sworn,**
22 **testified as follows:**

23 THE CLERK: Please state your name and spell it for
24 the Court.

25 THE WITNESS: My name is Michele Eichenmiller,

Michele Eichenmiller-Voir Dire by Mr. Holford

1 E-i-c-h-e-n-m-i-l-l-e-r.

2

VOIR DIRE

3 BY MR. HOLFORD:

4 Q. Ms. Eichenmiller, will you tell the jury where you're
5 employed?

6 A. I work for the South Carolina Law Enforcement Division,
7 it's also known as SLED. I work in the forensic laboratory in
8 the firearms department.

9 Q. How long have you worked in the firearms department at
10 SLED?

11 A. Approximately 16 years.

12 Q. What kind of training do you undergo before you got to
13 that position?

14 A. I have a Bachelor's Degree in biology and a Master of
15 Science in forensic science.

16 Q. What would you qualify yourself as, a technician, a
17 scientist, an analyst?

18 A. I'm a forensic scientist.

19 Q. As a forensic scientist in the firearms department, what
20 sort of things do you do?

21 A. I'm responsible for any evidence submitted that involves
22 a firearm, so the firearm itself, fired bullets, fired
23 cartridge cases, and we also do tool marks as part of firearms
24 identification.

25 Q. And do you do this for just Horry County or other areas

Michele Eichenmiller-Voir Dire by Mr. Fox

1 as well?

2 A. SLED is responsible for every agency that would like to
3 submit its evidence in the State of South Carolina.

4 Q. So you do the scientific testing for other agencies?

5 A. Yes.

6 Q. And how many times have you testified as an expert in
7 court?

8 A. Approximately 110.

9 Q. You've been qualified as an expert approximately 110?

10 A. Yes.

11 MR. HOLFORD: Your Honor, at this time the State
12 would tender Forensic Scientist Eichenmiller as an expert in
13 firearms and analysis.

14 THE COURT: Yes, sir. Voir dire?

15 MR. FOX: Again, Your Honor, just asked what she had
16 been specifically qualified for in the past, she says she's a
17 forensic scientist.

18 VOIR DIRE

19 BY MR. FOX:

20 Q. So I would just ask the nature of what you've been
21 qualified for previously when you've been qualified as an
22 expert.

23 A. Firearms identification.

24 MR. FOX: Thank you. No further questions, Your
25 Honor.

1 THE COURT: Thank you. Ms. Eichenmiller is
2 qualified. Thank you.

3 DIRECT EXAMINATION

4 BY MR. HOLFORD:

5 Q. Now, in this case were any items submitted to you as the
6 scientist in this case?

7 A. Yes.

8 Q. And how can you tell us which items were submitted to
9 you?

10 THE WITNESS: If I can refer to my notes?

11 THE COURT: Yes, ma'am.

12 A. So when we receive an assignment in a case the evidence
13 gets logged into the log-in department at SLED, it's assigned a
14 case number and then each individual piece of evidence will get
15 an item number. I'm notified that I have an assignment, I go
16 down to the log-in department, pick up the evidence, and in
17 this case I received four items.

18 Q. Can you tell who submitted those items to SLED for
19 review?

20 A. Rebecca Phillips of the Horry County Police Department
21 submitted them to SLED.

22 Q. And are you the first person that actually handles it at
23 SLED, is there someone in between, someone after you?

24 A. Yes. There's a couple people in between. So a forensic
25 technician takes the items -- the items were submitted to our

Michele Eichenmiller-Direct by Mr. Holford

1 evidence lockers, so that means Officer Phillips came in,
2 dropped her evidence into a locker which is secured and one of
3 our technicians came to the locker, unlocked it, took the
4 evidence out and began logging it into the system. In this
5 case it was Charlotte Pitts that took it out of the lockers.

6 Q. Does Charlotte Pitts test anything, does she open bags,
7 does she manipulate the items at all?

8 A. No, she doesn't.

9 Q. And then who did it go to after Charlotte Pitts?

10 A. So every item has a bar code. It was scanned to
11 evidence storage until I can pick it up. Again, Charlotte
12 Pitts gave it to me and then I brought it up to my office.

13 Q. Tell me about securing evidence to ensure that it's the
14 same as was found on the scene. Would you test something that
15 came in just, I guess, a paper bag?

16 A. No. All the evidence that comes into SLED must be
17 evidence tape sealed and initialed and dated by the person who
18 submitted it.

19 Q. And in this case are you able to tell whether what you
20 tested was sealed, initialed and dated?

21 A. Yes, everything was sealed.

22 Q. And how are you able the tell that?

23 A. When I take the evidence into my custody I will inspect
24 it and document how I received it.

25 Q. And then let's say Horry County has certain identifying

Michele Eichenmiller-Direct by Mr. Holford

1 numbers on it. They may call it item one, two, three, four.

2 Did does SLED contain those same numbers, or do you assign new
3 numbers?

4 A. We assign new numbers when they are logged into our
5 system.

6 Q. Let's talk about the four items of evidence you examined
7 in this case, what were they?

8 A. I received four fired bullet jackets in this case.

9 Q. Let's talk about item one. What is your item one?

10 A. My item one was described as a fired bullet from
11 autopsy, labeled A-1.

12 Q. I'm going to hand you what's been entered as State's 73.
13 Are able to identify what State's 73 is?

14 A. I am. Whenever I receive evidence in a case I will mark
15 it with -- ascribe. So I ascribe on it my initials, the case
16 number and the item number, and then when I'm completed with
17 the case I will heat seal it with my initials and the date. So
18 this is still sealed and my marks are on the base of the
19 jacket.

20 Q. What about item number two for you?

21 A. Item number two that I received was described as a fired
22 bullet labeled VS9.

23 Q. So we put our own numbers on them. I've got State's 69,
24 VS9I2ME. State's 69, are you able to identify that as your
25 item two?

Michele Eichenmiller-Direct by Mr. Holford

1 A. Yes. This is my item two.

2 Q. What about your item three?

3 A. Item three was a fired bullet labeled VS10.

4 Q. I'm going to hand you what's been marked here as State's
5 Exhibit 70. Are you able to identify State's Exhibit 70?

6 A. This is my SLED item three.

7 Q. And what about your SLED item four?

8 A. It was a fired bullet labeled VS11.

9 Q. And I'm going to hand you what's been marked State's 71.
10 Are you able to identify State's 71?

11 A. Yes. This is my item four.

12 Q. I'm going to see --

13 MR. HOLFORD: Court's indulgence?

14 THE COURT: Yes, sir.

15 Q. On State's 73, there's the box, and that's what you were
16 talking about, these are your markings down here?

17 A. Yes.

18 Q. And then this is Horry County's markings, the A1?

19 A. Yes.

20 Q. Now, the actual, what would you call this piece,
21 specifically?

22 A. It's a fired bullet jacket.

23 Q. Fired bullet jacket. Tell me about a fired bullet
24 jacket, what does that mean to you?

25 A. You can think about a bullet like it's an M&M. On a

Michele Eichenmiller-Direct by Mr. Holford

1 jacketed bullet the jacket would be the hard outer shell of the
2 M&M and the core is the inside, so what I received in this case
3 for item one was just the jacket.

4 Q. And is the jacket a casing or are those two different
5 things?

6 A. That's two different things.

7 Q. I'm just going to let you look at that so you're able to
8 discuss it.

9 A. So the jacket is -- the cartridge case holds the bullet
10 and the gun powder all together as one, and once it's fired the
11 bullet is what comes out the front of the firearm.

12 Q. Now, with this bullet jacket, it looks split open and
13 looks like -- it's empty inside, right?

14 A. Yes.

15 MR. HOLFORD: I'm going to pass this around.

16 Q. Can you tell us about that, how is it the projectile it
17 at the end but there's a jacket and then it's empty inside?

18 A. Depending on what a bullet impacts on its travel the
19 jacket could sometimes fall off, is what it did in this case
20 and the core would keep going. The core is the heavier part so
21 it has more energy and it keeps going.

22 Q. And can the core fragment?

23 A. Yes.

24 Q. I'm going to show you what's been entered as State's
25 Exhibit 74. And let me ask you this, was State's Exhibit 74

Michele Eichenmiller-Direct by Mr. Holford

1 sent to SLED for testing?

2 A. No.

3 Q. So you didn't deal with State's 74?

4 A. No.

5 Q. Do you know what that is, or would you have any way to
6 know?

7 A. No, I'd have to examine it.

8 Q. I'm going to ask you similar questions about 71, 70 and
9 69. Well, let's do 70 and 71. You've been referring to these
10 as bullet jackets; is that correct?

11 A. Yes.

12 Q. Now, tell the jury what you're able to tell about your
13 item one, three and four?

14 A. Based on their observable physical characteristics,
15 which is I would measure the diameter of the bullet, measure
16 the lands and grooves that are on it and the weight. Based on
17 those characteristics, items one, three and four were most
18 consistent with the jacket portion of a jacketed bullet and
19 some 44 caliber cartridges. The calibers that are included are
20 44 Special and 44 Magnum.

21 Q. Is a nine millimeter gun able to fire a 44 caliber
22 cartridge?

23 A. No.

24 Q. Why not?

25 A. A nine millimeter is approximately .354 inches and a 44

1 caliber is approximately .42 inches.

2 Q. Is an automatic rifle able to fire a 44 caliber
3 cartridge?

4 A. I think there are some that are in the chamber for 44
5 caliber.

6 Q. Let me ask you this, is it a rifle that fires a 223 or
7 556; is that a 44 caliber?

8 A. No.

9 Q. Explain the difference.

10 A. A 223 caliber is almost -- it's .222, so it's almost
11 half of what a .44 caliber is, so it's very small in comparison
12 to the jacket that I received.

13 Q. Are you able to tell whether these were fired from an
14 assault rifle or another weapon?

15 A. When we only receive a bullet in a case we have a
16 database that we can put the characteristics into. The
17 database will tell us what manufacturers make firearms with
18 those specifications. When I did that in this case I came up
19 with three manufacturers and they were all revolver calibers.

20 Q. Explain to us the difference in a revolver versus
21 semiautomatic. What does a revolver do that a semiautomatic
22 does not in regards to the casing?

23 A. A revolver is typically what you see in old cowboy
24 westerns. They have cartridges in a cylinder, so there's five
25 or six in a cylinder that rotates around and it will fire every

Michele Eichenmiller-Direct by Mr. Holford

1 time you pull the trigger until the cylinders are empty. A
2 semiautomatic has a magazine that's inserted into the base, the
3 same thing but those cartridge cases will be ejected, the
4 revolver holds onto the cartridge cases.

5 Q. Now, we've talked about one, three and four being 44
6 calibers, what are you able to tell me about State's 69, your
7 item two?

8 A. Item two was damaged as I received, it. I couldn't
9 measure the diameter of the bullet, but I compared it to the
10 other jackets that I received and microscopically compared
11 them.

12 Q. So with one, three and four you were able to tell the
13 caliber?

14 A. Yes.

15 Q. But with item two it was too damaged to on its own
16 determine the caliber?

17 A. Yes.

18 Q. Were you able to determine anything about all four
19 together?

20 A. I microscopically compared them all to each other, and I
21 concluded that they were all fired by one firearm.

22 Q. So how can they all be fired by one firearm but you
23 can't say that this one's a 44 like the other three?

24 A. So I evaluate the bullets when I receive them and if
25 they have similar lands and grooves sizes, if I can't tell the

Michele Eichenmiller-Cross by Mr. Fox

1 caliber, I'll still compare them to the ones that have similar
2 sizes.

3 Q. So all four bullets that were sent to you, one from an
4 autopsy and three from a vehicle were all fired from the same
5 firearm?

6 A. Correct.

7 Q. Did you receive any evidence in this case of any bullets
8 or casings fired by a different firearm?

9 A. No.

10 MR. HOLFORD: Your Honor, I have no further
11 questions.

12 THE COURT: Thank you. Cross-examine, Mr. Fox?

13 CROSS-EXAMINATION

14 BY MR. FOX:

15 Q. Do you know whether you received all the bullets that
16 were recovered and that were in evidence with Horry County
17 Police Department?

18 A. I'm sorry, could you repeat that?

19 Q. Yes. You've testified about the four, the three, and
20 I'm using the word "bullet," they're jackets, and forgive my
21 layman's, but those four items, three of them were jackets,
22 more complete, and one was a fragment, correct, so a total of
23 four?

24 A. Four, yes.

25 Q. And you can safely say that that fragment -- or can you

Michele Eichenmiller-Cross by Mr. Fox

1 say, did that fragment come from a fourth jacket, or could it
2 have come from any of those other three?

3 A. No. I believe it came from a fourth bullet.

4 Q. Those are the four bullets or portions that were
5 submitted to you, correct?

6 A. Correct.

7 Q. Okay. Do you have any knowledge of whether there were
8 other bullets, jackets, fragments collected in connection with
9 this case?

10 A. I do not.

11 Q. Okay. So saying that those four items, in your opinion,
12 came from one gun would not rule out the possibility if there
13 are more bullets, fragments, jackets in evidence that would not
14 rule out the possibility of another weapon?

15 A. Correct.

16 MR. FOX: One moment, please. Thank you, no further
17 questions.

18 THE COURT: Thank you. Redirect?

19 MR. HOLFORD: Nothing further, Your Honor.

20 THE COURT: Thank you, Agent Eichenmiller, you can
21 step down.

22 MR. HOLFORD: The State would call Detective Sean
23 Wydra.

24 THE COURT: Detective Wydra, come forward, please,
25 sir, and be sworn.

1

2

Detective Sean Wydra being first duly sworn,

3

testified as follows:

4

THE CLERK: Please state your name and spell it for

5

the Court.

6

THE WITNESS: Detective Sean Wydra, W-y-d-r-a.

7

DIRECT EXAMINATION

8

BY MR. HOLFORD:

9

Q. Detective Wydra, where are you currently employed?

10

A. At the Horry County Police Department.

11

Q. And how long have you been at Horry County PD?

12

A. Approximately ten years.

13

Q. What's your current assignment?

14

A. I'm a detective assigned to the homicide division.

15

Q. What about back in April 24th of 2018?

16

A. At that point in time I was a detective assigned to the

17

Special Victim's Unit.

18

Q. Did you have an occasion to become involved in this case

19

against Tyshawn Brown?

20

A. Yes, sir.

21

Q. And how did that come about for you?

22

A. At the time of the incident I was the on-call Special

23

Victim's Detective. Generally, when you're on-call and you

24

called out to assist homicide there is an on-call homicide

25

detective and an on-call Special Victim's detective.

Sean Wydra-Direct by Mr. Holford

1 Q. And where did you respond to?

2 A. The incident location.

3 Q. Do you remember what the incident location was?

4 A. I was on Spring Street.

5 MR. HOLFORD: Can you see the TV?

6 THE WITNESS: No, sir.

7 MR. HOLFORD: I'll move it over here.

8 THE COURT: You can step down if you need to,
9 Detective, over there.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Keep your voice up while you're away from
12 the microphone. Thank you.

13 THE WITNESS: Yes, sir.

14 BY MR. HOLFORD:

15 Q. So we can all see it together, this is State's one
16 that's up on the TV. Can you tell the jury where you
17 responded?

18 A. Spring Street, right down there (indicating.)

19 Q. And what did you observe when you responded there?

20 A. There was a vehicle that was leaned up against a tree
21 with an individual who's deceased inside of it that was slumped
22 over.

23 Q. And where was that vehicle in relation to this map?

24 A. So it was right in front of, I guess that's [REDACTED] Spring
25 Street, and there was a tree that was right there in the yard

1 and the vehicle came to rest, I guess against the tree.

2 Q. State's 17, is that how it appeared when you arrived?

3 A. Yes, sir.

4 Q. I'm just trying to get the orientation right. If we're
5 looking at this vehicle straight on the way we are, is the map
6 oriented like that then?

7 A. Yeah. That would be the better way to orient it.
8 Because basically, there's a stop sign, I believe right in this
9 area, and then the vehicle was -- the house that's in front of
10 that area is where it came to rest, right around that area.

11 Q. State's 18, the front passenger door is opened there,
12 did you open that door?

13 A. No, sir.

14 Q. Was the vehicle left the way that it was when you
15 arrived?

16 A. Yeah. I did not touch the vehicle or do anything with
17 the vehicle. The only thing I did was look inside of it
18 briefly.

19 Q. State's 19, and it appears that the driver's side window
20 is shattered. Again, did Horry County Police, did they shatter
21 the window or touch the vehicle in any way?

22 A. No, we did not shatter the window.

23 Q. State's 20, when you responded and you saw the victim,
24 is this the manner in which you saw him?

25 A. Yes, that would be the manner in which I saw him when I

Sean Wydra-Direct by Mr. Holford

1 arrived on the scene.

2 Q. And so you saw -- again, State's 21. Is this how you
3 saw him before EMS or the coroner or anyone arrived?

4 A. That's how I saw him.

5 Q. Now, when you respond to a scene like that, what did you
6 do?

7 A. Typically, is it alright if I be seated again?

8 Q. Yes.

9 A. Thank you, sir. Typically when we respond, you know,
10 we'll meet as group and decide, we'll be given some sort of
11 task or some sort of direction on what to do.

12 Q. What was the task or direction you were given?

13 A. At that point in time I began, I guess doing what we
14 call a canvas of the area. We'll start looking for witnesses
15 in the immediate area surrounding the scene. We'll knock on
16 doors or stop people who are in the area and speak with them to
17 see if they saw or heard anything.

18 Q. And did you interview anyone there in the area?

19 A. I did.

20 Q. Who was that?

21 A. The woman who lived directly in front of that home, or
22 where the car was stopped, I interviewed her.

23 Q. Do you remember her name?

24 A. Off the top of my head, I do not, I apologize.

25 Q. If I showed you a copy of your report would it help

1 refresh your recollection?

2 A. Yes, sir.

3 Q. And do you do reports in these cases so you can refer
4 back to your notes?

5 A. Yes, sir.

6 (State's Exhibit No. 77 was marked for identification.)

7 Q. I'm going to hand you a document that's been marked as
8 State's 77 for I.D. Are you familiar with what State's 77 is?

9 A. Yes, sir. That would be the report of investigation
10 that I reported for what I did during this incident.

11 Q. And if you reviewed that report are you able to tell who
12 you interviewed?

13 A. Yes, sir.

14 Q. And who was that?

15 A. I initially spoke to a woman named Mary Singleton.

16 Q. Where does she live?

17 A. [REDACTED] Spring Street.

18 Q. Then who did you speak to?

19 A. I next spoke with Annette Singleton. She also lives at
20 [REDACTED] Spring Street.

21 Q. After you interviewed them what else were you tasked
22 with in this case?

23 A. I was given the task to go to a gas station nearby to
24 try to obtain some surveillance video.

25 Q. And do you know the location of that gas station?

Sean Wydra-Direct by Mr. Holford

1 A. Yeah, I'll give you the address. It's 4811 Broad
2 Street, which is in Loris. It's an Exxon.

3 Q. So looking at State's 1, is 4811 Broad Street marked on
4 there?

5 A. Yes, sir.

6 Q. The direction of travel from Exxon to Spring Street,
7 would it be fair to orient the map this way standing up?

8 A. Yes, sir.

9 Q. Now, what did you do when you went to this Exxon gas
10 station, what were you looking for?

11 A. Surveillance video. I was given information that this
12 victim was at this gas station prior to being killed.

13 Q. And did you go to the gas station and view surveillance
14 video?

15 A. I did.

16 Q. Did you, in fact, see the victim at the gas station
17 prior to?

18 A. Yes, sir, I did.

19 Q. I'm going to show you what's been entered as State's
20 four. Is this a still shot from that surveillance video?

21 A. It is.

22 Q. And on 4/24 2018 at 9:27, the timestamp on this camera
23 16, who is the individual in the white shirt that we see?

24 A. That is the victim.

25 Q. Were you able to determine the victim's vehicle from the

1 surveillance video? Well, you saw the vehicle out there, but
2 were you able to determine which way the victim's vehicle went?

3 A. The victim's vehicle, when it left the gas station
4 proceeded towards the incident location, so it would be away
5 from Broad Street.

6 Q. So the way that we have, I guess, this picture in
7 State's nine, this camera, it's looking which direction on the
8 map?

9 A. So this camera faces the side of the building on the
10 Exxon. Broad Street would be up front. It would be on the
11 street that is perpendicular here, which looks like Holly
12 Street.

13 Q. So if he exits to the right, which direction is he
14 traveling?

15 A. This is Broad Street, it would be away from Broad Street
16 towards the area of Spring Street.

17 Q. Towards where you found this vehicle and victim?

18 A. Yes, sir.

19 Q. In State's ten, what's important about State's ten?

20 A. The mini van.

21 Q. Why is the mini van important in this case?

22 A. That was the vehicle that was operated by the suspects.

23 Q. Now when you're out there that night what do you do when
24 you see this mini van?

25 A. So when I responded to the incident location that we

Sean Wydra-Direct by Mr. Holford

1 reviewed in the surveillance video, I notified one of our
2 detectives about what I found on the video and provided them
3 with a photograph of the van.

4 (State's Exhibit No. 2 was marked for identification.)

5 Q. I'm going to hand you what's been marked, this is just
6 State's 2 for I.D. at this point, its not been entered. Are
7 you familiar with State's Exhibit 2 is?

