

STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of General Sessions
The Honorable Maite Murphy

Case No.: 2022-001254

State of South Carolina,

Respondent

vs.

Derrick Tyler Mills,

Appellant

APPENDIX

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STATE OF SOUTH CAROLINA

VOLUME II OF II

In the Court of Appeals

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The Honorable Maite Murphy

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Sep 21 2020

SC Court of Appeals

Case No.: 2019-000926

State of South Carolina,

Respondent,

vs.

Derrick Tyler Mills,

Appellant.

RECORD ON APPEAL

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1 A -- I had a supervisor I knew right behind me and
2 other deputies also right behind me. And I waited for the
3 supervisor to get there, and EMS had already been called.

4 Q All right. EMS had been called, but were they there?

5 A No, sir.

6 Q All right. So you secured the area --

7 A Yes, sir.

8 Q And as part of that, would you have allowed people to
9 tamper with the crime scene?

10 A No, sir. Okay. I wouldn't let them go up near it.

11 Q All right. And so at the point where you got there,
12 you -- you secured it and it stayed secure from there on
13 out --

14 A Yes, sir.

15 Q -- until just -- everything was done?

16 A Everyone that went up there was a authorized person
17 with a purpose. Not just people looking and -- and seeing
18 what's going on.

19 Q Other than medical and investigation, you kept
20 everybody out?

21 A Yes, sir.

22 Q All right. And you talked about the -- the -- the
23 way the crime scene -- I'd like to show you -- and show
24 you State's 10, 11, 12, and 13. (Hands photos to the
25 witness) Can you take a look at those?

1 (The witness complies.)

2 Q And you recognized those?

3 A Yes, sir.

4 Q And what is that?

5 A That is the crime scene. That's where the victim was
6 laying in the yard there.

7 Q All right. And obviously there's evidence markers?

8 A Yes, sir.

9 Q But other than the evidence markers, is anything
10 changed from when you first walked up?

11 A One of those pictures is by the car, but the back
12 gate open. It wasn't there when I got there.

13 Q Well, do you recall the -- the victim's car being
14 there?

15 A Yes, sir.

16 Q Is -- is that the victim's car?

17 A Yes, sir.

18 Q Okay. So other than the evidence markers, the yellow
19 evidence markers, is this substantially accurate, show
20 what was the condition when you showed up?

21 A It is, sir.

22 MR. LUPTON: Your Honor, move 10, 11, 12, and 13 into
23 evidence.

24 THE COURT: Any objection?

25 MR. STEVENS: Not from Derrick Mills, Judge.

1 MR. FARLEY: Not from Quintin Mills, Your Honor.

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

3 (Marked State's Exhibit Nos. 10, 11, 12, and 13,
4 photos, in evidence.)

5 Q And -- all right. And you talked about securing the
6 area and looking around for evidence. As part of that,
7 were you looking for any firearms that might be on the
8 ground?

9 A I was looking for anything pertaining to the crime
10 that I perceived had -- had occurred. Firearms, a
11 suspect, blood, thinking maybe that the person that had
12 committed the crime may have also been injured. I was
13 looking for blood trails leaving there, and I was looking
14 for firearms that may have been discarded. And --

15 Q Okay --

16 A -- just typical securing the area and -- and looking
17 for evidence.

18 Q All right. So one of the things you would have noted
19 was if you had seen any firearms present?

20 A I -- I feel ---

21 MR. STEVENS: Objection. Leading.

22 THE COURT: Please rephrase.

23 MR. LUPTON: Okay.

24 Q You -- you stated you looked for evidence.

25 A Uh-huh.

1 Q Wouldn't firearms be evidence?

2 A A firearm would definitely be evidence, and something
3 that I would have needed to bring to the attention of my
4 supervisor who arrived right behind me; and get an
5 evidence marker out there and get it recorded. And I feel
6 sure that I would have found it if it had been in that
7 yard or at the edge of that yard or behind that old house.

8 Q And did you find any firearms that were --

9 A I did not.

10 Q -- that were visible?

11 A No, sir.

12 MR. LUPTON: Beg the Court's indulgence.

13 (Brief pause.)

14 MR. LUPTON: Nothing further, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MR. STEVENS:

18 Q How you doing today, Deputy Herron?

19 A I'm good. Thank you, sir.

20 Q Very well. My name's Breen Stevens and I represent
21 Derrick Mills in this matter. I'm just going to ask you a
22 few questions starting with the night of December 13,
23 2014, okay?

24 Now, when the Government was asking you questions,
25 the Prosecutor was asking, they said you got a call around

1 6:40 p.m. about the incident on the radio, right?

2 A I don't remember the exact times. I know that it was
3 dark already and -- and that I had got off. I -- I worked
4 a different shift than most of them did --

5 Q Okay.

6 A -- so I was -- the way I was working.

7 Q Okay. Well, we'll just start. The answer you gave
8 the prosecutor was, "Yes. It was approximately 6:40 p.m."
9 correct?

10 A Yes, sir. It's very possible.

11 Q Okay.

12 A I'm guesstimating on that.

13 Q I gotcha. Would it help to refresh your recollection
14 a little bit if I showed you your incident report on the
15 matter?

16 A It might would.

17 MR. STEVENS: May I approach, Judge?

18 THE COURT: Yes, sir.

19 MR. STEVENS: Thank you, ma'am.

20 Q (Hands document to the witness.) There you go,
21 Richard.

22 A Thank you.

23 Q And my reading of this is -- take your time. I'm
24 sorry. I don't want to rush you.

25 A Not a problem, sir.

1 Q Okay. Now, my understanding is this part here
2 (indicates), that's the estimated time when the incident
3 may have occurred. But over here (indicates), it actually
4 shows the date and about the time from when y'all would've
5 responded. Would that have -- is that an accurate
6 statement -- or responded to the call, under "Duration"
7 over here, when you're specifically dispatched out?

8 A Correct.

9 Q Okay. So that's roughly -- and -- and I'm sorry.
10 This is in military time, right?

11 A Yes, sir.

12 Q So they don't say "6 p.m. or 6:40 p.m." It's 18:00
13 hours or 18:40 or 18:43 or whatnot, right?

14 A Correct.

15 Q Okay. And you'd agree that even though it's in
16 military time, that's -- from what you confirmed before to
17 the Prosecutor, to be around 6:40 p.m., a little after,
18 you were dispatching there?

19 A Yes, sir. That's --

20 Q You were dispatched?

21 A -- when the call came out from Dispatch.

22 Q Okay. And the approximate time of the incident was
23 from 18:30 to 18:41, sometime in that range?

24 A Correct.

25 Q Okay. Translation for the rest of us civilian folk,

1 at least from when I was in the military, I would convert
2 that to 6:30 to 6:41 p.m.?

3 A Correct.

4 Q Okay. And again, that's the estimated time of the
5 incident itself, right?

6 A Right.

7 Q Okay. Now, you said you were familiar with the area,
8 right?

9 A Yes, sir.

10 Q Okay. And so you did what any good deputy would do,
11 you responded, right?

12 A Yes, sir.

13 Q Excellent. Now, I understand that the Prosecution
14 jumped straight to the incident location of Sugar Hill
15 when they questioned you; but from what you wrote in your
16 report, it wasn't the first stop you made, right?

17 MR. LUPTON: Your Honor, can we approach?

18 THE COURT: Yes, sir.

19 (Bench conference.)

20 Q Deputy Herron, can I see that, please?

21 A Uh-huh.

22 Q I appreciate it.

23 (The witness hands a document to Mr. Stevens.)

24

25 (Bench conference continues.)

1 Q (Hands document to the witness.) Here you go,
2 Richard.

3 Okay. If we look at that report, your name is at the
4 very bottom of the report, correct?

5 A Uh-huh.

6 Q Okay. And then it's listed under "reporting
7 officers," correct?

8 A Uh-huh. Yes, sir.

9 Q Okay. Were you one of the reporting officers for
10 that report?

11 A Yes, sir.

12 Q Okay. Thank you, sir. Now, when we look at --

13 MR. LUPTON: Your Honor, if he wants to clarify
14 whether or not this officer wrote that report ...

15 THE COURT: Well, I think it would -- the next
16 question will depend on whether or not he wrote it, and he
17 can certainly ask what -- you said he was one of the
18 officers on the report, not specific language in the
19 report. If there's a specific language that you're
20 questioning on, obviously, he can ask him specifically.

21 MR. STEVENS: Yes, ma'am.

22 CROSS-EXAMINATION

23 BY MR. STEVENS:

24 Q Richard, did you specifically type that report?

25 A Negative, sir.

1 Q No. But you are one of the reporting officers for
2 that specific report, correct?

3 A I am, sir.

4 Q Okay. So you do have knowledge about that report --

5 A Yes, sir.

6 Q Correct?

7 THE COURT: Yes, sir.

8 MR. STEVENS: Thank you.

9 Q So if we examine the report about which you have
10 knowledge and about which you are a reporting officer,
11 when we look at it, it says that the first place you went
12 to and stopped at would've been 269 Sugar Hill Lane; is
13 that accurate?

14 A Uh-uh. That's where my supervisor stopped.

15 Q Okay. So he's the one who stopped there first --

16 A Correct.

17 Q -- before he made his way to Sugar Hill Lane?

18 A Up -- up to --

19 Q I'm sorry. Up to --

20 A -- Falcon --

21 Q -- Falcon Lane, 116 Falcon Lane.

22 A Right.

23 Q Okay. Good enough. And then he met you up there,
24 like you said, shortly after?

25 A He was -- just shortly -- he was -- he was pulling

1 into 269 when I was pulling into the driveway of Falcon
2 Lane --

3 Q Okay.

4 A -- according to what I heard on the radio.

5 Q Okay.

6 A He told everybody else to turn their lights --

7 Q Okay.

8 A -- and sirens off. Yeah.

9 Q So to your knowledge, he was meeting with folks down
10 there while you went up to the lane --

11 A Yes.

12 Q -- or up to the scene?

13 A Yes, sir.

14 Q Fantastic. Okay. Well, let's talk about what you
15 did when you were up there, okay, at Falcon Hill -- I'm
16 sorry -- at Falcon Lane. Now, you said you saw Mr. Brown
17 on the ground?

18 A I saw a body on the ground. Yes, sir.

19 Q Right. You didn't know exactly who it was, right?

20 A Correct.

21 Q And --

22 MR. STEVENS: If I may approach, Judge?

23 THE COURT: Yes, sir.

24 Q Okay. (Indicates) I'm showing you Court's Exhibit
25 No. -- I'm sorry, State's Exhibit No. 12, and that's an

1 accurate reflection of the condition of the body when you
2 saw it, correct?

3 A Yes, sir.

4 Q Okay. And you'd agree that that body is laying on
5 it's back, correct?

6 A The body is -- is laying on -- on its back.

7 Q Right.

8 A With the primary weight on the left shoulder on -- on
9 the right shoulder right here.

10 Q Okay. Thank you, sir. There we go.

11 MR. STEVENS: May I approach to the jury, Judge?

12 THE COURT: You may.

13 Q And when you went up there, you said, first, you
14 parked your car so the lights would be on the area,
15 correct?

16 A On -- on the body.

17 Q The body. Okay.

18 A Headlights on bright, shining across the body.

19 Q Okay. Now, the first thing you do is not to
20 immediately check for signs of life, right?

21 A No, sir.

22 Q Okay. Because you wanted to check the house first?

23 A No, sir. I wanted to secure the people that was
24 there first, to ensure that they were not dangerous to me
25 or other officers.

1 Q Okay. But you secured the area, right?

2 A Then I went and shined my light on the body. And it
3 turned out I would have not the skills to check this body,
4 but I do have the skills to secure the area and --

5 Q Okay.

6 A -- I did so.

7 Q Fair enough. So you checked the area and you secured
8 it, right?

9 A Yes, sir.

10 Q Same thing with the Jeep, right?

11 A Yes, sir.

12 Q Okay. Didn't find anybody in the house?

13 A No, sir.

14 Q Didn't find anybody else in the Jeep?

15 A Correct.

16 Q All right. And you said your supervisor was coming
17 later as well, right?

18 A He was right behind me.

19 Q Right. And that was Captain Trentham?

20 A It was.

21 Q And you observed Captain Trentham then check Mr.
22 Brown's body?

23 A When he came in the yard, I quickly briefed him on
24 what I did and why I had the people standing by my car.

25 He sent me to the driveway to control the people. He went

1 to the body.

2 Q Okay. I understand. Now, just to be clear, you
3 never seized a motorcycle in this case, correct?

4 A I never seized anything, no evidence at all.

5 Q Excellent. Well, not that night, right?

6 A Not that night.

7 Q Okay. So let's talk about your later involvement in
8 this case as well, all right? Because you retrieved a
9 wallet in this case, right?

10 A Yes, sir. Okay. I -- I -- transferred control of a
11 wallet that had been recovered by another county, our
12 adjoining county, Lexington.

13 Q Excellent. And that was not on the night of the
14 incident, right?

15 A No, sir.

16 Q Okay. And so it was about a week later you were able
17 to retrieve it, right?

18 A Correct, sir.

19 Q And like you said, Lexington County deputies?

20 A Yes, sir.

21 Q Because it was previously found in a ditch?

22 A Yes, sir.

23 Q Off 176?

24 A Correct, sir.

25 Q Okay. And now, just to be clear, you didn't

1 personally witness anything that happened during the
2 incident itself?

3 A I did not. I wasn't there, sir.

4 Q That's right. Because you were not present at -- on
5 the hill at 116 Falcon Lane that night, right?

6 A I --

7 Q During the incident.

8 A I was not during the incident.

9 Q There we go. So that means you didn't see what
10 happened immediately before the incident at that location
11 either, right?

12 A No, sir.

13 Q Okay. And that means you didn't even see who was
14 present during the incident, right?

15 A I did not.

16 Q Okay.

17 MR. STEVENS: Court's indulgence.

18 Q Thank you, deputy Herron.

19 MR. STEVENS: No further questions.

20 THE COURT: Cross-examination?

21 MR. FARLEY: Very briefly, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. FARLEY:

24 Q Deputy Herron, you -- you testified earlier that you
25 didn't find any weapons; is that correct?

1 A I --

2 Q Or you found one?

3 A I did not find a weapon.

4 Q You didn't find any weapons?

5 A I did not find any weapons.

6 Q Just the body and the personal affects of what seemed
7 -- what appeared to be the victim's?

8 A What was scattered in the yard there. Okay.

9 Q Right. Thank you.

10 MR. FARLEY: No further questions.

11 THE COURT: Any redirect?

12 MR. LUPTON: No, Your Honor.

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

14 MR. LUPTON: I ask that this witness be excused, Your
15 Honor.

16 THE COURT: Any objection to him being released?

17 MR. FARLEY: No objection from Quintin Mills.

18 MR. LEINENDECKER: None from Derrick Mills.

19 THE COURT: You're free to go. Thank you.

20 (The witness exits the stand.)

21 THE COURT: Ladies and gentlemen of the jury, y'all
22 need a quick restroom break?

23 (No audible response.)

24 THE COURT: All right. Let's take about a quick 15
25 minute break. We'll be right back with you. Again,

1 please remember my previous instruction and do not discuss
2 the case amongst yourselves.

3 (The jury exits at 11:06 a.m.)

4 THE COURT: Again, members of the gallery, nobody
5 moves around until the jury has completely left the
6 courtroom and the door is closed. Everybody needs to
7 remain seated until the jury fully exits the courtroom.
8 Do I make myself clear?

9 (No audible response.)

10 THE COURT: All right. Thank you, everyone. Have --
11 have a nice break. I'll be right back with y'all.

12 (Off the record at 11:07 a.m.)

13 (State's Exhibit No. 17, El Cheapo video, marked for ID.)

14 THE COURT: Parties ready to proceed?

15 MR. LUPTON: State's ready, Your Honor.

16 MR. STEVENS: Ready.

17 MR. FARLEY: Yes, Your Honor.

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

19 (Jury enters at 11:32 a.m.)

20 THE COURT: Welcome back ladies and gentlemen of the
21 jury. We are now ready to proceed.

22 (To Mr. Lupton) You may call your next witness.

23 MR. LUPTON: Your Honor, State calls agent Tiffany
24 Edwards.

25 TIFFANY EDWARDS, having been first

1 duly sworn, testifies as follows:

2 THE CLERK: Please state your full name for the
3 record.

4 THE WITNESS: Tiffany Hezel Edwards.

5 THE CLERK: Thank you, ma'am.

6 THE COURT REPORTER: Can you spell your middle name?

7 THE WITNESS: H-e-z, as in zebra, e-l.

8 THE COURT: Your witness.

9 MR. LUPTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. LUPTON:

12 Q And what were you known back -- as back in December,
13 2014?

14 A I was Special Agent Tiffany Edwards or -- I'm sorry.
15 Tiffany Hezel. That was before I got married.

16 Q Okay. And where did you work?

17 A I was employed with the South Carolina Law
18 Enforcement Division assigned to the Crime Scene Unit.

19 Q All right. And were you a sworn law enforcement
20 officer?

21 A Yes, I was.

22 Q Had you been trained as such?

23 A Yes, I was.

24 Q And were you trained -- did you receive evidence
25 handling training as part of that?

1 A Yes, I did.

2 Q All right. And on Monday December 15, 2014, were you
3 working in that capacity?

4 A Yes, I was.

5 Q What did you do?

6 A On that date, I was asked to attend an autopsy on
7 behalf of Special Agent James Tallon who had a crime
8 scene; and I responded to Newberry County Memorial
9 Hospital for that autopsy.

10 Q And who performed that autopsy?

11 A It would've been Dr. Janice Ross.

12 Q And were you there for the autopsy?

13 A Yes, I was.

14 Q And did you observe her recovering some bullets from
15 the victim's body?

16 A Yes, I did.

17 Q And did she seal those?

18 A Yes.

19 Q And did she turn those over to you?

20 A Yes, via chain of custody.

21 Q All right. And had -- were they sealed at the time
22 they were turned over?

23 A At the time that I re -- I took possession of them
24 from the Newberry pathology staff, they were sealed.

25 Q Would you have accepted them had they not been

1 properly sealed?

2 A No, I would not.

3 Q And once they were sealed, were you or anyone else
4 able to tamper with them?

5 A No.

6 Q Did you or anyone else tamper with them while they
7 were in your custody?

8 A No.

9 Q And what did you do with those?

10 A Upon signing over all of the evidence that was
11 collected at autopsy by the Newberry pathology staff, I
12 transported all of the items back to the SLED forensics
13 laboratory where I then turned them over to Special Agent
14 Tallon via chain of custody.

15 Q All right. And I'll show you what's marked as
16 State's Exhibit 2. (Hands exhibit to the witness) It's in
17 evidence as State's Exhibit 2. Do you recognize that?

18 A This is what the packaging looks like when you
19 receive it from autopsy with the labeling.

20 Q And are those bullets that you would've received?

21 A I would have received them, yes.

22 Q And -- no further questions.

23 THE COURT: Cross-examination?

24 MR. STEVENS: Yes, ma'am. Thank you.

25 CROSS-EXAMINATION

1 BY MR. STEVENS:

2 Q How you doing, Ms. Edwards?

3 A I'm good.

4 Q Thank you for clarifying the matter regarding your
5 last name. My wife appreciates that as well. She went
6 through a similar matter when she was -- changed her name
7 to "Stevens."

8 My name's Breen Stevens. I represent Derrick Mills
9 in the matter. I just want to ask you a couple of brief
10 questions ---

11 A Okay.

12 Q --- if that's all right. First, just right out of
13 the gate, quite obviously on the night of December 13,
14 2014, you were not present when the incident happened at
15 the incident location, right?

16 A I was not.

17 Q Okay. And you didn't see anybody who was there that
18 night, right?

19 A No. I have no knowledge of the actual scene at all.

20 Q Fantastic. Okay. So let's talk about the 15th then.
21 You said you went to Newberry pathology in Newberry County
22 itself?

23 A Correct.

24 Q And you observed the autopsy and then they gave you
25 the sealed items, correct?

1 A Correct.

2 Q One of those groups of sealed items were the bullet
3 fragments?

4 A Correct.

5 Q Okay. There -- and you said there -- indicated there
6 were other items as well that were taken and transported
7 by you?

8 A Yes.

9 Q Okay. So just clothing and items such as that?

10 A Clothing, a yellow metal bracelet. There would've
11 been autopsy specimens to include tubes of blood,
12 vitreous; like, fingernail clippings; and I took post-
13 mortem autopsy face sheets which is protocol.

14 Q Fantastic. And you took those back to SLED, right?

15 A Correct.

16 Q And --

17 A They were taken back to the SLED forensic laboratory
18 and signed over to Special Agent Tallon via chain of
19 custody.

20 Q Excellent. Thank you.

21 MR. STEVENS: No further questions, Judge.

22 THE COURT: Any cross-examination?

23 MR. FARLEY: I don't have any questions for this
24 witness, Your Honor.

25 THE COURT: Any redirect?

1 MR. LUPTON: I ask that she be released, Your Honor.

2 THE COURT: Any objection?

3 MR. FARLEY: No objection from Quintin Mills.

4 MR. STEVENS: None from Derrick Mills, Judge.

5 THE COURT: You're free to go, ma'am.

6 THE WITNESS: Thank you.

7 THE COURT: Thank you.

8 (The witness exits the stand.)

9 THE COURT: You may call your next witness.

10 MR. LUPTON: Call Agent Tallon.

11 JAMES TALLON, having been first duly
12 sworn, testifies as follows:

13 THE CLERK: Please state your full name for the
14 record.

15 THE WITNESS: My name is James Tallon. Tallon, T-a-
16 l-l-o-n.

17 THE CLERK: Thank you, sir.

18 THE COURT: Your witness.

19 MR. LUPTON: Thank you, Your Honor. May it please
20 the Court?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 BY MR. LUPTON:

24 Q Could you tell the jury briefly who you are, where
25 you work, and how you got there?

1 A My name is Agent James Tallon. I am a -- employed
2 with the South Carolina Law Enforcement Division, also
3 known as SLED, and I am assigned to the Crime Scene
4 Department.

5 Q And did you receive training for that?

6 A Yes, sir. In 2009, I attended the South Carolina
7 Criminal Justice Academy; and 2010, I became a detective
8 with the City of Sumter Police Department where I was
9 placed in the Crime Scene Unit there as well.

10 Through that whole time there, which was five years,
11 I spent many hours in classes throughout South Carolina
12 and some out of state in reference to various crime scene
13 areas.

14 Q All right. And were you working at SLED on -- in
15 December, 2014?

16 A Yes, I was.

17 Q Specifically, December 13, 2014, what were you doing
18 that day?

19 A That night, I believe it was, I was called to Calhoun
20 County in reference to a homicide.

21 Q All right. And did you go to a specific location?

22 A Yes, sir.

23 THE WITNESS: May I refer to my notes, Your Honor?

24 THE COURT: Yes, you may.

25 A On December 13, 2014, I was sent to 133 Falcon Lane

1 in Gaston, South Carolina.

2 Q All right. And is that an area you're familiar with?

3 A Only from that night.

4 Q Only from that night. And -- but you did see it that
5 night?

6 A Yes, sir. I was there with several officers.

7 Q All right. And I'll show you what's been marked as
8 -- what's been admitted as State's 10 through 13. See if
9 you recognize those.

10 (Mr. Lupton hands exhibits to the witness.)

11 A Yes, sir. These are photographs from the actual
12 scene.

13 Q Do they correctly and accurately represent what you
14 saw when you got there?

15 A Yes, sir, they do.

16 Q And once you got there -- what happened when you
17 first got there?

18 A Once we arrived on scene, we talked with the local
19 agency and got kind of a idea of what may have happened.
20 At that point, we start taking photographs and locating
21 evidence to collect.

22 Q And do you do anything -- you take photographs and
23 you said "locating evidence"?

24 A Yes, sir.

25 Q Do anything with regards to once you find a piece of

1 evidence?

2 A Once we find the evidence, and -- or what we believe
3 may be evidence, we'll place markers on it, numbered
4 markers or lettered markers, depending on the
5 circumstance. In this case I placed numbered markers --
6 markers.

7 Q All right. And do you do anything to determine the
8 location of those items?

9 A We have a laser measurer that -- it shoots out a
10 laser and it comes back and tells you how far away from a
11 specific point in space you are. And we take measurements
12 using what's called "reference points," which, we'll pick
13 the corner of a house or a light pole or something like
14 that so that if we have to go back and put it back in the
15 scene, we can get a very good general idea of where it was
16 located.

17 Q All right. And I'm guessing you would pick items
18 that aren't likely to move for your reference points?

19 A Yes, sir.

20 Q All right. And as part of that, did you prepare a
21 diagram of the crime scene?

22 A Yes, sir. I did.

23 Q I'll show you what's marked as State's Exhibit 14.

24 (Mr. Lupton hands exhibit to the witness.)

25 Q Do you recognize that?

1 A Yes, sir, that is my diagram.

2 Q All right. And does that fairly and accurately show
3 what you found that night?

4 A Yes, sir.

5 Q Is it to scale?

6 A No, sir.

7 Q Are there place were the measurements are listed?

8 A Yes, sir. The ---

9 Q Show that to ---

10 A --- measurements are on here.

11 Q --- the jury?

12 A It's ---

13 THE COURT: Sorry. Before you show it to the jury,
14 you need to introduce it into evidence.

15 MR. LUPTON: Your Honor, at this point I'd move to
16 admit State's 14.

17 THE COURT: Any objection?

18 MR. STEVENS: None from Derrick Mills.

19 MR. FARLEY: None from Quintin Mills.

20 THE COURT: Thank you.

21 (State's Exhibit No. 14, diagram, in evidence.)

22 DIRECT EXAMINATION

23 BY MR. LUPTON:

24 Q All right. Can you show the jury where the
25 measurements are located?

1 A Okay. So up in the top right-hand corner, under the
2 word "measurements," there's different marker numbers; and
3 then next to those, there will be the different
4 measurements to the specified reference point listed next
5 to it.

6 Q All right. And so that's these right here
7 (indicates)?

8 A Yes, sir.

9 Q And this page has some things other than the diagram
10 on it; is that correct?

11 A Yes, sir.

12 Q And obviously one is the evidence marker; but at the
13 top, it's got a SLED lab number, a date, page numbers, a
14 -- a footer at the bottom?

15 A Yes, sir.

16 Q Is -- where did those come from?

17 A When we print the diagrams out from our report it
18 automatically adds -- (coughs)-- that information on it.

19 Q All right. So this would be part of a report that
20 you did?

21 A Yes, sir.

22 Q This is just one part of your report?

23 A Yes, sir.

24 Q All right. Now, when you got there did you see a --
25 a body?

1 A Yes, sir. I did.

2 Q Can you describe the condition of the body?

3 A There was a gentlemen on his back, facing up. There
4 was what I would consider to be a lot of blood on the
5 face, the pants of the -- the victim were missing, and I
6 think there was also a sock off and they didn't have on
7 any shoes.

8 Q The pants that were missing -- well, first of all,
9 you said the pants were missing from the victim, one sock
10 was missing, and both shoes were missing?

11 A Yes, sir.

12 Q And that's off of the victim's body?

13 A Correct.

14 Q All right. Were you able to locate the missing sock
15 on scene?

16 A Yes, sir. The sock was on scene.

17 Q What about the boots?

18 A The boots were also on scene.

19 Q Did you ever find his pants?

20 A No, sir. We were never able to locate the pants.

21 Q All right. Now, as the body was being examined, did
22 you find any -- first of all, what was -- what was the
23 victim wearing on his top part of his body?

24 A I believe it was a -- like, a gray sweater type and
25 then there was a shirt underneath it as well.

1 Q All right. And it's not real clear, but this right
2 here, the -- the picture No. 12, State's Exhibit 12, does
3 that show --

4 A Yes, sir. That's the gray sweater. It's a long-
5 sleeve sweater, obviously, on -- on him.

6 Q This was December. What was the -- and I'm not
7 asking specific temperature, but what was the weather that
8 night?

9 A The ---

10 Q Or you may actually ---

11 A --- weather was clear and the temperature was
12 approximately 38 degrees fahrenheit.

13 Q All right. Cold?

14 A It was cold, yes, sir, to me.

15 Q The sweater. Was it a light sweater? heavy sweater?
16 How would you describe it?

17 A I would say more of a heavy -- heavier sweater.

18 Q All right. And was there anything inside of it?
19 Well, first of all, did it have pockets?

20 A Yes, sir, it did.

21 Q Was there anything in those pockets?

22 A Yes, sir. There was a -- there was a firearm, a
23 revolver. It was a Taurus 357.

24 Q All right. And was that visible just at -- looking
25 at the body?

1 A No, sir. As we were checking pockets, it was
2 located.

3 Q All right. So it was not out?

4 A No, sir.

5 Q All right. Was there any cash, anything of that
6 nature?

7 A I believe there was. I did not count the cash
8 personally, but the amount of cash was told to me.

9 Q All right. And it was -- what was told -- well, let
10 me rephrase. When you saw it, were you able to tell was
11 it a large amount or just small amount?

12 A It'll be more than I would carry in my wallet.

13 Q Was it hun -- was it 5/\$6000?

14 A I don't remember at this point.

15 Q All right. And as you continued to examine the body,
16 were there any other -- when you turned the body over --
17 did you turn the body over?

18 A Yes, sir. We roll the body over and take photographs
19 of the back of ---

20 Q Was there anything found?

21 A --- all of our victims.

22 There was a defect in the back, asuspected projectile
23 hole from a bullet.

24 Q How many?

25 A Just one.

1 Q You sure about that?

2 A That's the only one that I remember seeing from that
3 night in the back.

4 Q Could it possibly have been two?

5 A It may have been two close together.

6 MR. STEVENS: Judge, asked and answered.

7 THE COURT: Can you repeat the question? What was
8 the question?

9 MR. LUPTON: I was asking if it could possibly have
10 been two bullet holes.

11 THE COURT: I'll allow it.

12 A May have been, if they were close together.

13 And when we do photograph, we don't completely take
14 all the clothes off of a victim. We just pull the --
15 kinda pull the shirt up and take pictures because that is
16 something that is done at autopsy. That's not something
17 we would ---

18 Q Okay.

19 A --- mess with.

20 Q So there could've been one you didn't find?

21 A Yes, sir. It's very possible.

22 Q Okay. And what ultimately happened with the body?

23 A The body was transported. After we photographed the
24 victim, he was transported I assume to the morgue.

25 Q All right. Somebody come collect -- who --

1 A Yes, sir. It was -- the victim was taken, Coroner
2 Porth contacted --

3 Q Coroner took the body?

4 A Yes, sir.

5 Q All right. And that would be standard?

6 A Yes, sir.

7 Q Is that correct?

8 A That's very common.

9 Q And -- all right. You checked the body. Did you
10 check around the rest of the scene?

11 A Yes, sir, we did. We walked the scene and searched
12 for other evidence.

13 Q And did you find -- you -- you talked about the sock
14 and the shoes already. Did you find anything else of
15 note?

16 A There was a cartridge case that we located and also a
17 glove.

18 Q All right. I'll show you what's marked State's
19 Exhibit 15. Do you recognize that?

20 A Yes, sir. That is the cartridge case that was
21 located.

22 Q And does it fairly and accurately show the condition
23 it was found in?

24 A Yes, sir.

25 MR. LUPTON: Your Honor, State's 15 moved into

1 evidence.

2 THE COURT: Any objection?

3 MR. STEVENS: None from Derrick Mills, Judge.

4 MR. FARLEY: No objection.

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

6 (State's Exhibit No. 15, cartridge case photo,
7 in evidence.)

8 DIRECT EXAMINATION

9 BY MR. LUPTON:

10 Q All right. And what was the condition -- oh, well,
11 first of all, what caliber was that cartridge case?

12 A I believe it was a .45 caliber.

13 Q All right. And what condition was it in?

14 A It was in the condition -- I would say that it -- you
15 can't put a time frame on how long it had been there, but
16 I would say that it hadn't been there very long because it
17 was just on top of the ground.

18 It wasn't covered with any dirt or covered with
19 anything. We could see it with the naked eye and it was
20 still shiny. So it hadn't been tarnished by the sun or
21 weather.

22 Q And you generally process the scene -- you've already
23 testified about that. You did your processing of the
24 scene, correct?

25 A Yes, sir.

1 Q And what did you do with the evidence you collected
2 at the scene?

3 A Well, once we take all the evidence and we collect
4 it, after it's been photographed and properly documented
5 and measured from reference points, we'll take it and
6 place it either into paper bags or whatever type of
7 container is appropriate for that specific type of
8 evidence; and we will transport it back to the SLED
9 forensics laboratory, at which point it will get logged
10 into the computer system and then sent to the various
11 areas within SLED, whether it be latent prints, firearms,
12 DNA ...

13 Q And did you -- as part of that, do you secure it so
14 that it is not tampered with?

15 A Yes, sir. Once it's collected by me, it will be
16 evidence -- evidence tape is played -- or is placed on it,
17 which is also called "tamper proof tape," so that when you
18 pull the tape off, it breaks in such a way that it's hard
19 to be able to show that you weren't inside of it, to show
20 that somebody had tampered with it. And then also, for
21 certain evidence, like firearms evidence, it would go into
22 a heat-sealed pouch where it is heat-sealed, closed, and
23 we will sign and date -- or initial and date it.

24 Q All right. And did you properly secure all the
25 evidence you collected at the scene?

1 A Yes, sir.

2 Q And did you transport it back to SLED?

3 A Yes, sir.

4 Q And specifically, the firearms related evidence, did
5 you -- who'd you turn that over to?

6 A That was given to Special Agent Michele -- I'm trying
7 to say her last name. I --

8 Q I have trouble pronouncing it too.

9 A Eichenmiller.

10 Q That's how I pronounce it.

11 A Okay.

12 Q So Michele Eichenmiller?

13 A Yes, sir.

14 Q And did you maintain the security of the evidence
15 while it was in your custody?

16 A Yes, sir.

17 Q Did you or anybody else tamper with it or alter it?

18 A No, sir.

19 Q Did you also receive some bullets and bullet
20 fragments from Tiffany?

21 A Yes, sir. I did.

22 Q And when was that?

23 A That would've been on -- I believe that was on the --
24 I'm trying to find the chain of custody.

25

1 (Phone rings.)

2 THE COURT: Hold on one second.

3 (To bailiff) Sir, would you please confiscate that
4 phone?

5 (The bailiff complies.)

6 THE WITNESS: May I proceed?

7 THE COURT: Hold -- you may proceed. I just wanted
8 to make sure that he took the phone into custody.

9 A That would've been December 15.

10 Q All right. And who did you receive -- let me show
11 you what's in evidence as State's Exhibit 2. Do you
12 recognize that?

13 A Yes, sir. This is the fragments that was [sic]
14 transferred from Agent Hezel, at the time, to me and it
15 was placed in the evidence pouch and -- and heat-sealed
16 with my initials and the date.

17 Q All right. Was it properly sealed when you received
18 it from ---

19 A From ---

20 Q --- Tiffany?

21 A Yes, sir, it was.

22 Q Would you have accepted it if it wasn't?

23 A No, sir, I would not have.

24 Q And you -- was that part of what you turned over?

25 A To Agent Eichenmiller, yes, sir.

1 Q And while it was in your custody, was it damaged,
2 tampered with, altered in any way?

3 A No, sir.

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. STEVENS:

8 Q How you doing, Agent Tallon?

9 A Good, sir.

10 Q All right. My name's Breen Stevens and I represent
11 Mr. Derrick Mills in the matter. I'm just going to ask
12 you a few questions.

13 I'm going to focus on just a couple of different
14 areas, okay? Let's first start with the night of December
15 13, 2014, okay?

16 A Uh-huh.

17 Q Now, you said you were called out and that was a
18 little after 8 p.m.?

19 A Yes, sir.

20 Q You know --

21 A -- 8:11 p.m. when I received a call from our
22 dispatch.

23 Q Fantastic. And that was a call to help the Colleton
24 County Sheriff's Office, right?

25 A Correct.

1 Q All right. And so you went to Falcon Lane?

2 A Yes, sir.

3 Q And you got there around 10 after 9 p.m., right?

4 A Yes, sir.

5 Q Okay. And you said you met with other officers
6 there?

7 A Yes, sir.

8 Q Okay. And that would also include, you know, folks
9 like Captain Trentham and others familiar with the case?

10 A Correct.

11 Q And you spoke with them, right?

12 A Yes, sir.

13 Q And they told you about the investigation to that
14 point, right?

15 A Yes, sir.

16 Q Okay. And so -- just so I'm sure, that was before
17 you had even started collecting evidence or taking
18 photographs, right?

19 A Correct.

20 Q Okay. So let's now talk about and focus on what you
21 did see while you were there, okay? Your team was there
22 and took pictures?

23 A Yes, sir.

24 Q Okay. And that included a picture of a gun, right?

25 A I'm sure there was a photograph of the firearm.

1 Q Right. And that firearm was a revolver?

2 A Yes, sir.

3 Q Okay. Specifically, you said -- I believe you said
4 it was a .357?

5 A Yes, sir.

6 Q Okay. Now, I'm going to show you a picture, okay?

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

8 THE COURT: You may.

9 MR. STEVENS: Thank you, Judge.

10 Q (Hands exhibit to the witness) I'm showing you
11 Defense Exhibit 2. Is that a picture of what you saw --

12 A Yes.

13 Q -- on Mr. Brown that night?

14 A Yes, sir.

15 Q Okay. And that does accurately reflect the gun as
16 you saw it, correct?

17 A Yes, sir.

18 Q Okay.

19 MR. STEVENS: Judge, if I may offer for admission
20 Defense Exhibit No. 2.

21 THE COURT: Any objections?

22 MR. LUPTON: None.

23 MR. FARLEY: No objection, Your Honor.

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

25 (Marked Defense Exhibit No. 2, photograph, in evidence.)

1 MR. STEVENS: And may I publish to the jury?

2 THE COURT: You may.

3 (Mr. Stevens shows exhibit to the jury.)

4 CROSS-EXAMINATION

5 BY MR. STEVENS:

6 Q And again, this is the silver .357 caliber revolver
7 that was found on Mr. Charlie Brown, correct?

8 A Oh. Yes, sir.

9 Q Okay. Now, do you know whether the firearm was
10 loaded?

11 A Yes, sir. So there was one spent cartridge case and
12 one unspent cartridge case.

13 Q Now, when you say a "spent cartridge case," you mean
14 that cartridge was already fired?

15 A It had been fired, correct.

16 Q Okay. And you also indicated to the prosecution you
17 found another shell casing as well?

18 A Yes, sir.

19 Q Except that shell casing -- when you say that, you
20 mean also that was fired at some point?

21 A Yes, sir. It was a fired cartridge case.

22 Q Okay. Except this one was on the ground, right?

23 A Correct.

24 Q Okay. And it was of a different caliber, right?

25 A Correct.

1 Q Specifically, I believe you mentioned it was a .45
2 caliber bullet ---

3 A Correct.

4 Q --- by ACP? Okay. And so you also swabbed Mr.
5 Brown's hands?

6 A For gunshot residue. I believe that was taken.

7 Q Okay.

8 A Yes, sir.

9 Q I gotcha. And just during your investigation, to be
10 clear, you never swabbed the hands of other folks like Mr.
11 Jarvis Mack or anybody else affiliated with the case?

12 A I don't believe anybody else was on scene that was
13 advised to me that -- or at least not within my scene.

14 Q Okay. Okay. Now, let's find -- I want to talk about
15 what else you found on Mr. Brown, all right? Specifically
16 you said he was wearing a shirt?

17 A Yes, sir.

18 Q Okay. And that shirt had a pocket?

19 A Yes, sir.

20 Q Okay. And that's where you found cash on his body,
21 right?

22 A I did not find the cash. The cash was located by
23 someone else who counted it, and then they told me about
24 it. So that was not ---

25 Q I understand.

- 1 A --- me.
- 2 Q That's fine. But that was from Mr. Brown, right?
- 3 A Yes, sir.
- 4 Q Okay. Now, let's turn around and talk about the Jeep
- 5 Grand Cherokee, okay?
- 6 A Okay.
- 7 Q Now, as you've indicated, the Jeep Grand Cherokee was
- 8 present in your scene?
- 9 A Yes, sir.
- 10 Q Okay. And you collected fingerprints from it,
- 11 correct?
- 12 A Yes, sir.
- 13 Q Okay. And you actually collected fingerprints from
- 14 several locations, right?
- 15 A On the vehicle, yes, sir.
- 16 Q Okay. Including the exterior of the driver's door?
- 17 A Yes, sir.
- 18 Q And the passenger door?
- 19 A Yes, sir.
- 20 Q And those were sent with everything else for testing
- 21 at SLED, right?
- 22 A Correct.
- 23 Q Okay. And you also swabbed items for DNA, right?
- 24 A Yes, sir.
- 25 Q Okay. Now, let's also talk about some of the things

1 that a -- that you did not find, okay? So for example,
2 you looked at the hood of the Jeep, obviously, while you
3 were there?

4 A Yes, sir.

5 Q Okay. And you did not find any blood on that Jeep,
6 right, on the hood of the Jeep?

7 A Not to my recollection.

8 Q Okay. And you -- you looked on the outside of the
9 driver doors, obviously.

10 A Yes, sir.

11 Q The driver's side and both sides, right? And you
12 didn't see any blood on the outside of the doors either,
13 right?

14 A Not that I noted.

15 Q Okay. 'Cause if you did, you would've collected
16 samples of that, right?

17 A Correct.

18 Q That's right. But you didn't collect any 'cause
19 there wasn't any to collect?

20 A Correct.

21 Q All right. You also looked on the ground at the
22 area, all around in your scene?

23 A Yes, sir.

24 Q Okay. And you did not collect any tire impressions,
25 correct?

1 A No, sir.

2 Q Okay. And you did not recover a motorcycle in this
3 case at all either, correct?

4 A No, sir.

5 Q Okay. Let's talk about the following day, the 15th.
6 You indicated that Ms. -- at the time, Ms. Hezel, now, Ms.
7 Edwards --

8 A Right.

9 Q -- was at the autopsy?

10 A Yes, sir.

11 Q And she collected evidence from that autopsy?

12 A Yes, sir.

13 Q Okay. And that included, you know, bullet fragments?

14 A Yes, sir. It did.

15 Q And -- and clothing as well?

16 A Yes, sir.

17 Q Okay. And the clothing, was that sent to a lab for
18 testing as well?

19 A No, sir. It's just photographed and then placed in a
20 container where it is either returned to the agency or
21 kept in our storage.

22 Q I understand. Thank you, sir.

23 MR. STEVENS: Court's indulgence?

24 THE COURT: Yes, sir.

25 (Brief pause.)

1 MR. STEVENS: No further questions from Mr. Derrick
2 Mills. Thank you, Judge.

3 Q Thank you, Agent Tallon.

4 THE COURT: Cross-examination?

5 MR. FARLEY: You honor, I believe Mr. Stevens did
6 such a thorough job, I don't have any questions for this
7 witness.

8 THE COURT: All right, sir. Thank you. Any
9 redirect, Mr. Lupton?

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

11 (Brief pause.)

12 MR. LUPTON: No redirect, Your Honor.

13 THE COURT: All right, sir. You may step down, sir.
14 Thank you.

15 THE WITNESS: Thank you, Your Honor.

16 MR. LUPTON: And Your Honor --

17 THE COURT: Counsel, please approach.

18 MR. LUPTON: -- request that the witness be excused.

19 THE COURT: Any objection?

20 MR. STEVENS: No objection.

21 MR. FARLEY: No objection.

22 THE COURT: You're free to go. Thank you.

23 (The witness exits the stand.)

24 (Bench conference.)

25 THE COURT: You may call your next witness.

1 MR. LUPTON: The State calls Kendra Williams.

2 Oh, Your Honor, I apologize. Wait -- getting ahead
3 of myself, Your Honor. I've got one more before Kendra.
4 Your Honor, I apologize.

5 The State calls Agent Eichenmiller.

6 MICHELE EICHENMILLER, having been first
7 duly sworn, testifies as follows:

8 THE CLERK: Please state your full name for the
9 record.

10 THE WITNESS: My name is Michele Eichenmiller, E-i-c-
11 h-e-n-m-i-l-l-e-r.

12 THE COURT REPORTER: Spell Michele, too.

13 THE WITNESS: M-i-c-h-e-l-e.

14 THE COURT: Your witness.

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

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. LUPTON:

20 Q Agent, you're -- you said you're with SLED?

21 A Correct.

22 Q And could you tell the jury what is SLED and what do
23 you do there?

24 A It's the South Carolina Law Enforcement Division. I
25 work in the forensic lab in the firearms department.

1 Q And in lay terms, that's what people commonly call
2 "ballistics"?

3 A Yes.

4 Q Something of a misnomer; is that correct?

5 A Correct.

6 Q But your job is to do what?

7 A I examine any fired evidence on bullets or cartridge
8 cases, along with firearms that are seized in crimes.

9 Q All right. And what is your law enforcement training
10 and experience?

11 A I started with SLED in 2006. I went through the in-
12 house training program to be a firearms examiner. You
13 can't go to a college anywhere to get that training. You
14 have to do an apprenticeship program.

15 I do have a Master's Degree in Forensic Science, was
16 hired at SLED, did their training program. At the end,
17 you complete a competency, and then they deem you able to
18 do casework on your own.

19 Q All right. And did you also -- are you a sworn law
20 enforcement officer?

21 A I am a Class 3 law enforcement officer, yes.

22 Q And did you get law enforcement training as well?

23 A I went to the academy -- the South Carolina Criminal
24 Justice Academy legal class.

25 Q All right. And have you ever been qualified as a

1 firearms examiner? Firearms/tool marks examiner in the
2 past?

3 A Yes.

4 Q Okay. How many times?

5 A Approximately 80 times in the State of South
6 Carolina.

7 MR. LUPTON: Your Honor, at this time, I move to
8 qualify her as a expert in fire marks and tool mark
9 examiner.

10 THE COURT: Any *voir dire*?

11 MR. LUPTON: Firearms and tool marks examiner.

12 MR. STEVENS: Firearms and tool marks examiner.

13 MR. FARLEY: No objection, Your Honor.

14 THE COURT: She's qualified.

15 MR. LUPTON: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. LUPTON:

18 Q Were you involved in testing evidence in this case?

19 A I was.

20 Q And specifically, what items did you test?

21 THE WITNESS: May I refer to my notes?

22 THE COURT: Yes, ma'am.

23 A I received one revolver. I also received a fired .45
24 auto-caliber cartridge case, and I received five items
25 from autopsy.

1 Q All right. And show you what's marked as State --
2 excuse me, Defense's Exhibit 2. Is that the --

3 A It corresponds with the firearm I examined.

4 Q (Shows picture to the witness) And State's Exhibit
5 15, does that appear to be a .45 caliber shell casing?

6 A Well, I can't really tell from the picture, but ...

7 Q Can't tell for certain, but that's --

8 A Right.

9 Q -- consistent with it?

10 A It could be.

11 Q All right. And then Defense -- excuse me, State's
12 Exhibit 2, this one (indicates). Do you recognize that as
13 the ...

14 A Yes. This is the evidence I examined. I have my
15 heat-seal on there with my initials and the date of when I
16 sealed it back up.

17 Q All right. Specifically, on State's Exhibit 2, those
18 are the bullets and bullet fragments recovered from the
19 autopsy; is that correct?

20 A Correct.

21 Q And when you received that, who'd you receive it
22 from?

23 A I received them from James Tallon.

24 Q All right. And were those items -- was State's
25 Exhibit 2, those bullets, were they sealed when you

1 received them?

2 A Yes.

3 Q Okay. Would you have taken them had they not been
4 sealed?

5 A No. I wouldn't have been able to accept them.

6 Q Or what if there had been evidence of tampering with
7 them?

8 A No. We would not have taken them then.

9 Q Right. In fact, on any of the evidence you received,
10 would you accept it for testing if there was any signs of
11 tampering?

12 A No. I always check the seals to make sure they're
13 sealed when I get them. Also, the log-in department will
14 check those or the agent that gives it to me. So they
15 were all sealed.

16 Q Okay. Now, I want to talk specifically about the
17 bullets and the bullet fragments. What did you do with
18 those?

19 A Whenever I receive evidence in a case, I'll open it,
20 take photographs; I'll do worksheets which just records
21 the condition I received them in; and title, make or
22 anything like that.

23 So in this case, I received the bullets, I took
24 pictures of them. I had to decontaminate them since they
25 were from autopsy, and then I was able to examine them

1 under my comparison microscope.

2 Q All right. Can you explain what a comparison
3 microscope is?

4 A It's basically two microscopes connected by an
5 optical bridge which looks like a pair of binoculars. I
6 can put one bullet on one side, one on the other side,
7 rotate them around, and try to determine if the marks I
8 see are anything I could use for identification.

9 Q All right. And then were you able to examine any or
10 all of the bullets and fragments?

11 A I examined them all.

12 Q All right. What were you able to determine about
13 them?

14 A The first one I looked at was a bullet fragment. I
15 also examined another fired bullet, two more bullet
16 fragments, and then two more fired bullets.

17 I was able to determine the caliber on two of the
18 bullets and one of the fragments, and the other items I
19 was unable to determine a caliber.

20 Q All right. And what caliber -- of -- of the things
21 that you were able to identify, what caliber?

22 A They were consistent with being .22 caliber.

23 Q All right. And the -- you said, one fragment you
24 could identify as coming from a .22?

25 A Correct.

1 Q And then the other fragment you could not?

2 A Correct.

3 Q Was the fragment you could not identify smaller or
4 larger than the one you identified?

5 A It was smaller.

6 Q The bullets that you could not identify, why could
7 you not identify them?

8 A Bullets tend -- sometimes will break apart on impact,
9 and so these were so small and didn't have any marks that
10 I could tell anything about them to be caliber or anything
11 else.

12 Q Can you explain bullets deforming?

13 A Whenever bullets hit an object, they can deform,
14 depending on their composition.

15 These were smaller bullets, they didn't have much of
16 a jacket on them. A jacket usually protects the lead from
17 deforming. In this case, it was a very thin jacket and
18 the lead deformed on impact.

19 Q All right. And the ones that -- the bullets that you
20 were not able to identify, were they in a -- in a
21 substantially -- the same or substantially different size?
22 How were they, size-wise, compared to the ones you were
23 able to identify?

24 A They were smaller.

25 Q Did any of the bullets -- were they a size consistent

1 with a .38 or .357 or a .45?

2 A No, they were not.

3 Q Smaller or larger?

4 A Much smaller.

5 Q All right. Now, the bullets that you were able to
6 identify, were you able to tell whether or not they were
7 fired from a -- any particular firearm?

8 A I was not. They were also damaged. They weren't
9 damaged so much that I couldn't tell the caliber, but they
10 were damaged enough that I couldn't use them for
11 identification.

12 Q So even -- did you have a .22 to compare them to?

13 A I did not. I just compared them to each other.

14 Q Even if you had a .22, would you have been able to
15 identify them to a particular firearm?

16 A It depends on the firearm. I may or may not have
17 been able to. It just depended if I were able to receive
18 a firearm if I could do anything.

19 Q In the condition they were in, would you have been
20 able to identify them?

21 A I may or may not.

22 Q Okay. Now, with regards to the evidence you
23 received, you said it was -- at least some of it was .22
24 caliber?

25 A Correct.

1 Q I'd like to -- firearms, generally, are there .22
2 caliber revolvers?

3 A There are.

4 Q How common are those?

5 A Fairly common.

6 Q Fairly common? Can you explain to the jury the
7 difference between a revolver and an automatic?

8 A A revolver -- if you're familiar with the cowboy
9 movies, it has a cylinder that rotates around an axis,
10 each cylinder will have a cartridge in it, and every time
11 the firearm is fired, will rotate and fire the next round
12 until they're all fired.

13 A semi-automatic has a magazine that you insert into
14 a well. That firearm will fire every time you pull the
15 trigger as long as there's cartridges in the magazine. A
16 semi-automatic usually ejects its cartridge cases, and a
17 revolver will hold them in the chambers.

18 Q All right. So somebody with a revolver -- that would
19 -- would there be shell casings at the scene of where it
20 was fired?

21 A Typically we don't see cartridge cases from revolvers
22 at the scene.

23 Q So unless they dumped them out there, they would not
24 stay at the scene ---

25 A Right.

1 Q --- is that correct? All right. What about an
2 automatic?

3 A An automatic -- semi-automatic pistol, we usually see
4 cartridge cases at -- at a scene.

5 Q All right. Now, the -- a .22 caliber bullet, can it
6 be fired from a .357 or a .38 caliber?

7 A It cannot.

8 Q Could it be fired from a .45 caliber pistol?

9 A No, it can't.

10 Q Can you fire a .45 from either a .357 or a .22?

11 A No.

12 Q Can you fire any of those -- with the exception of
13 .38s and .357s, can you fire any of those from each other?

14 A No. None of those chamber -- calibers are
15 interchangeable.

16 Q All right. Now, I want to talk about size versus
17 caliber. Is there a -- a -- is size and caliber -- size
18 of the physical size of a firearm the same as its caliber?

19 A No.

20 Q Can a .22 caliber pistol have a large frame, be a big
21 firearm?

22 A Yes, it can be.

23 Q Can it have a long barrel?

24 A It can.

25 Q And can you explain exactly what caliber is?

1 A Caliber's the diameter of the bullet, so the size
2 around. It's usually measured in inches, so it's just how
3 big the bullet is.

4 Q So what would point 2-2 mean?

5 A That's usually --

6 Q A .22 caliber?

7 A .22 caliber is usually point 2-2 of an inch.

8 Q So a -- what is a -- a .38?

9 A .38 is around point 3-5-5 of an inch.

10 Q All right. Well, it -- specifically, the number --
11 the point 4-5 caliber, or .45 caliber, is that -- the
12 measurement is related to an inch?

13 A Yes. That point 4-5 is the diameter of a .45 caliber
14 bullet.

15 Q So any of those, .22, .32, .44, any of that stuff,
16 that's just means the -- how many hundredths of an inch;
17 is that correct?

18 A In most cases. Like a .38 caliber is actually point
19 3-5-5. A .9 millimeter is 9 millimeters, but it's also
20 point 3-5-5 inches.

21 Q All right. So generally speaking, is there anything
22 more than a very slight difference between the nominal
23 caliber and the actual diameter?

24 A In some cases there is, but not -- in general, most
25 of the common calibers --

1 Q Okay.

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

3 (Brief pause.)

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 MR. STEVENS: Judge, may it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. STEVENS:

10 Q Agent Eichenmiller, how are you doing today?

11 A Fine.

12 Q My name's Breen Stevens, I'm with the Defense, and I
13 represent Mr. Derrick Mills in the matter. I'm just going
14 to ask you a few questions, largely about what you did in
15 the case.

16 Just to get it out of the way, I'm just going to ask
17 you a real quick question about December 13, 2014, okay?
18 You were not there at the scene when the incident
19 happened, right?

20 A I was not.

21 Q Didn't personally see anything happen, you just
22 tested items at SLED for the case, right?

23 A Correct. The evidence is brought to SLED.

24 Q Okay. Good. So let's focus on what you were able to
25 do in the case, all right? I hear you analyzed these

1 items for SLED. That included a handgun, right?

2 A Correct.

3 Q Okay. And as you indicated it was a revolver?

4 A Yes.

5 Q Okay. And as you also indicated that -- how a
6 revolver operates, right? Generally, after it's fired,
7 the cylinder moves and the cartridges typically stay
8 inside, right?