8 A. It's a van. It's a picture of the van.

9 Q. Do you know who took that picture of the van?

10 A. I did.

11 Q. And is that a true and accurate reflection of what you
12 took that night?

13 A. Yes, sir.

14 MR. HOLFORD: Your Honor, the State would seek to
15 introduce State's 2 into evidence.

16 THE COURT: Yes, sir.

17 MR. FOX: Without objection, Your Honor.

18 THE COURT: Thank you. State's 2 into evidence.

19 (State's Exhibit No. 2 was admitted into evidence.)

20 Q. Now, it looks like it's a screen. Just tell us about
21 that. We've seen the video, we've seen still shots from the
22 video, but this looks like a picture of a screen.

23 A. Yeah. It's a monitor from a surveillance video. So at
24 the gas station they have a monitor which the surveillance
25 system is hooked to and you can review the video on this

1 monitor, so at the time the only to photograph the thing is to
2 literally take a picture of the monitor.

3 Q. And then later did you go back and actually download the
4 surveillance video?

5 A. The surveillance video was later downloaded.

6 Q. Did you send information out to Horry County Police
7 about this van?

8 A. Yeah, just to be on the lookout for it.

9 Q. And what type of description did you give it?

10 A. Basically what you see.

11 Q. Is there anything distinctive about the wheels?

12 A. Yeah. You have the one hubcap is missing there,
13 obviously you can see it in the picture, it's a black wheel.

14 Q. And did you notify officers of that distinction?

15 A. Yes, sir.

16 Q. Now, I'm going to show you what's State's 56 which was
17 documented at the Horry County Police Department. Does that
18 have the same characteristics of the van that you saw in that
19 surveillance video?

20 A. It does.

21 Q. After you reviewed the surveillance footage -- well, you
22 watched that whole footage, didn't you?

23 A. The majority of it, maybe not every single camera angle.

24 Q. Yeah, I'm sorry, about the outside?

25 A. Yeah.

Sean Wydra-Direct by Mr. Holford

1 Q. And the inside?

2 A. Yeah.

3 Q. Was there a fight ever, did the victim hit anyone, wave
4 a gun around, have an altercation with anybody out there?

5 A. I did not see any altercations from the video that I
6 reviewed.

7 Q. When you responded to the victim vehicle, did you find a
8 firearm in the victim's vehicle?

9 A. I did not search the victim's vehicle. I did not see
10 one in plain view.

11 Q. Did you see any shell casings outside?

12 A. I did not.

13 Q. After you sent information out about that gray van what
14 was your next assignment, or what were you tasked with, I
15 guess?

16 A. We eventually responded. It would have been the next
17 thing that I did. It was a separate incident that occurred,
18 and we, myself and several of the detectives ended up
19 interviewing somebody about that.

20 Q. And who did you interview about that?

21 A. It would have been -- I can't recall her name off the
22 top of my head. It was a female who had called 911 for a
23 separate incident that involved Joe Rich.

24 Q. After that interview did that lead you to Joe Rich?

25 A. Yes, sir.

Sean Wydra-Direct by Mr. Holford

1 Q. And did you interview him or did you just do a search of
2 his house?

3 A. We searched his house with a search warrant, executed
4 his house.

5 Q. Were you present during the search warrant?

6 A. I was.

7 Q. State's 52, there appears to be a black and bluish gun,
8 was that present during the search of Joe Rich's house?

9 A. It was.

10 Q. And does that gun match the description of the prior
11 incident that you were notified about?

12 A. It does.

13 Q. So after you are lead to Joe Rich's to do a search of
14 his residence what was the next task?

15 A. For me?

16 Q. Yes.

17 A. I did on the 25th of April, I did respond to some of the
18 detectives to collect the surveillance video with regards to
19 this incident.

20 Q. And when you -- let me go back to the search. The
21 search of that residence, were you able to locate any clothing
22 that was consistent with someone seen wearing the same thing on
23 the surveillance video?

24 A. We did locate clothing that belonged to Joe Rich which
25 appeared to be consistent with what he was wearing on that

Sean Wydra-Cross by Mr. Fox

1 video.

2 Q. So as you're collecting video and responding to the
3 scene noticing the same clothing, you're able to identify him
4 as the person on this video?

5 A. Yes, sir.

6 Q. After you identified Joe Rich where did your
7 investigation lead you there, who did you begin looking for?

8 A. We were looking for someone who was referred to as
9 "Smoke," which the investigation, other detectives had
10 identified him as Tyshawn Brown.

11 MR. HOLFORD: I have no further questions, Your
12 Honor.

13 THE COURT: Thank you. Cross-examination, Mr. Fox?

14 CROSS-EXAMINATION

15 BY MR. FOX:

16 Q. Detective, you got the security footage from the Tiger
17 Mart, the Exxon when you testified that's the relationship
18 between where the Exxon was and where the Chevy truck was found
19 on Spring Street. There wasn't -- did you, yourself look for
20 any video from any businesses between Tiger Mart and Spring
21 Street?

22 A. I didn't. There was other detectives that were looking
23 for other surveillance video.

24 Q. As far as you know there's none exist showing the green
25 Chevy truck or the mini van between from the time they left the

1 gas station until the truck is seen at the map located on
2 Spring Street?

3 A. There's not any footage that I'm aware of.

4 Q. Now, Mr. Rich was identified in those photographs and
5 from the surveillance video by individuals and by his own
6 clothes that were recovered from his house, correct?

7 A. Yes, sir.

8 Q. And Mr. Heath Reaves was identified, correct, being
9 outside, and these are identified when they are outside the
10 vehicle, right, when you could see their whole body, you could
11 see, if not up close you can see their face, Mr. Rich and Mr.
12 Reaves both go inside the store, correct?

13 A. Yes, sir.

14 Q. And so they are visible and they are identified outside
15 the vehicle, correct?

16 A. Yes, sir.

17 Q. No such picture, video, et cetera, of that man, Tyshawn
18 Brown at the Exxon?

19 A. The driver of the van never exited the van.

20 Q. Right. Face not visible?

21 A. His face is not visible.

22 MR. FOX: Thank you. No further questions.

23 THE COURT: Redirect, Mr. Holford?

24 MR. HOLFORD: Nothing further, Your Honor.

25 THE COURT: Thank you. Mr. Wydra, you can step down.

Sean Wydra-Cross by Mr. Fox

1 You can be excused.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Ladies and gentlemen, we are at that time
4 of the morning and at the state of the trial where we're going
5 to give you a recess. I'm going to send you to the jury room.
6 We'll get you back out here in no more than 20 minutes. We'll
7 try to have you back in your seats at 20 after the hour.
8 Remember, as always, not to discuss this case among yourselves
9 while in the jury room. Thank you.

10 (Recess taken.)

11 (Jury exited the courtroom.)

12 MR. FOX: Your Honor, it has come to my attention, I
13 have no idea if she will be called, there is a person on the
14 State's witness list, Ms. Brittany Burks, I believe she is in
15 the courtroom or has been, it just came to my attention now, of
16 course she would be under the sequestration order. I don't
17 know exactly when she got here or what she has heard or not
18 heard, and I don't know whether the State intends to call her
19 as a witness.

20 THE COURT: Mr. Holford?

21 MR. HOLFORD: Your Honor, I would intend to call her
22 as a rebuttal witness, if necessary, depending on what the
23 defense puts up but not in my case in chief.

24 THE COURT: Okay. That will be fine.

25 MR. FOX: So I think she should, out of caution,

1 she's still a potential witness and should be sequestered.

2 MR. HOLFORD: She is still a potential witness.

3 THE COURT: The sequestration should be still in
4 place as far as the case in chief is concerned, right?

5 MR. HOLFORD: Yes, sir.

6 THE COURT: If you intend to call her as rebuttal she
7 can be a rebuttal -- excuse me -- I guess she can be here for
8 any defense if that's going to be the purpose of it.

9 MR. FOX: Yes. Thank you.

10 THE COURT: Thank you.

11 (Recess taken.)

12 THE COURT: Are you ready for the jury?

13 MR. FOX: Judge, I would like to just put on the
14 record the objection that I made at the bench regarding Dr.
15 Beaver, and specifically, my objection was that he had been
16 qualified as a forensic pathologist, and I objected to that
17 portion of his testimony that related to firearms, ballistics,
18 distance of shots, and things of that nature. I just think it
19 went beyond the area of which he had been qualified, and that
20 was my objection.

21 THE COURT: Thank you, Mr. Fox, and I apologize for
22 not remembering to do that myself. That's exactly right, that
23 memorializes the sidebar objection that was made for that line
24 of question and answers by Dr. Beaver. The record, of course,
25 will reflect exactly what he was talking about. I concluded

Sean Wydra-Cross by Mr. Fox

1 that he was really talking about the mechanisms of injury as
2 much as he was about ballistics when he described the specific
3 type of injuries that the stippling caused and that that was
4 within the purview of his expertise as a forensic pathologist.
5 He went on to explain, I think, later in his testimony how that
6 was part of the training that they went through and how they
7 had protocol and they had a doctor to describe different
8 distances of stippling and injuries and things of that nature,
9 but that was done subject to objection, and so I think we
10 memorialized the record properly in that regard. Thank you for
11 reminding me.

12 MR. FOX: Yes, sir. Thank you.

13 THE COURT: Bring us the jury, please.

14 (Jury entered the courtroom.)

15 THE COURT: Most of you folks are too old to remember
16 recess that we used to have in grammar school a long time ago
17 and how we were sitting in class and that clock would just
18 creep from one minute to the next until the teacher finished
19 talking, and then we'd go out on the playground and that clock
20 swung around like that at school, I find that courtroom
21 recesses do the same way, I don't know where the time went, but
22 I'm not going to waste anymore of your time with that. Mr.
23 Holford, you can call your next witness.

24 MR. HOLFORD: Your Honor, the State calls Detective
25 Amy Jackson.

1 THE COURT: Come forward, Ms. Jackson, please, and be
2 sworn.

3 **Amy Jackson being first duly sworn, testified as**
4 **follows:**

5 THE CLERK: Please state your name and spell it for
6 the Court.

7 THE WITNESS: Amy Jackson, J-a-c-k-s-o-n.

8 DIRECT EXAMINATION

9 BY MR. HOLFORD:

10 Q. Detective Jackson, where are you currently employed?

11 A. Horry County Police Department.

12 Q. What's your current assignment?

13 A. I am currently assigned with the Attorney General's Task
14 Force investigating internet crimes against children.

15 Q. Back in 2018 what were you assigned to?

16 A. I was in the homicide unit and I was a homicide
17 investigator.

18 Q. How long have you been with the Horry County Police
19 Department?

20 A. Sixteen years.

21 Q. In 2018 were you assigned to this case as a homicide
22 detective?

23 A. Yes. I was assigned as the lead investigator because I
24 was on-call.

25 Q. Tell us about what duties a lead investigator has

Amy Jackson-Direct by Mr. Holford

1 different from another?

2 A. As a lead investigator we are responsible with tracking
3 all of the information and we're preparing the case file and
4 obtaining, if any arrest warrants in the case, and then we work
5 along with several other detectives, and so I just, I get all
6 the information, I disseminate information, but I'm the overall
7 master collector of the information and I will organize and
8 prepare it into a case file format to hand over to the
9 Solicitor's Office.

10 Q. And as the lead investigator different from other
11 witnesses that may testify, have you been allowed to be in the
12 courtroom this whole time?

13 A. Yes, I have.

14 Q. And so you've been able to observe other people testify?

15 A. Yes.

16 Q. In this investigation did you meet with a Eugenia
17 Waller?

18 A. I did.

19 Q. And was that specifically related to this case we're
20 here for today?

21 A. No. We learned of her after responding on scene and
22 learning of the gray van. We were able to learn from our
23 patrol officers that they had a call for service earlier in the
24 day involving a gray van with being occupied in a pointing and
25 presenting case.

1 Q. And that pointing and presenting case, did that lead you
2 to the Joe Rich?

3 A. Yes.

4 Q. And is that what he was talking about yesterday?

5 A. Yes.

6 Q. And during the search of Joe Rich's residence a blue gun
7 was recovered, are you aware of that?

8 A. Yes.

9 Q. And did that match the description of the gun he was
10 seen carrying?

11 A. Yes.

12 Q. Let me ask you about this. When you spoke with him did
13 he give you information about an Orlando Barber or did he
14 identify an Orlando Barber as possibly being involved?

15 A. He identified him as a person of interest, or being the
16 person with them to other detectives. I personally did not
17 present him with the photographs.

18 Q. And did you assign detectives the task of determining
19 whether Orlando Barber was in the vehicle at the time of the
20 shooting?

21 A. Yes.

22 Q. And was it determined that he was or was not involved?

23 A. He was not involved.

24 Q. Okay. We've heard of a Zaire Stevenson, who is that?

25 A. He is a neighbor of Joe Rich's, he lives across the

Amy Jackson-Direct by Mr. Holford

1 street from him on Harrelson Avenue.

2 Q. And did you assign detectives the task of determining
3 whether he was in the vehicle at the time of the shooting?

4 A. Yes.

5 Q. And was he involved in this crime or not?

6 A. He was not.

7 Q. How many people were identified as being in that gray
8 van the night of the shooting?

9 A. Three people were identified.

10 Q. And who were they identified as?

11 A. It was Joe Rich, Tyshawn Brown and Heath Reaves.

12 Q. During the course of your investigation was anyone else
13 identified as being in that vehicle?

14 A. No.

15 Q. That vehicle, that gray van, who did it belong to?

16 A. It was registered to Brittany Burks.

17 Q. And who is Brittany Burks?

18 A. She was the girlfriend at the time of Tyshawn Brown.

19 Q. And that gray van, when Horry County Police located it,
20 where did you locate it to?

21 A. We located it to Tyshawn Brown's sister's residence.

22 Q. Did you do any Facebook record searches, phone searches,
23 trying to get information from those type of --

24 A. Yes. We did Facebook search warrants on several
25 accounts to include Brittany Burks, Heath Reaves and Winter

1 Parker.

2 Q. In your review of that was there anything relevant to
3 the planning or preparation or what happened in this case?

4 A. No. There was no pertinent information gathered from
5 the records.

6 Q. What about cell phone records, did you get any pertinent
7 information relating to this crime from those?

8 A. Did not.

9 Q. So your investigation might have been larger than what's
10 been shown here, but there wasn't pertinent information
11 gathered?

12 A. Correct.

13 Q. Did you actually interview -- let me ask you this, I'm
14 going to jump back. Joe Rich, you interviewed him, he leads
15 you on this Orlando Barber goose chase, what did you do as a
16 result of that information that he gave you?

17 A. I charged him with obstruction of justice because he
18 derailed our investigation and took us away from the main
19 point.

20 Q. Did you observe him testify yesterday?

21 A. I did.

22 Q. When did you first interview him?

23 A. We interviewed him the day that we executed the search
24 warrant at his residence.

25 Q. And what day would that have been?

Amy Jackson-Direct by Mr. Holford

1 A. It would have been the day after the incident,
2 April 25th.

3 Q. So the very next day was his testimony in court to the
4 jury consistent with the information he gave you about who the
5 shooter was in this case?

6 A. Yes, it was.

7 Q. Has he ever in the last four years strayed about who the
8 shooter was?

9 A. He has not.

10 Q. Has he ever identified more than one shooter?

11 A. He has not.

12 Q. Let's talk about Heath Reaves. At what point did Heath
13 Reaves become a suspect in this investigation?

14 A. Once we were able to identify him after detectives were
15 able to speak with the female half that was seen at the gas
16 station.

17 Q. And did you start searching for Heath Reaves?

18 A. We did.

19 Q. Did you contact his family?

20 A. I did.

21 Q. Were they aware you were looking for him?

22 A. Yes, they were.

23 Q. Where did you ultimately find Heath Reaves?

24 A. He was ultimately located in Philadelphia.

25 Q. And when was he located in Philadelphia?

1 A. End of May.

2 Q. And what's the mechanism, how did we get him back here
3 to Horry County?

4 A. Whenever we obtained his arrest warrants for murder we
5 filled out extradition paperwork and one of the options that we
6 had is full extradition, which means it's nationwide, we have
7 that signed off by the solicitor's office agreeing to the full
8 extradition, that paperwork along with copies of his arrest
9 warrants and criminal history and photographs is then given to
10 the Sheriff's Office, and then they along with dispatch will
11 enter him in what we call NCIC, which is a national crime
12 database, so that information, when they run a name and date of
13 birth of an individual in law enforcement and do an NCIC check,
14 it will pop up as being wanted.

15 Q. What about Tyshawn Brown, when did he become a suspect
16 in this case?

17 A. Within a few days of the incident.

18 Q. Did you reach out to his family or his girlfriend or
19 anyone that he knew?

20 A. I spoke to Brittany Burks and I attempted to reach out
21 to his mother by phone.

22 Q. Were they aware you were looking for him in connection
23 to this case?

24 A. Brittany Burks was, yes.

25 Q. Did you do any posters or notify the public?

Amy Jackson-Direct by Mr. Holford

1 A. We did. We did wanted posters for both individuals, and
2 we actually worked with ATF, Alcohol, Tobacco, Firearms, and
3 got an award for \$10,000.00 leading to the information of the
4 location of the two suspects.

5 Q. And where was Tyshawn Brown ultimately found?

6 A. In New York City.

7 Q. When was he found in New York City?

8 A. In 2020.

9 Q. Over a year and a half afterwards?

10 A. Correct.

11 Q. And again, how did we get him back here?

12 A. The same thing was done for him. We had extradition
13 paperwork completed on him and also full nationwide
14 extradition.

15 Q. Did you ever find the murder weapon in this case?

16 A. We did not.

17 Q. Did you ever find the clothes, other than Joe Rich that
18 we've heard about, did you ever find the clothes that Heath or
19 Tyshawn were wearing in the video?

20 A. No, we did not.

21 Q. Other than, I think, the red bandanna and maybe a
22 license plate in that gray van, did you find anything else in
23 inside that gray van?

24 A. No, we did not.

25 Q. Heath Reaves testified yesterday, as well, was his

1 testimony consistent with the evidence that's been collected in
2 this case?

3 A. Yes, it was.

4 Q. Was it consistent with your investigation --

5 MR. FOX: Objection, Your Honor. This amounts to
6 bolstering with the jury --

7 THE COURT: I'll sustain that objection.

8 BY MR. HOLFORD:

9 Q. During the course of your investigation did you have any
10 reason to believe there was more than one shooter in this case?

11 A. No.

12 MR. HOLFORD: I have no further questions, Your
13 Honor.

14 THE COURT: Cross-examine, Mr. Fox?

15 CROSS-EXAMINATION

16 BY MR. FOX:

17 Q. Ms. Jackson, so no murder weapon found?

18 A. No murder weapon was located.

19 Q. The only weapon in connection with this series of events
20 that was located was the one that came from Joe Rich's house,
21 correct?

22 A. Yes.

23 Q. Joe Rich being the person that consistently and
24 immediately lied to you and Detective Hemingway to the point
25 that you charged him with obstruction of justice?

Amy Jackson-Cross by Mr. Fox

1 A. Correct.

2 Q. Joe Rich who was willing -- openly said, what do I need
3 to do to avoid a murder warrant, correct?

4 A. Correct.

5 Q. I'll do anything to avoid that, correct?

6 A. Yes.

7 Q. Okay. Nothing on social media connecting Tyshawn Brown
8 to the shooting?

9 A. No. I don't believe he even had a social media.

10 Q. Nothing, you would have checked any phone records if you
11 could --

12 A. Yeah.

13 Q. -- nothing showing text messages between him and Mr
14 Durant or between Tyshawn Brown and Heath Reaves --

15 A. No.

16 Q. -- nothing of that nature?

17 A. No.

18 Q. And you would have, and you just said that you found no
19 clothing. Specifically, did you find any evidence of burned
20 clothing at Ms. Lashaye Washington's house?

21 A. Did not, no.

22 Q. Did you look for that?

23 A. I did not respond to Ms. Washington's house.

24 Q. Well, you're the master collector, you said you're the
25 master collector being the lead investigator, so if or someone

1 else, a law enforcement, I mean, connected with this
2 investigation had checked, because again, Mr. Reaves testified:
3 We went over to Ms. Washington's house and burned our clothes?

4 A. Yes.

5 Q. Did anyone go and check to see if they had, you know --

6 A. There was no information given to me that any evidence
7 of anything being burnt was located.

8 Q. The defendant, Mr. Brown, was located in New York City,
9 and speaking with family, his family and with Ms. Burks, you
10 were aware then that he had family in New York City?

11 A. I was unaware that he had family in New York. I believe
12 his mother lived in Sumter.

13 Q. Right. There were, let's talk about, a number of
14 weapons. So from the autopsy we know that there were two
15 wounds to Mr. Durant?

16 A. Yes.

17 Q. Two separate wounds --

18 A. Yes.

19 Q. -- identified wounds of entrance and either a fragment
20 or actual jacket recovered, so there's two -- there were three
21 bullets located in the vehicle itself, correct? The Chevy, the
22 Chevy truck, I mean, right?

23 A. Right.

24 Q. Two in the back window or the plastic and one under the
25 floor mat, right?

Amy Jackson-Cross by Mr. Fox

1 A. Yes.

2 Q. And then Ms. Winter Parker also had two separate wounds,
3 jacket, a projectile bullet, jacket, whatever remained in her,
4 at least initially, correct?

5 A. I know one did.

6 Q. Okay. So we have potentially -- and then there is a
7 bullet hole in the A-frame of the Chevy, right, the door frame
8 right there at the front?

9 A. Yes.

10 Q. Alright. So potentially, that's one, two more in Mr.
11 Durant, that's three, three in the car, four, five, six, and
12 two in Ms. Parker, seven, eight, potentially, correct?