9 A Correct.

10 Q Not always, though, like you also indicated, right?

11 A We have seen it that there are some at the scene,
12 yes.

13 Q Right. Okay. And here the revolver's also a chamber
14 for a .357 magnum, right?

15 A Yes.

16 Q Which can also -- oftentimes, use .38 caliber ammo?

17 A Yes.

18 Q Shells, right? Okay. And here it actually had an
19 unfired bullet, right?

20 A It did.

21 Q Okay. And the unfired bullet that you examined
22 could've been used by that revolver, right?

23 A Yes, it was correct.

24 Q Okay. And also had a fired shell casing in it as
25 well, right?

1 A Correct.

2 Q And that was also its proper caliber that could've
3 been used by that revolver, right?

4 A Correct.

5 Q Okay. You said that you also examined another shell
6 casing, correct?

7 A Correct.

8 Q Okay. And that was the .45 ACP?

9 A Correct.

10 Q Or .45 caliber, it's --

11 A Right.

12 Q Okay. And you indicated on your report that the .45
13 ACP had marks of evidentiary value, right?

14 A Yes.

15 Q Okay. So basically, if you had something to compare
16 it with, you could compare those marks to other .45 shell
17 casings, right?

18 A Or a firearm, either one.

19 Q Or the firearm. Exactly. Basically to see if the
20 gun that fired them was the same, right?

21 A Yes.

22 Q But here you did not have any other casings from a
23 .45 caliber to compare it with, right?

24 A Correct.

25 Q Or a .45 caliber handgun to compare it with, right?

1 A I did not receive a .45 caliber -- caliber --

2 Q Okay.

3 A -- firearm.

4 Q Okay. So let's talk about the fragments and other
5 bullets you did examine, okay? Now, you said you examined
6 five of them?

7 A Yes.

8 Q Okay. And most of those were fragments, right?

9 A Yes.

10 Q Okay. And you examined everything microscopically?

11 A Correct.

12 Q Okay. And you indicated that they were damaged,
13 right?

14 A Yes.

15 Q Okay. And some of them -- or actually several of
16 them were damaged to the point that you really could not
17 even conclusively compare them with each other, right?

18 A Right.

19 Q Okay. Now, the closest you could come was that three
20 of the fragments were most consistent with, and I think
21 I'm quoting, "nominal .22 caliber cartridges", correct?

22 A Correct.

23 Q Okay. And when we're talking about that, does it say
24 -- I'm sorry. And since the others were most consistent
25 with bullets loaded into some nominal .22 caliber

1 cartridges, right?

2 A Yes.

3 Q Okay. So that's not A 100 percent conclusion -- what
4 your report doesn't say, it just uses the language we just
5 discussed, right?

6 A Correct.

7 Q Okay. Excuse me. And again, you were never provided
8 with another gun to test in this case?

9 A I was not.

10 Q Okay. And just to be clear, when it come to semi-
11 automatic handguns in general, like you said, have a
12 magazine put in the well of the handgun, right?

13 A Yes.

14 Q Someone fires, typically they're going to eject on
15 the other side, right?

16 A They usually do.

17 Q And that's why you indicated that quite often you're
18 going to find some shell casings at a scene, right?

19 A Correct.

20 Q But it's also quite possible for someone to pick up
21 shell casing from a scene as well, right?

22 A It's possible.

23 Q Okay. Thank you.

24 MR. STEVENS: Court's indulgence.

25 (Brief pause.)

1 MR. STEVENS: No further questions from Mr. Derrick
2 Mills. Thank you, Agent Eichenmiller.

3 THE COURT: Cross?

4 MR. FARLEY: I don't have any questions for this
5 witness.

6 THE COURT: Any redirect?

7 MR. LUPTON: Briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. LUPTON:

10 Q A revolver, after a cartridge is fired, how long does
11 it stay in the cylinder? The spent shell casing, how long
12 does it stay in there?

13 A It'll stay indefinitely until someone manually
14 extracts it.

15 Q So is there any way to tell how long that spent shell
16 casing -- how long that it had been prior to --

17 MR. STEVENS: Beyond the scope, Judge.

18 THE COURT: I -- I'll allow it. That's a fair
19 question.

20 Q Is there any way to tell how long it had been in that
21 firearm?

22 A No, there isn't.

23 Q So is there -- is it possible that it had been there
24 for days or --

25 MR. STEVENS: Judge, calls for speculation.

1 THE COURT: If she knows.

2 A There's no way to tell how long it was in there.

3 Q All right. Indefinitely?

4 A Indefinitely.

5 Q All right. Now, there's talk about the nominal .22.

6 What is the actual diameter of a .22 caliber round --.22
7 caliber bullet?

8 A It's point 2-2.

9 Q All right. Is there point 2-2-3 calibers as well?

10 A Yes. They're all in the same caliber family.

11 Q All right. So then realistically, was this a .22
12 caliber bullet?

13 A Yes.

14 MR. LUPTON: Nothing further.

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

16 MR. LUPTON: I ask that his witness be excused, Your
17 Honor.

18 THE COURT: Any objections?

19 MR. FARLEY: No objection, Your Honor.

20 MR. STEVENS: None from Mr. Derrick Mills.

21 THE COURT: You're free to go. Thank you.

22 (The witness exits the stand.)

23 THE COURT: Ladies and gentlemen of the jury, it's
24 about 12:30. It's a good time for us to take our lunch
25 break. If you would please be back in your jury room at

1 1:30, that should give everyone sufficient time to grab
2 some lunch and be back in the jury room.

3 Please remember my previous instruction not to
4 discuss the case with anyone or allow anyone to discuss
5 the case with you. Have a nice lunch.

6 (The jury exits at 12:22 p.m.)

7 THE COURT: All right. We'll be at -- adjourned in
8 this matter until 1:30.

9 Lady with the cell phone issue, ma'am, we'll address
10 the issue about your cell phone after lunch. If you'd be
11 back in the courtroom at 1:25, then we'll address your
12 issue on the cell phone before the Court. Are you
13 listening, ma'am?

14 UNKNOWN FEMALE: Yes ma'am.

15 THE COURT: If you would be back in the courtroom at
16 1:25, we'll address your issue about your phone going off
17 in the courtroom in this Court, at 1:25. So please be
18 back in the courtroom.

19 Everyone else in the courtroom, there are no -- there
20 are signs of our Chief Justice's order. There are not to
21 be any cell phones in the courtroom other than the
22 attorneys are allowed to have cell phones.

23 Do not bring your cell phone back in this courtroom,
24 or you're going to be found in contempt of court if we
25 find it and/or if it goes off.

1 I'm making myself very clear, ma'am. I'll see you at
2 1:25. Court adjourned.

3 (Off the record at 12:24 p.m.)

4 (On the record at 1:32 p.m.)

5 THE COURT: Counsel, ready to proceed?

6 MR. LUPTON: The State's ready, Your Honor.

7 MR. LEINENDECKER: Yes.

8 MR. FARLEY: Yes, Your Honor.

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

10 (The jury enters at 1:34 p.m.)

11 THE COURT: Welcome back ladies and gentlemen of the
12 jury, I hope you had a nice lunch. Before we continue,
13 I'm going to go ahead and appoint a foreperson.

14 Gentlemen on the end there, in the blue shirt, your
15 name, sir, please?

16 THE JUROR: Shane McCarson.

17 THE COURT: Sir, since you are sitting in that seat,
18 I'm going to appoint you as the foreperson of the juror.
19 And I'll explain it to your -- your duties later as far as
20 that's concerned.

21 But you may proceed, Solicitor. You may call your
22 next witness.

23 MR. LUPTON: Thank you, Your Honor. State calls
24 Kendra Williams.

25 KENDRA WILLIAMS, having been first duly

1 sworn, testifies as follows:

2 THE CLERK: Please state your full name for the
3 record.

4 THE WITNESS: Kendra Williams.

5 THE CLERK: Thank you, ma'am. Have a seat. Pull
6 that mic back to you.

7 THE COURT: Your witness.

8 MR. LUPTON: Thank you, Your Honor. May it please
9 the Court?

10 THE COURT: Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. LUPTON:

13 Q Investigator, can you tell the jury who you are?

14 A Kendra Williams, I am the victim's advocate, former
15 investigator, at Calhoun County Sheriff's Office.

16 Q All right. Back in December, 2014, what was your job
17 there at Calhoun County?

18 A I was an investigator and a victim's advocate.

19 Q All right. So you had the dual role of investigator
20 -- as a criminal investigator and you were a victim
21 advocate --

22 A Yes, sir.

23 Q -- for the Sheriff's Department? All right. And did
24 -- were you a sworn law enforcement officer?

25 A Yes, sir.

1 Q Did you receive training for that?

2 A Yes, sir.

3 Q All right. Briefly go over that.

4 A Started in 2004, Orangeburg County Sheriff's Office,
5 I went to the academy in 2004, South Carolina Criminal
6 Justice Academy. I worked in Orangeburg County
7 approximately five years, worked at South Carolina State
8 University almost five years, and I've been at Calhoun
9 County Sheriff's Office since July, 2013, and I've been an
10 investigator since October, 2013.

11 Q All right. And were you doing that dual role,
12 investigator and victim advocate back December 13, 2014?

13 A Yes, sir.

14 Q And as part of that, did you end up responding --
15 going out to the murder scene here in Calhoun County?

16 A Yes, sir.

17 Q And can you tell the jury about that?

18 A I was working a basketball game at Calhoun County
19 High School. Chief Smalls of St. Matthews P.D. advised me
20 that a shooting call had just come out over the radio. I
21 made a phone call, and I'm not sure if -- it was either to
22 Captain Graham or to Deputy Chief Trentham -- I was told
23 there was a shooting and went en route from the high
24 school.

25 Q All right. So you go out to where?

1 A Falcon Lane off of Sugar Hill Road -- or Sugar Hill
2 Lane.

3 Q So you -- you go out to the Sugar Hill area --

4 A Yes, sir.

5 Q -- where the murder scene is --

6 A Yes, sir.

7 Q -- and you get -- when did you get there?

8 A I'm not exactly sure.

9 Q Well let me rephrase. Did you get there -- were you
10 one of the first officers there or did you get there a
11 little bit later?

12 A I was one of the first.

13 Q And once you got there, what did you do?

14 A I secured the crime scene with Deputy Herron and
15 Deputy -- Deputy Chief Trentham. Then me and Chief Deputy
16 Trentham processed the scene. We took pictures and waited
17 for Captain Graham.

18 Q All right. And so you moved around the crime scene?

19 A Yes, sir.

20 Q All right. Were there any firearms visible when you
21 got there?

22 A No, sir.

23 Q When you got there, were there any cell phones
24 visible?

25 A No, sir.

1 Q The -- did you end up talking to anybody?

2 A Yes, sir.

3 Q Who'd you talk to?

4 A Jarvis Mack.

5 Q All right. And was that before or after you helped
6 process the crime scene some?

7 A It was after.

8 Q Okay. So going back to processing the crime scene,
9 as part of that, did you look at the body?

10 A Yes, sir.

11 Q And did you find anything -- first of all, can you
12 describe the condition of the body?

13 A He was laying on his back. I -- I -- unknown how
14 many, but there were gunshots. I do believe his shoes and
15 pants were pulled off several feet from the body. And he
16 appeared to be deceased.

17 Q All right. Show you State's Exhibit 12 that's in
18 evidence.

19 A Yes, sir.

20 Q Is that the condition of the body when you got there?

21 A Yes, sir.

22 Q All right. And the -- what's on his top? What's
23 covering his top?

24 A I believe he had on a sweater and a sweatshirt. I --
25 I do remember that he had a sweater on, but I believe it

1 was several layers.

2 Q Okay. And the sweater, do you recall the color?

3 A I want to say a light -- maybe a light brown or I
4 think it was multi-colored but I'm not exactly sure.
5 Maybe gray or ...

6 Q Maybe gray?

7 A Yeah.

8 Q All right. And then was it heavy or light? How
9 would you describe it?

10 A It was --

11 Q If you don't recall, then --

12 A I mean, I -- I want to say it was probably medium. I
13 mean, it was not a real heavy sweater, but it was a -- a
14 long sleeve. I mean, it wasn't rolled down.

15 Q Well, what was -- what was the temperature out there
16 that night?

17 A I do not recall.

18 Q Hot, cold?

19 A I believe it was hot. I'm -- I'm not sure. I really
20 don't remember.

21 Q Well, this was in December.

22 MR. FARLEY: Objection. Asked and Answered.

23 MR. STEVENS: Objection, Your Honor.

24 THE COURT: All right. Sustained. Can we move on?

25 Q If somebody else reported that -- do you have a

1 specific recollection of what the temperature was?

2 A I do not, sir.

3 Q All right. So if somebody else reported the
4 temperature, you would defer to them?

5 MR. LEINENDECKER: Objection, Your Honor.

6 MR. LUPTON: I'll move on.

7 MR. LEINENDECKER: At this point, it's a reverse
8 pitting of witnesses by trying to bolster testimony.

9 MR. LUPTON: I'll -- I'll move on.

10 THE COURT: He's moving on. He's moving on.

11 DIRECT EXAMINATION

12 BY MR. LUPTON:

13 Q All right. So did you look through the sweater the
14 victim was wearing?

15 A After the coroner got there, yes, sir.

16 Q All right. And did you recover anything from that
17 sweater?

18 A Yes, sir.

19 Q What did you recover?

20 A There was a firearm in one of the pockets.

21 Q And I'll show you what's marked as State's Exhibit --
22 excuse me, Defense Exhibit 2. Is that the firearm that
23 was in his pocket?

24 A Yes, sir.

25 Q All right. Was it visible from the outside?

1 A No, sir.

2 Q Was there also some cash in the pockets?

3 A Yes, sir.

4 Q Did you count that cash?

5 A I did.

6 Q How much was that?

7 A It is \$172 and there was some change also, but it was
8 \$172.

9 Q All right. And after you'd done all that, did you --
10 you said you talked to Jarvis Mack?

11 A Yes, sir.

12 Q Where did you talk to him?

13 A It was in one of the Sheriff's Office vehicles.

14 Q All right. And show you one of the -- State's
15 Exhibit 3. A picture of Jarvis Mack's cell phone. What's
16 that in the background?

17 A Oh, that's the console of the vehicle that I was in.

18 Q All right. So this was taken inside that car?

19 A Yes, sir.

20 Q All right. So you talked to him that night on the
21 scene; is that correct?

22 A Yes, sir.

23 Q And did he try and tell you what happened?

24 A Yes, sir. He did.

25 Q What was his demeanor that night? How was he acting?

1 A He was upset, very upset. I don't want to say scared
2 'cause I'm -- I'm not sure, but he -- he was shaking
3 visibly physically. He was just physically very
4 distraught and upset.

5 Q And did he try and tell you what happened?

6 A Yes, sir.

7 Q Was he being -- how clear was he being that night?

8 A He was -- he was very clear. He was talking and -- I
9 say a mile a minute, but he kept -- he kept saying the
10 same thing. He kept repeating himself. But he was -- he
11 was upset while he was talking.

12 Q And did he ultimately write his statement that night?

13 A Yes, sir, he did.

14 Q All right. Did he give a more detailed statement
15 later?

16 A Yes, sir, he did.

17 Q As part of him talking and telling you what happened,
18 did you have occasion to look at his cell phone to confirm
19 any of what he was saying?

20 A Yes, sir.

21 Q And specifically, did you have the opportunity to
22 look at his cell phone to see if there were calls back and
23 forth between him and Quintin Mills?

24 A Yes, sir. I looked at the call logs and --

25 Q All right.

1 A -- the text messages.

2 Q And do you recall, from your own memory at this
3 point, what all those times were?

4 A No, sir. I don't.

5 Q Did you record the times at the time?

6 A Yes, sir, I did.

7 Q Contemporaneous with looking at that phone?

8 A Yes, sir.

9 Q And was it -- did you write them down accurately?

10 A Yes, sir, I did.

11 Q And you have you notes with you today?

12 A I do.

13 Q And can you look at that and tell -- when was the
14 first call?

15 A 3:16 p.m.

16 Q All right. And when -- when was the last call?

17 A It was 6:30.

18 Q All right. And you said you also looked at texts; is
19 that correct?

20 A Yes, sir.

21 Q And did you also, in your notes, start writing down
22 the times of the texts?

23 A Yes, sir, I did.

24 Q At some point did you stop?

25 A I did.

1 Q All right. And when you stopped writing down the
2 times of the texts, why did you stop?

3 A I took screen shots. I took my phone and took actual
4 pictures of the text messages on his phone

5 Q All right. So at -- at some point after you wrote a
6 few down, you just decided to get pictures of it instead?

7 A Yes, sir.

8 Q All right. I'm going to show you State's Exhibits 3,
9 4 and 5. Are those the -- those the pictures you took?

10 A Yes, sir.

11 Q And that was what was on his phone?

12 A Yes, sir.

13 Q Now, did you make note of how long the calls were?

14 A I did not.

15 Q So do you have any idea of how long those calls were?
16 If they even were answered?

17 A No, sir.

18 Q Now, in talking with Jarvis Mack, did he -- well, did
19 anybody ever tell you anything about taking any kind of
20 evidence away from that scene?

21 A No, sir.

22 Q Cell phones? Anything?

23 A No, sir.

24 Q Would that have been significant enough for you to
25 note it?

1 A Yes, sir.

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

3 (Brief pause.)

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 MR. LEINENDECKER: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. LEINENDECKER:

9 Q Deputy Williams, I'm Mark Leinendecker and I
10 represent Derrick Mack. I have a few questions for you
11 about your investigation and the things that you did,
12 okay?

13 A Yes, sir.

14 Q You -- in the course of your investigation, you spoke
15 with -- over there on two occasions when Mr. Mack was
16 interviewed concerning the events of the 13th; is that
17 correct?

18 A Yes, sir.

19 Q At least two occasions. I'm not certain if there
20 were others. You also witnessed his statement on the 13th
21 that you say now, was made in the -- in a patrol car or a
22 cruiser, correct?

23 A Yes, sir.

24 Q And you were there on the 15th when he came to the
25 Sheriff's Office and expanded on that -- the events -- or

1 the statement, correct?

2 A Yes, sir.

3 Q So you also witnessed that, right?

4 A Yes, sir.

5 Q Okay. So you met with him that day and you received
6 the statement that was on the 13th. You also were able to
7 visually recount to the State what he looked like, right?

8 A Yes, sir.

9 Q Did you notice any blood on his hands or his
10 bracelets or his sleeves?

11 A Who are we talking about, Mr. Brown or Mr. Mack?

12 Q Mr. Mack.

13 A I believe he had some on his hands, I'm ...

14 Q Okay. As the investigator and the person dealing
15 with Mr. Mack, did you swab his hands for gunshot residue?

16 A No, sir. I did not.

17 Q Did you do anything to investigate whether he had
18 participated in the crime that evening?

19 A No, sir. I took his statement.

20 Q You just took his word that he was the victim,
21 correct?

22 A Yes, sir.

23 Q And you didn't investigate that any further?

24 A No, sir, not after that night.

25 Q Okay. He had a cell phone on him. How many other

1 cell phones; did you ask him?

2 A I don't believe I did.

3 Q So you only know about the cell phone that he showed
4 you, correct?

5 A Yes, sir.

6 Q Did he pull the cell phone out and offer it to you?

7 A I don't -- I don't recall. I -- I don't know if he
8 had it in his hand or --

9 Q Did he show you the text messages on it or did you
10 ask him to look at them?

11 A He showed me, yes, sir.

12 Q So he's the one that said, "I've got text messages"?

13 A And I believe so. I don't remember exactly.

14 Q And then after he showed them to you, you took
15 photographs of those, correct?

16 A Yes, sir.

17 Q And you've already identified the State's Exhibits
18 No.'s 4 -- or 3, 4, and 5. And those are the pictures of
19 the text messages you took that night, on the 13th,
20 correct?

21 A Yes, sir.

22 Q And they accurate -- accurately reflect what you saw
23 that day, correct?

24 A Yes, sir.

25 Q When you did this -- when you do your work, you don't

1 just take the statements, but you also keep a file where
2 you make reports and supplemental reports based on every
3 event that you undertake in the investigation, correct?

4 A Yes, sir.

5 Q Did you make a supplemental report on the 15th of
6 December when Mr. Mack came and spoke with y'all?

7 A Yes, sir. I did.

8 Q Do you have the report with you?

9 A Yes, sir. It's actually dated the 16th, but it was
10 on December 14th -- or I mean, December 15th.

11 Q Okay. And it's dated 12/16/14 at 10:26 a.m.?

12 A 10:28. Yes, sir.

13 Q You're right. And I probably need new glasses.
14 Thank you.

15 Would you read over that report about what you were
16 told that day, and let me know when you've completed it.

17 (The witness complies.)

18 A Yes, sir.

19 Q And point of fact, Mr. Mack did tell you he took some
20 stuff from the scene, didn't he?

21 A Yes, sir. He did.

22 Q He actually told you he picked up two cell phones
23 beside Mr. Brown's body and took them, correct?

24 A Yes, sir.

25 Q He hadn't told you that on the 13th, had he?

1 A To be honest, I don't recall.

2 Q Okay. You weren't actually at Falcon Lane 'til after
3 the incident occurred, correct?

4 A Yes, sir.

5 Q You don't know what happened. You were only told by
6 the individuals who said they were there when it happened,
7 Mr. Mack and Mr. Thompson, correct?

8 A Yes, sir.

9 Q You didn't see what happened?

10 A No, sir.

11 Q And you relied on their testimony as to what
12 happened, correct?

13 A Yes, sir.

14 Q You didn't follow that up or investigate that any
15 further by a gunshot residue test to see if Mr. Mack had,
16 in fact, fired a gun that night, did you?

17 A No, sir.

18 MR. LEINENDECKER: Court's indulgence.

19 (Brief pause.)

20 MR. LEINENDECKER: No further questions.

21 Q Thank you.

22 A Yes, sir.

23 THE COURT: Cross-examination?

24 MR. FARLEY: I don't have any questions for this
25 witness.

1 THE COURT: Any redirect?

2 MR. LUPTON: No, Your Honor.

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

4 (The witness exits the stand.)

5 MR. LUPTON: Your Honor --

6 THE COURT: You may call your next witness.

7 MR. LUPTON: Call Stanley Graham.

8 STANLEY GRAHAM, having been first duly
9 sworn, testifies as follows:

10 THE CLERK: Please state your full name for the
11 record.

12 THE WITNESS: Stanley Adam Graham.

13 THE CLERK: Thank you, sir. Have a seat.

14 THE WITNESS: Thank you.

15 THE COURT: Your witness.

16 MR. LUPTON: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. LUPTON:

19 Q Can you tell the jury who you are, please?

20 A My name is Stanley Graham. I'm with the Calhoun
21 County Sheriff's Office as a patrol supervisor currently.

22 Q All right. And that's a sworn law
23 enforcement position?

24 A It is.

25 Q Would you tell the jury about your law enforcement

1 training and background?

2 A I started in the Orangeburg Department of Public
3 Safety at the end of 2000 - 2001, stayed there for five
4 years; and since 2005, I've worked for the Calhoun County
5 Sheriff's Office.

6 Q And have you received -- been through the Academy and
7 received training?

8 A Yes, sir.

9 Q And were you working -- were you with the Calhoun
10 County Sheriff's Office back December 13, 2014?

11 A Yes, sir.

12 Q And were you involved in the investigation in this
13 case?

14 A Yes, sir.

15 Q All right. How did you become involved?

16 A I received a phone call either from one of the
17 deputies on scene or from dispatch, I don't remember how,
18 that evening that I responded out that night.

19 Q All right. And do you recall about what time that
20 was?

21 A No, sir.

22 Q Before or after dark?

23 A By the time they called me it was probably after dark
24 'cause it was way after the original crime scene took
25 place when I got there.

1 Q Well, let's talk about that, dark.

2 A Okay.

3 Q There's already been judicial notice of the sunset.
4 Do you recall what sunset time was?

5 A I want to say originally 17:15. I'm sorry. 5:15 or
6 5:20 or something like that

7 Q And 5:16 sound right?

8 A Yes, sir, somewhere in there.

9 Q And that's already been subject to judicial notice.

10 A Yes, sir.

11 Q All right. So now, sunset, after sunset, is there a
12 period of twilight where you can still see?

13 A Yes, sir.

14 Q About how long does that last?

15 A I would say anywhere from 45 minutes to an hour I
16 would think.

17 Q So less than an hour?

18 A Yes, sir.

19 Q All right. And daylight savings time, talk about
20 that. If a clock is set during the summer, what happens
21 as you go into fall here in South Carolina?

22 A It goes forward an hour.

23 Q For summer into winter?

24 A In summer. In the winter it goes back an hour.

25 Q And --

1 A You lose an hour a day.

2 Q Okay. So when -- December would be an hour behind
3 summer?

4 A Correct.

5 Q So now --

6 MR. STEVENS: Objection. There's no notice
7 whatsoever of the specific date for fall back time or
8 spring forward time.

9 THE COURT: It's just general knowledge if he -- if
10 he knows. Is it spring forward or fall back?

11 MR. STEVENS: When it comes to this specific date
12 etcetera.

13 Q Was it fall back already by December 13th?

14 A Yes, sir.

15 Q All right. Now, I want to talk -- go back to Sugar
16 Hill. That's where the incident took place, correct?

17 A Yes, sir.

18 Q And that's here in Calhoun County?

19 A Yes, sir.

20 Q Now, when a -- when a murder takes place, is there a
21 command response?

22 A Yes, sir. But normally it's long after the original
23 patrol response.

24 Q So you -- you get out there because the supervisor
25 gets called out?

1 A Correct.

2 Q Now, when you get out there what do you do?

3 A Original request was a call to SLED which was done by
4 another member of the command staff that was already on
5 scene, Captain Trentham. Well, he's GW now --

6 Q All right.

7 A -- but he was one of the first ones to arrive --

8 Q All right.

9 A -- on my way, SLED's protocol is that they have a
10 search warrant before they start doing anything. So my
11 job on the way to the crime scene was to provide a search
12 warrant for SLED.

13 Q All right. So did you get warrants of any kind?

14 A Yes, sir.

15 Q What kind of warrants did you get?

16 A Arrest warrants.

17 Q For?

18 A Murder and armed robbery.

19 Q For who?

20 A Derrick and Quintin Mills.

21 Q And what else did you get if anything?

22 A A search warrant for SLED.

23 Q For what?

24 A To search their -- their property and just the crime
25 scene.

1 Q All right. So -- and did you respond back with that
2 search warrant?

3 A I did.

4 Q And go back to the scene? All right.

5 And was the search completed under that warrant?

6 A Yes, sir.

7 Q And did you start looking for Quintin and Derrick
8 Mills?

9 A Initially, yes, sir. We searched the immediate area
10 after the crime scene cleared, which was, I think, well
11 after midnight. But of course, we resumed the next day.

12 Q Were you able to find either of them that night?

13 A No, sir.

14 Q Did either of them contact you that night?

15 A No, sir.

16 Q Did you find or hear from either of them the next
17 day?

18 A Yes, sir.

19 Q Which one?

20 A Mr. Quintin Mills contacted us the next day.

21 Q All right. And was that to arrange to turn himself
22 in?

23 A Yes, sir.

24 Q And did you go pick him up?

25 A Yes, sir.

1 Q Where did you pick him up?

2 A I want to say it was 905 Old State Road, Thompson
3 Road area.

4 Q All right. And I'll show you -- and this is -- is --
5 show you what's marked as State's Exhibit 16. Do you
6 recognize that?

7 A Yes, sir.

8 Q What is that?

9 A This is the area of Sugar Hill that we responded that
10 night and this is his family's property, or we know it as
11 his family's property.