13 A. If you count it like that, yes.

14 Q. Okay. So you heard Agent Eichenmiller talk about five
15 or six shots, 44 caliber revolver, correct?

16 A. Correct.

17 MR. FOX: One moment, please?

18 BY MR. FOX:

19 Q. You were unable to get any fingerprints out of the Kia
20 van, correct?

21 A. Yeah. I believe any prints, I can't remember without
22 looking at the crime scene report, if any was collected.

23 Q. But potentially that would have been sent -- does that
24 get sent to SLED, as well, do they have a fingerprint lab, or
25 do you have your own?

1 A. No. We have our own AFIS.

2 Q. But if there had been anything and you they would have
3 turned anything up you would have been aware of that? In other
4 words, if there was a print and you were able to match it to
5 anybody --

6 A. Yes.

7 Q. And you would have been aware of that and that would
8 have been a big deal. Any DNA sent off, any samples, like this
9 red bandanna that was located?

10 A. I don't believe any DNA was sent off because we had
11 nothing to compare it to. We didn't have a standard from a
12 known suspect at the time we sent it off to.

13 Q. How about after? How about since you had Mr. Reaves in
14 custody since 2018, you're aware of Mr. Rich, so you had hands
15 on both of them by the summer of 2018, right?

16 A. No, we didn't collect DNA from them.

17 Q. But you could have?

18 A. We could have with a search warrant.

19 Q. Okay. And in fact, that's done at arrest -- yes, with
20 the search warrant you just simply ask a judge, hey, there may
21 be -- it's like a Q-tip swab inside of the cheek, correct?

22 A. Correct.

23 Q. And potentially that could be compared to, well, really,
24 any number of things, but perhaps his bandanna?

25 A. Correct.

Amy Jackson-Redirect by Mr. Holford

1 MR. FOX: Thank you. No further questions.

2 THE COURT: Redirect?

3 REDIRECT EXAMINATION

4 BY MR. HOLFORD:

5 Q. Good afternoon, Detective Jackson. DNA, what's the
6 purpose of collecting DNA?

7 A. It would just show that a person either handled
8 something or touched something.

9 Q. In this case would it tell you who's in the van?

10 A. It could potentially tell you who's in the van.

11 Q. Could you also tell who's in the van by someone in being
12 seen on video being in the van?

13 A. Correct, yes.

14 Q. Does DNA tell you when a person was in a van?

15 A. It does not.

16 Q. Does it tell you what they were doing while they were in
17 the van?

18 A. No, it does not.

19 Q. Does it tell you who the shooter is in this case?

20 A. No, it does not.

21 Q. Did you ever collect a murder weapon in this case that
22 you were able to test for DNA?

23 A. No.

24 Q. So there are other ways of knowing who's in the van
25 other than the DNA?

1 A. Correct.

2 Q. We counted up potentially eight shots, but I think we're
3 double counting, so if a bullet strikes the glass and then
4 enters a person, is that two shots or one?

5 A. That's one shot.

6 Q. So if a bullet strikes through glass in fragments and
7 hits a person, leaves a fragment, hits another person, is that
8 three shots or could that be one?

9 A. That's just one shot.

10 Q. So, we know we have observable three bullet strikes, two
11 in the windshield, one in the A-frame?

12 A. Correct.

13 Q. Minimum?

14 A. Yes.

15 Q. We got a shattered window, possible three?

16 A. Correct.

17 Q. There are three found in the vehicle, one found at the
18 autopsy?

19 A. Correct.

20 Q. So we could have as few as four at this point in the
21 trial?

22 A. Well, five, because one is in Winter Parker?

23 Q. Right. We know that, and we'll get to that next, one in
24 Winter Parker, so five?

25 A. Yes.

Winter Parker-Direct by Mr. Holford

1 MR. HOLFORD: No further questions, Your Honor.

2 THE COURT: Thank you. You can step down Ms.

3 Jackson. Thank you. Mr. Holford?

4 MR. HOLFORD: Your Honor, the State calls Winter

5 Parker.

6 THE COURT: Ms. Parker, come forward, please, and be

7 sworn.

8 **Winter Parker being first duly sworn, testified as**

9 **follows:**

10 THE CLERK: Please state your name and spell it for

11 the Court.

12 THE WITNESS: Winter Parker, W-i-n-t-e-r,

13 P-a-r-k-e-r.

14 DIRECT EXAMINATION

15 BY MR. HOLFORD:

16 Q. Good morning, Ms. Parker. Tell us a little bit about
17 yourself. How old are you? Did you go to school? Where did
18 you go school?

19 A. I am 23 years old now. I am currently enrolled in
20 college. I don't wish to say which college.

21 Q. I understand.

22 A. I am obtaining my Bachelor's Degree, and I recently had
23 a son.

24 Q. Congratulations.

25 A. Thank you.

1 Q. Back in 2018, in April 24th, how old were you then?

2 A. I was 19 years old then.

3 Q. And how did you know Charles Durant?

4 A. He was my boyfriend at the time.

5 Q. How long had you been dating?

6 A. A year and a half.

7 Q. How old was Charles at the time?

8 A. He was twenty years old.

9 Q. What did you call him?

10 A. I called him Bo.

11 Q. Tell me about that night, April 24, 2018. We've seen a
12 video of a green truck. Where were you?

13 A. At what time? Before the whole incident?

14 Q. Yeah, at the gas station.

15 A. Oh, at the gas station? What do you mean, like? Where
16 were we before the gas station or at the gas -- like, was I in
17 the truck?

18 Q. Yes.

19 A. Yes. I was in the truck at the gas station, on the
20 passenger side.

21 Q. Who else was with you that night?

22 A. Just Charles Durant.

23 Q. Tell me about the gas station.

24 A. We were just at the gas station. He got out of the
25 truck to go pay for gas and he was stopped by someone in a gray

Winter Parker-Direct by Mr. Holford

1 van and I looked up to see why he stopped to go, just to see
2 who was calling him, but I couldn't, like, tell who was calling
3 him, but he did go over there and they had a small
4 conversation, he gave them a hand shake, and he went to go pay
5 for the gas, came back out, he pumped the gas, and we left.

6 Q. When he came back to the truck did he say anything, did
7 he say he got in a fight with someone or there was an argument?

8 A. He didn't say anything.

9 Q. When you left the gas station which direction did you
10 go?

11 A. We went towards Spring Street. We went to -- when we
12 left out of Exxon, what is that, a right? Did we take a right,
13 I don't know, I think it's a right, but we did go towards
14 Spring Street.

15 Q. I'm just going to show you this map, this is State's
16 Exhibit 1. This is the gas station here (indicating) and this
17 is where you ended up.

18 A. We went down Church Street.

19 Q. Down Church Street? Okay. Where are the railroad
20 tracks? Do you remember railroad tracks?

21 A. Yes.

22 Q. Where were they?

23 A. Right when you leave out of Exxon and you make that
24 right you go over railroad tracks to get to Church Street.

25 Q. Now, tell me what happened as you're traveling down

1 Church Street.

2 A. Well, we were riding down the road and I just mention, I
3 said, it's dark out here tonight, and he was, like, yeah, it's
4 dark, and we heard a loud noise approaching us, but we didn't
5 have a back window, so we couldn't tell what was approaching
6 us. So I was, like, what's that loud noise, and he said, I
7 don't know, because the rearview mirrors were messed up, as
8 well, so it was very hard for us to know what was approaching
9 us, and by the time we noticed what it was the van pulled
10 around us and I seen Heath holding the gun like this
11 (indicating,) and he yanked it back and then they swerved in
12 front of us and the driver jumped out and started shooting, but
13 when I seen Heath pull around, I said to Bo, I said, did you
14 see that, that was a gun? And he said, oh, no, I didn't see
15 anything, I was driving. I was like, did they just have a gun?
16 Is that not the person you just talked to at the gas station?
17 And he said -- he just looked forward. When they pulled around
18 he was just staring forward, he didn't really say much other
19 than, oh, I wasn't paying attention.

20 Q. Describe the van to me. What kind of van was it?

21 A. It was a gray van. It was like the van that I seen that
22 you guys showed, it was a gray van.

23 Q. Was there any other car there, any other vehicle?

24 A. During the time of the shooting?

25 Q. Yes.

Winter Parker-Direct by Mr. Holford

- 1 A. No.
- 2 Q. Okay. Now, you said you saw Heath pointing a gun at
3 you. Do you know Heath, do you know who he is?
- 4 A. Yes, I know him. I went to school with him. I grew up
5 with him.
- 6 Q. How long had you known Heath Reaves?
- 7 A. Basically my whole life I've known him.
- 8 Q. Where was he seated in the van?
- 9 A. He was in the back passenger seat.
- 10 Q. Was the door open or closed?
- 11 A. It was open. The side door was open.
- 12 Q. What kind of gun did Heath Reaves have?
- 13 A. Well, I called it a Chopper because I don't really know
14 the names of guns, but I called it the street name, which is a
15 Chopper, but to my knowledge it is an AR-15.
- 16 Q. So is it a small handgun?
- 17 A. No.
- 18 Q. Pistol?
- 19 A. No.
- 20 Q. Revolver?
- 21 A. No. Heath didn't have a revolver.
- 22 Q. It's a big gun?
- 23 A. Yeah.
- 24 Q. Okay. What about the guy in the front passenger seat?
25 Was he pointing a gun at you?

1 A. No.

2 Q. Did you see what he looked like?

3 A. He was a white man. I seen him at the gas station but
4 when that happened I wasn't really paying attention to him
5 because I was looking at the backseat.

6 Q. Now, when you got up to the stop sign -- well, let me
7 ask you, did Heath ever fire any shots at you?

8 A. No, Heath never fired shots.

9 Q. Did the front passenger ever fire any shots at you?

10 A. No, he never fired any shots.

11 Q. Did you know who Joe Rich was?

12 A. No.

13 Q. How many white males were in the vehicle?

14 A. Just one.

15 Q. When you pulled up to the stop sign at Church and Spring
16 Street, where did the van go?

17 A. It pulled in front of us, like, cut us off.

18 Q. Was it angled a certain way, was it directly in front of
19 you, do you remember?

20 A. I believe it was just directly in front of us. I don't
21 remember if it was angled or anything. My main focus was what
22 was going on, like, what was about to happen.

23 Q. And who got out of the van?

24 A. A tall black male got out of the driver's side, I didn't
25 know his name at the time.

Winter Parker-Direct by Mr. Holford

1 Q. Okay. You didn't know who he was at the time?

2 A. No.

3 Q. Do you know who he is now?

4 A. I could identify him, yes.

5 Q. Who was the driver of that van?

6 A. Tyshawn Brown.

7 Q. How do you know him?

8 A. Because I can remember his face. I remember his skin
9 tone, I remember his height. I studied him when he got out of
10 the van. Even though it was quick, I did pay attention. He
11 had on a red shirt that night, as well.

12 Q. Now, let me ask you this: When you first met with
13 police at the hospital, were you able to identify him?

14 A. When I first met with police I just told them I seen a
15 black man, a black man shot me. I was hysterical, as most
16 people would be in that type of situation, so I just kept
17 saying, I don't know, I don't know, I just wanted to see Bo.
18 That was my biggest thing. I just wanted to see Bo. Is he
19 okay? So based off of my statement I probably most likely
20 said, I don't know.

21 Q. You never did a photo lineup, a six pack lineup, the
22 police never showed you anything like that?

23 A. No. And they never interviewed me again when I was
24 sedated after surgery.

25 Q. When they met with you at Grand Strand you said you were

1 sedated, what injuries did you sustain?

2 A. Well, my arm was completely ripped in half. I don't
3 have an elbow. Currently I have a metal rod that holds it
4 together so I don't -- my arm was ripped in half and I had a
5 gunshot wound to my back.

6 Q. Do you know if it was a single bullet that struck your
7 arm and went in your back or if it was two, do you know that?

8 A. I believe I was struck by two separate bullets.

9 Q. Was the bullet that struck your arm, is it still in your
10 arm?

11 A. Fragments.

12 Q. Fragments?

13 A. Uh-huh. But it did exit, I have exit wounds.

14 Q. So that one exited?

15 A. Uh-huh.

16 Q. What about the bullet that entered your back? Was there
17 an exit wound for that?

18 A. No, it's still there.

19 Q. It's still there today?

20 A. Uh-huh.

21 Q. Why were they not able to retrieve it?

22 A. They said it would have been worse than good. It would
23 have made me have a worse injury so they just left it there
24 because it wouldn't have been good to take it out, basically.

25 Q. Let me ask you this. You said you didn't know Tyshawn

Winter Parker-Direct by Mr. Holford

1 Brown before this incident?

2 A. No.

3 Q. Do you have any reason to blame him for something he
4 didn't do?

5 A. No.

6 Q. Do you have, other than what happened, did you have any
7 prior dealings or ill will towards him?

8 A. No. I don't -- I never knew him.

9 Q. Are you trying to set him up?

10 A. Absolutely not.

11 Q. Are you sure that the defendant, Tyshawn Brown is the
12 one who shot you and your boyfriend?

13 A. Yes.

14 Q. How many shots do you remember?

15 A. I remember five.

16 Q. Were you able to see the type of gun, do you know that?

17 A. I explained it as a long old-timey gun. I don't know
18 the name of guns, but I did explain it as a long old-timey gun.
19 It was a handgun.

20 Q. When you're talking about an old-timey handgun, what
21 would you -- can you describe it to us now?

22 A. I would explain it as something like a revolver. It had
23 a long, like, front part to it, but it was a handgun. It
24 wasn't like a rifle.

25 Q. Old-timey, like, maybe something you'd see in a western

1 movie --

2 A. Yeah.

3 Q. -- if you watch those?

4 A. Yeah.

5 Q. How many surgeries have you had?

6 A. Well over ten.

7 Q. And you said about your elbow, do you have permanent
8 damage?

9 A. Yes. I can't extend my elbow. To this day, I will
10 never be able to extend my elbow because I don't have an elbow,
11 it's just a metal rod holding my arm together, and I don't have
12 feeling in my ring or my pinky finger on my left hand.

13 Q. And again, sorry, how many times were you shot?

14 A. I was shot two times, I believe.

15 Q. Is there anything I haven't asked you that you'd like
16 this jury to know?

17 A. Do you mean, like, my emotional damage as far as this
18 situation caused me, or any factual things?

19 Q. No, any factual things. Is there anything I missed
20 factually? Unfortunately, we can't talk about emotions.

21 A. Other than what I -- when I ran into the house. Do you
22 want to know that part?

23 Q. Thank you. That's why I ask questions like that. What
24 happened after the shooting?

25 A. Okay. After the shooting, I lift my head up and I

Winter Parker-Direct by Mr. Holford

1 looked over, and Bo was basically in my lap. His head was,
2 like, almost in my lap, and the car hit the tree, it rolled and
3 hit the tree, and I knew he was dead, but I didn't want to
4 believe it so I was telling him, I'm about to go get help, I'm
5 not gonna touch you because I don't want me touching you to
6 cause the situation to be worse, so I said, I'm about to go get
7 help. I ran out of the car, but before I got out I noticed
8 that my arm was detached, so I basically just took my arm and
9 shoved it up and just held it together and I ran to -- I call
10 her Ms. May Francis, I don't know her daughter's name, but Ms.
11 May Francis opened the door and I said, can you help me, can
12 you help my boyfriend, he's in the car, please go get him. I
13 can't pick him up because my arm, help me, help me. And she
14 was, like, sit down because you're going to bleed out, so sit
15 down and let me put some towels, try to wrap something on you
16 or something like that, and I said, I want you to call the
17 police, but can you call my mom first, because I thought I was
18 gonna die, so I said, can you call my mom first? So I gave her
19 daughter my mom's number and she spoke to my sister and said,
20 your -- she said, can I speak to your mom? Your sister's here,
21 she's been shot, her boyfriend's been shot, she's bleeding out
22 on my mom's kitchen floor, so after that she called the police
23 and I had fainted, when I woke up the police was there and he
24 asked me what happened. I said, Heath, my cousin Heath, he
25 shot me, but he didn't shoot me. I was hysterical so I just

1 remembered that was the only face I seen. I was, like, my
2 cousin Heath, Heath, Heath Heath, I kept saying Heath, I seen
3 Heath, they shot me, they shot me, they shot my boyfriend,
4 please go help my boyfriend, he's dying, I just kept saying
5 he's dying. And they were pulling me on the stretcher and I
6 remember seeing him in the truck and nobody helped him still,
7 so I just assumed he was already dead because nobody moved him.

8 Q. At the Singleton's house, that picture of the blood
9 there, is that your blood?

10 A. Yeah, that's my blood.

11 Q. At that point you were taken to the hospital. Is that
12 when detectives came and spoke with you?

13 A. Yeah. Well, I think I was out of surgery then. I was
14 heavily sedated, so I don't even remember really when they came
15 and spoke with me because I think I went straight to surgery
16 and they came like right after the first surgery to speak to
17 me, and I was about to enter into another surgery, so I was
18 just heavily sedated, I don't really know when.

19 Q. Have you heard that interview you gave to the police?

20 A. Yes, I heard it.

21 Q. Did you tell them things like you hadn't eaten in two
22 days?

23 A. Yes, I did.

24 Q. Did you say some other kind of weird things, like,
25 you're fading in and out?

Winter Parker-Cross by Mr. Fox

1 A. Yeah, I was like, I'm going to sleep, I'm going to
2 sleep, I'm hungry, like, I'm tired. I just kept saying, I'm
3 tired, I'm going to sleep, during the interview.

4 Q. But even during that interview, did you identify any
5 more than one shooter?

6 A. No.

7 MR. HOLFORD: I have no further questions.

8 THE COURT: Thank you. Cross-examine, Mr. Fox?

9 CROSS-EXAMINATION

10 BY MR. FOX:

11 Q. You were with Mr. Durant, you say, about a year and a
12 half?

13 A. Yes.

14 Q. As boyfriend and girlfriend?

15 A. Yes.

16 Q. So that was very upsetting when he died?

17 A. Yes.

18 Q. You would very much like the person that killed him to
19 be caught and punished?

20 A. Yes.

21 Q. At some point after the police interview, did they stay
22 in touch during this investigation with you about the progress
23 of the investigation?

24 A. They stayed in touch with his mom and she kind of
25 informed me along the way.

1 Q. And I apologize if I talk over you at any time, I don't
2 mean to cut you off. So you were aware at different times when
3 they began to arrest people? When Mr. Reaves was located and
4 arrested, you would have been made aware of that, correct?

5 A. Yes.

6 Q. Okay. So sometime later when Mr. Brown was arrested,
7 you would have been aware of that?

8 A. Yes.

9 Q. So his name would have been brought to your attention?

10 A. Yes.

11 Q. Okay. You didn't know Tyshawn Brown before?

12 A. I knew that name before 2020.

13 Q. So you knew the name before but you didn't -- you
14 couldn't identify him on this night, the night of April 24,
15 2018?

16 A. If they lined him up in a lineup, I would have been able
17 to identify him, yes.

18 Q. Okay. But when the police asked you very specifically
19 that night, very specifically, and at point you're away from
20 the scene, you're in the hospital, you're safe, correct?

21 A. And sedated.

22 Q. And sedated. But you answered questions? They asked
23 you many questions, you had engaged in interview that lasted 30
24 minutes or more?

25 A. Yes.

Winter Parker-Cross by Mr. Fox

1 Q. And they asked you very specific questions, didn't they?

2 A. Yes.

3 Q. And you could answer those questions with specificity,
4 you could give detailed responses to those questions?

5 A. Somewhat.

6 Q. Okay. And so very specifically you could tell them
7 where you'd been that night --

8 A. Yes.

9 Q. -- before the Exxon, right?

10 A. Yes.

11 Q. You were able to tell them that you and Mr. Durant were
12 down at the beach to have dinner and go to a movie?

13 A. Uh-huh.

14 Q. Right?

15 A. Yes.

16 Q. And you were able to give the detail that you came back
17 to Loris because he misplaced his money?

18 A. Yes.

19 Q. And you were able to give the detail that you went to a
20 couple neighbors or friend's houses looking for where you'd
21 been before, looking for his money, right?

22 A. Yes.

23 Q. And then you decided, well, it's hundreds of dollars, so
24 if anyone did find it we're not likely to get it back, right?

25 A. Yes.

- 1 Q. -- so we'll just go on home?
- 2 A. Correct.
- 3 Q. Where was Mr. Durant working at this time?
- 4 A. Where was he working?
- 5 Q. Yeah.
- 6 A. I don't even remember.
- 7 Q. He was unemployed at that time, wasn't he?
- 8 A. I don't know, I believe -- I don't know.
- 9 Q. But you gave all those details about where you had been,
10 what you've done, the reasons why went here and there, where
11 you'd been looking for the money. You were able to tell them
12 what happened at the Exxon station, right?
- 13 A. Yes.
- 14 Q. That someone called him over to this van, dapped him up,
15 that was your word, dapped him up, said hello, they asked you
16 about the conversation, you said, it wasn't very much of a
17 conversation, right?
- 18 A. Yes.
- 19 Q. Okay. So you were able to give all of those details?
- 20 A. Uh-huh.
- 21 Q. You were able to describe what happened when you left,
22 right?
- 23 A. Yes.
- 24 Q. -- when you got to stop sign?
- 25 A. Yes.

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1 Q. And you were able to describe that you were sitting
2 there for, like, two minutes, and then the car came and pulled
3 out in front of you, right?

4 A. Yes.

5 Q. -- or a van.

6 A. Yes.

7 Q. So you were able to give that and you were able to
8 describe for detectives how many shots you thought, right?

9 A. Yes.

10 Q. And you always said, I don't really know, right? And do
11 you remember telling the police that when the person jumped
12 out, first you saw a person in the backseat, side passenger,
13 that sliding door open --

14 A. Yes.

15 Q. The Chopper, right?

16 A. Yes.

17 Q. Didn't give the police the name Heath Reaves then?

18 A. No.

19 Q. Okay. But you are now, you're saying Heath Reaves was
20 the one in the back with the Chopper with the door open where
21 you could see him and -- but someone got out. You didn't tell
22 the police that they got out the driver's side, you just said
23 they got out and started shooting. You didn't say driver's
24 side.

25 A. I was hysterical at the time. I was just saying someone

1 got out of the car, but if they would have asked me what door,
2 I would have said the driver's side.

3 Q. And you also -- were you hysterical? You were calm, you
4 were sedated, but you were hysterical?

5 A. I was sedated but I was -- I just wanted to see my
6 boyfriend at the time. If it was to the interview, I asked
7 several times, can I see him.

8 Q. Okay. No question. But you were able to, and you
9 stated very specifically that when the person jumped out almost
10 immediately began shooting and you ducked down, didn't see his
11 face, do you remember telling the police that: I ducked down
12 in the seat, I did not see the face of the person that got out
13 and shot?

14 A. I said -- yeah, I did say I ducked down.

15 Q. Okay. They asked you specifically, who shot you? I
16 don't know. Right?

17 A. Yes: I don't know him.

18 Q. Okay. You told the police, I couldn't see who was
19 holding the gun. Do you remember telling them that?

20 A. Yes.

21 Q. So rather than -- today you testified that Mr. Brown's
22 face, his image was imprinted on your brain from this,
23 admittedly, very traumatic experience, but in fact, what you've
24 told us is, you didn't see, because you quite naturally and
25 instinctively ducked down and wasn't looking at the person that

Winter Parker-Cross by Mr. Fox

1 was firing the gun?

2 A. During the time of him questioning me, I did not express
3 all the details that I did see because I was just trying to
4 rush the interview because I wanted to see Charles, but as days
5 went by I did remember details as I came back to my right mind
6 and wasn't heavily sedated, I remembered more details of the
7 shooting. I remembered the Exxon situation because it was not
8 traumatic, but during that situation it was so hectic, I was,
9 you know, hysterical.

10 Q. Now, Mr. Durant, you were with him for a year and a
11 half. Were you familiar with his comings and goings, what he
12 did during the day, typically?

13 A. Mostly.

14 Q. Okay. Are you aware of any affiliation at any time with
15 any gang by Mr. Durant?

16 A. No.

17 Q. And you would know that being his girlfriend for a year
18 and a half if he was messing around with gangs, that would be
19 something that you would be likely to be aware of, wouldn't you
20 say?

21 A. If he expressed that to me.

22 Q. You saw no behavior or anything that raised any
23 suspicions in your mind that he was affiliated with a gang in
24 any way?

25 A. No behavior.

1 MR. FOX: Thank you, ma'am. No further questions.

2 THE COURT: Thank you. Redirect?

3 REDIRECT EXAMINATION

4 BY MR. HOLFORD:

5 Q. Ms. Parker, during that interview, isn't it true you did
6 say someone got out of the driver's side?

7 A. I believe I did. I thought I did until he said that,
8 that's why it kind of threw me for a loop, but I believe I did
9 say someone got out of the driver's side. I do know for a fact
10 I said someone got out of the car.

11 Q. How certain are you that Tyshawn Brown is the person who
12 shot Bo and shot you that night?

13 A. I'm very certain.

14 MR. HOLFORD: I have no further questions.

15 THE COURT: Thank you. You can step down, Ms.
16 Parker. Thank you. Mr. Holford?

17 MR. HOLFORD: Your Honor, the State rests.

18 THE COURT: Ladies and gentlemen, the State has
19 rested its case in chief. That means that you have now heard
20 all of evidence and testimony that you will hear from the State
21 in the presentation of its case. Necessarily, at this juncture
22 of every trial of this nature there are matters of law that I
23 have to take up out of your presence, and so this is a good
24 time to take lunch a little early, but to work during your
25 lunch hour with the time that we have to stay here and do some

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1 work here in the court, but we'll get you back this afternoon
2 at 1:45. If you'll be back in your jury room, please, at 1:45,
3 and we'll continue the trial at that time. I remind you again,
4 as always, please don't talk about this case among yourselves
5 or with anybody else. When you get back into the jury room
6 don't talk about it yet. There's going to come a time when I'm
7 going to tell you and then you can talk about it. Please
8 continue to wait until then before you start discussing this
9 case among yourselves or with anybody else. I'll see you back
10 at 1:45. Thank you.

11 (Jury exited the courtroom at 12:08 p.m.)

12 MR. FOX: Your Honor, at this time all evidence
13 presented by the State, we'd move for a directed verdict with
14 regard to both indictments. I believe the State has not met
15 its burden of proof as to each element of murder or attempted
16 murder, we'd ask for directed verdict, Your Honor.

17 THE COURT: Thank you. As we are all aware of the
18 case law that instructs judges and lawyers as to the standard
19 that the Court has to evaluate this particular motion under,
20 and first of all, I'm required to take all of the evidence in
21 the light most favorable to the State, the non-moving party,
22 and if there is any direct or circumstantial evidence I'll
23 eliminate the word substantial circumstantial evidence, as a
24 former English teacher it wrangles me. You don't see that word
25 included in the definition because our law says that we are not

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1 concerned with the weight of the evidence, we're concerned only
2 with its existence, but yet if we say "circumstantial," that
3 indicates that we're applying some weight, so in every juncture
4 like this I include this little diatribe that I've got as an
5 English teacher in hoping one of these days some appellate
6 court is going to read one of these remarks and they'll, say,
7 well, maybe we should make that circumstantial out of this --
8 or substantial our of circumstantial and not confuse the issue.
9 But now that I've thoroughly confused you all at that point I
10 will move to get back to the points that we all have to deal
11 with, and that is, taking that evidence in the light most
12 favorable to the State, any direct or circumstantial evidence
13 of which the guilt of the accused could be determined, if the
14 jury chose to believe it, and of course it is. There is, first
15 of all, and primarily, the eyewitness testimony of Mr. Rich and
16 Mr. Reaves -- I've believe I've gotten his first and his last
17 name mixed up, and as well as the testimony of Ms. Parker here
18 in the courtroom, her testimony a few moments ago. Even if we
19 discount that testimony somewhat as a result of the situation
20 that she found herself in, the testimony of Mr. Reaves and Mr.
21 Rich is more specific in that regard and the jury, as I've
22 said, could choose to believe Ms. Parker in spite of the fact
23 that she was sedated, perhaps, at the time she observed these
24 things. For those reasons alone the evidence is sufficient to
25 survive a motion for directed verdict. The jury could choose

Defendant's Rights

1 to believe Mr. Reaves and Mr. Rich, Ms. Parker, or any one of
2 them, and find that Mr. Brown is guilty of the crime charged,
3 so the motion is respectively denied.

4 MR. FOX: Yes, sir.

5 THE COURT: Mr. Fox, how long do you think it might
6 take to present defense case, and do you wish for me to explain
7 to Mr. Brown at this point in time of the law about his right
8 to testify or not to testify?

9 MR. FOX: We can go ahead and have Your Honor
10 explain. I'll take advantage of the lunch hour to speak with
11 Mr. Brown about his final decision whether he'll testify or
12 not.

13 THE COURT: Right.

14 MR. FOX: We could do it either way, if you'd rather
15 wait until he's going to give his answer, I would request that
16 he wait so I can consult with him.

17 THE COURT: Yes, sir. I'd like to advise him now,
18 but I won't look for a decision from you all until you have
19 time to talk about it.

20 MR. FOX: Of course.

21 THE COURT: Mr. Brown, if you'll stand, please, and
22 raise your right hand? Thank you. Do you solemnly swear that
23 the answers you give to the questions I'm about to put to you
24 will be the truth, the whole truth and nothing but the truth,
25 so help you God?

Defendant's Rights

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You can have a seat. Mr. Brown, you have
3 heard me advise the jury at the beginning of this trial, and I
4 will advise them again at the conclusion of the trial that you
5 don't have any burden to prove your innocence in this
6 particular case and that you're not required to testify if you
7 choose not to, and that's not a factor that they can take into
8 account, and that means that you have the right to testify in
9 this case, but you also have a right not to testify in this
10 case. Our state constitution and our United States
11 Constitution provides that nobody who is charged with a
12 criminal offense like you are in this case can be forced to
13 take the stand and testify against themselves, so you have a
14 right to remain silent. That is a right that the law extends
15 only to you. Nobody can exercise that right and nobody can
16 give it up except you, and so if you choose not to testify, as
17 you have a right to do, the jury will be instructed as I charge
18 them at the conclusion of this case that they cannot take the
19 fact that you did not testify as a factor in their
20 consideration and in their deliberation on the question of your
21 guilt or innocence. They will be told that they cannot even
22 discuss the fact that you did not testify in the jury room as
23 they deliberate this case. If on the other hand you choose to
24 testify to give up the right not to testify and to testify then
25 you'll be subject to every other witness that you've seen

Defendant's Rights

1 testify in the trial of this case so far. You'll be asked
2 questions and not only by your own lawyers, not only by Mr. Fox
3 and Mr. O'Neill, you'll be asked questions by the State, Mr.
4 Holford and Mr. Harrelson will have the right to ask you
5 questions. You can be impeached, you can be cross-examined on
6 any issue that's relevant in this particular case. Do you
7 understand what your right is to testify and not to testify?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have any questions that you want
10 to ask me about your right to testify or not testify?

11 THE DEFENDANT: No, sir.

12 THE COURT: So I know that you and your lawyers are
13 going to talk during the lunch hour about whether you wish to
14 testify or not. I assume, based on what you've told me thus
15 far that whatever decision you make about whether you're going
16 to testify or not, it's going to be done with the full
17 knowledge of what your rights are; is that fair to say?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Alright. Thank you. Mr. Fox, do you
20 have any other questions you want me to put to him?

21 MR. FOX: No, sir, Your Honor.

22 THE COURT: Thank you.

23 MR. HOLFORD: Your Honor, may I?

24 THE COURT: Yes, sir.

25 MR. HOLFORD: Just for purposes of the record so that

Defendant's Rights

1 we're fully aware, should he testify, he does have a prior
2 record. I show a 2011 conviction for assault and battery first
3 degree, that is an offense that carries up to ten years. I
4 show a 2012 conviction for a possession of less than one gram
5 of Meth -- or cocaine base, first offense, that's an offense
6 that carries up to three years. I show a 2012, unlawful
7 carrying of a weapon, that only carries up to a year, it's not
8 exceeding a year, and it's 2012. I show a reckless homicide,
9 death resulting, within in three years from a 2015 conviction
10 date. That would be the entirety of the record as I have it.

11 THE COURT: Mr. Fox, any questions about any of those
12 offenses?

13 MR. FOX: No. That's my understanding, and I think
14 other than the unlawful possession of a firearm they would be
15 impeachable should he decide to testify.

16 THE COURT: Mr. Brown, when I said that you could be
17 cross-examined and impeached on any issue that's relevant,
18 that's part of what I was talking about, although I didn't know
19 what charge it was, you could be asked about those offenses if
20 you take the stand and the jury will be allowed to take those
21 things into account if they wish to on the issue of whether or
22 not they believe what you say, your credibility, in other
23 words, do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Alright. Thank you, Mr. Holford.

Charge Conference

1 Folks, I'm not sure where we are and with the timing a lot of
2 this is, but let me, in order to take advantage of this time
3 that we have and try to save time if we get back this afternoon
4 and find out that we might be ready to go to a jury a little
5 bit earlier than I had thought, let me very briefly go over
6 with you proposed charges that occur to me based on my
7 observation thus far and save a little time in that regard, if
8 that's okay with you all. This does not preclude you all from
9 certainly objecting to any of these charges or submitting any
10 additional charges that you want for me to consider before we
11 go to the jury this afternoon. Is that okay?

12 MR. FOX: Yes, sir.

13 MR. HOLFORD: Yes, sir.

14 THE COURT: Folks, the reasonable doubt definition
15 that I use is from Victor versus Nebraska, it is the firmly
16 convinced definition, and I alluded to it briefly in my remarks
17 to the jury yesterday. You are free to argue any definition of
18 reasonable doubt to a jury that our Supreme Court has
19 recognized, if you choose to do that, and you're allowed to do
20 that as long as it is one that has been approved by our Supreme
21 Court. I just didn't want you, either of you to say, the judge
22 is going to tell you that a reasonable doubt is a kind of doubt
23 that would cause a reasonable person to hesitate to act or some
24 other definition which our Supreme Court has approved, because
25 I'm not going to tell them that. I'm going to tell them the

Charge Conference

1 Victor versus Nebraska thing and I didn't want to catch you
2 blind on that regard. Of course, depending upon whether or not
3 Mr. Brown chooses to testify, the jury will be instructed, as I
4 had told him, that they will receive an instruction and that
5 they cannot take that matter into account in their decision in
6 this case. Obviously, I will charge credibility of witnesses,
7 the standard charge in that regard, and also expert witness
8 testimony, since we have heard experts in this particular case.
9 The law in this case and the offenses are pretty straight
10 forward. Murder, we all know what that is defined as, and
11 expressed and implied malice, and of course, I will avoid any
12 inferences that our Supreme Court has said cannot be talked
13 about to a jury. I'm not going to fall into that trap. Then
14 attempted murder, of course, will be defined, and we all know
15 now that attempted murder under the statute is a crime of
16 specific intent, and the jury will be told just that, that to
17 convict Mr. Brown of attempted murder they have to prove, of
18 course, the existence of malice, and all of those things, and
19 that there was an attempt and that the attempt was a knowing
20 specific intent to kill somebody. That means that you
21 consciously intended the completion of the act making up the
22 offense. Those are the things that just leap out at me. I
23 don't see based on the facts in this particular case that there
24 are any lesser included, I'll be glad to hear arguments trying
25 to convince we otherwise, I don't know what they are at this

Charge Conference

1 juncture, and as I say, I will allow each of you to register
2 your objections to any of those charges or to submit additional
3 charges. Are there any questions about those particular
4 charges?

5 MR. HOLFORD: Your Honor, my only question would be,
6 and I think you just addressed it, whether the Court intends to
7 charge on the ABHAN, if the jury were not to find the specific
8 intent necessary for attempted murder, whether the Court would
9 charge ABHAN or any lesser included, whether that's requested
10 or not. I'm not necessarily requesting it, I'm just wanting a
11 conversation about it.

12 THE COURT: Okay. Let me think about that because
13 I've seen both sides of that argument presented, and of course,
14 I think there's been some case recently, and I may have made
15 this up, in which the Court charged in spite of the defense's
16 objection that it not be charged, as I recall, and so Mr. Fox,
17 I'll be glad to hear from you either now or later on that
18 point.

19 MR. FOX: I'll wait, I think I honestly hadn't been
20 thinking in those terms, but I do think it's an issue and Mr.
21 Holford is right to raise it. I'll think about whether I
22 request that charge or not, Your Honor.

23 THE COURT: The only reason that it would help me to
24 know is I've got to somehow beg somebody to do a verdict form
25 for me in this case and I need to know. Well, perhaps, whoever

1 I beg to do it can do an alternate, that's no be big deal. I
2 just don't know whether the Clerk's office is prepared to do
3 that or whether or not I can impose upon the Solicitor's Office
4 to have someone do possible verdict forms. So they can do one
5 on the attempted murder, they can do guilty or not guilty, and
6 the other as a lesser included. I'll check if Judge Culbertson
7 is here, maybe he has his law clerk. I'll try to find him if I
8 can and see if I can get that done. I think we can provide for
9 that one way or the other, as long as I can find somebody who
10 can help me do that. Anything else, gentlemen, before we
11 break? The jury will be back at 1:45. I would like for us to
12 reassemble at 1:30, that's an hour, and touch base on these
13 issues. Okay?

14 MR. FOX: Yes, sir.

15 MR. HOLFORD: Yes, sir.

16 THE COURT: We'll stand at ease until 1:30. Thank
17 you.

18 (Recess taken.)

19 THE COURT: Mr. Fox, where are we now in regard to
20 the defendant's posture in the trial of the case?

21 MR. FOX: He's ready to give his answer to the Court,
22 Your Honor. He's ready to give his answer to the Court. I do
23 not believe he wishes to testify.

24 THE COURT: Mr. Brown, I understand that you wish to
25 go forward and you wish to offer testimony in this case; is

1 that right?

2 THE DEFENDANT: No, sir.

3 MR. FOX: Not testify, sorry.

4 THE DEFENDANT: No, sir.

5 THE COURT: I didn't think that that made sense, but
6 anyway, I misheard. So you've chosen to exercise your right
7 and not testify in the trial?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. Thank you. I didn't mean to scare
10 you. Alright. Do you have any other defense that you choose
11 to offer, any other witnesses or evidence you choose to offer
12 in the case on his behalf?

13 MR. FOX: No, Your Honor.

14 THE COURT: So when the jury does come in, I will
15 address you all and allow you to rest in the presence of the
16 jury.

17 MR. FOX: Yes, sir.

18 THE COURT: Then we can go straight to the final
19 arguments in this case. The State will open and you will
20 close, is my understanding; is that right?

21 MR. FOX: That's my understanding.

22 THE COURT: Where are we now in the lesser included?

23 MR. FOX: Your Honor, we would not be asking for you
24 to charge assault and battery of a high and aggravated nature.

25 MR. HOLFORD: And with the defense's response, the

1 State will not ask for it either.

2 THE COURT: Right. Thank you. I understand that,
3 and I agree with that. I think that's the proper posture of
4 the case, given all of the evidence in this case and the
5 inferences to be drawn from that grounds on the attempted
6 murder charge and the possible verdict form will be guilty or
7 not guilty. Alright. I have hired a temporary law clerk to
8 help me try this case. So if she does that as well as she does
9 everything else, we'll be right on it. Okay. Other than the
10 charge that I went over with you all briefly before lunch, are
11 there are any additional requests for charge or any exceptions
12 to any of those from the State, Mr. Holford?

13 MR. HOLFORD: None, Your Honor.

14 THE COURT: Thank you. From the defense, Mr. Fox?

15 MR. FOX: No, Your Honor.

16 THE COURT: Alright. Well, folks, it appears then
17 that we are ready for the jury. It came at a compressed time
18 frame, but I think we're all ready it. Alright, folks, you can
19 bring in the jury.

20 (Jury entered the courtroom at 1:37 p.m.)

21 THE COURT: Who will argue for the State?

22 MR. HOLFORD: I will, Your Honor.

23 THE COURT: Mr. Fox?

24 MR. FOX: I will.

25 THE COURT: Are you all ready?

1 MR. HOLFORD: Yes, Your Honor.

2 THE COURT: You can bring us the jury.

3 THE BAILIFF: They're not back in, Your Honor.

4 THE COURT: Oh, you're right, I am jumping the gun.
5 I told them 1:45 and it's 1:30. Well, we're too efficient, you
6 folks work too fast. Well, I'll tell you what, that will give
7 us a chance to stand down and relax until we do hear that
8 they're all here and I'll get out of your all's way so that you
9 won't be concerned about protocol and as soon as they are in
10 place then we will start. I guess we have to have a jury
11 before we can finish the trial. Okay, folks, I apologize with
12 that, I wasn't paying attention to the clock, so we will stand
13 down for a few minutes and they've been prompt throughout, so
14 they probably won't be too much past the time. Thank you. I
15 apologize for that.

16 (Recess taken.)

17 THE COURT: Are you all ready?

18 MR. HOLFORD: Yes, Your Honor.

19 THE COURT: You can bring us the jury.

20 (Jury entered the courtroom.)

21 THE COURT: Ladies and gentlemen, before we broke for
22 lunch I told you that the State had completed the introduction
23 of all of the evidence that they would offer in its case in
24 chief and as I reminded you or told you before this trial of
25 the case and I've reminded you throughout, the defendant has

1 the opportunity to offer evidence and testimony if he chooses
2 to, but he is under no obligation to do that, and so now I turn
3 to the defense. Mr. Fox?

4 MR. FOX: Your Honor, the defense rests.

5 THE COURT: Thank you. Ladies and gentlemen, that
6 means that you have now heard all of the evidence and testimony
7 that you will hear in the trial of this case and so now we
8 proceed to the final phases of this trial of the case which
9 consists of the final arguments that the lawyers will present
10 to you. Under these circumstances, Mr. Holford on behalf of
11 the State will offer the first of the final arguments in which
12 he will outline the State's position and summarize for you and
13 the evidence the State submits and brought to bear in this
14 particular case, and after the State has finished that then Mr.
15 Holford and Mr. Fox on behalf of the defendant has a right to
16 make a final argument on his behalf, and then I will instruct
17 you as to what the law is, and then you'll be able to go into
18 your jury room, finally, to start talking about this case among
19 yourselves. You've been attentive throughout the trial of this
20 case, you've been on time, you've done everything we've asked
21 you to do thus far and we know that you will continue to do
22 that and that you will give the same attention to the lawyers
23 now in their final arguments that you have given to the
24 testimony throughout the trial of this case. Thank you. Mr.
25 Holford?

Closing by Mr. Holford

1 MR. HOLFORD: May it please the Court?

2 THE COURT: Yes, sir.

3 (Attorney Holford presented a closing argument on
4 behalf of the State at this time.)