12 Q When you say "this"?

13 A 905 Old State.

14 Q All right. And is that indicated anywhere on the --
15 the map.

16 A It is, by a red marker.

17 Q All right. So that red marker is -- is Mills - is
18 family property for the Mills?

19 A Correct.

20 Q And that's where you picked up Quintin?

21 A Correct.

22 MR. LUPTON: Your Honor, at this time we move State's
23 16 into evidence.

24 THE COURT: Any objection?

25 MR. STEVENS: None from Derrick Mills.

1 MR. FARLEY: Not from Quintin Mills.

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

3 (Marked State's Exhibit No. 16, photo, in evidence.)

4 Q Now, about how far is that from where the actual
5 crime took place?

6 A If you'd -- if you go through the power line right-
7 of-way which runs along the property, it's probably less
8 than a quarter of a mile.

9 Q Basically from here to Hardee's?

10 A Yes, sir.

11 Q All right. So you pick him up that next day?

12 A Yes, sir.

13 Q Did you hear from Derrick Mills that next day?

14 A No, sir.

15 Q Phone call or him coming in?

16 A No, sir.

17 Q And what did you do after that, after you get
18 Quintin?

19 A We continued to search, following up leads that we
20 had.

21 Q All right. Did you continue looking for Derrick?

22 A Yes, sir, we did.

23 Q And did you do anything to put out the word that you
24 were looking for him?

25 A Yes, sir. And we enlisted the help of the State Law

1 Enforcement Division and I think the U -- U.S. Marshall's
2 Task Force was involved in helping us as well.

3 Q Did you let his family know that you were looking for
4 him?

5 A Yes, sir.

6 Q Did he contact you that Monday?

7 A No, sir.

8 Q Or Tuesday?

9 A No, sir.

10 MR. STEVENS: Judge, at this point he's getting into
11 comment on rights. May we approach?

12 THE COURT: Yes, sir.

13 (Bench conference.)

14 Q And did y'all continue looking for him over the --

15 A Yes, sir. We did.

16 Q And were y'all ultimately able to capture him in
17 April, 2017?

18 A Yes, sir.

19 Q All right. And as part of that investigation, did
20 you go -- did law enforcement go on -- well, let me back
21 up. Did you -- the murder happened Saturday night,
22 correct?

23 A Correct.

24 Q Sunday, did law enforcement go up to the El Cheapos
25 at -- that we've heard about at Exit 119, did law

1 enforcement go up there and get some video from El
2 Cheapos?

3 A Yes, sir.

4 Q And what was the purpose of getting that?

5 A To verify the statement that they were actually at
6 the location to see who was at -- at the location.

7 Q All right. And was video obtained that showed the
8 Defendants at some point at -- at the gas station?

9 A Yes, sir.

10 Q All right. Now, do you know if the -- and is that
11 video included on State's 17?

12 A Yes, sir.

13 Q And --

14 MR. LUPTON: Move to have that in evidence.

15 THE COURT: Any objection?

16 MR. STEVENS: No objection from Quintin Mills.

17 MR. FARLEY: No objection, Your Honor.

18 (Marked State's Exhibit No. 17, video from El Cheapos,
19 in evidence.)

20 Q Now, with regards to that video, on the -- from the
21 gas station, do you have any idea -- first of all, is
22 there a time stamp on some of the video?

23 A Yes, sir.

24 Q Do you have any idea how far off of accurate that
25 time stamp is?

1 A No, sir.

2 MR. STEVENS: Judge, assumes that it is off in the
3 first place.

4 THE COURT: Ask if -- if you know whether or not it
5 is, if you have personal knowledge?

6 A The time stamp after basing -- after I'd watched the
7 video, it's still daylight which would throw it off quite
8 a bit.

9 Q All right. So --

10 MR. STEVENS: Objection. Speculation again.

11 THE COURT: He can testify if he saw it was daylight
12 or not. I'll allow it.

13 THE COURT: Thank you, Judge.

14 THE COURT: Your objection is noted for the record.

15 (To Mr. Lupton) Move on, Counsel.

16 Q Now, did you ask for any specific length of time --
17 did anybody from the Sheriff's Department ask for any
18 specific length of time to be provided on the video that
19 was given by the gas station?

20 A No, sir.

21 Q All right. And did you receive, basically, a half-
22 hour block of video?

23 A Yes, sir.

24 MR. LUPTON: Nothing further, Your Honor.

25 THE COURT: Cross-examination?

1 MR. STEVENS: Court's indulgence.

2 (Brief pause.)

3 MR. FARLEY: Your Honor, may I move over to the --

4 THE COURT: Yes, sir. You may.

5 MR. LEINENDECKER: We're going to need this, but not
6 at this second. So I'm going to move it out of --

7 THE COURT: That's fine.

8 MR. LEINENDECKER: -- the way. Okay.

9 CROSS-EXAMINATION

10 BY MR. STEVENS:

11 Q How you doing, Captain Graham?

12 A Good, sir.

13 Q All right. As you know, my name's Breen Stevens, I
14 represent Derrick Mills in this matter.

15 A Yes, sir.

16 Q I'm just going to ask you -- just a -- some questions
17 based on what you and the department did -- or the
18 Sheriff's Office did throughout the investigation --

19 A Yes, sir.

20 Q Okay? So as you indicated, on the night of December
21 13, 2014, you were called to work that night essentially,
22 right?

23 A Yes, sir.

24 Q Okay. And when you did, it was in reference to a 911
25 call?

1 A Or actually a shooting. Yes, sir.

2 Q Well, the shooting, somebody actually called 911
3 about the shooting?

4 A Yes, sir.

5 Q Okay. And so you responded and that was to 116
6 Falcon Lane, correct?

7 A I'm not sure what the exact address is.

8 Q Okay. Well, take your time and examine your -- your
9 report there.

10 A I think the actual incident report is over there.

11 Q Okay. Well, I've got a copy of it here.

12 MR. STEVENS: May I approach?

13 THE COURT: Yes, sir.

14 Q (Hands document to the witness) Okay. Should be the
15 -- your investigative report.

16 A No. The actual incident report's got the actual
17 incident location on it.

18 Q Oh. Okay. I see. So you didn't have that in your
19 --

20 A No, not in mine.

21 Q -- report then?

22 A That's the supplement. The actual incident report's
23 there (indicates).

24 Q Okay. Generally speaking, you went out into the area
25 -- the Sugar Hill area, specifically, around Falcon Lane

1 --

2 A Yes, sir.

3 Q -- where the incident occurred?

4 A Correct.

5 Q Okay. And you noticed that the Jeep Cherokee was
6 present?

7 A Yes, sir.

8 Q Okay. And there was a body nearby as well?

9 A Yes, sir.

10 Q And just for clarification, were you the lead
11 investigator in this case?

12 A Eventually, yes, sir.

13 Q Okay. Eventually. About what time did they make you
14 lead investigator?

15 A I was the actual only investigator who -- supervisor
16 that responded that night because the captain that was
17 there --

18 Q Yeah?

19 A -- was actually working patrol that night.

20 Q Okay. So it's Captain Trentham?

21 A He -- he was working on patrol slot, and I -- so --

22 Q Okay. So you were the investigating --

23 A Correct. I --

24 Q -- lead investigator for the case?

25 A Correct.

1 Q Okay. Making sure. Okay.

2 And as you indicated, you -- you obtained a search
3 warrant for the Jeep and the surrounding area, right?

4 A Yes, sir.

5 Q Okay. And then you returned to the scene and
6 executed it, right?

7 A Yes, sir.

8 Q Okay. And several items you collected, as we've
9 already heard in this case, including a .357 revolver
10 found on Mr. Charlie Brown?

11 A Yes, sir.

12 Q Okay. Now, during the course of your investigation,
13 just to be clear, you never took possession of the
14 motorcycle, correct?

15 A Correct.

16 Q All right. You never found and really preserved any
17 motorcycle tire impressions, correct?

18 A Correct.

19 Q Okay. Or any other tire impressions for that matter?

20 A Correct.

21 Q Was there, like -- okay. Let's also talk about what
22 else was done with the witnesses, okay? That night,
23 personnel from this investigation did speak with Mr.
24 Jarvis Mack?

25 A Yes, sir.

1 Q Okay. And so that would've been within six hours --
2 four to six hours of the incident, correct?

3 A I would say so. Yes, sir.

4 Q Okay. And to your knowledge as lead investigator, no
5 one had ever collected any swabs for purposes of GSR from
6 any part of his hands or body, correct?

7 A No, sir.

8 Q Okay. Excuse me. Pardon me.

9 Okay, let's talk about what you did after that night,
10 okay?

11 A Yes, sir.

12 Q You interviewed Mr. Kendrell Thompson?

13 A Yes, sir.

14 Q And that was on December 17th, I believe he was
15 interviewed, or was it also on the 15th?

16 A I have it under the 15th.

17 Q Okay. So you spoke with him on the 15th, and Captain
18 Trentham was with you at the time as well?

19 A Yes, sir.

20 Q Okay. And that's when you actually showed him the
21 video, during that interview, correct?

22 A Correct.

23 Q Okay. And that was -- it was video footage from the
24 El Cheapo gas station?

25 A Yes, sir.

1 Q Okay. And that's because, as you've indicated
2 already, your office took the information it had up to
3 that point, and --

4 A Correct.

5 Q -- went to the El Cheapo gas station to see if they
6 had video, right?

7 A Correct.

8 Q And the idea, what you said on direct, was to see if
9 they had video of the people involved, right?

10 A Correct.

11 Q Okay. And that would be ideal for an investigation,
12 right?

13 A Yes, sir.

14 Q Okay. Excuse me. All right.

15 MR. STEVENS: Court's indulgence.

16 (Briefly off the record.)

17 Q Okay. So Captain Graham, what I'm going to turn
18 around and show you here is video footage from the El
19 Cheapo gas station on the evening of December 13, 2014. I
20 apologize for the screen saver of the United States Navy
21 aircraft carrier. Okay. Okay.

22 Now, just so everyone is aware, including me, you
23 agree that this is a camera angle from the El Cheapo gas
24 station, looking outwards from where the door's opening,
25 correct?

1 A Yes, sir.

2 Q Okay. And obviously first you can see some parking
3 slot areas right there, immediately in front of the door
4 area?

5 A Yes, sir.

6 Q And then after that you can see the pumps for the gas
7 station?

8 A Yes, sir.

9 Q And then beyond that, you can see the road behind it,
10 correct?

11 A Yes, sir. That's correct.

12 Q Okay. Just wanted to make sure we're clear for the
13 record and it's in order.

14 And then at the bottom of the camera, that's going to
15 be Camera 4, it shows the date and time stamp, correct?

16 A That's correct.

17 Q And the time stamp is 18:00:13, correct?

18 A That's correct.

19 Q Okay. And for those who don't speak military time,
20 24 hour -- the time stamp would indicate 6 p.m., correct?

21 A That's correct.

22 Q Okay. Now -- okay. So for the purposes of making
23 sure we proceed things along, I'm going to advance to
24 approximately 18:20 -- I'm sorry -- 18:02, okay?

25 What we're eventually watching here, and I apologize,

1 this is going to take some time, as we watch the video.

2 Just going to sit back and watch the video.

3 (Video plays.)

4 Q Now, right there, you can see -- do you agree that's
5 the Jeep Cherokee coming in?

6 A Yes, sir.

7 Q Okay.

8 (Video plays.)

9 Q (Indicates) And here it is parking almost right in
10 front of the camera, just to the right hand side, correct?

11 A Correct.

12 Q Okay. And does that resemble at all the Jeep that
13 was also later found at 116 Falcon Lane?

14 A Yes, sir.

15 Q Okay.

16 (Brief pause.)

17 MR. STEVENS: I'm sorry. I'd like to just go ahead
18 and let this play and let it speak for itself.

19 (Video plays.)

20 Q Okay. Now, someone's opening the passenger door and
21 stepping out, correct?

22 A That's correct

23 Q Okay. Do you recognize that individual?

24 A That appears to be Mr. Mack.

25 Q Mr. Mack, as in Jarvis Mack?

1 A As in Jarvis Mack.

2 Q Okay. Thank you, sir. And that's been time stamped
3 at approximately 18:03, so 6:03 p.m., correct?

4 A Correct.

5 (Video plays.)

6 Q Right before we just saw it, it looked like him kind
7 of passing in toward the area that would be where the
8 doors are located?

9 A Yes, sir. Like, back --

10 Q Okay.

11 A There he is.

12 Q Okay.

13 (Video plays.)

14 Q Other heads and faces walking around in a clearly
15 busy area, correct?

16 A Yes, sir.

17 Q Okay.

18 (Video plays.)

19 Q Okay. And at about 18:08, looks like Mr. Kendrell
20 gets -- I'm sorry, Mr. Jarvis gets back into the passenger
21 door?

22 A Yes, sir, that's correct.

23 Q And the door's still open, right?

24 A Yes, sir.

25 Q And now it's closed?

1 A That's correct.

2 Q And yet the vehicle doesn't leave, correct?

3 A Correct.

4 Q Okay. All right.

5 (Video plays.)

6 Q Okay. At 18:13 hours, you see Mr. Mack get out of
7 the vehicle again?

8 A That's correct.

9 Q And walk to the store?

10 A Yes, sir.

11 Q Okay. But I know it's not the most exciting video to
12 watch since there's no audio, but to your knowledge, when
13 you actually recovered this, there was no audio on these
14 videos when you recovered them as well; is that accurate?

15 A That's correct.

16 Q Okay. Thank you for that.

17 (Video plays.)

18 Q And again we see Mr. Mack running back to the car?

19 A That's correct.

20 Q Not getting in this time, just kinda looking and
21 talking through the window?

22 A Yes, sir.

23 Q Okay.

24 (Video plays.)

25 Q It looks like his bag is passed out, correct?

1 A Yes, sir.

2 Q And that's what he took when he walked back into --
3 towards the store?

4 A Yes, sir.

5 Q I'm sorry. When I say "bag," the smaller black
6 backpack, correct?

7 A Correct.

8 (Video plays.)

9 Q Okay. He just passed through the bottom corner of it
10 at 18:17 hours. It looked like Mr. Mack with a white box,
11 correct?

12 A Correct.

13 Q And his backpack was still on his back?

14 A Yes, sir.

15 Q All right. But he did not get in the passenger side
16 of the Jeep, right?

17 A Correct.

18 (Video plays.)

19 Q And there he is again at 18:18 hours. He is getting
20 in the passenger side of the Jeep with that white box?

21 A That's correct.

22 Q Okay.

23 (Video plays.)

24 Q There's a person walking up to the Jeep, knocking on
25 the window --

1 A Yes, sir.

2 Q -- window's rolled down and having a conversation.

3 (Video plays.)

4 Q He goes into his pockets?

5 A Yes, sir.

6 Q Hands something inside the Jeep, reaching back in the
7 Jeep, right?

8 A Correct.

9 Q Going back out, he's putting something in his pocket,
10 right?

11 A Yes, sir.

12 Q Okay. Still talking?

13 A Yes, sir.

14 Q It's at 18:19 now?

15 A That's correct.

16 (Video plays.)

17 Q Everyone's still at the Jeep?

18 A That's correct.

19 Q And that's somewhat totally unrelated to, you know,
20 that went through your investigation, you've seen at the
21 incident scene itself on Falcon Lane?

22 A Yes, sir. That's correct.

23 Q All right.

24 (Video plays.)

25 Q So just for clarification, a man walked out of the

1 store, pointed toward the back of the Jeep, and then kept
2 on going, right?

3 A That's correct.

4 Q Okay.

5 (Video plays.)

6 Q Passenger door opens up again, opens at 8:20?

7 A Yes, sir.

8 Q Okay. I'm sorry. 18:20. I apologize.

9 (Video plays.)

10 Q Now, at 18:21, Mr. Mack gets back out again?

11 A Yes, sir. That's correct.

12 Q Okay. He's over in there smoking with people just
13 off camera, correct?

14 A That's correct.

15 Q Okay. And a little dark to tell?

16 A Yes, sir.

17 (Video plays.)

18 Q And at 8:20/21, he gets back in the Jeep?

19 A That's correct.

20 (Video plays.)

21 Q Okay. So 18:22, or at 6:22, the Jeep starts to pull
22 back, correct?

23 A That's correct.

24 Q And it looks like it's starting to depart. It's
25 headlights are on, correct?

1 A No, sir. It doesn't appear to be on.

2 Q Okay. Up above, on the top part, does it look like
3 it's lighter than it was before?

4 A It does. It looks like the -- the lights are
5 starting to come on.

6 Q The lights are on?

7 A Yes, sir.

8 Q Okay. And the Jeep is leaving --

9 A Yes, sir.

10 Q -- out of the El Cheapo gas station, correct?

11 A That is correct.

12 Q Okay. 18:22:30?

13 A Correct.

14 Q 18:22:38, you see a blue, large sedan rolling in,
15 correct?

16 A That's correct.

17 Q Okay. And you said, in your investigation, were you
18 looking for a blue Buick sedan?

19 A No, sir.

20 (Video plays.)

21 Q That person right there (indicates) in the white hat
22 who just walked past, were you aware that that was Mr.
23 Derrick Mills?

24 A At the time, yes, sir. When -- when a different
25 camera angles -- we saw him.

1 Q Okay. But -- so from a different camera angle you
2 could tell?

3 A Yes, sir.

4 Q Okay. That's a -- roughly at 8:23 is when he walked
5 past this camera view, correct?

6 A Correct.

7 Q Okay. And there's another person right there in the
8 very left corner?

9 A Yes, sir.

10 Q And that is whom?

11 A Mr. Quintin Mills.

12 Q Okay. And he's speaking with other individuals there
13 in front of the El Cheapo gas station, right?

14 A That's correct.

15 (Video plays.)

16 Q Also, in that scene again, we can see that white hat,
17 again you indicated was from a different camera angle,
18 worn by Mr. Derrick Mills?

19 A That's correct.

20 Q And that's also in a group of folks talking in front
21 of the El Cheapos at this time, at 18:24?

22 A That's correct.

23 (Video plays.)

24 Q And they're all just up front talking and smoking
25 cigarettes?

1 A Yes, sir. That's correct.

2 Q All right.

3 (Video plays.)

4 Q For the sake of expediency on this video, do you
5 agree that you do not see the blue -- blue Buick Skylark
6 and Mr. Mills leaving the El Cheapo gas station by the end
7 of this video, correct?

8 A That's correct.

9 Q Okay.

10 MR. STEVENS: Judge, at this time, would it be all
11 right for a comfort break?

12 THE COURT: Sure.

13 MR. STEVENS: Thank you, ma'am. It won't take too
14 much longer ---

15 THE COURT: Ladies and gentlemen of the jury, we're
16 going to take a brief restroom break. If -- we'll be back
17 with you in about 10 minutes.

18 Again, please remember my previous instruction not to
19 discuss the case amongst yourselves.

20 MR. STEVENS: Thank you, Your Honor.

21 (The jury exits at 2:41 p.m.)

22 THE COURT: All right. We'll be at ease for a few
23 minutes.

24 (To the witness) Sir, are -- are you okay? Do you
25 need to take a break?

1 THE WITNESS: No. I'm fine.

2 THE COURT: Okay.

3 (Off the record at 2:42 p.m.)

4 (On the record at 2:56 p.m.)

5 THE COURT: Thank you. Everyone please have a seat.

6 (The courtroom complies.)

7 MR. STEVENS: Is this in your way, Judge? I can slide
8 it to the side.

9 THE COURT: Are you done with the video?

10 MR. STEVENS: Apparently.

11 MR. LEINENDECKER: There's 12 cameras, so I only have
12 about one ---

13 THE COURT: How about -- and just let me ask you
14 this, as far as for planning purposes. I don't like to
15 interrupt if there's a strategy behind it, but is there
16 any way to fast forward to relevant parts?

17 MR. LEINENDECKER: We're going to show one more
18 camera, and we're just going to jump to the marked places
19 where something happened. But they have the full context
20 of the time now, so --

21 THE COURT: I figured there was a strategy behind
22 your method. I didn't want to interrupt that --

23 MR. LEINENDECKER: Yes, ma'am.

24 THE COURT: -- but I just wanted to make sure we
25 could --

1 MR. LEINENDECKER: There's mostly madness. There's
2 -- there's some --

3 THE COURT: I wasn't going to say it.

4 MR. LEINENDECKER: -- there's some method.

5 THE COURT: All right. We ready for our jury?

6 MR. STEVENS: Yes, ma'am.

7 MR. LUPTON: State's ready, Your Honor.

8 MR. FARLEY: Ready, Your Honor.

9 THE COURT: Let's have our jury, please.

10 (The jury enters at 2:58 p.m.)

11 THE COURT: You may proceed.

12 MR. STEVENS: Thank you, Judge. May it please the
13 Court?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. STEVENS:

17 Q All right, Captain Graham. How are you doing?
18 Comfortable?

19 A Yes, sir.

20 Q Okay. Get the screen back on here. Okay. Can you
21 see the screen from here or --

22 A Yes, sir.

23 Q Okay. Now, I'm --

24 THE COURT: Mr. Stevens, can you scoot it back just a
25 tad?

1 MR. STEVENS: Yes, ma'am.

2 THE COURT: Thank you. That's good.

3 MR. STEVENS: There we go. Can everyone see now?

4 (No audible response.)

5 MR. STEVENS: Okay. Excellent.

6 Q Now, what we're going to show now is video Camera
7 Angle 2 from the video provided to you by El Cheapo.

8 A Yes, sir.

9 Q Okay. And was subsequently given to us. Obviously,
10 just for purposes of the record, which -- of just black
11 and white, you'd agree that this camera angle is looking
12 kind of sideways at the front of the store itself and can
13 also encompass that parking area we previously discussed,
14 right?

15 A Yes, sir.

16 Q And it also can -- kinda see a little bit toward the
17 corner of the -- the far right entrance to the El Cheapo
18 gas station and the highway going that direction, right?

19 A That's correct.

20 Q Okay. And as we look at the video now, we have not
21 yet played it, but essentially, right here at the very
22 beginning of it -- just press play so we can get a time
23 frame on there. The time stamp indicates 18:00:13,
24 correct?

25 A That's correct, sir.

1 Q 'And so for civilian time that would be 6 p.m., right?

2 A Yes, sir.

3 Q Okay. And you'd agree that there are lights there on
4 the ceiling area just above the overhang?

5 A Yes, sir.

6 Q And those lights are on, correct?

7 A That's correct.

8 Q Okay. Now, I'm not going to have us all sit here for
9 the full solid 30 minutes like we did last time, but at
10 least we have some context, okay?

11 A Yes, sir.

12 Q Instead, what I'd like you to do is just go ahead and
13 kinda skip forward a little bit to some of those other
14 moments we saw on the original, okay?

15 A Yes, sir.

16 Q Okay. So first I'm going to go forward to
17 approximately 6:03 p.m. for the time stamp. Stopping just
18 short, start -- here we go.

19 (Video plays.)

20 Q And again, in this video you can see this is
21 18:03:09. Here we actually see the Jeep, correct?

22 A That's correct.

23 Q And that's the same Jeep we saw driving before that
24 had Mr. Jarvis Mack exiting and entering, right?

25 A Yes, sir.

1 Q Okay. And again, here we see Jarvis Mack exit and
2 also from the driver's side, we see somebody exit as well,
3 correct?

4 A That's correct.

5 Q Okay. Do you know who that person is?

6 A From this angle I can't verify, but I would think
7 that's Mr. Brown because that was what he was driving that
8 night.

9 Q Okay. I understand. And then we can see them taking
10 across back and forth to each other, right?

11 A Yes, sir.

12 Q Okay.

13 (Video plays.)

14 Q And he's just kinda standing outside there at the
15 door while Mr. Jarvis Mack goes over and stands in front
16 of the El Cheapo. And then he walks up and talks to an
17 individual, hand shake?

18 A That's correct.

19 Q And then the other person goes inside and Jarvis goes
20 to the left and the other guys follow him, right?

21 A Correct.

22 Q Okay. Now, we're going to advance to 18:08 or 6:08.

23 (Video plays.)

24 Q This is where we see Mr. Mack again walking in,
25 pumping fists with somebody outside and getting into his

1 Jeep, correct?

2 A That's correct.

3 Q Okay. Now, we're going to advance to 18:13 or 6:13
4 p.m.

5 (Video plays.)

6 Q And again -- pause this real quick. We can see a car
7 exiting over there toward the exit at the top right,
8 correct?

9 A That's correct.

10 Q Okay. If we look, it has -- its reverse lights are
11 off and it's going forward. And it's lights are on, it's
12 tail lights you can see, correct?

13 A Or brake lights.

14 Q If they're riding their brake throughout the whole
15 time, it's moving forward, right?

16 A Correct.

17 (Video plays.)

18 Q Okay. As we see right here, Mr. Mack exits the Jeep
19 again, right?

20 A That's correct.

21 Q And also if you look at the back, there's a pickup
22 truck that's on the road?

23 A Yes, sir.

24 Q And the headlights of the pickup truck are on,
25 correct?

1 A Correct.

2 Q Again, Mr. Mack is definitely hand shaking the person
3 in front of there, passes by or know them, I don't know --

4 A Yes, sir.

5 (Video plays.)

6 Q And even more cars are passing, a truck's coming in,
7 headlights are on, correct?

8 A That's correct.

9 Q I'm going to skip forward now to 13 -- I do
10 apologize, let me just -- move to 18:15.

11 (Video plays.)

12 Q Okay. Here we can see, at 18:14:45, Mr. Mack is at
13 that position we saw before, looking and talking through
14 the back window to somebody there, correct?

15 A That's correct.

16 Q And he just goes back to that person and the window
17 will roll up and Mr. Mack walks inside with his backpack
18 on, correct?

19 A That's correct.

20 Q Okay.

21 (Video plays.)

22 Q And obviously they're in the store, right?

23 A That's correct.

24 Q Next, we're going to advance to 18:17. It's at
25 18:16:51 now.

1 (Video plays.)

2 Q Okay. Here we see Mr. Mack move back out of the
3 store at 18:17:51 and pull something out of his pocket.
4 The other individual -- individual we saw before, that
5 walked up to the Jeep, is pulling stuff out of his pocket.
6 Things change hands and Mr. Mack get back into the Jeep,
7 correct?

8 A That's correct.

9 (Video plays.)

10 Q Then the individual comes back up there again, and
11 you can see it from the window, his hand is out by Mr.
12 Mack to that man again.

13 A Yes, sir.

14 Q And the man took it, and we have them finishing a
15 conversation through the window, right?

16 A Correct.

17 Q Let's go to 18:23. I'm sorry. 18:22.

18 (Video plays.)

19 Q Here at 18:22, we can actually see the Jeep starting
20 to back out, right?

21 A That's correct.

22 (Video plays.)

23 Q Go to 18:23. And here we have again probably the
24 better angle you described before.

25 A Yes, sir.

1 Q And the individual walking on the white half is whom?

2 A Mr. Derrick Mills.

3 Q Mr. Derrick Mills. Okay. And he goes inside in the
4 El Cheapo?

5 A Yes, sir.

6 Q Okay. And you'd agree the lights are definitely on,
7 correct? Outside?

8 A Yes, sir. That's correct.

9 (Video plays.)

10 Q And a person who just walked up from the side there
11 with their hat on backwards, that's Mr. Quintin Mills?

12 A Yes, sir, that's correct.

13 Q And everybody's just there talking in front?

14 A Yes, sir.

15 Q Okay.

16 (Video plays.)

17 Q All right. Let's move forward. We can see through
18 here Mr. Mills comes back up -- Quintin Mills comes back
19 up front, right?

20 A Yes, sir.

21 Q Looks like he's opening up a brand new box of
22 cigarettes in his hand and he's about to smoke one, right?

23 A Correct.

24 Q Okay. And that says he's having a conversation with
25 everybody out there, right?

1 A Yes, sir.

2 Q Scoot forward here.

3 (Video plays.)