5 MR. HOLFORD: April 24, 2018, Charles Durant, also
6 known as "Bo," was twenty years old, twenty, and he was gunned
7 down in his own truck. His girlfriend who was beside him was
8 19 years old when she was shot receiving permanent injury and a
9 bullet still lodged in her. The charge of murder requires the
10 intentional killing of another with malice aforethought.
11 What's malice? Malice is an ill will, it's a hatred, it's a
12 desire to do the harm with ill intent. How do we know there's
13 malice in this case? No one says, I'm going to kill you, I
14 can't wait to kill you, I'm laying awake. How do we know
15 there's malice? Multiple gunshots, in order to take the life
16 of that young man, that's malice, that's what malice is.
17 Malice, it can happen in an instant. You know, we hear about
18 these things like premeditated murder. We don't have them in
19 South Carolina. There's no requirement for someone that
20 planned beforehand to sit and wait for someone to come to them.
21 The instant before someone can form malice in their mind, if I
22 decide I am going to take the life, that's malice. There's no
23 provocation here, there's no heat of passion, there's no fight
24 beforehand, there's no self-defense, there's not a gun drawn,
25 it's not an argument, it is a senseless killing, senseless,

1 that a 20-year-old man had to lose his life. You know, for
2 years in this case we tried to figure out a why. Why? I see
3 him at the gas station, he's just going to get gas. There's no
4 argument out there. What's the deal? What is the reason?
5 What happened? You know, it's not until Heath Reaves comes and
6 he says it's because he didn't want to be a part of the gang.
7 You know, there's going to be questions about why didn't Heath
8 talk to us earlier. You heard him tell you he had a lawyer and
9 his lawyer told him, don't say anything. Heath got charged
10 with murder. He's still charged with murder. It doesn't mean
11 that he shot. When multiple people act together to do the same
12 act, they can both be guilty of murder. That's why Heath is
13 charged, not because he's the shooter. There's only one
14 shooter in this case, he's sitting right there (indicating.)
15 There are three people in that van, we know that. Joe Rich,
16 the day after the murder says: There's one shooter in this
17 case, and it's "Smoke". He gets on the stand and he tells you,
18 "Smoke" is Tyshawn Brown. He knew it was Smoke. We know
19 that's Tyshawn Brown now. Why? The police do an
20 investigation. Joe Rich knows him. He was riding around in
21 the car with him. Now, he gets on the stand, he's a little
22 shaky. I don't pick the witnesses. I'm not the one who hangs
23 out with him, that's Tyshawn's friend. Joe's not my buddy. I
24 didn't just find him off the street. He's the guy who's
25 sitting in the van with the defendant. Heath is not my friend.

Closing by Mr. Holford

1 I didn't choose to hang out with him, Tyshawn did. Those are
2 the defendant's friends. Those are the people the defendant
3 chose to hang out with, but my burden is to prove to you beyond
4 a reasonable doubt that he's guilty of the crime he's charged
5 with. So what do I have to do? I have to put up the witnesses
6 that were around him at the time. I have to call to the stand
7 the people that know what happened. There are five key people
8 in this night. Charles Durant is deceased. The defendant is
9 on trial. Winter Parker, Heath Reaves and Joe Rich are the
10 only three people who were present at the time of the shooting
11 who saw what happened, and what did all three of them tell you?
12 He shot him. He killed him. He shot Winter. He tried to kill
13 Winter. That's what attempted murder is. It's attempting an
14 act without completing it. Thank God Winter's alive. Thank
15 God I'm not here trying a double murder. But that wasn't
16 because the defendant wanted her to live. Do you think he
17 wanted her to get on the stand and testify and say that's who
18 killed my boyfriend and that's who shot me? That's the
19 specific intent to kill. When you see in the pictures the
20 shots, multiple shots at the front of the vehicle, shots to the
21 side to the A-frame, shots to the driver's side, into the small
22 cab, he's trying to do exactly what he did, he's trying to kill
23 Charles Durant. He's trying to kill Winter, but he was
24 unsuccessful. You know, she gets to run to the house right
25 there and plead to call 911. She has to be taken to Grand

1 Strand Regional Medical Center, and she survives. Thankfully
2 the surgeons were able to do all they could, she still has a
3 bullet in her back to this day. That's why this defendant is
4 guilty of both murder and attempted murder. Now, through the
5 course of this trial you heard a number of things and you saw a
6 number of things. You know, I have to prove beyond a
7 reasonable doubt, and so I have to show you that we've done
8 things, that the police have done things that, you know, turned
9 out not really to be relevant. In the beginning it seems like
10 we're just making this, you know, what the heck is going on?
11 Orlando Barber, why are we even talking about him? Well, it's
12 because the police are running down leads, they're doing their
13 job. They didn't just hear the name Tyshawn Brown off the bat
14 and say, we've got our guy, we're done. They searched
15 Facebook, they tried to find something, there's nothing
16 relevant. They searched cell phone records, they tried to
17 find, was there a plan, what happened, was there communication
18 beforehand, there was nothing relevant. From Joe Rich they
19 hear about this, it might be Orlando Barber in the car. Well,
20 it turns out it's not. How do we know it's not Orlando Barber?
21 Not only did the police tell you they ruled him out as a
22 suspect, Heath Reaves says, I'm not Orlando Barber, I'm in the
23 back of the car. He's identified himself. He's also
24 identified by another person. The investigation also
25 identifies him, and that's why Joe's charged with obstruction

Closing by Mr. Holford

1 of justice, he tries to lead them to someone else. You know,
2 we talked about Zaire Stevenson, because his name gets brought
3 up, too, he lives across the street from Joe Rich. Well, it
4 turns out he's not involved either. The police are running
5 down these leads, they are trying to figure out what happened
6 and they're trying to make sure they've got the right people.
7 That way when we get here to court and we present it to you,
8 you can know that the right people are here. You can know that
9 Joe Rich, who says he's there, Heath Reaves, who says he's
10 there, are the two other people in the car, and you can know
11 when they tell you, Joe said from day two, one day after, it's
12 Smoke, Tyshawn Brown is the shooter. There's no multiple
13 shooters. There's no multiple people out there. It's Tyshawn
14 Brown. Heath Reaves didn't want to testify. Do you think he
15 wants to testify against the gang member? Do you think he was
16 excited to come to the State back in 2018, 2019, 2020, 2021 and
17 say, hey, I'm gonna turn the State's evidence? No. His
18 attorney he tells you finally advises him to earlier this year,
19 but you can believe what he says because what he says is
20 corroborated by the evidence. What he says matches up with
21 what the other witnesses have said. You know, the physical
22 evidence in this case -- let me back up. I want to show you
23 something about this video we've seen at the gas station
24 because I think there's something important in there when we're
25 talking about murder. This is camera 16, this is outside,

Closing by Mr. Holford

1 we've got the green truck here, we know the victim, Charles, is
2 in the driver's seat, we know Winter's in the passenger's seat.
3 They've already talked, no problem, no confrontation, no
4 weapons drawn. This is 424 at 21 seconds and 31 -- or 21
5 hours, 31 minutes, so 9:31. Fantasia Ford in this white car is
6 about to drive off, Heath is about to get back in the vehicle.
7 Joe Rich has already gone inside. You know, he told you he
8 went to get a pack of smokes. You can see on the video, what
9 did he do? He got some Newports. You can watch it. You can
10 know that he's telling the truth, that he told the police the
11 same thing. That's what he did, he went to get smokes. They
12 are all in here. They're all in the vehicle right now,
13 waiting, waiting.

14 (Video playing.)

15 MR. HOLFORD: Still waiting. The victim drives off.
16 What's Tyshawn do? He pulls out, follows him. That's what
17 police have the first night, they've got this. That's how we
18 know we're looking for a gray van. You know, you have the
19 benefit of hearing the full story now, but the night that it
20 happened, they are looking for this gray van. That's the
21 picture that Wydra sends out to the police department. Hey,
22 we've got to find this one. The gray van is identified by Ms.
23 Singleton, and so they know this is the gray van we're looking
24 for. They know, they've talked to Winter Parker, we were at
25 that Exxon before, so let's go back and for the video. That's

Closing by Mr. Holford

1 how they know to find this and that's how they know what van
2 they are looking for. They get to Joe Rich, they eventually
3 get to Heath, they eventually get to Tyshawn. This gray van,
4 some of the things that are important about it, that's the gray
5 van they got from Tyshawn's sister's house whose registered
6 vehicle of Tyshawn's girlfriend. So even if we didn't have
7 Heath Reaves and Joe Rich and Winter Parker all telling you
8 that Tyshawn's the shooter in this case, who do you think was
9 driving this van? What makes sense? That van that's at
10 Tyshawn's sister's house that's registered to Tyshawn's
11 girlfriend is being driven by Tyshawn. That's the evidence
12 matching what the witnesses have told you. You know, there's
13 no grand conspiracy that was thought up the day after by Joe
14 Rich to pin this on Tyshawn Brown. He easily could have said
15 Heath Reaves was the shooter. Heath could have come in here
16 and said Joe Rich was the shooter. Winter Parker, she could
17 have said it was Heath, she could have said it was Joe, but
18 they didn't. Why didn't they? Because this isn't some
19 conspiracy, this isn't some made up thing to try to pin it on
20 someone who didn't do it, they are telling you the truth.
21 What's the truth? The truth is that the victim's vehicle has
22 damage to the driver's side window, has a bullet defect here,
23 has a bullet defect here (indicating.) And we at a minimum
24 there are three defects, those can't come from the same shot,
25 but a bullet that passes through here can hit Charles. A

Closing by Mr. Holford

1 bullet that passes from here can hit Winter. That's not
2 multiple shots. That's a bullet that travels through the glass
3 and hits somebody. What do we know? We know this is how the
4 defendant left that 20-year-old man (indicating.) He shot once
5 right under his arm. He shot once right here (indicating.)
6 He's trying to get away (indicating.) We know that State's 9,
7 this fragment found in the back of the truck, we know that
8 State's 10, this jacket of a bullet also found in the victim's
9 truck, we know State's 11, this bullet found in the truck, and
10 State's 73, the jacket recovered from the autopsy of the
11 victim. So the bullet from the victim, the three bullets from
12 the truck, we know were fired by one firearm. We know for a
13 fact that three of them are 44 caliber and the expert says
14 there's just not enough information to say on its face that one
15 is a 44 caliber, but we know they were all fired from the same
16 weapon. What do we know? We know there's one weapon in this
17 case. What's common about the 44 caliber? It's a revolver.
18 Why does that matter? Why do we go to lengths to talk about
19 that? There's no shell casings on the scene. There's no AR
20 rounds fired out there. There's no semi-automatic rounds fired
21 out there. There's no nine millimeter bullets, no nine
22 millimeter casings. You know, Joe's waving around a nine
23 millimeter blue gun, which we found in his house earlier that
24 day. Where's the gun? The AR, the murder weapon, the 44
25 revolver, Winter tells you it's an old-timey gun like a

Closing by Mr. Fox

1 revolver, Heath Reaves says it's a 44 revolver, Joe Rich says
2 it's a revolver. Where is it? He knows. I don't. He got rid
3 of it. He and Heath went back, burned their clothes, got rid
4 of the guns, wiped down the van and skipped town, because he
5 didn't do it? Do you think that's why he got rid of the gun,
6 burned his clothes and fled to New York for a year and a half?
7 No. He knew exactly what he did, and that's why he ran away.
8 Luckily they found him and brought him back here so we could
9 have this trial, so that we could get some justice. Nothing is
10 going to bring back Charles Durant, nothing. Nothing is going
11 to repair the damage done to Winter Parker, but I'm asking you
12 to find Tyshawn guilty of murder and attempted murder because
13 that is exactly what he did on April 24, 2018. Thank you.

14 THE COURT: Thank you, Mr. Holford. Mr. Fox?

15 MR. FOX: May it please the Court?

16 THE COURT: Yes, sir.

17 (Attorney Fox presented a closing argument on behalf
18 of the Defendant at this time.)

19 MR. FOX: Good afternoon, ladies and gentlemen. In
20 my career I go to different trainings or participate in things
21 where younger lawyers arrive, and they always say, don't thank
22 the jury, go ahead and tell them what you're gonna tell them,
23 and I never understood that, because I do thank you for being
24 here. It's not what you chose to do, not what you want to do,
25 but it's incredibly important, and I do appreciate your time

1 and attention, because this is extremely important, obviously,
2 it's important to everyone in this courtroom. It's certainly
3 important to Mr. Durant's family, to Winter Parker and her
4 family, and of course, my client, Tyshawn Brown, so thank you.
5 Obviously, I don't agree with my friend, Mr. Holford, about a
6 lot of things. Never forget, the burden of proof in this case,
7 the highest burden of proof that we have in our court system,
8 beyond a reasonable doubt, the judge will define that for you.
9 I think he will say it leaves you firmly convinced, and I've
10 heard other judges say about which would cause a person to
11 hesitate to act in their own life. So it's not just any doubt,
12 it's not a fanciful doubt. Judge Floyd, on the back wall
13 there, he's telling you you can doubt whether there's salt in
14 the ocean down in Myrtle Beach, but that's not really a
15 reasonable doubt, that's kind of a fanciful silly doubt. The
16 State does not have to convince you beyond all doubt, but it is
17 something more than maybe. It is something more than guessing,
18 and it is something more than could be, and I think that's what
19 we have here. Let's break down what you really have. Mr.
20 O'Neill laid it out for you a couple days ago. You've got Joe
21 Rich, and I agree with Mr. Holford, there's five people that
22 matter as far as witnesses. You've got Joe Rich and you've got
23 Heath Reaves, and you've got no physical evidence that connects
24 Tyshawn Brown to this murder. It is a murder, this is not a
25 what happened kind of case. Sometimes we come in here and we

Closing by Mr. Fox

1 fight about whether it's even a crime or which crime it is.
2 That's not the case this week, alright? This was a murder.
3 This was a who done it. So, and I'll break down what I think
4 about Heath Reaves and Joe Rich, but you have those two, and
5 you have Ms. Parker and reason to question all of their
6 testimony, and I'll go into a little more detail about that,
7 and then you've got physical evidence that shows, yes, there
8 were guns fired, bullets. The State has to show you that the
9 murder occurred, that a crime occurred, so they've got to show
10 you bullet fragments and broken windows and things like that,
11 but none of that stuff, none of it connects Tyshawn Brown to
12 this shooting. Bullet fragments don't come up with an I.D.
13 Right? There are no picture that you've seen, which, these
14 pictures are just stills from the security footage. I think
15 that footage itself is in evidence, if you'd like to watch it.
16 You've got pictures that were just snapshots from that. You're
17 not going to see or be able to identify Tyshawn Brown on that.
18 The only way that anyone does is the two people with the most
19 to gain and the most to lie about, Heath Reaves and Joe Rich.
20 Nobody else came in and said, yes -- you can't see the face of
21 the driver. Right? You can easily see Mr. Rich. You can
22 identify him by clothes. You can see when he goes inside. Mr.
23 Reaves, the same thing. You can see his entire body, you can
24 see what he's wearing and you can see him when goes inside the
25 store. You cannot see any of that with Tyshawn Brown so you're

1 left either guessing or relying on Heath Reaves and Joe Rich.
2 It's important, the State needs you to have, because their
3 witnesses have said it, one shooter, one gun, one shooter, but
4 there is evidence that could lead you just to determine that
5 there is more than five or six shots. Why is that important?
6 Well, their own firearms expert, Ms. Eichenmiller said today,
7 it's her belief, that the four she had, she didn't have all
8 the fragments, but four jackets, and I'm going to say bullets
9 interchangeably with fragments and jackets and all that, but
10 the four samples that she tested, she believed came from the
11 same gun, but that wasn't all the shots that were fired, and
12 she said she believed they came from a 44 caliber weapon
13 revolver, a five or six shot revolver. Okay. I would agree
14 with Mr. Holford, it could be as few as four or five, but you
15 have to guess. Did this bullet pass through this window and
16 then through this one and end up here? You don't know that,
17 nobody can tell you that. It's nobodies fault, but you can
18 count them up. You can count two separate wounds in Mr. Durant
19 and two separate wounds in Ms. Parker and you can count three
20 fragments in the truck. That can very easily get you to seven.
21 Is it possible that some of those seven might account for more
22 than one? Maybe, but it is not unreasonable. In fact, I think
23 you can get eight if you count the hole in the frame from the
24 car, potentially, but you can easily add up just the fragments
25 that they found and what we can account for and come up with

Closing by Mr. Fox

1 seven. Well, it ain't a seven shot revolver, and if it's not a
2 seven shot revolver, there's two people shooting. That's a
3 very different scenario than what's been painted for you. The
4 only person in this trial who has been actually connected to a
5 weapon is Joe Rich. Do I know whether he had -- he denies it.
6 I don't know if he had that teal colored 40 caliber with him
7 that night. He apparently had it the day before, it came out
8 of his house, but you've heard no testimony about any other
9 weapon that anybody had. Well, Heath Reaves admitted to having
10 an AR-15, but the only person as far as physical evidence you
11 got is Joe Rich. I don't know, there's at least one bullet --
12 well, I'll take that back. The four that went to SLED, you can
13 infer that they're all 44's, because Ms. Eichenmiller said she
14 believed they all came from the same gun. Okay. But we don't
15 have any evidence about the others. No one told you what
16 caliber they might be, because she wasn't asked to. She didn't
17 do anything wrong. She could only attest and respond to what
18 she was asked about. Well, there's at least three others that
19 she wasn't asked about, so perhaps there is a 44 caliber
20 floating around that we don't know about, we don't know, we
21 don't have that information. I found it interesting, you can
22 look at these bullets, I know you've passed them around before
23 that went to SLED, there are three, and all of them are, you
24 know, mangled to a degree. Three of them are identifiable.
25 The other is a little -- the fragment, Ms. Eichenmiller says I

Closing by Mr. Fox

1 can compare and those I can say they came from the same gun,
2 but what did you think about Officer Caulder, the CSI guy, the
3 guy with the ponytail that was here? Right? Good ol' boy,
4 very experienced crime scene investigator, hundreds and
5 hundreds and hundreds, did he seem like he knew what he was
6 doing? Was he qualified as an expert in ballistics? He was
7 not. But he was very definite: Oh, no, we don't even mess
8 with fragments, you can't do any meaningful comparison with a
9 fragment, and look at those things. I don't have a microscope,
10 and you don't, but look at it yourself and use your common
11 sense and think about what Officer Caulder told you and see if
12 you really think that Ms. Eichenmiller could make any kind of
13 reasonable determination that those bullets all came and the
14 fragment all came from the same gun. I just don't think so. I
15 don't have the expertise she does, but just look at it, use
16 your own common sense, think about what Detective Caulder told
17 you. I don't even know why the bandanna is here. I get that
18 it was taken out of the car, that's enough.

19 Let's talk about the witnesses. Let's start with Joe
20 Rich. Joe Rich started this entire investigation by lying to
21 the police about who was in the van. He did it by his own
22 omission. Who is that? Oh, that's Young Boy. Are you sure?
23 Picture. Yep. Now, he would have you believe that they had,
24 like, stood on the opposite end of the room and held the phone
25 down low, but you know, he admitted. They showed him a

Closing by Mr. Fox

1 picture, he was very definite, that's Young Boy. They figured
2 out who Young Boy was, they did their job as police officers,
3 they went and said, that's Mr. Barber and we can find out where
4 Mr. Barber works, they did a really good job tracking him down,
5 right, through a T-shirt or something on his Facebook page, and
6 they determined it couldn't be Orlando Barber. He's got an
7 alibi that we can verify. What about that, Mr. Rich? So he
8 started off this case the same way he ended it, by lying to
9 people about who was in the van, and he did the same thing when
10 he was here yesterday. Joe Rich said to the police, I'll do
11 anything to get out of this. I don't want to talk because it's
12 just going to get me a murder warrant. That might be a very
13 understandable attitude to have, but I think it's very
14 reasonable to question his believability. Heath Reaves, I
15 can't even remember all of this, Heath Reaves, silent for three
16 years. Heath Reaves charged himself with murder, charged
17 himself with attempted murder. Law enforcement, as we've seen,
18 does their job, they do not just charge people for the heck of
19 it, and they certainly felt they had enough to charge Heath
20 Reaves. They charge him with murder for which he faces life in
21 prison and attempted murder for which he faces up to 30 years.
22 He got out on bond. He managed to convince, he and his lawyer,
23 and good for them, convince a judge to let him out on bond, and
24 earlier this year he picks up trafficking heroin, 28 grams and
25 above. That's not -- I mean, trafficking has several levels,

1 but he's up in the middle. Trafficking cocaine, 100 to 200
2 grams, way up here, each of those carry 25 years, up to 40 on
3 the first one. Trafficking Meth and crack, or and/or crack,
4 it's the same statute, three to ten, as well as two weapon
5 charges. So he's out on bond for the most serious charge you
6 can have. The first condition of bond is to be on good
7 behavior and earlier this year he picks up these violent,
8 dangerous charges, and somehow, now he decides, and I get it,
9 this is really serious, the murder, maybe that wasn't so
10 serious, but now I need to talk, now this is serious. So now
11 he's ready to talk and within a few days, a month, I guess, of
12 being arrested, he's talking to the Solicitor and he's telling
13 them what you heard him tell them week. Pay attention. When
14 Mr. Reaves testified, he didn't come out from the back in the
15 lock up in an orange J. Reuben Long suit, he came from the back
16 of the courtroom dressed nicely as he should be for court. In
17 other words, he came in this courtroom a free man, in other
18 words, even after committing, alleged, we don't know yet if he
19 has been convicted of these drug charges, but after being
20 arrested again on about as serious a series of drug charges
21 that you can get while out on bond for murder and attempted
22 murder, he managed, after he had talked to the solicitor's
23 office, to get out on bond again. So again, good for him.
24 Does Heath Reaves expect something? Well, of course, he does,
25 and I don't blame him, but who has a bigger reason to lie in

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1 this case than he does? Nobody has a bigger reason, well, Joe
2 Rich maybe. You know, he's facing life over, he could be
3 sentenced to life and say, yeah, when you come back and get
4 done with that we've got these 85-years plus on these drug
5 charges for you to deal with. Now, he he's motivated, now he
6 remembers, now he's telling the story. It serves two purposes.
7 It gets him out of the murder, if you all believe it, and oh,
8 by the way, it's probably going to help him with the other. Of
9 course. Mr. Holford and Mr. Harrelson aren't dumb enough to
10 make him a promise up front. They're not going to guarantee
11 him an outcome, he's got to come in and perform and if he
12 doesn't perform, if he gets cold feet or he changes his mind,
13 they're not going to be committed to some definite outcome,
14 that's just not how it works, that would be stupid, but he has
15 an even bigger motive to lie if he hadn't got his deal yet, if
16 hasn't finalized it yet, if he hadn't fulfilled his end of the
17 bargain, his motivation to lie is even greater. Now, I
18 disagree with Mr. Holford that his testimony and Joe Rich's
19 match up. In fact, they disagree in some very key points.
20 Heath Reaves would have you believe that he's just a foot
21 soldier, he's just a gang member, very low, and nothing scary,
22 and Mr. Brown is calling the shots and that's the big man, and
23 he does what he says. But he also says that, supposedly,
24 Brown, someone says, what you want to do when they see Durant,
25 right? What you want to do? Well, why is he asking Heath

1 Reaves permission? Well, because I brought him into the gang.
2 But he tells you, I had rank. He says it himself, I had rank.
3 I brought him, I'm responsible for him. Does that sound like
4 low level, people asking for permission? And what did Joe Rich
5 tell you about that scenario? He says, when they saw the Chevy
6 pull out and they turned to go, Reaves said, there he is, go,
7 there he is, go, go, go. He was calling the shot. He was
8 saying, go get him, go follow him, Heath Reaves said that, if
9 you want to believe Joe Rich, but they say very different
10 things, right? Heath Reaves says, when they caught up with the
11 truck he was ordered to shoot and he didn't want to do that so
12 he just kneeled back there, had the door open before they
13 leave, before they leave the gas station, but he's got the door
14 open, he's got an AR-15, and he just points it, but he didn't
15 want to shoot anybody. Joe Rich says that when they got to
16 that point, they're at the stop sign, none of this you're gonna
17 shoot him from Brown, makes no mention of that, but Heath says,
18 they pull up, and Heath Reaves from the back says, it jammed,
19 it jammed! Heath Reaves says, oh, no it didn't. Basically, if
20 I wanted to shoot him I could have but that's the tactic he
21 gave you all the things about, all this justification about why
22 this was such a great weapon and he was familiar with it
23 because he used it before, but those are two very different
24 scenarios, and one, if you believe Rich, then Heath Reaves is
25 pretty much calling the shots and had every intention of

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1 shooting: It jammed, it jammed, and if you believe Heath
2 Reaves, then it was Tyshawn Brown. The only person in this
3 case who made any mention of gangs, the State doesn't have to
4 prove a motive, by the way, sometimes there's not an obvious
5 one, but when they do, it ought to at least makes sense, it
6 ought to at least be plausible. So the motive in this case,
7 supposedly is, that Charles Durant wanted to leave the gang,
8 nobody says that but Heath Reaves. Joe Rich doesn't say that,
9 Ms. Parker doesn't say that. She says, no, my boyfriend, known
10 him for a year and a half, no gang stuff there, but Heath wants
11 you to believe that. So he wants you to believe that Charles
12 Durant wanted no part of this gang. He doesn't name the gang,
13 doesn't say what they're called, doesn't give you any of that
14 information, but there's a gang, and Charles wants to leave,
15 and so as the person that brought him in he's being ordered,
16 supposedly, by Mr. Brown, to kill him, which he does. Yet,
17 when the same gang, according to Heath Reaves, finds out that
18 he might, or at least, I don't think he even said that he knew
19 he was going to testify, but they were worried that he might
20 testify in this case, they beat him out. In other words, they
21 beat him up, you're out of the gang, kicked him out of the
22 gang. So if you want just want to leave, go your own way,
23 they're going to kill you, but if you want to come into court
24 and testify against somebody, they'll just rough you up a
25 little bit and let you go on your way. Does that make sense?

1 Heath Reaves says -- let me jump back a minute to what was
2 going on in the van. After the shooting Joe Rich told you that
3 it was Reaves who said, let's go to Green Sea, can I go to
4 Green Sea, I want to go to Green Sea. And again, giving the
5 directions, giving the commands, I want to go to Green Sea.
6 According to him, they do, and then supposedly, they go on to
7 Mr. Brown's sister's where they -- no mention of the gun, what
8 they do with the guns, but he took trouble to tell you that
9 they burned the clothes, but no evidence as so much as a, you
10 know, a grill. In fact, I assume, Officer Jackson didn't want
11 to be particular about it, but I assume having that
12 information, they would have looked at some point. I assume
13 they would have searched Ms. Washington's house if they had
14 information that Mr. Reaves and Mr. Brown had been there, but
15 you had nothing -- they obviously didn't get anything, or
16 search Mr. Brown's residence. They apparently knew where he
17 lived. So I think Mr. Reaves and Mr. Rich are very different
18 in what they say and how they portrayed it. Finally, Winter
19 Parker, you know, I'm sorry she had to be here and had to come
20 in here. She was very definite today. It's always amazing to
21 me how memories improve over the course of time. It's the
22 opposite in my experience, but she was very definite today.
23 She admitted when had I asked her. We get things in discovery,
24 right? We get interviews and that's why you can guess from
25 some of the questions we ask witnesses, didn't you tell the

Closing by Mr. Fox

1 police that, or didn't you say that, because we've seen if
2 there are interviews recorded in the solicitor's office, have
3 to provide those to us. It's called discovery so we get the
4 evidence, we get to at least examine the bullet fragments or
5 get copies of the pictures, whatever it is, and so Ms. Parker
6 testified, I know who it was, I'm sure of who it was, I saw
7 that man get out and I saw his face, it's burned in my mind.
8 She admitted when I asked her when interviewed by the police
9 that she didn't see who got out, couldn't see the face, because
10 understandably, she ducked down trying to hide and avoid being
11 shot, but she didn't see or identify or name the person that
12 shot her and she also admitted that she was able to answer
13 all -- she said, oh, I was sedated, I didn't know, and I
14 remembered later. Well, she also admitted and I led her
15 through a series of questions about very specific things that
16 she was able to answer for the police, where they went earlier
17 in the day, why they were there, where they went after when
18 they lost their money so they couldn't go to eat, unable to go
19 to the movie, and lots of details that she was able to provide.
20 Alright? And I asked the officer the same thing, was she able
21 to answer your questions, was she able to offer you any
22 details, et cetera, and Officer, I want to say, Johnson, said,
23 yes, she was. So I don't have any doubt she was traumatized
24 for what she's been through, I have no doubt she was in pain,
25 but she wasn't hysterical and she wasn't sedated to the point

1 that she didn't know what was going on, because she interacted
2 with law enforcement, they felt it was reasonable to continue
3 with the interview, right, and they would have left her alone.
4 They could have waited, but she was able to respond and answer
5 and she admitted at the scene. The reason that she knows the
6 name Tyshawn Brown now is because, I don't think anyone said,
7 you've got to go into court and name Tyshawn Brown. That's not
8 how that works, but this case was, obviously, known in the
9 community and it involved people in Loris, it involved Mr.
10 Durant, Ms. Parker, and their families and friends and
11 neighbors and you know people were talking and law enforcement
12 would have been telling her, hey, we think there's a guy named
13 Heath Reaves involved, and now we believe there's a guy named
14 Tyshawn Brown involved. And so I think she has kind of -- do I
15 think she's making it up? I don't. But the day of the
16 shooting she didn't have that name, and she said, I ducked down
17 and couldn't see, I can't give you a description, I think it
18 was a black guy. She couldn't give a description, she
19 certainly couldn't give a name. When she gets here in court,
20 four years later, now she has description, it's a tall guy,
21 it's Tyshawn Brown, I know him, that's him over there. Well,
22 I'm never impressed with courtroom identification. I mean,
23 there's only one defendant and every one of you, we all know in
24 this courtroom without being told, who the defendant is, so I'm
25 not very impressed by courtroom identification, but it's why

1 the trial of this case. You've done exactly what we've asked
2 you to do. You've been on time, you've been patient, you've
3 been attentive, and now we ask that you continue to be patient
4 and attentive throughout the balance of this trial, even as you
5 go into your jury room and start talking among yourselves to
6 discuss it among yourselves and to reach a verdict in this
7 case. It is my responsibility, as I had told you from the
8 outset, to instruct you as to what the law is, and it is your
9 duty as jurors to accept the law and apply it as I state it to
10 you now. As jurors it is your exclusive duty to decide all the
11 issues of fact in the case, and for that purpose you have to
12 determine the effect and the value and the weight and the
13 importance of the evidence that you have seen and heard in this
14 trial. Both the State and the defendant have the right to
15 expect that you will conscientiously consider and evaluate the
16 evidence to the end that both the State and the defense will
17 receive a fair and impartial trial at your hands. Throughout
18 the course of this charge, ladies and gentlemen, when I use the
19 word "defendant," I'm referring to Mr. Tyshawn Antwaun Brown.
20 Mr. Brown has been indicted, as you know, by the Grand Jury of
21 Horry County and charged, first of all, with the crime of
22 murder. That indictment says that he did here in Horry County
23 on or about April 24th of 2018, willfully, feloniously and
24 intentionally kill the victim, Charles Durant, with malice
25 aforethought, either expressed or implied by means of a gunshot

Jury Charge

1 wound and that the victim died as a proximate result thereof in
2 violation of the law. Mr. Brown is also charged with the crime
3 of attempted murder on the same day with the intent to kill
4 Winter Parker with malice aforethought, either expressed or
5 implied, once again, in violation of the law. I'll remind you
6 again that those indictments are not evidence, nor are they
7 proof of the charges, they just tell us what the case is all
8 about, and as you know, Mr. Brown has entered pleas of not
9 guilty to both of these charges and has requested a jury trial,
10 which he has received at your hands. To the charges contained
11 in the indictment, the effect of a plea of not guilty places a
12 burden of proof on the State to prove by evidence the guilt of
13 the accused beyond a reasonable doubt before you can convict
14 him and find him guilty. The defendant, Mr. Brown, is presumed
15 in the law to be innocent of the charges contained in these
16 indictments.

17 It is the fundamental rule of our law of evidence
18 that a defendant, regardless of the nature of the charges, the
19 seriousness of them, the number of them, would always be
20 presumed innocent of the charges for which he has been indicted
21 unless and until his guilt has been proven by evidence,
22 evidence that satisfies you that he is guilty beyond a
23 reasonable doubt. The presumption of innocence is not some
24 mere legal theory. It is not an empty legal phrase. The
25 presumption of innocence is like a robe of righteousness that

1 is placed about the shoulders of the defendant and it assigns
2 to that defendant the class known as the innocence and that
3 presumptive robe of righteousness continues to rest about his
4 shoulders throughout this trial and throughout your
5 deliberations unless and until you reach the conclusion that
6 that presumptive robe of righteousness has been stripped from
7 his person by evidence, evidence that satisfies you of his
8 guilt beyond a reasonable doubt. The presumption of innocence
9 accompanies throughout every stage of these proceedings. It
10 continues to exist to his benefit unless or until you decide
11 that the State has reached its burden of convincing you beyond
12 a reasonable doubt that he is guilty of the crime charged, and
13 so the State then has that burden of proof beyond a reasonable
14 doubt. Some of you might have served as jurors before in civil
15 cases, and if you did serve as a juror in a civil case the
16 judge told you that in that particular case the party that has
17 the burden of proof just has to present evidence on that
18 party's side of the case that is more convincing than the
19 evidence is on the other side, the slight tilting of the scales
20 of evidence, in other words, but in criminal cases the State's
21 proof has to be more powerful than that. In criminal cases the
22 proof has to be proof beyond a reasonable doubt. So what then
23 do we mean, by proof beyond a reasonable doubt?

24 Proof beyond a reasonable doubt is proof that leaves
25 you firmly convinced of the defendant's guilt. Now, there are

Jury Charge

1 very few things in this world that you or I know with absolute
2 certainty, and in criminal cases the law does not require proof
3 that overcomes every possible doubt, and so if based on your
4 consideration of the evidence you are firmly convinced that the
5 defendant is guilty of the crime charged, you must find him
6 guilty. If on the other hand you think there is a real
7 possibility that he is not guilty, you must give him the
8 benefit of the doubt and find him not guilty. Now, reasonable
9 doubt can arise from evidence in the case, it might arise from
10 the lack of evidence in the case, but you, ladies and
11 gentlemen, have to determine whether or not reasonable doubt
12 exists as to the guilt of this defendant. I'll tell you that
13 he is entitled to every reasonable doubt which arises in the
14 case, and so if on any issue of fact which is necessary for a
15 conviction and a verdict of guilty you have a reasonable doubt
16 as to how that issue should be resolved, it is your duty to
17 resolve that reasonable doubt in favor of the defendant because
18 the defendant is never required to prove his innocence. The
19 State, on the other hand, is required to prove every essential
20 element of the offense charged against him by evidence that
21 satisfies you as a jury of his guilt beyond a reasonable doubt
22 before you can convict the defendant and find him guilty.

23 I instruct you now, and I emphasize to you, that the
24 fact that Mr. Brown did not testify in this trial in his own
25 behalf is not a factor to be considered by you in any way in

Jury Charge

1 your deliberation and in your consideration of the question of
2 the guilt or innocence. It must not be considered by you in
3 any manner whatsoever or against him in any respect, because
4 the defendant has a constitutional right to remain silent, and
5 if he chooses to assert that constitutional right that cannot
6 and must not be considered by you in your deliberations. And
7 so under your oath you are to reach no inference and draw no
8 conclusion whatsoever from the fact that this defendant did not
9 himself testify. That should not even be discussed by you in
10 the jury room, because as I have said, the burden is on the
11 State, the defendant has no obligation to prove innocence, and
12 the burden of proof remains upon the State to prove guilt
13 beyond a reasonable doubt, and the fact that the defendant did
14 not testify is not a factor to be considered by you in
15 determining his guilt or his innocence. So then, if upon the
16 whole case you have a reasonable doubt as to the guilt or the
17 innocence of the defendant, he is entitled to that reasonable
18 doubt and would be entitled to an acquittal and a verdict of
19 not guilty, but on the other hand, if upon the whole case you
20 find that the State has proven by evidence that satisfies you
21 as a jury of the guilt of the defendant beyond a reasonable
22 doubt, then in such circumstances it is equally your duty to
23 convict the defendant and to find him guilty.

24 Now, during the trial, folks, each of us, you and I
25 have our separate duties to perform. As a trial judge, it's my

Jury Charge

1 job to preside over the trial of this case, and I also have the
2 responsibility of ruling upon or passing upon the admissibility
3 of the evidence that you have seen and heard during this trial
4 and you are to consider only the kind of evidence that has been
5 introduced before this trial, that is the testimony that has
6 been offered from the witness stand and the items and exhibits
7 that you will have with you in the jury room as you deliberate
8 to reach your decision in this case. I have the additional
9 duty to instruct you as to what the applicable law in this case
10 is. As the presiding judge, I am the sole judge of the law,
11 and it is your duty as jurors to accept the law as I charge it
12 to you now to be the correct law. If you came into this role
13 as a juror in the trial of this case with some preconceived
14 ideas about what you think the law is or if you've got some
15 preferences about what you would like the law to be and if your
16 preconceived ideas or your preferences about what the law is or
17 should be in this case disagree with what I'm telling you now
18 the law actually is, under your oath you're obligated to forget
19 what you think the law is or what it should be because you're
20 bound by your oath to accept the law precisely as I now state
21 it to you. Now, you as the jury are the sole and exclusive
22 judge of the facts of the case. I am the judge of the law and
23 you are the judge of the facts. Our constitution has said that
24 I can't comment to you about the facts of the case. I can't
25 give to you how I might feel about the outcome of this case and

1 what your decision should be in this case, because you're the
2 sole judge of the facts of the case, and so you're not to
3 gather from anything that I have said to you during the course
4 of this trial and ruling upon the evidence that's come in or
5 anything that I'm saying to you now in this charge, that I have
6 an opinion about the facts. I am not allowed an opinion about
7 the facts of the case because that's solely a matter for you,
8 ladies and gentlemen, to decide. And so as jurors, then, it is
9 your duty, as I have told you, to decide the effect and the
10 value and the weight and the importance of the testimony
11 offered during the trial. Now, as you determine what the facts
12 of the case are there are a lot of things that you can do to
13 make that decision. Necessarily, you have to pass upon the
14 credibility of the witnesses who have testified. That means
15 that you decide the believability of the witnesses and you
16 decide the value and the weight you will give to the testimony
17 that you have heard. You and you alone must decide the force
18 and the effect and the believability of the testimony you have
19 heard. Now, as you make this decision there are a lot of
20 things that you can take into account. You can take into
21 account the appearance, the manner of the witnesses he or she
22 testified from the witness stand here. We sometimes refer to
23 that as the demeanor of the witness. How did the witness act
24 while he or she was on the witness stand testifying? Was the
25 witness forthright or hesitant? Was the witness' testimony

Jury Charge

1 consistent, or did it contain discrepancies? What was the
2 ability of the witness to know what he or she was telling you
3 about? Did the witness have a cause or a reason to be biased
4 or prejudiced in favor of the testimony that he or she was
5 giving? Was the witness' testimony made stronger by other
6 evidence or was it made weaker by other evidence?

7 You have heard the testimony of a witness in this
8 case who was qualified as an expert witness. Normally
9 witnesses cannot tell you about their opinion about certain
10 things. They can tell you what they saw or what they've heard,
11 but they can't tell you what they concluded about what they saw
12 or what they heard, but expert witnesses are different.
13 Because of training and experience and knowledge in certain
14 areas people who are so qualified as experts have a right to
15 express their opinions on those issues as to which they are
16 qualified. You consider expert opinion testimony just like you
17 do any other evidence in the case and you give it the weight
18 you think it should receive. If you think that the evidence
19 given by the witness is not based on sufficient training or
20 education or knowledge or experience or if you conclude that
21 the reasons given in support of the opinions of that expert and
22 if they are outweighed by other things, you can disregard the
23 testimony entirely. In other words, you don't give expert
24 witness testimony any greater weight than anybody else because
25 the witness is an expert, because as jurors you've got the

Jury Charge

1 right to believe a small portion of the testimony of a single
2 witness and disbelieve the larger portion of the testimony of
3 the same witness, or you do it the other way around, you can
4 believe the larger part and disbelieve the smaller part. You
5 can believe all of what a witness tells you or none of what a
6 witness tells you, but you don't make that decision
7 arbitrarily. There has to be some good reason for that,
8 because what we ask you to do as jurors is to bring your
9 experiences as jurors in this case the same experience and
10 knowledge that you use every day outside of this courtroom in
11 making decisions. We expect you to use your common sense, we
12 expect you to use your mental processes, in other words. We
13 expect you to use your good judgment, your sense of logic and
14 reason and your experiences in life, and you bring all of those
15 qualities that each of you bring individually and separately
16 into your service as jurors, and you decide what the truth is
17 in this particular case, or you decide what the facts are in
18 this particular case. You're not called upon to decide truth,
19 you're called upon to decide the facts of the case and to the
20 facts that you find to exist, then you apply the law which I
21 have just given you, and thus you'll arrive at a verdict in
22 this particular case.

23 Now, the defendant, as I have told you, is charged,
24 first of all, in the indictment with the crime of murder.
25 Murder is defined under our law as the killing of any person

Jury Charge

1 with malice aforethought, either expressed or implied, and so
2 in order for the State to prove that the defendant is guilty of
3 the crime of murder it has to be proven beyond a reasonable
4 doubt that he killed the victim and that the killing was done
5 with malice aforethought. The State does not have to prove any
6 motive for the killing, but it is required to prove malice
7 aforethought. So what do we mean by malice? Malice
8 aforethought is the deliberate and well-formed purpose do the
9 unlawful act. Now "aforethought" means that the intention to
10 do the unlawful act was conceived or planned sometime before
11 the actual commission of the unlawful act, but it need not
12 exist for any particular length of time prior to the act.
13 "Malice" is a word that suggests a wickedness, a hatred, or a
14 determination to do what one knows to be wrong without just
15 cause or legal excuse or provocation. I remind you that malice
16 need not be in the mind of the one doing the act for any
17 particular length of time before the act of killing in order to
18 render the killing murder. If it is present in the mind of the
19 one doing the killing any length of time before the act, then
20 its presence would be sufficient to render the killing of
21 murder. Malice can be expressed or it can be inferred. Malice
22 can be expressed where there is shown a violent, deliberate
23 intention to unlawfully take away the life of another human
24 being. Malice can be shown where no excuse or legal
25 provocation for the killing appears, and when circumstances

1 attending the killing show an abandoned heart, a malignant
2 heart or a heart that is fatally bent upon mischief.