4 Q 18:25 and you can still see Mr. Mills on the camera,
5 correct?

6 A That's correct.

7 Q Walked off for a moment at 18:26, almost 27. Now
8 he's back on the camera. He goes back inside, goes to the
9 right, --

10 A That's correct.

11 Q Right?

12 A Yes, sir.

13 (Video plays.)

14 Q And at 18:28, he's back outside, smoking another
15 cigarette?

16 A That's correct.

17 (Video plays.)

18 Q He's still on the edge of the camera at 18:28 and a
19 half he's going on. He's having a drink, correct?

20 A That is correct.

21 Q Going to go more toward the end here.

22 (Video plays.)

23 Q Here we have -- it's 18:29, almost 18:30 for the time
24 stamp, and Mr. Mills is still on the camera, correct?

25 A That's correct.

1 Q Okay. There it's fully 18:30 and you can still see
2 the back of Mr. Mills, correct?

3 A Yes, it's correct.

4 Q Okay.

5 (Video plays.)

6 Q And then at 18:30:11, the footage ends, correct?

7 A That's correct.

8 Q Okay. Now, we're not belaboring everyone with 12
9 videos that are half an hour long each. You'd agree that
10 other videos from inside the gas station also show Mr.
11 Quintin Mills going inside the convenience store section
12 and making purchases, correct?

13 A Mr. Derrick Mills. Yes, sir.

14 Q Yeah. I'm sorry, Mr. Derrick Mills. Absolutely.
15 Okay.

16 MR. STEVENS: I'm just going to close this down, okay
17 Judge?

18 THE COURT: Yes, sir.

19 Q Now, the investigation itself -- the invest --
20 through the investigation -- well, as of the first night,
21 on the 13th, your office had already spoken with Mr.
22 Jarvis Mack, correct?

23 A Correct. Yes, sir.

24 Q Okay. And through that conversation and interview
25 with Mr. Mack you had already established that you had

1 suspects in your mind, correct?

2 A Yes, sir --

3 Q Who --

4 A That's correct.

5 Q And by the next day, you'd gotten this video from the
6 El Cheapo gas station, correct?

7 A Correct.

8 Q Okay. And on that video it showed -- you can see his
9 vehicle?

10 A Yes, sir.

11 Q It showed Mr. Mack coming out the vehicle -- in and
12 out the vehicle, right?

13 A That's correct.

14 Q As well as other activities. And it also showed the
15 people you were looking for at the time, correct?

16 A Correct.

17 Q Okay. And yet they abruptly stopped at 6:30 p.m.
18 according to the time stamp, correct?

19 A Yes, sir.

20 Q Okay. Did you ever collect more than what you
21 actually got from those videos?

22 A No, sir.

23 Q Okay. Would it have been helpful to have known
24 exactly what time -- or just according to the time stamp
25 or watch, what time the vehicle had left the El Cheapo gas

1 station for purposes of your investigation?

2 A Correct.

3 Q Okay. But you didn't acquire this video?

4 A No, sir.

5 Q Okay. Excuse me. Okay. Now let's talk briefly
6 about your efforts to locate the individuals.

7 A Yes, sir.

8 Q All right. You said you were able to locate Mr.
9 Quintin Mills on the day?

10 A Yes, sir.

11 Q Okay. I gotcha. And you said that you and others
12 were looking for actually both the Mills the night of the
13 incident?

14 A Yes, sir. In -- initially, when we left the scene,
15 we started trying to figure out where to go and start
16 looking.

17 Q Okay. I gotcha. And at any time relatively soon
18 around the date of the incident, did anybody check where
19 Mr. Mills lived?

20 A I didn't personally. I'm not sure if anybody else
21 from the patrol side did or not.

22 Q Okay. And when -- when -- I'm just saying, you're
23 the lead investigator on the case, right?

24 A Correct.

25 Q Okay. So to your knowledge, did anybody go out to

1 Eastover where he lived?

2 A Not that night, no, sir.

3 Q Okay.

4 A We did not.

5 Q Okay. Well -- and not just that night, I mean, we'll
6 say the week after?

7 A I'm not sure.

8 Q Okay. But when your office did find him they located
9 him in Eastover, South Carolina, right?

10 A That's correct.

11 Q Not Mexico?

12 A No, sir.

13 Q Not Bora Bora?

14 A No, sir.

15 Q Not Canada?

16 A Correct.

17 Q Eastover, South Carolina?

18 A Correct.

19 Q And that's pretty much just over the border in
20 Richland County, right?

21 A Correct.

22 Q Okay.

23 MR. STEVENS: Court's indulgence.

24 (Brief pause.)

25 Q One final question. You weren't there on the hill

1 when the incident occurred, correct?

2 A This is correct.

3 Q Okay. So you could not have seen who specifically
4 was there and did what at the time it happened, right?

5 A That's correct.

6 Q Okay. Thank you, sir. I appreciate it.

7 A Thank you.

8 MR. STEVENS: No further questions, Judge.

9 THE COURT: Cross-examination?

10 MR. FARLEY: I -- I think Mr. Stevens covered
11 everything. I don't have any questions.

12 THE COURT: Any redirect?

13 MR. LUPTON: Yes, Your Honor. Thank you

14 REDIRECT EXAMINATION

15 BY MR. LUPTON:

16 Q All right. There's been a lot of talk about the time
17 stamp. Do you know what the actual time that those videos
18 were recorded at was?

19 A No, sir.

20 Q Now -- and you saw the videos both back then and --
21 and today in court, correct?

22 A Yes, sir.

23 Q Would it be fair to say that you can see the
24 background clearly on the other side of the street?

25 A Yes, sir.

1 Q All right. At the beginning of the videos?

2 A Yes, sir.

3 Q Does it become less clear as the video goes on?

4 A No, sir.

5 Q They talked about some of the lights on the cars
6 being on. And some of them were on, correct?

7 A Correct.

8 Q Were there others where the lights were off?

9 A Yes, sir.

10 Q As a police officer, are you familiar with cars and
11 how they work?

12 A Yes, sir.

13 Q Is it common for modern cars to have daytime running
14 lights?

15 A Yes, sir.

16 Q And what would those be?

17 A Those are lights that run all the time during the
18 daylight driving hours.

19 Q All right. And with regards to the video, if that
20 time stamp were correct, it would show Quintin Mills and
21 Derrick Mills there at the El Cheapos at the same time as
22 the murder occurred; is that correct?

23 A Approximately. Yes, sir.

24 Q All right. So they would both be there?

25 A Yes, sir.

1 Q And then I want to think about who was not there.
2 Did any of those videos show Deputy Richard Herron or his
3 patrol car at the El Cheapos at 6:30?

4 A No, sir.

5 Q One last point, they asked you about searching for
6 Derrick Mills. As lead investigator, you're aware that
7 both SLED and U.S. Marshalls were hunting for them; is
8 that correct?

9 A That's correct.

10 Q All right. So it -- was it a situation where nobody
11 just bothered to go and -- and knock and see if he was
12 home?

13 A Not at all.

14 Q It was an active manhunt?

15 A Yes, sir.

16 MR. STEVENS: Objection, Judge. Can't speak for the
17 Marshall service and whatever they said.

18 MR. LUPTON: Your honor --

19 THE COURT: If he has knowledge of it, he can
20 probably answer.

21 MR. LUPTON: Thank you, Your Honor. Nothing further.

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

23 (The witness exits the stand.)

24 MR. LUPTON: Your Honor, the State rests.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, at this juncture we must take a brief recess. If
2 you would please go to your jury room, we'll be right back
3 with you. Again, please do not discuss this matter
4 amongst yourselves.

5 (The jury exits at 3:16 p.m.)

6 THE COURT: Any motions?

7 MR. LEINENDECKER: Your Honor, at this time we would
8 move on behalf of Derrick Mills for a directed verdict
9 because of the State's lack of evidence establishing that
10 he was even at the scene of the crime at the time.

11 In fact, the only evidence that they bring comes from
12 two -- two witnesses who, I would suggest to the Court,
13 certainly have self-serving interests to testify the way
14 that they do.

15 There's also the fact that there's been video
16 evidence to demonstrate that he wasn't there.

17 And I also believe that the State has failed to meet
18 their burden, even to go as far as beyond the presentation
19 of the case, and we move for a directed verdict.

20 THE COURT: Yes, sir?

21 MR. FARLEY: Your Honor, and on behalf of Quintin
22 Mills, I would move to preserve all of our previous
23 motions and objections.

24 In addition, I would also join in a motion for a
25 directed verdict. We also believe that giving the light

1 most favorable to the Defendant, the State has been unable
2 to show that they were at the murder scene at the time of
3 the murder. We certainly believe that with the
4 corroboration of this video evidence, that the Court should
5 grant a directed verdict at this time. Thank you.

6 THE COURT: All right. Thank you, sir.

7 Solicitor?

8 MR. LUPTON: Your Honor, the standard would be a
9 light most favorable to the State, and then the State
10 believes that there is sufficient evidence to make it a
11 jury issue. There is evidence that money was taken from
12 the victim as well as other items of value, including his
13 pants.

14 Your Honor, there was also -- and it was taken by the
15 two acting together, while at least one, if not both, were
16 armed with a firearm.

17 There is evidence that the Defendant, Derrick Mills,
18 fired shots from that firearm, killing the victim, Charles
19 Brown.

20 There's evidence sufficient for a jury to conclude
21 that they were acting together under hand of one, hand of
22 all, including statements and testimony concerning acts
23 that appeared to be actions where they were -- where
24 Derrick was directing Quintin and where they were acting
25 together. Obviously, the weight is for the jury to

1 decide.

2 THE COURT: I agree. Considering the circumstances
3 and the evidence that has been presented, at this
4 juncture, there is direct and circumstantial evidence
5 tending to establish the guilt of each of the Defendants
6 and the case will go to the jury. The motion is denied.

7 I think -- have you discussed with your clients
8 whether or not they wish to testify?

9 MR. LEINENDECKER: We've had initial discussions,
10 Your Honor. But based on the conclusion of the State's
11 case, we'd need a little more in-depth time to -- before
12 we --

13 MR. STEVENS: I would agree that is also the position
14 of Mr. Quintin Mills.

15 THE COURT: All right. How long do y'all need?

16 MR. STEVENS: 10/20 minutes.

17 MR. FARLEY: Yeah. 10/20 minutes, Your Honor?

18 THE COURT: Yeah. Just let me know when you're ready
19 to proceed.

20 MR. LUPTON: Your Honor, if -- if I may? To assist
21 in the -- their discussion, settle the record so that
22 they'll have that information available to them ...

23 THE COURT: Yes, sir.

24 MR. LUPTON: With regards to Derrick Mills, provided
25 he does not open the door, if he opens the door, there's

1 numerous convictions dating back to 1989. However, under
2 609, I think we would be entitled to impeach him with
3 convictions from a 2001 armed robbery/car
4 jacking/kidnaping and 2002 entering a bank with intent to
5 steal.

6 I think that provided that there is not a door opened
7 to the nature of the offenses specifically, for example,
8 the Defendant testifying that because he had done similar
9 stuff or because of his record that he wouldn't be
10 believed because of the specifics of his record, that --
11 and just as a general impeachment -- because of the
12 similar nature, that case law would require us to impeach
13 by simply inquiring if he was convicted of felonies for
14 those events.

15 And they are older than 10 years; however under the
16 rule, because he was incarcerated until 2012 on those
17 charges and started probation December 31, 2012, it would
18 be within the time frame for impeachment.

19 THE COURT: All right.

20 MR. LUPTON: With regards to Quintin Mills, he has a
21 number of minor charges such as driving under suspension,
22 simple possession. The only charges that I think would be
23 -- I think would be impeachable a 2012 conviction for
24 false information, a 2013 conviction for false information
25 which I believe are absolutely admissible for impeachment.

1 He also has a 2012 assault and battery second degree,
2 use of vehicle without permission, unlawful carrying of a
3 pistol. I think that the unlawful carry of pistol does
4 not qualify. I will concede that.

5 The use of vehicle without permission I think is --
6 it would depend on whether it was the one year or three
7 year statute. I can't say which it is. So out of an
8 abundance of caution, I will conceded that the appropriate
9 answer would be that I -- I would not be able to use it
10 for impeachment.

11 The assault and battery second degree I believe would
12 be -- as a three year charge would be impeachable.

13 THE COURT: What year again was that?

14 MR. LUPTON: That was 2012, Your Honor.

15 THE COURT: Counsel?

16 MR. LEINENDECKER: I -- I agree with the State's
17 representation concerning Derrick Mills. And I agree
18 that, you know, if he doesn't go into details, they can
19 impeach with the relevant conviction.

20 THE COURT: Yes, sir. Mr. Farley?

21 MR. FARLEY: Your Honor, I agree with Mr. Lupton's
22 assessment of Mr. Quintin Mills's record and the sole
23 charges he said would be impeachable.

24 THE COURT: All right. Thank you, gentlemen. Let me
25 know when you're ready to proceed.

1 MR. FARLEY: Yes, ma'am.

2 MR. LEINENDECKER: Thank you.

3 MR. STEVENS: And Judge, if I may at this time,
4 briefly, just to put on the record that the brief
5 conversation we had about judgement. At the time the
6 prosecution was inquiring of Mr. Stanley Graham about
7 their efforts in trying to locate Mr. Derrick Mills, it
8 wasn't just questions regarding where -- where did you
9 look? Did you go here? Did you find them? It went to,
10 did the Defendant contact you?

11 Our position is that would actually violate *Doyle v*
12 *Ohio* and actually a Supreme Court opinion regarding the
13 comment on -- exercising their rights. I understand the
14 Government has pointed to State case law saying, you know,
15 they would like to comment on pre-trial silence.

16 Our position is this goes beyond that since he wasn't
17 even in custody at the time. No one has to speak with any
18 officer or any authorities if they don't want to,
19 especially if they're actually told that. And to say
20 otherwise is insinuating that, yes, that in itself is
21 nefarious, number one.

22 Point No. 2, it would be a comment on his record not
23 to even have talked to anybody to this point. He would
24 have been -- that's why we were waiting to see if that's
25 where the question was leading, would've been able to

1 comment on, "Yes, they did look in place X or place Y on
2 date X and date Y." That's not the where it was, that's
3 where our objection is --

4 THE COURT: Mr. Solicitor?

5 MR. LUPTON: Your Honor, *Doyle* concerns post-arrests,
6 post-Miranda silence. *Doyle* has been extended to post-
7 arrests but pre-Miranda silence as well.

8 However, the case law that's clear is pre-arrest
9 silence under conditions where a person would have spoken
10 is subject to comment. I'd cite *State v McIntosh*, a South
11 Carolina Supreme Court case, 358 SC 432, 2004 Supreme
12 Court case, South Carolina Supreme Court, that is; and 275
13 SC 464, a 2007 Court of Appeals case in South Carolina.

14 Both of these are very clear that *Doyle* does not
15 extend to pre-arrest silence. There's also many other
16 cases, both State and Federal, that discuss the fact that
17 the prohibition on commenting about Defendant's silence is
18 based on the fact that once they're arrested and advised
19 of their rights to remain silent, to comment on that right
20 to remain silent is inadmissible because they've been told
21 they have that right and that there should be nothing
22 adverse inferred from the fact that they have exercised
23 the right; however, prior to the arrest, that's fair game.
24 And then -- and the case law is very clear on that.

25 THE COURT: Anything further that y'all would like to

1 place on the record regarding that?

2 MR. STEVENS: Just simply that a person's right to
3 remain silent is not traded just because someone tells him
4 he has the right to be silent. It's a right.

5 And No. 2, as he indicated in his argument, Judge --
6 or to you, Judge, that especially if they're looking for
7 him and they're silent when they don't really have a
8 reason to be.

9 Clearly, if the Government's allegations have any
10 merit whatsoever, he would not be likely to want to go
11 ahead and have the conversation immediately anyway.
12 Regardless, Judge, our position is simply as we stated.

13 THE COURT: Yes, sir. I understand your position.
14 And again, the ruling remains the same. That it did not
15 violate what is allowable under the law. So your motion
16 is again placed on the record, but overruled.

17 MR. STEVENS: Thank you, Judge.

18 THE COURT: All right. Let me know when you're ready
19 to proceed.

20 MR. STEVENS: Yes, ma'am.

21 (Off the record at 3:27 p.m.)

22 (On the record at 3:52 p.m.)

23 THE COURT: All right. Counsel, have you each had an
24 opportunity to discuss with your clients whether or not
25 they wish to testify?

1 MR. LEINENDECKER: We have, Your Honor.

2 MR. FARLEY: I have, Your Honor.

3 THE COURT: And are they both ready to be placed on
4 the record?

5 MR. LEINENDECKER: Yes, Your Honor.

6 MR. FARLEY: Yes, Your Honor.

7 THE COURT: All right. Gentlemen, if you would
8 please stand.

9 (The Defendants comply.)

10 THE COURT: And could you please swear them in, Mr.
11 Clerk?

12 THE CLERK: Yes, ma'am

13 **QUINTIN MILLS** and **DERRICK MILLS**, having both
14 been first duly sworn, testify as follows:

15 THE CLERK: Please state your full name for the
16 record.

17 MR. QUINTIN MILLS: Quintin Mills.

18 MR. DERRICK MILLS: Derrick Mills.

19 THE CLERK: Thank you, gentlemen.

20 THE COURT: All right. Mr. -- both Mr. Mills's, if
21 y'all would please continue to stand.

22 (The Defendant's comply.)

23 THE COURT: All right. Gentlemen, I'm going to go
24 through this with both of you at the same time. So
25 Quintin Mills, if you would please respond first when

1 there's a question asked; then you, Mr. Derrick Mills, if
2 you would then respond. That way the record is clear as
3 to whose speaking. Okay.

4 MR. QUINTIN MILLS: Yes, ma'am.

5 THE COURT: All right. Gentlemen, at this time I'm
6 going to explain to you certain of your rights. If you do
7 not understand anything that I say, please let me know.
8 If you want me to explain anything in more detail, also
9 please let me know. Do you understand?

10 MR. QUINTIN MILLS: Yes, ma'am.

11 MR. DERRICK MILLS: Yes, ma'am.

12 THE COURT: We have now reached the stage of the
13 trial where you may present your defense. You have the
14 right to claim the protections given to you by the Fifth
15 Amendment of the Constitution of the United States. This
16 amendment states in part that no person shall be compelled
17 in any criminal case to be a witness against himself.

18 This means that you cannot be required to testify in
19 this case. You have the right to testify on your own
20 behalf; however, noone can make you testify.

21 This is a personal right and noone can waive this
22 right except for you. If you decide to testify, you will
23 be subject to the same rules that govern other witnesses
24 and you may be examined and cross-examined on any relevant
25 issue in this case.

1 In addition, if you have any convictions involving
2 dishonesty or for false statement or for crimes punishable
3 by imprisonment for more than one year and I determine
4 that the probative value of admitting this evidence
5 outweighs it's prejudicial effect to you, the Solicitor
6 will be able to introduce your record and attack your
7 credibility.

8 If you decide to testify, this decision on your part
9 must be made freely, voluntarily, and intelligently with
10 the knowledge of the protections given to you by the Fifth
11 Amendment and the consequences of your decision to
12 testify.

13 If you decide not to testify, I will instruct the
14 jurors that they cannot give the fact that you did not
15 testify any consideration whatsoever and that there is to
16 be absolutely no prejudice to you because you did not
17 testify.

18 You may talk with your attorney, your family, your
19 friends, anyone you'd like to; but ultimately the decision
20 whether or not you wish to testify is completely up to
21 you. Do you understand what I have explained to you?

22 MR. QUINTIN MILLS: Yes, ma'am.

23 MR. DERRICK MILLS: Yes, ma'am.

24 THE COURT: Do you -- have you discussed with your
25 attorneys whether or not you wish to testify?

1 MR. QUINTIN MILLS: Yes, ma'am.

2 MR. DERRICK MILLS: Yes, ma'am.

3 THE COURT: Do you need anymore time to discuss with
4 your attorneys whether or not you wish to testify?

5 MR. QUINTIN MILLS: No, ma'am.

6 MR. DERRICK MILLS: No, ma'am.

7 THE COURT: Do you wish to testify?

8 MR. QUINTIN MILLS: No, ma'am.

9 MR. DERRICK MILLS: No, ma'am.

10 THE COURT: All right. Sir -- gentlemen, you have a
11 seat.

12 (The Defendants comply.)

13 THE COURT: Counsel, will the Defense be presenting
14 any evidence on either side?

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

16 THE COURT: Yes, sir.

17 (Brief pause.)

18 MR. LEINENDECKER: On behalf of -- of Derrick Mills,
19 we do not wish to put up anything beyond what's already
20 been presented from the witness stand and -- and Defense
21 would rest.

22 We would, of course, renew our directed verdict
23 motion at this time, which is required ---

24 THE COURT: Yes, sir. And again, for the same
25 reasons, it is respectfully denied. Mr. Farley?

1 MR. FARLEY: Your Honor, for the record, we would
2 also just -- the Defense for Quintin Mills would rest on
3 the evidence that has already been presented. We would
4 also renew our directed verdict motion.

5 THE COURT: Yes, sir. And again, for the same
6 reasons, the motion is respectfully denied. Gentlemen,
7 what I think I'll do is I'll bring the jury out and I'll
8 allow you to rest in front of the jury.

9 And then I'll in -- instruct them that, obviously,
10 it's four o'clock. It's a little late to go into closing
11 arguments and the instructions before I give them the --
12 the case for their deliberations.

13 So I'll let them go for the evening, but I just
14 wanted to explain that to them out here and allow you to
15 rest in front of the jury.

16 Anything before I bring the jury out?

17 MR. LUPTON: None from the State, Your Honor.

18 MR. LEINENDECKER: The only thing that I would ask,
19 Your Honor, that I don't believe it's necessary nor
20 appropriate for us to discuss the motions. We'll just
21 rest our case --

22 THE COURT: Yes, sir.

23 MR. LEINENDECKER: -- in front of the -- in -- in
24 front of the jury.

25 THE COURT: Yes, sir. And -- and that's what I had

1 anticipated.

2 MR. LEINENDECKER: Okay. Yeah. I just wanted to
3 make sure everything's preserved and I'm not doing
4 something.

5 THE COURT: Absolutely.

6 MR. FARLEY: I concur.

7 THE COURT: Okay. All right. Let's have our jury,
8 please.

9 (The jury enters at 3:57 p.m.)

10 THE COURT: Welcome back ladies and gentlemen of the
11 jury.

12 Does Counsel for the Defense intend on presenting any
13 evidence?

14 MR. LEINENDECKER: On behalf of Mr. Derrick Mills, we
15 do not intend to present anything. We will rely on the
16 testimony that's been presented and we would rest at this
17 time.

18 THE COURT: Thank you, Mr. Leinendecker. Mr. Farley?

19 MR. FARLEY: On behalf of Quintin Mills, we would not
20 present any defense at this time. We would also rest on
21 the very same thing. Thank you, Your Honor.

22 THE COURT: Thank you, Counsel.

23 Ladies and gentlemen of the jury, both sides have
24 rested their cases in this matter. It's four o'clock in
25 the afternoon. It's a little bit late for us to do -- go

1 into closing arguments, to charge on the law, and give you
2 the case to deliberate.

3 I understand that you have places to be. So at this
4 juncture it's a good time for us to take our evening
5 recess.

6 Although both sides have rested their case, again,
7 please remember my previous instruction that it is very
8 important that you not discuss this case with anyone in --
9 including amongst yourselves or with anyone else.

10 I'm going to ask you to return to your jury room
11 tomorrow at 9:30 so that we can then proceed with the
12 closing arguments of counsel, the instruction on the law,
13 and then you will have the case to deliberate.

14 Have a nice evening. We'll see you in the morning.

15 (The jury exits at 3:59 a.m.)

16 THE COURT: Anything further on this matter before we
17 adjourn for the day on this case?

18 MR. LEINENDECKER: Nothing further from the Defense
19 of Derrick Mills.

20 MR. FARLEY: Nothing further from the Defense of
21 Quintin Mills.

22 MR. LUPTON: No, Your Honor.

23 THE COURT: Thank you, gentlemen.

24 Ma'am in -- that we confiscated your cell phone
25 earlier. We will have your hearing tomorrow at 9:30. I

1 had asked you to be present in the courtroom prior to us
2 resuming the trial of this case this afternoon at 1:25.

3 We started the trial at 1:35 and you did not enter
4 the courtroom 'til after -- shortly after 2:00. So we
5 will have your hearing tomorrow sharply at 9:30 if you
6 would wish to be heard regarding the return of your cell
7 phone. All right.

8 We're adjourned for the day. Have a nice day.

9 (Off the record at 3:59 p.m.)

10 **DAY 3**

11 (On the record at 9:43 a.m.)

12 THE COURT: All right. And Counsel, we have had an
13 opportunity to have a charge conference in chambers
14 regarding the proposed jury instructions. It is my
15 understanding that all parties have reviewed the proposed
16 jury instructions that are to be given by the Court and
17 have a -- and have no objections. Is that correct from
18 the State?

19 MR. LUPTON: Yes, Your Honor.

20 MR. LEINENDECKER: Yes, Your Honor.

21 MR. FARLEY: Yes, Your Honor.

22 THE COURT: The parties ready to proceed?

23 MR. LUPTON: The State's ready, Your Honor.

24 MR. LEINENDECKER: The Defense is ready.

25 MR. FARLEY: Defense is ready, Your Honor.

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

2 (The jury enters at 9:46 a.m.)

3 THE COURT: Good morning, ladies and gentlemen of the
4 jury. Thank you for your patience this morning. We're
5 now ready to proceed with the closing arguments of
6 counsel. Please pay close attention.

7 Solicitor?

8 MR. LUPTON: Thank you, Your Honor. May it please
9 the Court?

10 THE COURT: Yes, sir.

11 MR. LUPTON: Ladies and gentlemen, it's real easy
12 here in this peaceful, well-lit courtroom to forget about
13 the difference between order and chaos. Here in this
14 courtroom everything is geared towards order and clarity.
15 Everybody here is trying to make sure you see, hear and
16 understand what's going on. The judge is trying to make
17 sure that you see everything, that you hear everything.
18 The participants are doing the same. Only one person is
19 up and moving at a time and only one person talks at a
20 time. If there's an objection, the person whose talking
21 stops talking and the judge hears the objection and rules
22 and then people move on.

23 You even saw when I had a witness up here and was
24 pointing to some stuff on a map, and it wasn't real clear
25 from where the person was pointing to y'all. The judge

1 says, "The jury can't see that." and made me get out and
2 show you what he was pointing to so that it would be
3 clear. So that it would **. So that you could see what
4 was going on and understand clearly what was going on.

5 Ladies and gentlemen, it was very, very different out
6 there on Falcon Lane in the dark, a secluded wooded area
7 and an abandoned house back on December 13, 2014. And as
8 you listened to this testimony I hope you understood that.
9 And as you deliberate, and I hope you remember that.
10 They're going to nit-pick the testimony. But remember,
11 you had two witnesses that had everything going on all at
12 once around them. They had fear. People with guns.
13 People being shot. They were afraid for their life, there
14 was the trauma of seeing or hearing a friend or a loved
15 one killed. Coming back and finding the body of your
16 father. There was not order and clarity out there.

17 So if in that fear, in that everything happening at
18 once, everything being over very quickly, if there was a
19 little bit of confusion, it's understandable. That is not
20 reasonable doubt. Reasonable doubt, ladies and gentlemen,
21 is one of those legal concepts that the law struggles to
22 define. What is it? You -- you -- the law has come up
23 with all sorts of definitions that it has tried to use to
24 explain. One you may have heard of, an old Manning
25 charge, says reasonable doubt is the kind of doubt that

1 causes a reasonable person to hesitate to act.

2 The Supreme Court is -- both the US Supreme Court and
3 the South Carolina Supreme Court both have adopted more
4 recently another definition that says that there are very
5 few things -- if you are firmly convinced of the
6 Defendant's guilt, then you should find him guilty. It
7 goes on to say that there aren't very many things in this
8 world that we know with absolute certainty. And the law
9 does not require that level of certainty. That after
10 you've seen all of the evidence -- heard all the evidence,
11 if you are firmly convinced that the Defendant is guilty,
12 you should vote guilty. But if you believe that there is
13 a real possibility that he is not guilty, then you should
14 find him not guilty.

15 Ladies and gentlemen, I would submit to you that what
16 you're going to be asked to do, is when you go back,
17 you're going to be asked to decide what do you believe
18 really happened? What do you believe really happened that
19 night? What do you think really happened that night? And
20 if -- as you're back there in that jury room, if you
21 believe what really happened is that Derrick and Quintin
22 Mills robbed and killed Charles Brown, then you should
23 vote guilty.

24 Now, ladies and gentlemen, I would submit to you that
25 that's what the evidence shows. If you look at it, that

1 is what the evidence shows. So let's look at that
2 evidence. What is the evidence that Derrick Mills
3 murdered Charles Brown? Very clear. You have Kendrell
4 Thompson. After the doctor, he was the first witness that
5 first day of the trial. And when you look at him, he told
6 you, "I saw Derrick shoot Charles Brown." he knew who
7 Derrick was. There's no question he didn't seem ** or
8 confused about who they saw. These people who knew each
9 other for years. He saw him shoot Charles Brown. Saw him
10 shoot him in the face, saw him continue to shoot him when
11 he fell down, saw him shooting him on -- standing over him
12 and shoot him on the ground.

13 Charles's son -- well, step-son, but he said, "You
14 know, he raised me since I was a baby and he's my only
15 father I've ever known." His son, Jarvis Mack, saw
16 Derrick pull Charles out of the car at gunpoint and as he
17 ran heard the gunshots. And then we got the fact that for
18 two-and-a-half years, with the Calhoun County Sheriff's
19 Office, SLED and US Marshalls looking for him, Derrick's
20 on the run. The evidence of murder has been proven. What
21 about the evidence of armed robbery? The evidence of
22 armed robbery, Kendrell says he saw him take the money.
23 Derrick take the money from Charles Brown. The money to
24 buy the motorcycle.

25 You got Jarvis saying the same thing. They took the

1 money at gunpoint. KT -- excuse me, Kendrell Thompson, he
2 heard the victim tell him as he was begging for his life,
3 "You've already got my money. You've already got the
4 money. Let me live." You got the fact that that money
5 wasn't found at the scene. There was some more money in
6 his pocket, but the money for the motorcycle wasn't found
7 at the scene. You got the fact that you know there was a
8 gun because the victim was shot to death. They both saw
9 the gun and he was shot to death. Can't get shot to death
10 without a gun being present. That's a deadly weapon.

11 And even without that money that Kendrell saw him --
12 saw Derrick taking the victim's pants. We know that the
13 pants weren't found at the scene. We know there was an.
14 armed robbery. So that gets us to Quintin. How do we
15 know if he was involved? We've already talked about hand
16 of one, hand of all. The judge will explain that law to
17 you in more detail during her explanation of the law. But
18 basically, hand of one, hand of all, if two people act
19 together to commit a crime, then what one does both of
20 them are responsible for. Two people go together to do
21 something, you're responsible for what each of you do. So
22 the hand of one, hand of all. How do we know that Quintin
23 was involved? Well, how else did Derrick know about the
24 location? Derrick wasn't involved in any of the texting
25 or calls. He wasn't involved in setting it back --

1 setting any of this up. Jarvis didn't contact him.
2 Didn't talk to him. He had to find out through Quintin.

3 And when he showed up with Quintin, you heard,
4 Quintin didn't act surprised. He was expecting him there.
5 They were together. They were standing next to each other
6 during the transaction. Quintin never said, "What are you
7 doing here?" anything like that. They were acting
8 together. And so what happens when the guns come out?
9 Derrick pulls his gun, what does Quintin do? He pulls a
10 gun. Now, that got a little bit unclear in the testimony.
11 You know, you heard, I'd like to think that Quintin didn't
12 have a gun. They both said, at the time that Quintin had
13 a gun. Now they're, "Well, I'm not sure if I actually saw
14 a gun or he was just holding his hand -- holding something
15 that -- that I thought was a gun." but regardless, he was
16 doing something as if he had a gun.

17 And even if he didn't have a gun, what did he do once
18 Derrick pulls his gun out? He drags Kendrell out of the
19 car in a choke hold. Kendrell showed you, with the arm
20 around the neck, said choking, pulling him up. Pulls him
21 out of the car with a choke hold and starts taking stuff
22 out of his pocket. I think he showed it with the left
23 arm. And he's taking stuff out of the pocket. He told
24 you Quintin was taking stuff out of his pockets. He also
25 told you that he was doing this stuff after Derrick gave

1 him a nod. So he gives him that nod, you know, towards
2 Kendrell. If Derrick is giving him a nod telling him what
3 to do, they're working together. They're in it together.
4 So even if he didn't have that gun, they're working
5 together. It's clear.

6 And what does he do when Jarvis takes off? He yells
7 to warn Derrick. "He's running. He's running." They're
8 working together. This falls under hand of one hand of
9 all. So let's back up and ask ourself, "Well, how do we
10 know this is all true?" well, a few things. One, I'd
11 submit to you, look at the defense that was started for
12 Quintin. When you look at -- listen to his opening
13 statement, you heard him talking about being out there for
14 a legitimate motorcycle sale, not a robbery. That he was
15 out there without the gun. He wasn't going out there with
16 a gun. That he was just there to sell a motorcycle.

17 Look at the cross-examination. Evidence that he got
18 out during cross-examination. This is evidence that his
19 lawyer was asking during cross. Asking questions about my
20 client grabbed you and pulled you away from Derrick,
21 didn't he? Trying to make it sound like he wasn't
22 involved. That, my client was there for a legitimate
23 motorcycle sale. My client tried to make it right.
24 They're going for all this evidence. He's admitting to
25 being there, essentially. Putting in evidence that he was

1 there and just not asking --

2 MR. FARLEY: Objection. The -- opening statements
3 are not evidence.

4 THE COURT: The jury will be instructed that what the
5 attorneys say is not evidence. That's his contention as
6 to what the evidence showed.

7 MR. LUPTON: And let me -- and let me be clear.
8 Openings aren't evidence; cross-examination is evidence.
9 When his lawyer asks the question and gets evidence in
10 through that question, that is evidence. And that was the
11 evidence he was getting in about his client saving
12 Kendrell by pulling him away from Derrick.

13 Now, the other thing we gotta look at is this is a
14 pretty simple case when you get down to it. I mean,
15 Jarvis and Kendrell both told you Derrick pulls him out --
16 pulls Charles out at gunpoint; Jarvis ran, but hears the
17 gunshots as he's running; and Kendrell sees Derrick shoot
18 Charles After -- as Charles is begging for his life after
19 being robbed.

20 There is no question this was a murder and an armed
21 robbery. This isn't some legal issue about whether or not
22 it was self-defense or whether or not there was -- you
23 know, this might be some lesser voluntary -- or an
24 accident or anything like that. This was a clear murder,
25 And if you believe that they're telling the truth, there's

1 no question about that. I don't even think the defense is
2 going to question it if you believe they're telling the
3 truth, But that was a murder and that was an armed
4 robbery.

5 So if you believe that those two are not guilty, you
6 have to believe that Jarvis and Kendrell set up a murder
7 -- Jarvis set up to murder his own dad to steal \$500?
8 Does that make any sense to you, That he murdered his own
9 dad over \$500?

10 And then if he did that, he either -- he had to have
11 concocted this whole thing and set up this whole thing
12 with Quintin about this motorcycle buy expecting to be
13 able to pin blame on Quintin because he just knew Quintin
14 was going to be late and that Quintin was going to want to
15 change the location? Does that make any sense?

16 Or that once Quintin wasn't there, somehow just on
17 the -- a whim, he decides I'm just going to shoot my dad
18 and rob him of \$500 and blame it on Quintin since he's not
19 here; and while I'm at it, I might as well throw in his
20 dad, too. Does that make any sense?

21 Now, you heard the 911 call. You heard his voice,
22 You heard the distress; you heard that hurt, that turmoil
23 in his voice. That is real. That was a man who had just
24 run from seeing his father dragged out at gunpoint and
25 hearing those gunshots. That's the voice of a man who

1 knows his father just got shot.

2 Now, they want to make this big deal about the fact
3 that when he goes back to the scene -- and first of all,
4 it makes sense that he'd go back to the scene to check on
5 his dad. Wouldn't any reasonable person want to go back
6 to try and help their dad?

7 But he makes this big deal about how he hugs him when
8 he gets back to the scene, and they sort of scoff at this
9 idea that he would tell him, "Get up."

10 My goodness, somebody comes back and sees their
11 father laying bloody on the ground, the emotional reaction
12 of wanting to grab them and hug them and say, "Please, get
13 up," of wanting it to be okay. That kind of emotional
14 reaction, there's nothing unreasonable about that. To say
15 otherwise it just doesn't make any sense. It defies
16 sense.

17 What does make sense is that this is what they said:
18 That in the chaos of that night, they got a few details
19 wrong, got confused on a couple of things; but there's no
20 question they have said from the start Derrick did this
21 and Quintin was with him. That makes sense.

22 You heard about Derrick being so adamant about
23 wanting that money that night. That makes sense. But
24 they're going to try and say you gotta ignore all of that
25 and assume, without any evidence -- and none of this

1 evidence point to -- to Jarvis and -- and Kendrell doing
2 it. But despite the fact that that theory doesn't make
3 any sense, they're going to try and tell you, you gotta
4 believe it because there's a time stamp on a video.

5 So let's talk about that time stamp. All right.
6 There is no question that the video from the El Cheapos
7 shows Quintin and Derrick at that gas station at 6:30
8 according to that time stamp, at the time the crime
9 happened, roughly.

10 If that time stamp were correct, we wouldn't be here
11 'cause there'd be no way that they could've committed this
12 crime. So why do we know it wasn't right? Well, we've
13 talked about it this whole trial.

14 Judge took judicial notice, that means it's a fact,
15 sunset was at 5:16 that night. And we all know how sunset
16 works, ain't [sic] a one of us hasn't been around to see a
17 sunset before. We know how sunset works. The sun goes
18 down and you got a little bit of twilight, maybe about
19 half an hour; and as that half hour goes it's getting
20 darker and darker the whole time, but you can still see a
21 little bit for that -- a little bit after sunset.

22 But you don't see stuff for an hour and a quarter/
23 two hours after sunset or anything like that. Once the
24 sun goes down, it starts getting dark quick. If the sun
25 goes down -- and we know that sun went down. That's one

1 thing we know with absolute certainty. The sun went down
2 at 5:16. Hour and a quarter later, it is dark. December
3 -- in December, here in Calhoun County, it is dark at
4 6:30. We know that. But in that video you can see it is
5 not dark.

6 Now, they talked about, "Oh, the lights at the gas
7 station were on." Well, of course the lights in the gas
8 station are on. Businesses like that, they leave their
9 lights on to look at the cars. You see in that video --
10 you saw in that video -- when I say "you see," during your
11 deliberation, you have a right to ask to see any of the
12 evidence. They'll -- they'll send back the -- the paper
13 and all that stuff with you, but the videos you're not
14 going to be able to look at back there 'cause you won't
15 have TV. But if you ever want to see them, they'll bring
16 you back out so you can listen to the 911 call or see any
17 of the videos.

18 But you look at those videos. You can watch the cars
19 going by. Some of them do have their lights on, but at
20 least half of them -- more than half of them don't. If it
21 was 6:30 at night, they'd all have their lights on.

22 Now, we talked about daytime running lights. You
23 understand how those work, and you know that some people
24 have their lights on even in the daytime, but most of them
25 didn't. More importantly, you can see all the way across

1 the street. If it was dark out, you know you can't see
2 that far on video. Even if the lights were lighting up
3 that parking lot way on the other side of the street, it
4 ain't [sic] going to be light over there. You're not
5 going to see that area. It's going to be dark over there
6 and it wasn't.

7 Now, another thing, you heard Richard Herron, the --
8 the first officer that got to the scene. Sat there, an
9 old guy, a 70-year-old deputy at the time, finally
10 retired. And he told you -- I asked him where was he
11 before. He was at the El Cheapos at 6:30.

12 MR. LEINENDECKER: Objection, Your Honor. Not only
13 mis-characterizes his statement, but it's not what the
14 witness said on the stand and he can't comment on
15 something that wasn't testified to. He said he was at the
16 Exxon station.

17 THE COURT: That will be for the jury to determine
18 what they recollect and they can certainly replay the
19 testimony for the -- the testimony that was presented.
20 You may proceed.

21 MR. LUPTON: Thank you, Your Honor. All right.

22 If you want to clarify, he said he was at the gas
23 station there at Exit 119, and everybody talked about the
24 Exit 119 gas station is the El Cheapos. And I think
25 anybody from here in Calhoun County knows what gas station

1 is there at Exit 119.

2 He wasn't there. He would've been there on that
3 video if it had been 6:30.

4 But you know, even the Defendant's car, you watch it,
5 as it pulls up it -- it says "18:22" on the -- the video.
6 The translation, 6:22. When you see the Defendant pull
7 in, he doesn't have lights on. It wasn't dark. Now, why
8 was the time stamp off? I don't know. But we all have
9 lived long enough that we've seen VCR's or microwaves,
10 whatever, with the clock isn't set right. Maybe it was
11 because it was set during the summer and it's an hour
12 behind that -- at that point in the year 'cause it was
13 never reset. Maybe it was never right to begin with. I
14 don't know.

15 What I do know is that there is no way you should let
16 these people get away with murder because someone didn't
17 set the timer on their VCR correctly, and that is
18 ultimately what they're asking for is for you to take this
19 mistake and turn it into letting them get away with
20 murder. If you look at the evidence in this case, it all
21 points to them committing this murder and this armed
22 robbery, and the fact that the time stamp is messed up is
23 not reasonable doubt. It is not reasonable doubt.

24 Ladies and gentlemen, at the start of this case, I
25 asked you when you go back to that jury room and you

1 deliberate, come back with a just verdict. Ladies and
2 gentlemen, after all the evidence in this case, a just
3 verdict in this case is guilty. Thank you.

4 THE COURT: Counsel?

5 MR. LEIENDECKER: Thank you, Your Honor.

6 Ladies and gentlemen of the jury, we're done, you
7 start working. You've been watching, you've been
8 listening, you've been seeing testimony from the witness
9 stand.

10 We told you in our opening statement that what you
11 were going to see were inconsistencies, were inaccuracies,
12 were holes, were gaps. What we explained to you was those
13 are reasonable doubts.

14 Counsel for the State suggested that reasonable doubt
15 is hard to define. It's not hard to define. You -- you
16 know what it is; I -- I know what it is. We may be like
17 Justice Byron White when he was talking about pornography,
18 "It's hard to define, but I know it when I see it."

19 Maybe in words it's hard to define, but you know
20 reasonable doubt when you see it.

21 Our Supreme Court has said -- and the judge will
22 instruct you on the law and so I encourage you to listen
23 to what she says.

24 But I -- I'm trying to tell you what I think she's
25 going to say on that, and one of the definitions she's

1 going to give you is reasonable doubt is a doubt that
2 makes you hesitate to act.

3 I have a six-year-old Labrador Retriever. I love
4 that dog. All my days, except at 2:30 to 3:30 in the
5 morning, every day of my life, when she wants to go
6 outside. I have no idea why. She stays home all day by
7 herself. She doesn't make accidents in the house, but
8 when I'm home and sleeping in my bed, she can't make it
9 eight hours while I'm sleeping. She's gotta get me up to
10 take her out.

11 I know how many steps there are on my front porch to
12 the ground. I think I do. I think there's four, counting
13 the last one to the ground. But every time I get up to
14 take her out at 3:00 in the morning, I turn on that porch
15 light because I hesitate to act in the dark. I know
16 they're there, but I hesitate to act. That's an important
17 fact.

18 And also, what the Court is going to tell you and
19 what we told you in opening statement is that the
20 allegations of murder and armed robbery have elements,
21 and that each of those elements must be proven by the
22 State beyond a reasonable doubt. And it must be proven
23 that my client, Derrick Mills, committed those crimes.

24 When I listen to the State's opening statement -- or
25 - and now their closing statement is they want to shirk

1 some of that responsibility of proving that case. They
2 want to ask you to fill in the gaps. They want to ask you
3 to jump over the reasonable doubt that exists in this
4 case, and they want you to solve this crime for them by
5 returning a guilty verdict.

6 Don't you do that. Don't you let them off the hook.
7 Don't you fail to hold them responsible for proving their
8 case beyond a reasonable doubt. The State has a burden.
9 No one else has a burden. No one else has to prove
10 anything. No one else has to fill in the blanks and the
11 gaps in the State's case, especially not you.

12 The State tells us, "We know what happened. We heard
13 from the two people that were there." Do we? Do we know
14 what happened because those two young men said that? Do
15 we know that that's what happened? I don't believe we do.

16 "Oh, we've got evidence that that's what was going
17 on. We've got evidence. We, the State, have put in that
18 evidence."

19 And part of that evidence is going to be with you.
20 The State has given us State Exhibit 3, photographs of the
21 cell phone text messages; State Exhibit No. 4,
22 photographs of the cell phone text messages; Number 5
23 photographs of the cell phone text messages. From whose
24 phone? Jarvis Mack.

25 Hey, we've all had cell phones long enough to

1 understand how they work, at least to a -- a degree. We
2 understand that they allow us to communicate with people
3 all over because there are cell phone towers everywhere
4 because messages bounce off those towers and relay it to
5 our phone from someone else's phone.

6 We know that if Jarvis Mack has text messages that
7 his phone say are with Quintin Mills, that those messages
8 aren't just going nowhere, right? They're going to a
9 phone owned by Quintin Mills.

10 We also know that if somebody's investigating this
11 case and trying to -- to put it together and not just take
12 somebody's word about what happened, that -- that can
13 easily be tested because two day later, the State of South
14 Carolina, through its investigator with the Calhoun County
15 Sheriff's Office, spoke to Quintin Mills.

16 So we can match it up, right? All we need are the
17 pictures of Quintin Mills cell phone showing that Quintin
18 Mills was out there trying to sell a motorcycle and meet
19 these guys. Now, let me get it for you. Oh, that's
20 right. That's a gap. We don't have that. That's not a
21 gap just, that's a reasonable doubt.

22 Who was Jarvis Mack texting with? Why don't we have
23 Quintin Mills cell phone records because if he was texting
24 with him, his cell phone was being used. Why don't we
25 have information showing towers which would give us a

1 general location of where Quintin Mills and Jarvis Mack
2 were? Why don't any of these text messages, three pages,
3 mention a motorcycle? Why don't any of these text
4 messages, three pages, mention Falcon Lane, mention an
5 abandoned house, mention Sugar Hill Lane? You know what
6 that is? That's a gap. And it's not just a gap, it's a
7 reasonable doubt.

8 You heard that dramatic 911 call, and -- and I'm not
9 belittling the 911 call, that the voice sounded dramatic.
10 But the more dramatic voice, really, was the lady that was
11 talking and had to fill in the gaps.

12 But what did you hear? Let me tell you what you
13 heard. At the beginning, you heard someone who's
14 identified as Jarvis Mack saying, "All I know is I'm in
15 Calhoun County. I'm not from around here. I don't know
16 anything about this area. I'm from Gaston. I don't -- I
17 just know I'm in Calhoun County in the woods."

18 "Well, what's happened?"

19 "My friend has been shot." Over and over "my
20 friend."

21 "What's your friend's name?"

22 "My friend's name is Charles Brown."

23 In his statement, his written statement to the police
24 on December 13th, he says, "My friend, Charles Brown."
25 Charles Brown. There's no dad. Not until the 15th, when

1 he comes in to talk to them, is there a dad referenced.

2 That's weird. That's suspicious. Why is he
3 unwilling to call Charles Brown his dad on the -- or what
4 happened in those woods that has stressed him bad?

5 And not only that, but we found out from the witness
6 stand and we found out in the -- in the statements to the
7 police, he knew where he was because the family friend,
8 Ms. Gwen, lived right down the street. He didn't suggest
9 that he went to Ms. Gwen's house before. He said, "When I
10 ran out of the woods in a panic, I ran up the street
11 because Ms. Gwen's house was there. I knew where she
12 lived. I ran up the street."

13 And in his statement, he said, "I got the gun." Not
14 a gun, not her gun, I got the gun. That's weird. He
15 didn't know where he was or he did know where he was?
16 There was a motorcycle, there wasn't a motorcycle.

17 There's no evidence from the investigation from --
18 SLED or Calhoun County have found any evidence that
19 there'd been a vehicle up there, any tire tracks, anything
20 to suggest that a motorcycle was there. None. That's the
21 gap. That's reasonable doubt.

22 What else did you find out, not just from Jarvis but
23 from Kendrell, the other witness who really knows what
24 happened in those woods? We know that an unknown person
25 that was not mentioned 'til we got to court, four and a

1 half years after the fact, was also there almost
2 immediately, Jarvis's brother. Jarvis's brother? Jarvis
3 suggests he called him, but I don't buy that. If he's in
4 Gaston, how'd he get there in a crack unless he was
5 waiting there?

6 I am a lot more skeptical than the Solicitor. I
7 believe there have been times and instances in the world
8 in which we live where step-sons have killed their father
9 or seen someone kill their father. I believe that you saw
10 a whole lot more than was going on in this case than
11 anybody ever wanted you to see when the State of South
12 Carolina obtained surveillance video from the El Cheapo
13 gas station. I believe you saw those three people in the
14 Jeep spend a fair amount of time at that El Cheapo, and
15 they weren't just buying chicken.

16 MR. LUPTON: Objection, Your Honor. May we approach?

17 THE COURT: Yes, sir.

18 (Bench conference.)

19 MR. LEINENDECKER: Thank you, Your Honor.

20 They weren't just buying chicken. You saw that.

21 You saw Jarvis get out of the Jeep. You saw Jarvis
22 go into the store. You saw Jarvis talking. For some
23 reason, you saw Jarvis go back to the Jeep and get a black
24 back -- a small black backpack out of the Jeep. You saw
25 Jarvis come out of the store and talk to one of the

1 patrons out front, slap hands and exchange something in
2 front of the Jeep. You then saw that person approach the
3 Jeep and lean in through the window, not once, but twice,
4 and put something in his pockets. There's no testimony
5 about what happened because no one investigated what
6 happened.

7 The people who picked up that video never looked into
8 what happened. So we're left to draw our own conclusions
9 about what those three men were doing that day, about who
10 those three men were really going to meet that day, about
11 whether they were buying a motorcycle or doing something
12 else that day, and about whether they were involved in any
13 other kind of activity that day. We don't have any
14 evidence except their word that that's what they were up
15 to.

16 What the State wants you to believe is what Jarvis
17 and Kendrell said from the witness stand because that's
18 what they've clung to for four and a half years. That's
19 what they decided on the night of December 13, 2014.

20 I am just an attorney. But I handle a lot of
21 criminal cases in my career; and when a case comes to my
22 desk, it requires me to not just read the paper, but to do
23 investigations.

24 I am so thankful that over the course of the years, I
25 not only just have myself to rely on to do that, but I

1 have people like my investigator, Mr. Tisdale, who was
2 identified to you at the beginning, who I can give tasks
3 to and he can go out and interview witnesses. He can talk
4 to people. He can visualize the scenes by going to
5 scenes. He can collect data like videos from a
6 surveillance at -- at a convenience store to try to help
7 me analyze the case for my client. Don Tisdale's one guy
8 and unfortunately, he's all I got. Ted's only shown you a
9 couple of what he's got. The State has an army compared
10 to what I've got.

11 But what did Stanley Graham tell us from the witness
12 stand? He stopped at the Magistrate's office, on the way
13 to the scene of the crime before the lead investigator had
14 spoken to one witness, to pick up a search warrant for the
15 Jeep and arrest warrant for my client, Derrick Mills, and
16 for Mr. Farley's client, Quintin Mills. That ain't an
17 investigation. Even my one investigator shop wouldn't
18 consider that an investigation.

19 What we had was someone at the scene of the crime,
20 someone who denied having any knowledge of the area yet
21 later admits that he's got a family friend that lives at
22 the end of the street. We got that someone, Jarvis Mack,
23 with blood on him, blood on his hands, blood on his
24 bracelets, blood on his shirt.

25 Maybe it happened the way he said, he went up and

1 hugged his friend, later it was dad, while he was on the
2 ground; or maybe -- maybe it's an explanation of why he
3 had blood on him. Do we have any investigation of that?
4 We asked were gunshot residues taken from Jarvis Mack's
5 hands which would've demonstrated that he never handled a
6 firearm or fired a gun that night that would help us
7 believe what Jarvis Mack had to say. No.

8 Ladies and gentlemen, it's the State's burden to
9 prove the case. It's not the State's burden to accept the
10 statement of witnesses. That's reasonable doubt. I gotta
11 build a bridge over that to get to guilty, abig one.

12 What else did we find on the witness stand that was
13 those inconsistencies that we talked about in opening
14 statement? Kendrell told us for the first time, "I had a
15 gun in the car, a gun small enough to fit in my front
16 pocket; a small gun in my pocket, and someone pulled it
17 out and dropped it on the ground."

18 He says Quintin was the one who dropped it on the
19 ground: "I didn't know. I didn't ever mention that
20 before."

21 What else did he have? Three cell phones and \$200 in
22 cash. Okay.

23 Why did Jarvis go back to the scene? To hug his
24 daddy or to pick up two cell phones that were there?
25 Okay. Why did he only show us the one cell phone? Why

1 didn't he show us all the cell phones? Okay. Why didn't
2 anybody investigate when they heard about this multiple
3 phone issue? I don't know. Well, I do know. It doesn't
4 really fit the theory of the case that would develop
5 before we ever investigated the case, the theory being
6 Derrick Mills, a person who was fingered by the two men on
7 the witness stand, a person who had served time in prison
8 we heard, and is easily a simply target. I mean, he's
9 been to prison, golly, he must've done it, right? That's
10 reasonable doubt.

11 Where's Kendrell's gun? What was Kendrell's gun? By
12 the time they get to Kendrell, it would've been worthless
13 to do GSR on his hands.

14 Why weren't we told about Kendrell? Why wasn't he
15 interviewed? He was there the whole time 'cause he didn't
16 leave 'til Jarvis left. He didn't leave 'til Jarvis left.

17 Jarvis obviously knew where he was 'cause he picked
18 him up at his Grandmama's, who lives on Sugar Hill Lane.

19 Why didn't Jarvis tell the police about Kendrell?
20 "You need to hear from my friend about what happened, too,
21 because I ran. He might know more than I know. You need
22 to hear from him."

23 I suggest we didn't hear from him that night because
24 Jarvis needed two days to talk with him about what he
25 needed to say; needed two days to make certain that their

1 stories at least closely matched up; needed two days to be
2 certain that Derrick Mills was the one who did this;
3 needed to be certain that the motorcycle was involved;
4 needed to be certain that all the stuff we have absolutely
5 no evidence existed was explained to the police. Burden
6 of proof, ladies and gentlemen, but no evidence.

7 And we get down to the State's attempt to get you to
8 say, "I don't care what the time stamp says on the gas
9 station video. It's wrong. We don't know how wrong it
10 is, but it's wrong so you should ignore it." Really? You
11 should ignore it?