3 The defendant is also charged with the crime of
4 attempted murder. Our law says that any person who with the
5 intent to kill attempts to kill another with malice
6 aforethought, either expressed or implied, commits the offense
7 of attempted murder. An intent, however, obviously, by its
8 definition is not the completed act. It is an act that is done
9 in partial execution of the completed act and part of the
10 design to commit the crime. There has to be an intent that the
11 acts will be committed and an act alone, not in full execution
12 but in pursuance of the intent. Now, an attempt is different
13 from the preparation to commit the crime, and it is also
14 different from the intent to commit, because the law doesn't
15 punish the mere entertainment of a criminal intent. To bring
16 the law into action it is necessary that some act should be
17 done in pursuance of the intent immediately and directly
18 tending to prove to lead to the commission of the crime of
19 murder, an act which if it should be carried out would
20 constitute part of the crime itself, but it doesn't reach the
21 accomplishment, it doesn't complete the murder because it is
22 prevented or for some other reason does not carry its way out.
23 The State has to prove, as the statute says, that the defendant
24 attempted to kill with malice aforethought, and I remind you
25 that the definition of malice aforethought in the crime of

Jury Charge

1 attempted murder is the same as it is in the crime of murder
2 itself.

3 I tell you that criminal intent is a necessary
4 element that has to be proven beyond a reasonable doubt for
5 every offense. It is always a matter that has to be determined
6 from you what a defendant intended to do first based on the
7 circumstances surrounding the situation. There is no way to
8 prove intent to a mathematical certainty. There is no way that
9 medical science can take apart a person's brain and let you
10 look down and then figure out what that person had in mind at
11 the time, and so the law says that the criminal intent may be
12 inferred from the circumstances which were showing to have
13 existed, and that's how you make a determination as to whether
14 or not criminal intent was present. Criminal intent is a state
15 of mind and it operates jointly with an act in the commission
16 of a crime. It is a mental state. It is a conscious
17 wrong-doing, and so it's up to you as a jury to determine what
18 the defendant intended to do based on the circumstances which
19 were actually shown to have existed. I remind you that the
20 State has to prove criminal intent beyond a reasonable doubt
21 just as it has to prove every other element, and I tell you
22 that as to the crime of an attempted murder the State has to
23 prove the specific intent to kill, not a generalized intent to
24 do harm, but a specific intent to kill means that the defendant
25 consciously intended the completion of the act in making the

Jury Charge

1 attempt.

2 Now, Ladies and gentlemen, let me tell you that you
3 are not the partisans nor are you advocates in this case for
4 either the State of South Carolina or for the defendant. You
5 don't serve as jurors to reward your friends or punish your
6 enemies, obviously, that would not be a system of justice at
7 all, it would be intolerable. You have been selected by both
8 the State and the defendant as fair and impartial jurors, and
9 so it is your duty then by your joint deliberations to
10 determine the facts of this case giving to the defendant the
11 benefit of every reasonable doubt on each and every issue, and
12 then to the facts which you determine to exist. You take and
13 apply the law which I have just given you and thus arrive at a
14 verdict which determines the facts of this case, and when you
15 accomplish that, ladies and gentlemen, you will have satisfied
16 your oath as jurors, and you will discharge your responsibility
17 to this Court.

18 I'm now going to explain to you the possible verdicts
19 which exist in this case. Could I get you to hand this over to
20 the Forelady, please, sir, if you don't mind? Thank you. I'm
21 giving the Forelady the possible verdict form in this
22 particular case because she's the person that's got to fill it
23 out, but I'll tell you now, and I'll remind you that it is not
24 her verdict alone, obviously, it has to be a unanimous verdict,
25 all of you have to agree. There are two charges in this

Jury Charge

1 particular case and so there are two possible verdicts. Your
2 verdict on one charge does not necessarily determine your
3 verdict on the other charge. The defendant can be convicted or
4 acquitted of either or both of these charges according to your
5 view of the evidence and the order I have written on this
6 verdict form, ladies and gentlemen, doesn't have any
7 significance at all. I write them in the order that I find
8 easiest to explain. The first charge is a charge of murder and
9 there are two possible verdict forms. As to the charge of
10 murder, the possible forms of the verdict are, if the State has
11 met its burden of proof the verdict would be guilty. If that's
12 the verdict that you arrive at, Madam Forelady, you will
13 indicate that by putting a check or an X mark in the space that
14 you see we have provided by the word "guilty." The other
15 possible verdict form is not guilty. That is a verdict form
16 you will use if you find that the State has failed to meet its
17 burden of proof as to the charge of murder, as I have defined
18 that to you, and likewise, if that's the verdict form that you
19 arrive at, you will indicate that by putting an X a or a
20 checkmark by the words "not guilty." The same possible verdict
21 forms exist as to the charge of attempted murder, and the same
22 standard will be applied, guilty, if you find that the State
23 has met its burden of proof as to the charge of attempted
24 murder, not guilty, if the State has failed to meet its burden
25 of proof as to that particular charge. I remind you, again,

Jury Charge

1 whatever your verdicts are, they have to be unanimous. Madam
2 Forelady, you are not authorized to write the verdict or to
3 sign that form until all 12 of your number have agreed as to
4 what to what the verdict will be. I'm going to send you to
5 your jury room now, but I have to ask you, yet, one last time,
6 wait just a minute before you start your deliberations. I've
7 got to talk with the lawyers to see if I've misstated anything
8 to you or if I've left anything out, and if I have, I'll have
9 to bring you out to correct that, but if I don't have to bring
10 you back out we will send in the items of evidence and once the
11 items of evidence have been brought into you, then you may
12 begin your deliberations, not until you get the evidence, but
13 once you get the evidence you will begin your deliberations and
14 you will deliberate until you have reached the verdicts in this
15 case. Once you have reached the verdicts, Madam Forelady, you
16 will fill out the form, sign it, knock on the door, advise the
17 bailiff and we will bring you back out to receive the verdict.
18 There's a lot of electronic evidence, if you need to look at
19 that again or to see any of it, we will provide it for you,
20 whether we can send it in to you or bring you back out, we
21 would have to decide that, but one way or the other, if you
22 need to look at any of the electronic evidence that you have
23 seen and heard in this case, you let us know, and we'll make
24 provisions to show that to you. Everybody understand?
25 Alright. Ms. Blake, I'm going to ask you to stay where you

1 are. The rest of you, ladies and gentlemen, please retire to
2 your jury room, and wait just one minute before you begin your
3 discussions.

4 (Jury retired to deliberate)

5 THE COURT: Any exceptions or requests for additional
6 charge from the State, Mr. Holford?

7 MR. HOLFORD: No, Your Honor.

8 THE COURT: Thank you. From the defense?

9 MR. FOX: No, Your Honor.

10 THE COURT: Folks, you all can start assembling the
11 evidence and make sure we've got it all together. Ms. Blake,
12 obviously, you understand that your role as alternate jurors
13 would have been to step into the jury room with the 12 jurors
14 if any of them had not been able to complete their service as
15 jurors. Thankfully, they've all completed their services as
16 jurors so far, they've all been able to get here every day and
17 not sick, and so we don't need to involve you, but you've paid
18 just as good attention as they have, you are equally able to
19 reach a decision in this case as they are, but you don't have
20 to because of the fact that they have completed that service,
21 but the fact that you were here and were able and willing to
22 continue to serve as ultimate jurors throughout the trial of
23 this case gave me the piece of mind in knowing that we were
24 going to be able to complete this trial. If for some reason if
25 any of those jurors had not been able to show up this morning,

1 if they had a family emergency or an accident or some event
2 that prevented them from showing up this morning, and if all
3 had not been here, we'd have to start this case all over and
4 everything that we've done on Monday and Tuesday to get this
5 case ready for trial would be thrown away, we'd have to start
6 it from scratch. So you all gave me the piece of mind knowing
7 that we weren't going to have to do that because you were here
8 ready and willing to serve, and I appreciate that. I wish that
9 you had a chance to go ahead and deliberate because I know that
10 you would be able to add a whole lot to those discussions in
11 there, but now you can just make up your own mind on your own
12 without having to get anybody else to agree with you in this
13 particular case, and you can sit and wait and see what the jury
14 does in this case and can decide if you agree with that or not
15 looking at it from the outside, so that's luxury that you all
16 have. You are free to talk about this case now if you want to
17 with anybody, those restrictions don't apply to you anymore.
18 You are free to go and you will get a check in the mail
19 sometime. I don't know how long it takes, but it won't take a
20 whole lot of time. If you happen to need a juror slip, tell
21 them right away if you need to get that from the Clerk's
22 office. You've earned an exemption which will not require you
23 to serve as a juror for the next three years until you get
24 called, but if you do get called and if you don't want to
25 serve, just tell them, in August of 2022 you served and you had

Question of Jury

1 your fill of it for a while and you'd like somebody else to
2 serve. Thank you, folks, for what you've done this week.
3 You're free to go. Everything is there in order?

4 THE CLERK: Yes, sir.

5 MR. HOLFORD: Yes, Your Honor.

6 THE COURT: Okay. If you'll take that in and tell
7 the jury they can start their deliberations. Thank you, folks,
8 gentlemen, I appreciate the way that all of you have tried this
9 case. When it's free of controversy as anything of this
10 seriousness can be without infringing on anything other than
11 complete stability, which you have done throughout and you
12 always are. I appreciate that. It's been a pleasure being the
13 trial judge. It's a luxury when a trial judge gets to try a
14 case when the lawyers know what they're doing. When all I've
15 got to do is sit here in the morning and get to middle of day
16 and say, looks like it's time for lunch, folks, and we'll be
17 back in an hour and a half and then let you all start all over
18 again and come back. I've had that in this case and I
19 appreciate. Let's stand aside until we hear from the jury.

20 MR. FOX: Yes, sir.

21 MR. HOLFORD: Yes, Your Honor.

22 (Recess taken.)

23 (Question of the Jury)

24 THE COURT: It didn't take long, folks, we got a
25 message from the jury. Somebody said: Like to see video,

1 signed by the Forelady. And so I understand that there's a
2 laptop that can be sent in; is that right?

3 MR. HOLFORD: Your Honor, we have the laptop that is
4 blank in the sense that it has no access to internet or our
5 database or any other functions other than playing videos.
6 There is, I believe it has a password that would be written on
7 it. It's a jury laptop that has been used before and there's a
8 DVD drive included in the case with a power cord.

9 THE COURT: Mr. Fox, I'll hear from the defense?

10 MR. FOX: Judge, I have no objection to that. We've
11 definitely used that before. It's there for their use.

12 THE COURT: Good. Can I buy that for my
13 grandchildren, to save them from all the dangers of the
14 internet? Alright, thank you. If you will all send that in
15 and ask them if they have any difficulty activating it, let us
16 know, and we'll send some technician in, or get a small child
17 off the street. Madam, Reporter, if you'll mark this as a
18 Court's Exhibit, please. Thank you.

19 (Court's Exhibit No. 1 was marked for identification.)
20 Alright, folks, that was handled painlessly enough, let's stand
21 down now again. Thank you.

22 (Recess taken.)

23 THE COURT: Madam Court Reporter, mark these as Court
24 Exhibits next.

25

1 (Court's Exhibits Nos. 2 & 3 were marked for
2 identification.)

3 (Question of the Jury)

4 THE COURT: Let the record reflect that we have
5 received two additional notes from the jury, and I have met
6 with counsel in chambers, reviewed these notes with them and we
7 will put it on the record out here noting what we've done back
8 there. Court's Exhibit two is a note that says, I'll read it
9 verbatim: Document report of the month and year Heath turned
10 himself in. We have all agreed that there is no document, no
11 single document that contains all of that information, but the
12 lawyers are all in agreement that the testimony reflects that
13 he turned himself in in May of 2018 and in July of 2018 he was
14 extradited to South Carolina and served with warrants then.

15 The next question: How did you establish that it was
16 Kee-shawn (phonetic)? We assume that they mean Tyshawn -- that
17 it was "Kee-shawn" (phonetic) besides Joe and Heath saying it
18 was him? There is no answer to that question that we can give
19 them. That's what they must decide, and I will simply remind
20 them of what the charges are and that the burden is on the
21 State to satisfy them as the proof of these charges beyond a
22 reasonable doubt and that I cannot comment on the facts, et
23 cetera, and send them back in to continue deliberate. Are we
24 ready for the jury?

25 MR. HOLFORD: Your Honor, if I could, for the record,

1 note objection to telling the jury that evidence in the record,
2 I guess, that there is no document to the first question, but
3 that Heath did turn himself in in May of 2018 and was
4 extradited and served warrants in July of 2018, as the Court
5 has said. The State has no objection to that. The only other
6 thing as to the next question, the State would request that, I
7 believe your charge includes evidence is testimony and other
8 items submitted, so I don't want them to think that they can't
9 rely on testimony, they only have to see the pictures and
10 physical evidence.

11 THE COURT: I'll remind them of that. Okay. Bring
12 us the jury, please.

13 (Jury entered the courtroom at 4:35 p.m.)

14 THE COURT: Ladies and gentlemen of the jury, I've
15 received two questions from you. I have reviewed these
16 questions with counsel, and I will deal with them in the order
17 in which they were received. The first one is: Document
18 report of the month and year Heath turned himself in. There is
19 no single document that contains all of that information,
20 however, the lawyers and I have put our heads together as such
21 and have agreed that the record reflects that Mr. Reeves turned
22 himself in in Philadelphia in May of 2018, and that in July of
23 2018 he was extradited to South Carolina and served with those
24 warrants then. That's all that the record reflects, that's all
25 that's in evidence. I'll remind you again, that you have to

1 confine your decision in this case to the evidence and evidence
2 is the documents, as well as the testimony, all of that is what
3 you take into account in making your decision. That's the best
4 we can do with those two dates. Does everybody understand
5 those two dates? Alright. Thank you.

6 The next question is: How did you establish that it
7 was "Kee-shawn" (phonetic) besides Joe and Heath saying it was
8 him? I take it when you said "Kee-shawn," you're referring to
9 Tyshawn Antwaun Brown; is that correct?

10 THE FORELADY: Yes, sir.

11 THE COURT: Thank you. I have to remind you in
12 responding to that question as to certain things that I went
13 over with you in my instructions to you. First of all, that
14 you are the judges of the facts in this case, and I am the
15 judge of the law. I can't hint to you any opinion that I might
16 feel about the facts. I can't suggest to you what your answer
17 should be and to the questions that are in dispute in this
18 particular case. I remind you, again, as I did in reference to
19 the dates that you were asking for, that you are the judges of
20 the facts in this case. You have to determine the value and
21 the weight and the forcefulness and the effect and the
22 believability and the credibility of the testimony that you've
23 heard from the witness stand and all of those items and those
24 documents that you've taken back in there with you and you've
25 been looking at in one way or the other and going through, all

1 of that is evidence for your consideration. You have to
2 evaluate that, that's your job as jurors, nobody else can do
3 that for you. And I remind you again that the indictment
4 charges Mr. Tyshawn Antwaun Brown with murder on April 24, 2018
5 with wrongfully and intentionally killing Charles Durant with
6 malice aforethought, as I have defined that to you in my
7 charges and that the other indictment charges on the same day
8 that Mr. Brown did on April 24th attempt to kill Winter Parker
9 with the intent to kill her with malice aforethought. Now,
10 those are the charges that the State has brought. The burden
11 of proof is on the State, as I have described that to you and
12 identified that to you, to prove those charges beyond a
13 reasonable doubt, and I've defined that to you, and if I need
14 to re-define, of course, I'll be glad to do it. But that's
15 what this is all about, so in a nutshell, whether or not the
16 State has met its burden of proof or has failed to meet its
17 burden of proof as to the elements of these two charges is up
18 to you to decide and I can't help you with that for the reasons
19 that I've told you. That's quite essentially the jury's job to
20 decide whether or not the State has met its burden of proof, so
21 the answer to that question is, I'm sorry, I'm going to have to
22 dump that one right back on you and ask you to go back and keep
23 on working and try to come up with the answers to those
24 questions. I know you didn't get a complete answer, but at
25 least you understand the answers that I gave you. Okay?

Verdict

1 THE FORELADY: Yes, sir.

2 THE COURT: Thank you, folks. If you'll go back and
3 continue to deliberate and let us know when if we can help you
4 further.

5 (Jury returned to the jury room to continue
6 deliberations at 4:41 p.m.)

7 THE COURT: Any exceptions or requests for additional
8 remarks in regard to those, from the State, Mr. Holford?

9 MR. HOLFORD: No, Your Honor.

10 MR. FOX: No, Your Honor.

11 THE COURT: Thank you, folks. We will continue to
12 wait.

13 (Verdict.)

14 THE COURT: Ladies and gentlemen, we are advised that
15 the jury has reached a verdict. Are both the defense and the
16 State ready to receive the verdict?

17 MR. HOLFORD: Yes, Your Honor.

18 MR. FOX: Yes, Your Honor.

19 THE COURT: Thank you. Ladies and gentlemen, the
20 jury will be brought in and we will receive their verdict.
21 Obviously, at this moment nobody knows exactly what the verdict
22 is going to be, but whatever it is, I understand that one side
23 of the courtroom is going to be disappointed and the other side
24 might be relieved. You all have exercised extreme dignity and
25 restraint on both sides of the courtroom throughout this trial.

1 We expect you, of course, to continue to be as dignified and as
2 restrained after the verdict is announced as you have been
3 during the trial itself. We realize emotions that are charged
4 within a case like this and we understand that it's impossible
5 for you to turn off those emotions entirely. We don't expect
6 that, but we do expect you to restrain your conduct so that you
7 still continue to appreciate the fact that you're in a
8 courtroom where your conduct and restraint is required. If you
9 think that you might have some difficulty keeping yourself
10 under control when the verdict is announced, whatever it is,
11 I'll give you this opportunity to leave the courtroom now,
12 because if you stay here we expect you to abide by the same
13 rules of the Court that you have been abiding by throughout the
14 course of this trial. Does everybody understand that? Okay.
15 You can bring us the jury.

16 (Jury entered the courtroom at 6:10 p.m.)

17 THE COURT: Madam Forelady, members of the jury, I
18 understand that the jury has reached verdicts in the case?

19 THE FORELADY: Yes, we have, Your Honor.

20 THE COURT: Are the verdicts unanimous?

21 THE FORELADY: Yes, Your Honor.

22 THE COURT: Thank you, ma'am. If you'll pass the
23 verdict form forward, please, if you give it to Mr. Ropp and he
24 will give it to me. Madam Clerk, you may publish the verdict.

25 THE CLERK: Indictment number 2020-GS-26-01652, and

Polling of Jury

1 indictment number 2020-GS-26-01654, State of South Carolina,
2 County of Horry, versus Tyshawn Antwaun Brown, we, the jury,
3 unanimously find the defendant, Tyshawn Antwaun Brown, as to
4 the charge of murder, guilty. We, the jury, unanimously find
5 the defendant, Tyshawn Antwaun Brown, as to the charge of
6 attempted murder, guilty. Signed by Foreperson Christine Cox,
7 August 11, 2022.

8 THE COURT: Ladies and gentlemen, if this is the
9 verdict of each of you, would you indicate it, please, by
10 raising your right hand? Thank you. All have raised their
11 hands. Does the defense wish a polling of the jury?

12 MR. FOX: Yes, Your Honor.

13 THE COURT: Ladies and gentlemen, you are going to be
14 polled now by your number. Your number will be called and the
15 Clerk will ask you, was this your verdict and is this still
16 your verdict, and you'll give the appropriate response,
17 whatever it is. You will simply respond to your number in that
18 way.

19 (Polling of Jury)

20 THE CLERK: Please stand. When I call your number, I
21 will ask you two questions, after you answer them, please be
22 seated. Juror number 70, is this your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Is this still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror number 18. Is this your verdict?
2 THE JUROR: Yes.
3 THE CLERK: Is it still your verdict?
4 THE JUROR: Yes.
5 THE CLERK: Juror number 46. Is this your verdict?
6 THE JUROR: Yes.
7 THE CLERK: Is it still your verdict?
8 THE JUROR: Yes.
9 THE CLERK: Juror number 372. Is this your verdict?
10 THE JUROR: Yes.
11 THE CLERK: Is this still your verdict?
12 THE JUROR: Yes.
13 THE CLERK: Juror number 360. Is this your verdict?
14 THE JUROR: Yes.
15 THE CLERK: Is it still your verdict?
16 THE JUROR: Yes.
17 THE CLERK: Juror number 298. Is this your verdict?
18 THE JUROR: Yes.
19 THE CLERK: Is this still your verdict?
20 THE JUROR: Yes.
21 THE CLERK: Juror number 350. Is this your verdict?
22 THE JUROR: Yes.
23 THE CLERK: Is this still your verdict?
24 THE JUROR: Yes.
25 THE CLERK: Juror number 203. Is this your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Is this still your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Juror number 330. Is this your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is this still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Juror number 238. Is this your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Is this still your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Juror number 317. Is this your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Is this still your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Juror number 49. Is this your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Is this still your verdict?

19 THE JUROR: Yes.

20 THE COURT: Thank you. Is there anything further

21 before the jury is dismissed, from the defense?