12 You should ignore that on the 14th or 15th of
13 December, two days after the crime, Charleston --
14 Charleston. I keep saying that -- the Calhoun County
15 Sheriff's Office had the surveillance video on disc. You
16 should ignore that they looked at it and they showed it to
17 Kendrell Thompson on the 15th when he was there and he
18 looked at it.

19 And they never thought about, "Hey, it says it's six
20 o'clock. You know, that's problematic with our case.
21 That's so problematic with our case, what we need to do is
22 we need to go back over to that El Cheapo and we need to
23 check that time stamp 'cause we're just a day or two down
24 the -- the road from that crime. We need to go walk over,
25 we need to look at our watch and say, "It's 20 minutes

1 'til 11. What time does your video say it is?" 'Cause
2 guess what, that would be actually proof. We wouldn't be
3 trying to guess. The sun went down, gotta be dark. Ted
4 said it's gotta be dark in 30 minutes. Stanley said it's
5 gotta be dark in an hour. Somebody else said, "Well,
6 maybe 45 minutes." Somebody else could've said an hour
7 and 15 minutes. I know that I don't know.

8 I know I have a house in Orangeburg, a small cabin
9 really, with a dock on the lake. And I know my 13-year-
10 old son lives to fish when he's not playing baseball. I
11 wish that boy would concentrate a little more on school.
12 But these are the focuses -- I know that we don't even get
13 the John boat out to bass fishing until the sun has set.

14 And I know we have plenty of time to fish the coast,
15 to fish the shoreline, until we actually have to turn a
16 light on on the boat to get back in. I can't tell you
17 how, but know sunset has nothing to do with the dark. It
18 has to do with it's going to get dark.

19 But that's not the point. The point is they want you
20 to jump the gap. They want you to ignore reasonable doubt
21 because the State itself said to you, "If that time
22 stamp's correct, there's no way they did it. There's no
23 way they did it, but we want you to convict them anyway.

24 We want you to convict them anyway? Because we -- we
25 don't believe that time stamp is correct. December, 2014,

1 is when you prove that time stamp isn't correct, not May
2 of 2019, in a courthouse, in Calhoun County. Don't you
3 let them ask you to do that. Don't you dare let them ask
4 you to do that.

5 It's not your fault they didn't bring you proof.
6 It's not your fault there's no evidence that either of the
7 Mills's were there. It's not your fault that text
8 messages were never matched up to show that anybody named
9 "Mills" was texting with them. It's not your fault
10 there's not cell phone records to demonstrate where
11 Quintin Mills was.

12 We're the only one who knows where he was 'cause we
13 saw him on the video, and that video says at 6:30 p.m., he
14 was at the El Cheapo gas station off 176.

15 Don't let the State mislead you by saying, "If he was
16 out there, we would've seen the police officer because the
17 police officer was at the Exxon station."

18 Don't you let them encourage you to ignore reasonable
19 doubt. Don't you do it.

20 And after you hold them to their burden of proof and
21 you fully recognize, as difficult as it might be, that
22 they have not met that burden of proof, you return a
23 verdict of Derrick Mills not guilty. Thank you.

24 THE COURT: Mr. Farley?

25 MR. FARLEY: May it please the Court, Your Honor?

1 THE COURT: Yes, sir.

2 MR. FARLEY: Ladies and gentlemen, thank you for
3 being here today.

4 And I wanted to start by saying I am extremely lucky
5 today, and the reason why I'm extremely lucky is because
6 my good friend and colleague, Mr. Leinendecker, argued so
7 capably that he didn't leave a whole lot for me to cover
8 because he did it so capably.

9 That being said, I do want to cover some -- some
10 points that I think I just want to bring right back out
11 because we have a very interesting case here today.

12 And I know the Solicitor brought up the fact that
13 there's clarity and there's chaos, you know? There's
14 clarity and there's, you know, things that weren't clear.
15 That happens in a lot of criminal cases, you know, that's
16 why we rely on testimony. That's why we rely on evidence,
17 right, trying to make things a little clearer.

18 You know, in this case though, we're very lucky
19 because I think we have something that's extremely weird
20 and you don't have to ignore that. And that's the video
21 tape that you saw at the El Cheapo gas station. It's the
22 one thing that's really, really, clear in this case. If
23 the time's date stamp is correct, they couldn't have been
24 at the scene of the murder. We have that one
25 incontrovertible fact.

1 Now, we saw several witnesses take that stand.
2 Actually we saw a bunch of witnesses, but there's two in
3 particular I want to focus on and Mr. Leinendecker focused
4 on; and I think they are the principles of the Solicitor's
5 case and that was Mr. Jarvis Mack and Mr. Kendrell
6 Thompson.

7 And I would reiterate what Ms. Leinendecker -- Mr.
8 Leinendecker pointed out, which is, you know, kind of in a
9 general sense, their stories kinda line up. But he
10 pointed -- that we tried to bring out to you is that if
11 they're pressed on their story, if you really, really get
12 into the weeds and the details of their story, that's
13 kinda where the wheels start coming off the car because
14 that's where the consistencies don't match up. That's
15 where things don't mesh together.

16 I mean, and just one example 'cause Mr. Leinendecker
17 brought up some great examples, but I -- I was going to
18 bring out another. I found it very interesting that Mr.
19 Kendrell Thompson was so adamant that Charles Brown and
20 Jarvis Mack were so inebriated that they couldn't even
21 operate the motorcycle. They thought it was too dangerous
22 to drive the motorcycle that they were so inebriated
23 because they had been drinking all day long. And yet, Day
24 2, when Mr. Mack took the stand, he was specifically
25 asked, "Were you drinking?" "Not even a little bit. Maybe

1 just a little bit of a buzz, but I was perfectly fine. We
2 could've operated everything. No, no, no. Not even a big
3 deal."

4 That's a big, glaring inconsistency. I mean, that's
5 very, very different than what exactly was occurring at
6 the time. That's just one example.

7 I mean, they didn't agree on how much money they were
8 bringing. Was it a 1,000, was it 500, was it -- and
9 wasn't exactly sure how much time they spent. I mean,
10 there's just a lot of -- a lot of inconsistencies when you
11 really get down to how the details match up.

12 And I mean, I understand that there's been some time
13 that's passed, but still, I mean, with such a traumatic
14 event, you would think that you would remember those
15 things.

16 I would also point out it doesn't seem to be the
17 weapon that shot Charles Brown was never found. And I'd
18 also point out that Mr. Kendrell Thompson said that his
19 weapon had been taken out of his pocket and thrown on the
20 ground, but I don't remember law enforcement saying they
21 discovered that. It certainly seems, again, that there is
22 a lot -- a lot of inconsistencies that are going on
23 between this testimony.

24 But one thing that's not inconsistent is if you
25 recall the video tape -- or the video recording of the E1

1 Cheapo gas station, the time date stamps are very clear.
2 I'd also point out in all the testimony, I mean, all the
3 text messages that were provided, there doesn't seem to be
4 any -- because if they were in constant communication,
5 there wasn't any communication about the El Cheapo gas
6 station and it seemed highly coincidental to me in
7 watching the video there's only a -- roughly a minute --
8 30 minute, 40 second gap of time where you see Jarvis Mack
9 and Charles Brown pull away from the El Cheapo and Derrick
10 Mills and Quintin Mills pull in.

11 Now, if they were in constant communication with each
12 other, it seems like that would be an affable place to
13 meet up; and yet they don't seem to be aware they're just
14 missing each other.

15 Another thing -- this is a point of clarity -- they
16 were there at 6:30. If the time stamp is to be believed,
17 they can't be at the scene of the murder.

18 Now, the State had a chance to bring maybe a clerk or
19 -- at the convenience store to say, "Well, we never set
20 the clock on the camera," or "There was a malfunction," or
21 "There was some issue that we had at the convenience
22 store."

23 They had that opportunity, but there wasn't any
24 evidence to provide, you know, that the camera wasn't set
25 correctly or there's some -- the time was off. Again,

1 very clear. And that's what is a beacon that shines out
2 in all this inconsistencies is if the time stamp is
3 correct and if you believe it, and I see no reason why
4 you shouldn't, then they could not be at the scene of the
5 murder.

6 Now, what happened to Mr. Brown? Obviously Mr. Brown
7 is the decedent and something horrible, horrible happened
8 to Mr. Brown. I understand that, but I don't know what
9 happened to Mr. Brown. If the time stamp is to be believed,
10 they could not be at the scene of the murder. And if we
11 don't know what happened to Mr. Brown and we're not sure
12 what happened to Mr. Brown, if we don't know who's
13 responsible for what happened to Mr. Brown, that is
14 reasonable doubt.

15 Now, the Judge is going to instruct you on the law,
16 and you're going to take that information back with you to
17 the jury room and you can look at all the other
18 information that has been presented. But again, I think
19 the one clear fact that should stick out in your mind is
20 if the time stamp is to be believed, they can't be at the
21 scene of the murder.

22 Knowing all this information, I believe that you're
23 going to return the only verdict that you can return given
24 what has been presented to you over the past two days, and
25 that is Derrick Mills and Quintin Mills are not guilty of

1 this armed robbery and murder by virtue of the fact that
2 they could not have been there. Thank you, ladies and
3 gentlemen.

4 THE COURT: Reply, Solicitor?

5 MR. LUPTON: Thank you, Your Honor. Ladies and
6 gentlemen, I want you to imagine a picture. It doesn't
7 matter what it's a picture of. It -- it could be a
8 picture of this courthouse. If a little bit of that
9 picture is missing or a little bit of it is blurred, you
10 can still look at that picture and tell it is a picture of
11 the courthouse.

12 And when we get down to it, that's what is going on
13 here. They want to tell you that because there's a little
14 bit of the corner of that picture of the courthouse is
15 ripped off and -- and there's a water stain, some blurring
16 in another part, that it's not a picture of the courthouse
17 anymore. You can look at it and you know what it is.

18 In this case, there are things that -- there are gaps
19 and there's no getting around it. But like the jury
20 charge says, there are very few things in life you know
21 with absolute certainty; and the law does not require
22 certainty. If you are firmly convinced then you should
23 vote guilty.

24 What do you believe really happened? In this case,
25 the time stamp, Mr. Leinendecker is absolutely right. I

1 admit to you that the officers had noticed that time stamp
2 back when this first happened -- when they first got it
3 and said, "Hey, this time stamp can't be right. It says
4 it's 6:30, but it's still light out in the video and we
5 know from talking to these people that they were there
6 earlier in the day, not at 6:30. Let's go check and see
7 what -- and let's go check."

8 They should've. I wish they had, it would've cleared
9 all this up, but they didn't and we cannot go back in time
10 and fix that.

11 But you do not have to let these people get away with
12 murder just because they didn't do that. You can look at
13 the evidence and see that it is clear that it was not 6:30
14 that night.

15 Now, you know, Mr. Leinendecker talks about being out
16 on the boat after sundown. Well, you know, sunset isn't
17 when the sun starts going down. Official sunset is when
18 that sun is below the horizon. And once that sun's below
19 the horizon, Mr. Leinendecker is wrong, sunset does have
20 everything to do with it being dark. He says sunset has
21 nothing to do with it being dark. It most certainly does.
22 We all know that.

23 When the sun goes down, it starts getting dark.
24 You've got a little bit of time when that sun is below the
25 horizon it's still shining, a little bit of light in the

1 sky, and you can see a little bit. But that doesn't last
2 for an hour and 15 minutes, and you know it. You know
3 that an hour and a quarter after sunset it is dark, but
4 it's not dark on that video. We know that that time stamp
5 is not accurate.

6 Now, he talks about hesitating to act and he talks
7 about his stairs, and "I know that there's four stairs in
8 my house and I still hesitate before I walk down there."

9 Ladies and gentlemen, taking time to go over the
10 evidence and deliberate and discuss it, that's not
11 hesitation to act. That's doing your job. That's what
12 you're supposed to do. So trying to say that because he
13 wants to turn on his light when he knows there's four
14 steps, there's no -- he -- he can turn on the light and he
15 can hesitate and check, but there's still no reasonable
16 doubt as to whether or not somehow there's four steps that
17 become twelve. We know it's still four.

18 Now, he talked about the text messages. You know,
19 come on, they didn't mention the motorcycle? How many
20 people text? And you can see the texts, a lot of
21 shorthand. "WYA," where you at? These are not writing
22 out an English paper to each other in texts. The -- the
23 whole topic sentence and body paragraph and the conclusion
24 sentence, this is texting.

25 They know they're meeting up to -- to talk about a

1 motorcycle. If they gotta do more than just send a quick
2 text they call.

3 And the investigator told you she looked at the call
4 -- the -- the call log and there were a lot of calls
5 between Quintin and Jarvis. They knew what -- Jarvis knew
6 what Quintin's number was. They -- they know the number.

7 The fact that they didn't get Quintin's phone is a
8 reasonable doubt. They didn't get him that night, they
9 arrested him the next day. They didn't get his phone.

10 Now, they -- they -- and Mr. Leinendecker talks about
11 the texts. Well, it doesn't mention a motorcycle so -- so
12 it can't have been about a motorcycle. Well, you know, he
13 was also trying to say that they -- they weren't between
14 them so which is it? Is it, it's not between them or is
15 it, you know, that they're not right because it doesn't
16 mention a motorcycle?

17 We know what the texts are and we know how people
18 text. We all text. You don't write a dissertation.

19 He talks about the issues related to the 911 call.
20 Now, I want you to think about this, the man's just seen a
21 robbery, he's just had a gun pointed at him, and he -- and
22 he thinks his step-dad has been killed, shot, that he
23 hears the gunshots as he leaving.

24 He's not from the Sugar Hill area, why would he set
25 something up at Sugar Hill if he's not from there?

1 Quintin and Derrick are, but he's not from there.

2 So he runs to the one place he knows. And he says,
3 you know, "There's one person I know. I go there."

4 It's clear, you look at the -- you look at the maps.
5 It's not very far, less than a quarter mile. He ran to
6 the one place he knows. It makes sense that she's the one
7 who has to give details. He is shook up. He wasn't
8 giving details about the place he's unfamiliar with.

9 But one thing -- one thing I want to touch on
10 regarding all that testimony, Mr. Leinendecker said
11 something to you that I would submit to you, if you go
12 back and you remember the testimony -- and you can ask to
13 hear it again if you need to -- that was not said is that
14 Jarvis's brother was there right away, like, crack. And
15 crack, he's there.

16 No, he wasn't. There's no testimony about that. The
17 testimony was that he eventually showed up and took him --
18 took Jarvis away from the scene. But you also heard
19 testimony about -- that Jarvis was there for hours. And
20 you heard testimony about this Sugar Hill, that everybody
21 knows everybody and word spreads fast. You know how
22 things are with cell phones. People texting, people
23 calling, word spreading. He called for his brother, his
24 brother came. Jarvis was there for hours.

25 They also talk about, "Well, you know, nobody told

1 anybody about Kendrell." He told them about Kendrell.

2 And how else did they find Kendrell?

3 Now, he makes a big deal about whether or not he
4 called his dad "step-dad," "dad," "friends," "Pops," you
5 know it.

6 I'm adopted, my dad, the only dad I've known, is not
7 my biological father. Most of the time I call him by his
8 name. I call him "Bill." Sometimes I call him "dad,"
9 especially when I'm talking to -- to people, and it's
10 easier to explain, you know, just say "dad" rather than to
11 talk about the whole how I got adopted and all that. That
12 doesn't matter.

13 You know, he said he raised him. Whether he calls
14 him "friend," calls him "dad," calls him "Pops," he saw
15 him shot. You heard how emotional he was. You heard from
16 the investigator who talked to him that night how
17 emotional, how distraught he was. That's real.

18 And he talked about the no evidence -- about this
19 motorcycle or was there evidence of that motorcycle. You
20 heard from the witness stand -- you heard Quintin's lawyer
21 asking, eliciting, on cross-examination, evidence about
22 this motorcycle transaction, about how Quintin was wanting
23 to make it right; how until the -- the water got kinda
24 muddy with the whole time stamp coming out, that was the
25 Defense he was heading toward with that. You could hear

1 it in the cross-examination.

2 So let's talk about the time stamp, finish, I think,
3 on that. They will have you let him go -- let these two
4 people go because that time stamp says "6:30." You have
5 that right. You can let them get away with murder because
6 somebody at that store --

7 MR. LEINENDECKER: Objection, Your Honor.
8 Personalizing the fact that the jury would be responsible
9 for ---

10 MR. LUPTON: I'll rephrase it.

11 MR. LEINENDECKER: --- letting someone get away with
12 ---

13 THE COURT: Wait.

14 MR. LEINENDECKER: --- murder is inappropriate.

15 MR. LUPTON: I'll re ---

16 THE COURT: Please rephrase.

17 MR. LUPTON: Ladies and gentlemen ---

18 MR. LEINENDECKER: It's not their responsibility.

19 THE COURT: Mr. Leinendecker, I've already ruled.

20 MR. LEINENDECKER: Oh, I'm sorry. I didn't hear
21 that, Your Honor.

22 THE LUPTON: Ladies and gentlemen, the evidence shows
23 they committed this murder and this armed robbery. Now,
24 that time stamp is not reasonable doubt when you look at
25 the evidence. Look at the evidence that was testified to

1 and the evidence in that video.

2 Video's, all of them, are in evidence. You were
3 shown a little bit of one, all of -- pretty much all of
4 another. You saw that it was daylight in those. There
5 are other videos that show the back of the store. They're
6 in evidence. You can ask to see one to show it was
7 daylight behind the store with all those lights on. It
8 was daylight. It wouldn't be daylight if it were 6:30.

9 Ladies and gentlemen, it was a mistake not to get
10 that clarified at the time, that is not reasonable doubt.
11 I mean, all the evidence shows that they committed this
12 murder, and I would ask that you return a just verdict of
13 guilty. Thank you.

14 THE COURT: Would Counsel please approach?

15 (Briefly off the record.)

16 THE COURT: Ladies and gentlemen of the jury, it's
17 now time for me to charge you on the law in this case. I
18 remind you that during this trial you and I have certain
19 duties to perform. As the trial judge, it's my
20 responsibility to preside over the trial of this case and
21 I also have the duty to rule on the admissibility of
22 evidence offered during this trial.

23 You are to consider only the competent evidence
24 before you. If there was any testimony ordered stricken
25 from the record in this case during this trial, you must

1 disregard that testimony. You are to consider only the
2 testimony which has been presented from the witness stand.
3 Any Exhibits which were made part of the record in this
4 case, and any stipulations of counsel.

5 I have the additional duty to charge you the law
6 applicable to this case. As the presiding judge, I'm the
7 sole judge of the law in this case and it is your duty to
8 accept and apply the law as I now state it to you. If you
9 already have any idea as to what the law is or what the
10 law ought to be and it does not agree with what I now tell
11 you the law is, you must abandon this idea because you are
12 sworn to accept the law and apply the law exactly as I
13 state it to you.

14 In every case tried in this court before a jury, the
15 jury becomes the sole and exclusive judge of facts in a
16 case. A trial judge cannot intimate, state, comment on,
17 or make any statement to a trial jury about the facts in a
18 case.

19 Since you the jury are the sole judges of the facts
20 in this case, you're not to infer from what I have said
21 during the progress of this trial in ruling upon the
22 admissibility of evidence or otherwise or anything that I
23 say now during the course of this instruction to you that
24 I have any opinion about the facts in this case. The law
25 does not allow me to have an opinion about the facts in

1 this case. This matter is solely for you, the jury, to
2 determine.

3 As jurors it is your duty to determine the effect,
4 value, weight, and truth of the evidence presented during
5 this trial; however, in this case, the -- the Court has
6 taken judicial notice of one fact: Sunset, on December
7 13, 2014, took place at 5:16 p.m.

8 Judicial notice is a ruling of law -- of evidence
9 that allows a fact to be introduced into evidence, that
10 the truth of the fact is so well known or so authoritative
11 -- authoritatively attested that it cannot be reasonably
12 doubted.

13 The indictments charge both Defendants with both
14 murder and armed robbery. I remind you that the fact that
15 the Defendants were arrested, charged, and indicted in
16 this case is not evidence in this case and cannot be
17 considered by you as evidence of guilt in this case. Nor
18 does it create any presumption of -- or inference of
19 guilt. These documents are simply the formal written
20 instrument which contains the charges against the
21 Defendants, the formal document with which the case is
22 brought into this Court.

23 As I mentioned before, the indictments in this case
24 allege two different offenses against both Defendants.
25 Each indictment charges a separate and a distinct offense.

1 You must decide each indictment separately on the evidence
2 and the law applicable to it, uninfluenced by your
3 decision as to any other indictment.

4 The Defendants may be convicted or acquitted on any
5 or all of the offenses charged. You will be asked to
6 write a separate verdict of guilty or not guilty for each
7 indictment. I charge you that our two Defendants in this
8 case, both of whom are charged with murder and armed
9 robbery -- the case of each Defendant, the evidence and
10 the law concerning the Defendants, should be considered
11 separately and individually. Your verdict does not have
12 to be the same for both Defendants. The fact that you may
13 find one Defendant guilty or not guilty should not control
14 your verdict as to the other Defendant.

15 Where more than one person is charged with a crime,
16 if the evidence warrants it, you may convict one and
17 acquit the other or you may acquit both or you may convict
18 both. It will be -- depend upon your view of the
19 testimony and the evidence. You must take each Defendant
20 and consider the evidence as to that Defendant and my
21 instructions to you on the law. You will then write a
22 separate verdict of guilty or not guilty on each
23 individual Defendant.

24 The Defendants have pled not guilty to these
25 indictments and that plea puts the burden on the State to

1 prove that the Defendants are guilty. A person charged
2 with committing a criminal offense in South Carolina is
3 never required to prove themselves innocent. I charge you
4 that it is an important rule of the law that the
5 Defendants in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be presumed
7 innocence -- innocent of the crime for which the
8 indictment was issued unless guilt has been proven by
9 evidence satisfying you of that guilty beyond a reasonable
10 doubt.

11 The presumption of innocence does not end when you
12 being your deliberations, but it accompanies the
13 Defendants throughout the trial until you reach a verdict
14 of guilt based on evidence satisfying you of that guilt
15 beyond a reasonable doubt. The presumption of innocence
16 is like a robe of righteousness placed about the shoulders
17 of the Defendants which remains with the Defendants until
18 it has been stripped from the Defendants by evidence
19 satisfying you of the Defendants guilt beyond a reasonable
20 doubt.

21 The presumption of innocence is not just a mere legal
22 theory, it's not just a legal phrase. It is a substantial
23 right to which every Defendant is entitled and -- unless
24 you, the jury, are satisfied from the evidence of the
25 Defendants guilt beyond a reasonable doubt.

1 What is a reasonable doubt in the law? A reasonable
2 doubt is the kind of doubt that would cause a reasonable
3 person to hesitate to act.

4 The State has the burden of proving the Defendants
5 guilty beyond a reasonable doubt. Some of you may have
6 served as jurors in civil cases where you were told that
7 it is only necessary to prove it a fact, it is more likely
8 true than not true, such as by the greater weight or the
9 preponderance of the evidence. In criminal cases the
10 State's proof must be more powerful than that. It must be
11 beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced of the Defendants guilt. There are
14 very few things in this world that we know with absolute
15 certainty, and in criminal cases the law does not require
16 proof that overcomes every possible doubt. If, based on
17 your consideration of the evidence, you are firmly
18 convinced that the Defendants are guilty of the crimes
19 charged, you must find the Defendants guilty. If, on the
20 other hand, you think there is a real possibility that the
21 Defendants are not guilty, you must give the Defendants
22 the benefit of the doubt and find them not guilty.

23 There are two types of evidence which are generally
24 at -- presented during a trial, direct evidence and
25 circumstantial evidence. Direct evidence directly proves

1 the existence of a fact and does not require deduction.

2 Circumstantial evidence is proof of a chain of facts
3 and circumstances indicating the existence of a fact.

4 Crimes may be proven by circumstantial evidence.

5 The law makes no distinction between the weight, or
6 the value, to be given to either direct or circumstantial
7 evidence; however, to the extent that the State relies on
8 circumstantial evidence, all of the circumstances must be
9 consistent with each other and then, when taken together,
10 point conclusively to the guilt of the accused beyond a
11 reasonable doubt. If these circumstances merely portray
12 the Defendants behavior as suspicious, the proof has
13 failed.

14 The State has the burden of proving the Defendant's
15 guilt beyond a reasonable doubt. This burden rests with
16 the State regardless of whether the State relies on direct
17 evidence, circumstantial evidence, or a combination of the
18 two.

19 Necessarily you must determine the credibility of
20 witnesses who have testified in this case. Credibility
21 simply means believability. It becomes your duty as
22 jurors to analyze and to evaluate the evidence and
23 determine which evidence convinces you of its truth.

24 In determining the believability of witnesses who
25 have testified in this case, you may believe one witness

1 over several witnesses or several witnesses over one
2 witness. You may believe a part of a testimony of a
3 witness and reject the remaining part of the testimony of
4 that same witness. You may believe the testimony of a
5 witness in its entirety or reject the testimony of a
6 witness in its entirety. You may consider whether the
7 witness has exhibited to you any interest, bias, prejudice
8 or other motive in this case. You may also consider the
9 appearance and the manner of a witness while on the
10 witness stand.

11 There has been evidence presented that witnesses have
12 made prior statements which are not consistent with the
13 witness's present testimony. You may use this evidence to
14 decide whether to believe the witness. You may also use
15 evidence of the earlier contradictory statements to
16 determine the truth of those statements. It is up to you
17 to decide whether to believe the earlier statements or the
18 testimony given at trial. You may reject all of the
19 testimony of that witness or give all or part of the
20 testimony the weight that you think it deserves.

21 The rules of evidence ordinarily do not permit
22 witnesses to testify to opinions or conclusions. An
23 exception to this rule exists for witnesses that we call
24 "expert witnesses." A witness, who by education and
25 experience, has become expert in some art, science,

1 profession, or calling may state an opinion as to relevant
2 and material matter in which the witness claims to be an
3 expert. He may also state the reasons for that opinion.

4 You should consider any expert opinion receive --
5 received into evidence in this case, and like any other
6 evidence, give it the weight that you think it deserves.
7 If you decide that the opinion of an expert witness is not
8 based on sufficient education and experience or if you
9 conclude that the reasons given in support of the opinion
10 are not sound or that the opinion is outweighed by other
11 evidence, you may re -- regard -- disregard the opinion
12 entirely.

13 An expert witness's testimony is to be given no
14 greater weight than that of other witnesses simply because
15 the witness is an expert. Further, you're not required to
16 accept an expert's opinion even though it's not -- or
17 even though it's uncontradicted.

18 If a crime is committed by two or more people who are
19 acting together in committing a crime, the act of one is
20 the act of all. A person who joins with another to commit
21 an unlawful act is criminally responsible for everything
22 done by the other person which happens as a probable or
23 natural consequence of the acts done in carrying out the
24 common plan and purpose. If two or more people are
25 together, acting together, assisting each other in

1 committing the offense, the act of one is the act of all.
2 Or as it's sometimes said, the hand of one is the hand of
3 all.

4 Prior knowledge that a crime is going to be committed
5 without -- is not sufficient to make a person guilty of
6 that crime. Mere knowledge that another person is going
7 to commit a crime, even if the Defendant is present when
8 the crime is committed, is not sufficient to convict the
9 Defendant as a principle. Guilt, as a principal, is shown
10 by actual or constructive presence at the scene as a
11 result of prior arrangement; therefore, a finding of a
12 prior arranged plan or common scheme is necessary for
13 finding -- for a finding of guilt as a principal. The
14 State must prove beyond a reasonable doubt by competent
15 evidence the theory of the hand of one is the hand of all.

16 A principal in a crime is one who either actually
17 commits the crime or is present, aiding, abetting, or
18 assisting in committing the crime. When a person doesn't
19 act in the presence of and with the assistance of another,
20 the act is done by both.