22 MR. FOX: No, Your Honor.

23 THE COURT: Thank you. Ladies and gentlemen, I want

24 to thank you very much for your service throughout the trial

25 that you've been with us now for the whole week, one way or the

1 other. I can only repeat what I've told you earlier, and I
2 won't belabor the point, that you have been a wonderful jury to
3 work with. I comment on the quality of your service, you've
4 been on time, you've been patient, and you've been thoughtful
5 in deliberating. You did not rush to judgment in this case,
6 you took your time and you discussed the issues among
7 yourselves and you have thoughtfully considered the issues
8 recognizing their importance, and that's what we ask jurors to
9 do, and that's what you have done, and we thank you for that.
10 You are free now if you wish to to talk to anybody that you
11 want to about this case. The restrictions that I've been
12 imposing upon you throughout the trial obviously no longer
13 apply. So if someone should ask you about this case or if you
14 should care to discuss it with someone, you have every right to
15 do that. If someone should try to discuss this with you
16 however, and if you don't care to discuss it, you don't have
17 to. Tell them you that don't care to discuss it and that will
18 end the matter right there, but if some reason it doesn't, I
19 don't think that will happen, but if for some reason it doesn't
20 and they persist to question you after you've made it clear
21 that you don't want to talk about it, find out who they are,
22 please, let the clerk's office know, and we will respond to
23 that. I don't think you need to anticipate anything like that,
24 but I want to let you know there is recourse if you do. In the
25 final analysis, ladies and gentlemen, you only have to answer

1 to your own conscience for the decisions that you have made in
2 this particular case. I've heard everything that you've heard
3 and I've listened as you have listened, and I can tell you that
4 you don't have any need to fear your conscience for the
5 decisions that you have made in this particular case. I'm
6 going to let you go now. You will follow Mr. Ropp and the
7 deputies and you will be in their charge and they will see you
8 safely to your cars, of course. You will get a check in the
9 mail some time in the next couple of weeks, it's not going to
10 begin to pay you for the time that you have spent with us, and
11 more importantly than that, for the emotion that you have
12 invested in this case and in the decision that you have
13 reached. You are a taxpayer here in Horry County and you
14 probably know what your taxes are already and if we had to pay
15 people like you the real value that you render to the court
16 system, your taxes would even be higher. So we don't want
17 professional jurors to decide this case, or any case, we want
18 folks like you and you've given us that quality of service and
19 we thank you very much for that. You have gained an exemption
20 and you don't have to serve as a juror for the next three
21 years. If you should get called as a juror within that period
22 of time and if you don't care to serve, just tell them that in
23 August 2022 you served and you don't care to serve anymore
24 until your time is up again. I still have matters to deal with
25 here that do not require your presence, and I'm going to let

1 you go. If you need to contact me in the future with any
2 questions about your jury service, any comments about your jury
3 service, the clerk has my contact information and they can give
4 that to you if you wish to do that. I doubt that you'd want to
5 do that. When you leave here you probably want to get rid of
6 this case and don't think about it for a long time, and that's
7 understandable, but if you have comments or questions that you
8 think that can help us make the system better than it is, share
9 those with us and we'd be glad to try to put them into effect.
10 Thank you very much, ladies and gentlemen. It's been my
11 pleasure working with you. You're free to go. Follow Mr. Ropp
12 and the deputies and they'll help you out, have a safe trip
13 home.

14 (Jury exited the courtroom.)

15 THE COURT: Mr. Fox, I'll be glad now to hear
16 additional motions from the defense.

17 MR. FOX: Thank you, Your Honor. At this time we'd
18 renew all previous motions made during the trial, as well as
19 before, and renew our motion for directed verdict and with
20 particularity with argued that it was error for the Court to
21 allow any testimony about any gang activity or gang affiliation
22 that we feel may have improperly influenced the jury and allow
23 them to render a verdict based on emotion and reaction to that
24 rather than the evidence. We would ask for directed verdict
25 and a new trial be granted.

Post-Trial Motions

1 THE COURT: Thank you, sir. I will renew my earlier
2 rulings on those motions, and in regard to the gang issue, of
3 course, what we've dealt with in some detail before the trial
4 began, I think the testimony that came out regarding the
5 motivation behind the shooting, and at least as it was alleged
6 to have been, was handled in such a way as not to be
7 repetitive, quiet frankly, there were only passing references
8 to it, and on the balancing of that in the 403(b) analysis, I
9 think that the way that it was handled was in such a way not to
10 prejudice these proceedings, and so I simply renew my rulings
11 based on that, as well. Thank you. Is the State ready to
12 proceed to the matter of sentencing?

13 MR. HOLFORD: Yes, Your Honor.

14 THE COURT: Is the defense ready?

15 MR. FOX: Yes, sir.

16 MR. HOLFORD: Your Honor, I do have the two sentence
17 sheets. As the Court is fully aware, murder carries 30 years
18 up to life as the day for day, not parolable, offense of
19 violent most serious. Attempted murder is up to 30 years,
20 violent most serious and no parole offense, as well. May I
21 approach? Your Honor, I had said a lot during this trial, you
22 also heard from Winter Parker during the trial and we've heard
23 the evidence. I will say that the defendant's record from 2011
24 includes an assault and battery first degree; a 2012 possession
25 of less than one gram of methamphetamine or cocaine base, it's

1 not clear which one, a 2012 unlawful carrying of a pistol and a
2 2015 reckless homicide resulting in death within three years.
3 That conviction shows the ten-year sentence suspended to five
4 years. Your Honor, that is the balance of the defendant's
5 record. I would like the Court to hear from, obviously, there
6 have been a number of family and friends here. The parents, if
7 they'd like to be heard, Charles and Wilmetria Durant have been
8 present today. They've been present at every single bond
9 hearing that we've had, any motions, and they've always been
10 here. I would like you to hear from the them, as Mr. Durant
11 himself was a 20-year-old man when he was taken from their
12 lives.

13 THE COURT: I'll be glad to hear from any of the
14 family members that wish to be heard.

15 MR. HOLFORD: And Your Honor, I didn't mean to limit
16 it to them. I believe that Ms. Parker would also like to
17 address Your Honor in regard to sentencing and possibly her
18 mother.

19 THE COURT: I didn't consider it to be limiting,
20 however, thank you.

21 MR. HOLFORD: Yes, sir.

22 THE COURT: Yes, sir, Mr. Durant?

23 MR. DURANT: Yes, sir.

24 THE COURT: Mr. Durant, I'll be glad to hear from
25 you.

1 MR. DURANT: Your Honor, its been a long road. Its
2 been four and a half years, you know, since we finally got some
3 closure. We started healing. I know we can't get our son
4 back, you know, and that's life for me, but I'm glad the jury
5 came back with a guilty verdict and I pray that you find in
6 your heart that Mr. Tyshawn stays in prison for life because he
7 don't deserve to be on the streets, because I don't have my son
8 so he shouldn't have his freedom, and I pray that you just do
9 the right thing.

10 THE COURT: Thank you, Mr. Durant.

11 MR. DURANT: Thank you.

12 MR. HOLFORD: Your Honor, Ms. Winter Parker.

13 THE COURT: Yes, ma'am, Ms. Parker?

14 MS. PARKER: The last four years of my life have been
15 the hardest years in my life. Since 2018 I've struggled with
16 severe anxiety, I've struggled with severe mental issues and I
17 had to overcome them on my own because nobody else understood
18 what I was going through and it was so hard for me, and to hear
19 the verdict today, it ruled in our favor, it just, it felt like
20 a weight lifted off of my shoulder. I'm just thankful for the
21 lawyers, for the Solicitor that cares so much about this case
22 and kept in contact with me over the years. Honestly, I don't
23 even know what to say. I had a whole speech for you now that I
24 wanted to say, but I'm so overwhelmed with emotion right now
25 because its just been very hard for me. Whatever you find in

1 your heart to sentence him with today, I just hope that God
2 leads you in your decision and may God have mercy on his soul.

3 THE COURT: Thank you, Ms. Parker.

4 MR. HOLFORD: Your Honor, Ms. Parker, Winter's
5 mother.

6 THE COURT: Ms. Parker?

7 MS. PARKER: I thank you, for the jurors, for the
8 attorneys, for seeing this in our favor because these four
9 years has been devastating to me. When my daughter with so
10 much anxiety, PTSD, these mental issues that she has been
11 dealing with, and it takes a toll on me, me being a single
12 parent and doing this and the love that I had for both was
13 truly out of this world. He was such a kind soul and for him
14 to take his life, senseless, I just pray that you find in your
15 heart that you do what is right --

16 THE COURT: Thank you, ma'am.

17 MS. PARKER: -- because he doesn't need to be on the
18 streets and to cause no harm to anybody like that. That's a
19 menace to society to me and I just hope you find it in your
20 heart to honor those things. Thank you.

21 THE COURT: Thank you, ma'am. Anything else, Mr.
22 Holford?

23 MR. HOLFORD: Your Honor, you've heard my
24 presentation, and that's enough from me. Thank you. Your
25 Honor, I apologize, I cut it short.

1 Mable Brown, I believe, wishes to address Your Honor and I'm
2 not sure about Mr. Brown.

3 THE COURT: I'll be glad to hear from you, Ms. Brown
4 or from anybody else on his behalf. Ms. Brown?

5 MS. BROWN: Hello. I'm Tyshawn Brown's mother and
6 I'm sorry what happened. I didn't expect this outcome and I'm
7 asking you all guys, please forgive him and find in your heart
8 to please forgive him and I was a single mother. I raised him
9 the best that I know how and we always been to church and he
10 was an usher and he's played football and he was a comedian,
11 but I never thought that he would do such things like this, but
12 I know he know right from wrong, but you know, since me and his
13 dad separated and then it was so hard for him to get back up
14 again, but I am so sorry what happened. Please forgive him,
15 please. Have mercy on him, please. I miss him so much. I
16 miss him so much.

17 THE COURT: Thank you, Ms. Brown.

18 MR. BROWN: I'm an honorable Army Veteran here to
19 support my brother. I watched him grow up since a little boy
20 always trying to do the best he could and be a good person.
21 I'm sorry for the family's loss, but this loss for us is just
22 as heavy. I don't think he had that in him to do something
23 like that, but I respect the courtroom, you all made a
24 decision. We have to live with it, all of us. I don't even
25 know how to live without a brother anymore, but I love you.

1 THE DEFENDANT: Love you, too.

2 MR. BROWN: Stay strong, stay vigilant, stay
3 positive. Don't let nobody take you out of your character.
4 You know we're always here.

5 THE DEFENDANT: Yeah.

6 THE COURT: Thank you, Mr. Brown.

7 MS. BROWN: Love you.

8 THE DEFENDANT: I love you, brother.

9 THE COURT: Mr. Brown, do you want to add anything to
10 what has been said on your behalf?

11 THE DEFENDANT: I'm going to just say, I mean, I'm
12 going to just say, I'm sorry for the family's loss. I'm
13 innocent, I didn't commit these crimes, but I'm sorry, I'm
14 still sorry for your all loss, but I never committed none of
15 these crimes.

16 THE COURT: Thank you, sir. Mr. Fox, anything
17 further?

18 MR. FOX: No, Your Honor.

19 THE COURT: Thank you. Thank you for your patience,
20 folks. There is not a whole lot that I can say I think to add
21 to the seriousness, the sadness and the loss of what we've been
22 hearing for two days in this courtroom already. I don't think
23 I can do anything to make it any worse than it already is and
24 certainly I can't do anything to make it any better. I simply
25 responded to the facts as they have been outlined in this

1 courtroom from the testimony of the witnesses here. All
2 killings are senseless by definition, murders are senseless.
3 Some seem to be more senseless than others. Some have levels
4 of cruelty or disregard for human life than others do and our
5 general assembly has spoken its opinion on how these things
6 should be handled, up to 30 years for the attempt to kill
7 someone with malice aforethought, and from 30 years to life
8 imprisonment for the actual killing. Here, except for, I don't
9 know whether it was a deflected bullet or just happened stance,
10 except for that we would be looking at two murders here today.
11 If the motivation given to these crimes was such as it was
12 purported to be from some of the witnesses, then that seems
13 even to add to the senselessness of these particular acts.
14 There was no gain, there was no money, there was no drugs being
15 stolen or property being taken, there was no revenge, no
16 hatred, none of the things that sometimes seem to attach
17 themselves to crimes like this, they were all absent in this
18 particular case, and so the senselessness of this, obviously,
19 is something that I take into account in deciding how it needs
20 to be addressed and the message that needs to go out as a
21 result. I recognize that there are victims on both sides. One
22 side has lost a son and one has been injured and the other
23 side, the family, Mr. Brown's family, they're victims, too.
24 They are innocent in all of this, they didn't do anything to
25 bring this on themselves, but now they are about to lose a son.

1 That's the tragedy of things like this. I wish there were
2 other ways that our society could figure out to stop these
3 things before they get to this level, but we deal with what we
4 have.

5 Mr. Brown, on the charge of murder, the sentence will
6 be that you committed to the State Department of Corrections
7 for the balance of your natural life. For the charge of
8 attempted murder, you will be committed to the State Department
9 of Corrections for a period of 30 years. These sentence will
10 run concurrent to each other and you'll get credit for the time
11 that you've already served. Thank you.

12 MR. HOLFORD: Thank you, Your Honor.

13 THE COURT: Thank you all. Folks, we'll stand aside
14 in this case. I believe that completes the work for the week,
15 is that right, Mr. Holford?

16 MR. HOLFORD: That's correct, Your Honor.

17 THE COURT: Thank you, gentlemen, for the way you
18 conducted yourselves throughout the trial of this case. I
19 appreciate that. This court is adjourned.

20 MR. HOLFORD: Thank you.

21 MR. FOX: Thank you, Your Honor.

22 (Trial concluded Wednesday, August 10, 2022)

23

24

25

1 CERTIFICATE

2 STATE OF SOUTH CAROLINA

3 COUNTY OF HORRY

4 I, Julie A. Kevish, Official Court Reporter for the State
5 of South Carolina, do hereby certify that the foregoing is a
6 true, accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the Court of General
8 Sessions for Horry County, South Carolina, on the 10th day of
9 August, 2022.

10 I do further certify that I am neither of kin,
11 counsel, nor interest to any party hereto.

12

13

August 10, 2022

14

15

Julie Kevish

16

JULIE A. KEVISH
OFFICIAL COURT REPORTER

17

18

19

20

21

22

23

24

25

DOCKET NO. 2020GS2601652

The State of South Carolina
County of Horry

Joshua D. Helford 20H00825

COURT OF GENERAL SESSIONS

May 2020 TERM

THE STATE

vs.

Tyshawn Antwaun Brown
B / M

DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: J. Eric Fox

Indictment for

MURDER

Jimmy A. Richardson, II, Solicitor

WITNESSES

Ernie M Hardwick Horry County Police
Department

Jonathan Baker

ARREST WARRANT NUMBER

2018A2610201046
CDR: 0116 16-03-0010, 0020
DOA: 2/16/2020

ACTION OF GRAND JURY

JUN 17 2020

Mr. [Signature]
Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury
Date:

FILED

2020 JUN 30 AM 10: 26

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

RECEIVED

AUG 19 2022

SC Court of Appeals

ORIGINAL

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2020 JUN 17 10:00 AM

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

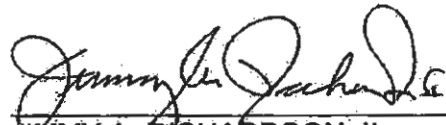
At a Court of General Sessions, convened on May 20, 2020, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Tyshawn Antwaun Brown did in Horry County, on or about April 24, 2018, willfully, feloniously, and intentionally kill the victim, Charles Durant, with malice aforethought, either express or implied, by means of a gunshot wound, and the victim did die as a proximate result thereof on or about April 24, 2018 in Horry County, in violation of Section 16-03-0010, 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DEFINITION-COPY X

FILED

2020 JUN 30 AM 10: 26

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

RECEIVED

AUG 19 2022

SC Court of Appeals

DOCKET NO. 2020GS2601654

The State of South Carolina
County of Horry

Joshua D. Holford 20H00825

COURT OF GENERAL SESSIONS

May 2020 TERM

THE STATE

vs.

Tyshawn Antwaun Brown
B/M

[REDACTED]
DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: J. Eric Fox

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

ORIGINAL

WITNESSES

Emilie M Hardwick Horry County Police
Department

Jonathan Beake

ARREST WARRANT NUMBER

2018A2610201163
CDR: 3410 18-03-0029
DOA: 2/16/2020

ACTION OF GRAND JURY

JUN 17 2020

M. S. and TRUE BILL

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

)
)
)

INDICTMENT

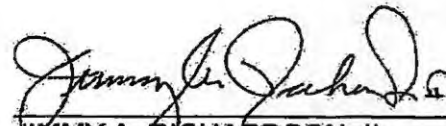
At a Court of General Sessions, convened on May 20, 2020, the Grand Jurors of Horry County present upon their oath:

ATTEMPTED MURDER

CDR: 3410 16-03-0029

That Tyshawn Antwaun Brown did in Horry County on or about April 24, 2018 with intent to kill Winter Parker, attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DUPLICATE COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry

STATE

VS.

INDICTMENT/CASE#: 2020GS2601652

Tyshawn Antwaun Brown

A/W#: 2018A2610201046

AKA: _____

Date of Offense: 4/24/2018

Race: BLACK Sex: M Age: 28

S.C. Code §: 16-03-0010, 0020

DOB: _____ SS#: _____

CDR Code #: 0116

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

RECEIVED
SENTENCE SHEET

AUG 19 2022

SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Murder (30 years - LIFE)

In violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
* NO PAROLE (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:

[Handwritten Signature]

SCB80071

Holford, Joshua D. SC Bar # _____ Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,

for a determinate term of NO Life Imprisonment days/months/years Time Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: Attempted Murder

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. _____ days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-30 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

RENEE NELVIS
CLERK OF COURT
HORRY COUNTY, SC
FILED
AUG 19 P 7:13
HORRY COUNTY

STATE VS. Tyshawn Antwaun Brown INDICTMENT/CASE#: 2020GS2601652

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____

Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: _____

FILED
 HORRY COUNTY
 2022 AUG 10 P 1:13
 RENE E. ELVIS
 CLERK OF COURT
 HORRY COUNTY SC

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

	\$	
§14-1-206	\$108	
§14-1-211(A)(1)	\$108	
§14-1-211(A)(2)	\$216	
§56-5-2995	\$25	
§56-1-286	\$25	
§14-1-212	\$150	
§14-1-213	\$41	
§34-11-70(b)and(c), and 34-11-90(c)and(d)	\$50	
§50-21-114	\$40/ea	
§56-5-2942(J)	TBD	
3% to County	\$500	
Appointed PD	TBD	
Unpaid Application Fee	TBD	
TOTAL	\$	

Clerk of Court/ Deputy Clerk: Renee Elvis
Court Reporter: Julie Kewish

Presiding Judge: _____
Judge Code: _____
Sentence Date: 8/10/22

STATE OF SOUTH CAROLINA

COUNTY OF Horry

STATE

VS.

Tyshawn Antwaun Brown

AKA: _____
Race: BLACK Sex: M Age: 28
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2601654

AW#: 2018A2610201163

Date of Offense: 4/24/2018

S.C. Code §: 16-03-0029

CDR Code #: 3410

RECEIVED

SENTENCED AUG 10 2022

SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Murder/ Attempted Murder (0-30 years)

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
+ No PAROLE (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:  SCB80071

Halford, Joshua D. SC Bar # _____ Defendant SC Bar# _____

WHEREFORE the Defendant is committed to the State Department of Correction, County Detention Center,

for a determinate term of 30 days/months/years/Time Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment •

of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: Murder Charge

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-60 to be calculated and applied by SCDOC. _____ days/months

To include time spent on monitored house arrest prior to trial and sentencing
 The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

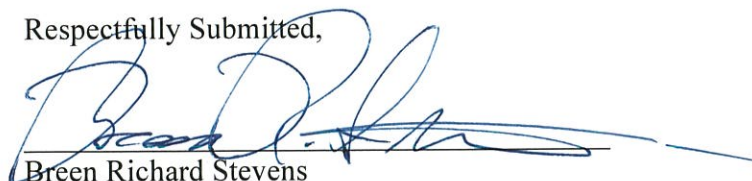
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HORRY COUNTY SC
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HORRY COUNTY
AUG 10 2022
7:14
RENEE N. LAVIS
CLERK OF COURT
HORRY COUNTY SC

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 24 2023****SC Court of Appeals**

Respectfully Submitted,



Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 24th day of April, 2023.

RECEIVED

Apr 24 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Thomas W. Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYSHAWN ANTWAUN BROWN,

APPELLANT

APPELLATE CASE NO. 2022-001171

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Tyshawn Antwaun Brown, #350764, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 24th day of April, 2023.



Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

From: [Stock, Chris](#)
To: [SC - BROWN MELODY; Angela Brown](#)
Cc: [Stevens, Breen](#)
Subject: Brown, Tyshawn - Anders Brief of Appellant, Record on Appeal and Proposed Transportation Order - 2022-001171
Date: Monday, April 24, 2023 4:21:00 PM
Attachments: [Brown, Tyshawn - Record on Appeal - 2022-001171.pdf](#)
[Brown, Tyshawn - Proposed Transportation Order - 2022-001171.pdf](#)
[Brown, Tyshawn - Anders Brief of Appellant - 2022-001171.pdf](#)
[Brown, Tyshawn - Anders Brief of Appellant - 2022-001171 - AG Cover Letter.pdf](#)

Ms. Brown,

Please find attached for service the Anders Brief of Appellant, Designation of Matter, Record on Appeal and Proposed Transportation Order for Tyshawn Antwaun Brown's appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock
Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330