21 Where two or more acting with a common plan or intent
22 are present at the commission of a crime, it does not
23 matter who actually commits the crime, all are guilty.
24 The hand of one is the hand of all.

25 "Present at the commission of a crime" means to be

1 sufficiently near to aid and abet and assist in the
2 commission of the crime; however, mere presence at the
3 scene of a crime is not sufficient to convict one as a
4 principal one the theory of aiding and abetting. Intent
5 is also necessary -- a necessary element, for there must
6 be a common design or intent to commit the crime, and the
7 crime must have been committed pursuant thereto, with the
8 person aiding and abetting by some overt act.

9 "Intent" means intending the result which actually
10 occurs, not accidentally or involuntarily. Intent may be
11 shown by acts and conduct of the Defendant or other
12 circumstances from which you may naturally and reasonably
13 infer intent. The State must prove these elements beyond
14 a reasonable doubt.

15 Mere presence at the scene is not sufficient to prove
16 someone guilty of a crime. A Defendant's presence where a
17 crime is being committed or mere association with a person
18 who commits a crime, does not make a Defendant an
19 accomplice -- an accomplice or an aider and abetter of the
20 person committing the crime. The burden is on the State
21 to prove every element of the crime charged. If you find,
22 after reviewing all of the evidence, that the State has
23 proved the Defendant was only present at the scene of a
24 crime, and they have not proved beyond a reasonable doubt
25 any other participation in a crime, then you must find the

1 Defendant not guilty.

2 The law is that proof of the -- of at the scene of
3 the crime is not sufficient to find someone guilty. An
4 issue in this case is the identification of the Defendants
5 as the persons who committed the crimes charged. The
6 State has a burden of proving identity beyond a reasonable
7 doubt. You must be satisfied beyond a reasonable doubt
8 the accuracy of the identification of the Defendants
9 before you may convict the Defendants. Identification
10 testimony is an expression of belief or impression by a
11 witness. You must determine the accuracy of the
12 identification of the Defendants.

13 You must consider the believability of each
14 identification witness in the same way as any other
15 witness. You may consider whether the witness has had an
16 adequate opportunity to observe the offenders at the time
17 of the offense. This will be affected by things like how
18 long or short a time was available, how far or close the
19 witness was, the lighting conditions, and whether the
20 witness has had a chance to see or know the persons in the
21 past.

22 Once again, I instruct you that the burden of proof
23 that -- on the State extends to every element of the crime
24 charged. In this specifically includes the burden of
25 proving beyond a reasonable doubt the identity of the

1 Defendants as the persons who committed the crimes. If,
2 after examining the testimony, you have a reasonable doubt
3 as to the accuracy of the identification, you must find
4 the Defendant not guilty.

5 In order to establish criminal liability, criminal
6 intent is required. For example, the mental state
7 required to be proven by the State for a particular crime
8 might be purpose, intent, knowledge, recklessness, or
9 criminal negligence. Criminal intent must be proven by
10 the State beyond a reasonable doubt.

11 Criminal intent is always a matter that must be
12 determined by the jury from the circumstances surrounding
13 the situation. There is no way to prove intent to a
14 mathematical certainty. There is no way medical science
15 can dissect a person's brain and determine what the person
16 had in mind. So the law says that criminal in -- intent
17 may be inferred from the circumstances shown to have
18 existed. This is how you make a determination of whether
19 or not the element requiring intent was present.

20 It is not necessary to establish intent by direct and
21 positive evidence, but intent may be established by
22 inference in the same way as any other fact by taking into
23 consideration the acts of the parties and all of the facts
24 and circumstances of the case.

25 Criminal intent is a mental state, a conscious

1 wrongdoing. It is up to you to determine what the
2 Defendant intended to do based up on the circumstances
3 shown to have existed. Criminal intent can arise from
4 action or a failure to act. It may arise from negligence,
5 recklessness or an indifference to duty or the
6 consequences. That is considered by the law to be the
7 equivalent of criminal intent.

8 Both Defendants are charged with Murder. The State
9 must prove beyond a reasonable doubt that the Defendants
10 killed another person with malice aforethought. Malice is
11 hatred, ill-will or hostility towards another person. It
12 is the intentional doing of a wrongful act without just
13 cause or excuse, and with the -- with an intent to inflict
14 an injury or under circumstances that the law will infer
15 an evil intent.

16 Malice aforethought does not require that malice
17 exist for any particular time before the act is committed,
18 but malice must exist in the mind of the Defendant just
19 before and at the time that the act is committed;
20 therefore, there must be a combination of the previous
21 evil intent and the act.

22 Malice aforethought may be express or inferred.
23 These terms, express and infer, do not mean different
24 kinds of malice, but merely the manner in which the malice
25 may be shown to exist, that is either by direct evidence

1 or by inference from the facts and circumstances which are
2 proved.

3 Express malice is shown when a person speaks words
4 which express hatred or ill will for another or when the
5 person prepared beforehand to do the act, which was later
6 accomplished. For example, lying in wait for a person or
7 any other acts of preparation, going to show that the deed
8 was within the Defendants mind would be express malice.

9 Malice may be inferred from conduct showing a total
10 disregard for human life. If facts are proved beyond a
11 reasonable doubt sufficient to raise an inference of
12 malice to your satisfaction, this inference would simply
13 be an evidentiary fact to be considered by you, along with
14 the other evidence in this case, and you may give it the
15 weight you decide it should receive.

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

24 Both Defendants are also charged with armed robbery.
25 In order to prove this offense, the State must first prove

1 beyond a reasonable doubt that the Defendants took
2 personal property from the person or presence of another
3 person, property, as in the presence of -- of a person if
4 it is within the persons reach, inspection, observation,
5 or control so that the person could, if not overcome with
6 violence or prevented by fear, keep possession of the
7 property.

8 The State must also prove beyond a reasonable doubt
9 that the Defendants carried the property away, intending
10 to permanently deprive the owner of the property, and to
11 keep the property for the Defendant's own use. The
12 slightest removal of the property or the complete
13 possession of the property even for an instant by the
14 Defendant is sufficient to show a taking and carrying away
15 of the property. The taking and carrying away of the
16 property must have been done with violence or by putting
17 the owner of the property in fear of violence.

18 Finally, the State must prove beyond a reasonable
19 doubt that the Defendants were armed with a deadly weapon
20 during the robbery. A deadly weapon is any article,
21 instrument, or a substance which is likely to cause death
22 or great bodily harm. Whether an instrument has been used
23 as a deadly weapon depends on the facts and circumstances
24 of each case.

25 The following are examples of instruments which may

1 be deadly weapons: A pistol, a shotgun, a rifle, a dirk,
2 a dagger, a knife, a slingshot, metal knuckles or a razor,
3 gasoline, a fire bomb or Molotov cocktail. A gun may be a
4 deadly weapon even if it -- even if it is not operating.

5 I instruct you and emphasize of the facts -- the fact
6 that the Defendants did not testify is not a factor to be
7 considered by you in any way in your deliberation and in
8 your consideration on the question of guilt or innocence
9 of the Defendants. It must not be considered by you in
10 any manner whatsoever. A Defendant has the constitutional
11 right to remain silent, and the assertion of this right
12 must not be considered by you in your deliberations. I
13 repeat, under your oath, you are to draw no conclusion
14 whatsoever from the fact that the Defendants in this case
15 did not testify. The fact that the Defense did not
16 testify should not even be discussed in the jury room.

17 The burden of proof, as I have stated to you, is on
18 the State and the Defendants are not required to prove
19 their innocence. The burden of proof remains on the State
20 to prove guilt beyond a reasonable doubt.

21 The Defendants have raised the defense of alibi. In
22 order to establish an alibi it must be shown that the
23 Defendants were at a -- were at another specified place at
24 the time the crime was committed, and that it was
25 therefore impossible for the Defendants to have been at

1 the scene of the crime. Mere denial of presence at the
2 scene of a crime does not constitute an alibi.

3 There is no burden on the Defendant to prove an
4 alibi. The burden is on the State to prove beyond a
5 reasonable doubt that the Defendant was actually present
6 at the scene of the crime, actually participated in it,
7 and was not somewhere else. In other words, the State had
8 the burden of disproving the Defendant's alibi defense.

9 Ladies and gentlemen of the jury, you will have the
10 verdict forms in the jury room with you. There are two
11 separate verdict forms, one for the Defendant Derrick
12 Mills and one for the Defendant Quintin Mills.

13 Mr. Foreman, you will be in charge of writing the
14 verdict on each of the verdict form. They're rather self-
15 explanatory. It goes through each charge and each
16 verdict.

17 When the 12 of you come to a decision, of course it
18 must be a unanimous decision. That means all 12 of you
19 must agree on the verdict, and then circle the appropriate
20 verdict, sign and date at the bottom of each verdict form.

21 You will also have in the jury room each of the -- a
22 copy of each of the indictments. On the front of the
23 indictment there is a section for each person that says
24 "verdict." If you would, write the appropriate verdict,
25 sign, and date the indictment.

1 Before I let you start your deliberations, I'm going
2 to ask you to go to your jury room. Before you -- again,
3 you may start your deliberations when you receive the
4 verdict forms, the indictments, and all of the exhibits in
5 this case. Once you receive those, then you may start
6 your deliberations. When you come to a verdict, please
7 knock on the door and we'll bring you back out to receive
8 your verdict.

9 Thank you. You may go to your jury room.

10 (Jury exits at 11:28 a.m.)

11 THE COURT: Any exceptions or objections to the
12 charge on the law from the State or from the Defense?

13 MR. LUPTON: None from the State.

14 MR. LEINENDECKER: None from the Defense for Mr.
15 Derrick Mills.

16 MR. FARLEY: None for -- from Quintin Mills, Your
17 Honor.

18 THE COURT: All right. Gentlemen, if you would
19 please get together and make sure we have all the
20 exhibits. And here are the verdict forms so we can give
21 them to the jury.

22 Please don't wander off so we can find you in case we
23 have a verdict. I'm going to go release the alternate.

24 (Off the record at 11:30 a.m.)

 (On the record at 3:43 p.m.)

1 THE COURT: We have received a couple of questions
2 from the jury. The first of which we had -- we marked as a
3 Court's exhibit.

4 We had discussed it in chambers and all parties were
5 okay with me responding in writing to the jury. I'll mark
6 that as a Court's Exhibit; is that correct from the State
7 and from the Defense?

8 (Marked Court's Exhibit No. 3, Juror note.)

9 MR. LUPTON: That is correct, Your Honor, from the
10 State.

11 MR. LEIENDECKER: Yes, Your Honor.

12 MR. FARLEY: Yes, Your Honor.

13 THE COURT: And we subsequently received the -- the
14 next note which indicated what happens if we can't come to
15 an agreement on one case. We responded we will receive
16 your verdict on one case and I will instruct you further on
17 the other case.

18 (Marked Court's Exhibit No. 4, Juror note.)

19 They are ready for us to do that, so I'll bring out
20 the jury. I will receive the verdict on whichever case
21 they came to a verdict on and then I will give them an
22 Allen charge.

23 Any objections to proceeding in that fashion from
24 either the State or the Defense?

25 MR. LUPTON: Not from the State, Your Honor.

1 MR. LEIENDECKER: None, Your Honor.

2 MR. FARLEY: No, Your Honor.

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

4 Ladies and gentlemen of the gallery, no reaction when
5 this verdict is read.

6 (The jury enters at 3:44 p.m.)

7 THE COURT: Mr. Foreman, has the jury reached a
8 verdict on one of the cases?

9 THE JUROR: Yes, ma'am.

10 THE COURT: Do you have the verdict form for that
11 case? We'll receive that verdict if you have that.

12 THE JUROR: Yes, ma'am.

13 THE COURT: Will you please hand it to the bailiff?

14 (The juror complies.)

15 THE COURT: Please publish.

16 THE CLERK OF COURT: Will the defendant Quintin Mills
17 please rise?

18 (Defendant complies.)

19 THE CLERK OF COURT: (As read): In the *State of the*
20 *South Carolina versus Quintin Mills*, General Sessions No.
21 2017-GS-09-0111 and 2017-GS-09-1112, as to the charge of
22 armed robbery against Quintin Mills, we the jury
23 unanimously find the defendant guilty.

24 As to the charge of murder against Quintin Mills, we
25 the jury unanimously find the defendant not guilty.

1 Ladies and gentlemen of the jury, is this your
2 verdict; and if it is, so say you all, please indicate by
3 raising your right hand.

4 (Jurors comply.)

5 THE COURT: Let the record reflect that all the
6 jurors has -- have raised their right hand in regards to
7 this verdict. Thank you.

8 Mr. Mills, you may have a seat.

9 (The defendant complies.)

10 THE COURT: Ladies and gentlemen of the jury, I'm
11 also in receipt of your statement that you have not been
12 able to reach a verdict on the second case. You have
13 stated that you have been unable to agree on a verdict on
14 that case, and I had instructed you earlier the verdict
15 must be a unanimous verdict.

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

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

1 minds.

2 Although the verdict of the jury must be unanimous,
3 every one of you has the right to your own opinion. The
4 verdict you agree to must be your own verdict, the result
5 of your own convictions, and you should not give up your
6 firmly held beliefs merely to be in agreement with your
7 fellow jurors. The majority should consider the minority's
8 position and the minority should consider the majority's
9 position.

10 You should carefully consider and respect the
11 opinions of each other and re-evaluate your position for
12 reasonableness, correctness, and impartiality. You must
13 lay aside all outside matters and re-examine the questions
14 before you based on the law and the evidence in this case.

15 If you do not agree on a verdict in this case, I must
16 declare a mistrial. In that case, it does not mean anybody
17 wins; it just means that at some future time, we will try
18 this case with some other jury sitting here while -- where
19 you now sit. The same participants will come and the same
20 lawyers will ask basically the same questions and get
21 basically the same answers and we'll go through the whole
22 process again.

23 You were selected in the same manner and from the
24 same source as any future jury will be and there's no
25 reason for me to suppose that the case will ever be

1 submitted to 12 more intelligent, impartial, conscientious,
2 and competent jurors than you or that a more clearer
3 evidence will be produced on one side or the other. I,
4 therefore, ask you to return to your jury room and continue
5 your deliberations.

6 (Jury exits at 3:49 p.m.)

7 THE COURT: Do the parties wish to wait until we hear
8 back from the second verdict before we proceed to
9 sentencing?

10 MR. FARLEY: Give me a moment, Your Honor.

11 THE COURT: Certainly.

12 (Brief pause.)

13 MR. LUPTON: The State is willing to wait.

14 THE COURT: Okay.

15 MR. FARLEY: Your Honor, I think my client, if the
16 State were so inclined, would like to proceed with the
17 sentencing instead of waiting.

18 MR. LUPTON: State's fine with that, Your Honor.

19 THE COURT: Okay. Would you please stand, Mr. Mills?

20 (Defendant complies.)

21 (Brief pause.)

22 THE COURT: Solicitor?

23 MR. LUPTON: Your Honor, his prior record shows a
24 2012 conviction for simple possession of marijuana, a 2012
25 conviction for false information. He then has a 2012

1 assault and battery second, use of vehicle without
2 permission, and UCAP or unlawful carry of a pistol
3 conviction 2012; a 2013 false information to police, as
4 well as a pair of driving under suspensions, 2012, 2013.

5 He was placed on probation for the assault and
6 battery second degree, use of vehicle, and unlawful carry
7 of a pistol in 2012. That revocation -- that probation was
8 revoked in 2013.

9 He had pending a breach of trust in Lexington at the
10 time of this arrest. I'm not aware of the disposition of
11 that case though.

12 And Your Honor, you have seen the trial so ...

13 THE COURT: Does any of the victim's family wish to
14 be heard?

15 (Brief pause.)

16 MR. LUPTON: I'm not seeing any indication of that,
17 Your Honor..

18 Your Honor, as far as -- what -- and I believe the
19 Court is aware that he did get a -- have an interview the
20 day he was arrested in which he had much the same story as
21 the trial started out; that he was present, but that his
22 father was the one who committed the murder. And that's
23 been his position this whole time.

24 I think the -- I think the evidence is pretty clear
25 he went there to do an armed robbery, which the jury found

1 him guilty of, and was not expecting the murder to happen;
2 and he was only charged under the "hand of one, hand of
3 all."

4 THE COURT: Mr. Farley?

5 MR. FARLEY: Thank you, Your Honor, and I -- I was
6 just going to remind the Court my client has an eleventh
7 grade education. He's currently single. He does have a
8 little girl who is six years old.

9 Your Honor, we'd also like to point out -- and I'm
10 sure you're probably already aware because of the trial --
11 that Mr. Mills did turn himself in almost immediately after
12 this occurred and cooperated with law enforcement, gave a
13 statement, and has been incarcerated since December of
14 2014. And so obviously, all that time served we want
15 factored in as well.

16 But certainly we would say that in mitigation, Mr.
17 Mills was certainly cooperative and immediately responded
18 and has been incarcerated since that time. So we'd
19 certainly like that to be a mitigating factor, Your Honor.

20 THE COURT: Now, the sentencing sheet at the top it
21 says "pleads." I'm going to scratch that out and put
22 "convicted." Any objection?

23 MR. LUPTON: I apologize, Your Honor.

24 MR. FARLEY: I didn't see the sentencing sheet, Your
25 Honor.

1 THE COURT: I'll just -- would you like to look at
2 it?

3 MR. FARLEY: Let me look at it.

4 THE COURT: It just says "pleads" instead of
5 "convicted."

6 MR. LUPTON: I apologize, Your Honor. I'm just --
7 I've filled out so many sentencing sheets for pleas, that I
8 just checked it without even realizing it.

9 MR. FARLEY: Okay.

10 THE COURT: Any objection to that, Mr. Farley?

11 MR. FARLEY: No, ma'am.

12 THE COURT: Mr. Mills, it's certainly a shame. It
13 certainly appears that due to evidence, I agree with what
14 the verdict -- with what the -- the jury came back with it.

15 It sounds as if you were working with your father,
16 which is kind of a sad situation for both y'all all the way
17 around.

18 In indictment No. 2017-GS-09-112, you're hereby
19 committed to the State Department of Corrections for a
20 period of 20 years. You do get credit for the time that
21 you have served.

22 MR. LUPTON: Thank you, Your Honor.

23 THE COURT: Be at ease until we receive a verdict.

24 (Off the record 3:56 p.m.)

25 (On the record 4:00 p.m.)

1 THE COURT: For the record, we've received a
2 subsequent note from the jury that states (as read): "We
3 cannot reach an agreement, and no one will change their
4 mind."

5 I have shared this with both counsel for the State
6 and for the defense. Obviously, pursuant to the law, I
7 must declare a mistrial at this juncture. So I will bring
8 the jury out. and let them know we have declared a
9 mistrial.

10 Anything further before I bring the jury out?

11 MR. LUPTON: Not from State, Your Honor.

12 MR. LEIENDECKER: No, Your Honor.

13 THE COURT: Okay. Let's have our jury please.

14 (Jury enters 4:34 p.m.).

15 THE COURT: Mr. Foreman, I'm receipt -- in receipt of
16 your note that states you cannot reach an agreement, no one
17 will change their mind; is that correct?

18 THE JUROR: Yes, ma'am.

19 THE COURT: I have no option but to declare a
20 mistrial at this juncture.

21 Ladies and gentlemen of the jury, you are free to go
22 and you're excused. If you need an excuse or anything for
23 work, the Clerk's Office will be happy to assist you with
24 that.

25 (Jury exits 4:35 p.m.)

1 THE COURT: I'm going to mark that as a Court's
2 exhibit.

3 (Marked Court's Exhibit No. 4, juror note.)

4 THE COURT: All right, Counsel, we will be adjourned
5 on this matter. Obviously, Mr. Mills will remain in
6 custody until his case is called back to trial.

7 MR. LUPTON: Thank you, Your Honor.

8 (Off the record 4:36 p.m.)

9 (On the record 4:58 p.m.)

10 THE COURT: So the record is clear -- I'm not sure if
11 we've placed it on the record since we've received this
12 information -- once the jury was let go, in the jury room
13 was the verdict form, along with both indictments. The
14 verdict form states that the jury found the Defendant
15 guilty of armed robbery and there's nothing circled for the
16 charge of murder. That is not signed.

17 However, on the indictment for armed robbery, that is
18 signed and it does say "guilty" and is signed by the
19 foreperson and it is dated.

20 I've discussed the matter with Counsel. We've
21 brought the jury back so that they are in the jury room.

22 My intent is to bring the jury out and ask them if
23 they were able to reach a verdict on one of the two charges
24 and if they were just deadlocked on the second charge. If
25 that is a correct recitation of what had happened and they

1 were misunderstanding what the original instructions were,
2 I understand that the State has no objection to that.

3 The Defense, what is your position on that?

4 MR. LEIENDECKER: Your Honor, for the record, first
5 of all, I object to what we're doing here and in -- before
6 I even put those objections on the record, I would hope
7 that what the Court does, if you decide to follow this
8 course, is that you give them as little explanation or
9 offer, and then you just ask them the simple question: Did
10 you reach a verdict on one of the two charges?

11 Secondly, the jury, all 12, were in here, were
12 seated, and were asked, "Are you unable to reach a verdict
13 as to the Defendant Derrick Mills and you are unable -- are
14 you deadlocked; and being given an *Allen* charge, are you
15 still unable to reach a verdict," and they said "yes."

16 Not one person volunteered on the record to the Court
17 to that direct question that well, we reached a verdict on
18 one, but not on the other, that -- even after they had done
19 exactly that on the other defendant. So it's hard to
20 understand how they misunderstood "have you reached a
21 verdict."

22 The Court then properly granted a mistrial after the
23 question, "Have you reached a verdict?" That's my first
24 basis.

25 At that point, the case is done. Everyone is

1 dismissed, including the jury. We have a mistrial. This
2 case, no matter what happened back in that jury room which
3 is secret and sacrosanct, must go back on the docket for
4 retrial.

5 Further, my second motion is that not only did that
6 happen and is that the appropriate thing to do, but after
7 the fact, after the people had been dismissed, after they
8 were told their jury service was completed and done, they
9 were -- and -- and I wasn't there, so I don't want to use a
10 word that suggests any kind of, you know, improper action -
11 - but they -- they were chased down in the parking lot by
12 law enforcement and asked to return or told they needed to
13 return.

14 At least two of the people had successfully left and
15 were brought back, and are now are going to be brought out
16 of the jury room and told, "You're brought back because we
17 want to know this information."

18 And I think it rises to a level of not intentional,
19 but certainly a level of coercion. I'm not suggesting that
20 Your Honor or law enforcement or anybody else is trying to
21 coerce them. I just believe that that's the reality of
22 what's happening here.

23 It's an institutional form of coercion. They were
24 released, they were done; they were told when you can't
25 reach a verdict, someone else is going to have to reach a

1 verdict.

2 Good grief, if they had reached a verdict someone
3 would have said something, should have said something, and
4 it would be improper now for the Court to draw that back.

5 THE COURT: Mr. Leiendecker, I certainly understand
6 your argument and this is obviously somewhat of a novel
7 issue that doesn't come up every day.

8 MR. LEIENDECKER: It's only the second time I've had
9 it. Just kidding.

10 THE COURT: And in regards to your argument, as far
11 as the question of the jury, the question was: Were you
12 able to reach a verdict?

13 The question wasn't specific as to were you able to
14 reach a verdict on each of the indictments, and I think
15 that is where the difference comes as far as the co-
16 defendant because they were able to reach a verdict on each
17 of the indictments. They found a guilty and a not guilty.

18 On this case, it is differentiated by the fact that
19 they were -- it appears that they were able to reach a
20 verdict on one charge, but unable to reach a verdict on the
21 other charge and that's indicative from their question to
22 the Court as far as a case. It appears that they were
23 putting the case of one defendant as a whole rather than on
24 each separate and distinct offense.

25 I think it's appropriate that if they did reach a

1 verdict before they were released, as it appears to be on
2 the indictment -- which, again, is signed and dated by the
3 foreperson -- we have that accurate information because,
4 quite frankly, either way, if they reached a verdict and
5 they were able to do so, it would be a miscarriage of
6 justice if they were able to reach a verdict before they
7 were released and that's what they're called upon to do and
8 we just ignore that.

9 I think we have to question them as to whether or not
10 that's what happened, if they reached a verdict on one
11 indictment and were unable to reach a verdict on the second
12 indictment that was before a mistrial was declared and that
13 would have been what had happened.

14 I won't question them lengthy like you suggested. I
15 think I will just ask them if you were able to reach a
16 verdict on one of the two indictments and was that
17 indicated on -- on the indictment which was signed.

18 MR. LEIENDECKER: Okay. And Your Honor, not to play
19 with, but I respectfully disagree. I think Your Honor gave
20 them a very plain and very clear instruction regarding the
21 fact that they could find someone guilty on one of the
22 counts and not guilty on another count. They could find
23 them not guilty on both charges, or they could find them
24 guilty on both charges.

25 They never asked a question about that. That was

1 never their question, and -- and I, unfortunately, believe
2 that whatever answer we get here today is tainted by that
3 coercive nature I described of people being released and
4 then being brought back by law enforcement and held here
5 until they answer the Court.

6 THE COURT: Well, Mr. Leiendecker, I -- you know, I
7 tend to differ with your assertion with how they were
8 brought back by law enforcement. I think most of them,
9 other than two, were just outside of the courthouse and
10 were asked to return to the jury room.

11 It's not as they're being held in confinement in --
12 in a holding cell and certainly, I must say, being in
13 Calhoun County, we've got some of the nicest bailiffs and
14 security people in the -- probably in the country. I
15 certainly can't imagine that they would be coercive towards
16 a potential juror in this case, and I certainly don't have
17 any indication that that had happened.

18 The other two that had gotten in their cars were
19 simply called, and they -- they returned.

20 So unless they're in there shaking in their boots for
21 some reason or file some sort of complaint, I don't think
22 that's an accurate representation of how they were brought
23 back into this Court.

24 MR. LEIENDECKER: I agree, Your Honor. I wasn't
25 there, but obviously none of us in the court were there

1 when they were brought back.

2 THE COURT: Anything further before I bring the jury
3 out?

4 MR. LUPTON: No, Your Honor.

5 THE COURT: Let's have our jury please.

6 (Jury enters 5:12 p.m.)

7 THE COURT: Welcome back, ladies of gentlemen of the
8 jury. Thank you for your patience.

9 There's been a question. Once you were released, the
10 court personnel went into the court room and found the
11 verdict form, along with the indictments, which were in the
12 jury room while you were in there with your deliberations.

13 And on the verdict form, it does find that y'all
14 found a verdict as to one of the charges; and on the
15 indictment itself for the armed robbery, it appears that
16 Mr. Foreperson, Mr. McCarson, has signed the verdict of
17 guilty on the armed robbery and signed and dated on that.

18 My question to the jury is: Before you were
19 released, did you come to a verdict on one charge, but were
20 deadlocked on the second charge?

21 (No audible response.)

22 THE COURT: And I'm hearing and seeing that you're
23 all shaking your heads. I'm going to poll you just like we
24 did before.

25 If this is what happened in the jury room, were you -

1 - did you come to a verdict on the charge of armed robbery
2 prior to me releasing you for the mistrial and were
3 deadlocked as to the charge of murder? If that is what
4 happened and that is still what you believe, if you would
5 please stand and raise your hand.

6 (Jurors comply.)

7 THE COURT: Please let the record indicate that each
8 of the jurors have stood and acknowledged that that was
9 what happened in the -- in the jury room; that they had
10 reached a verdict on the armed robbery charge, but were
11 deadlocked on the murder charge.

12 MR. LEIENDECKER: Your Honor, the Defense would
13 request that the Clerk would actually individually poll
14 them and ask them that question.

15 THE COURT: Yes, sir, Mr. Clerk, do have them --

16 THE CLERK OF COURT: Yes, Your Honor.

17 MR. LEIENDECKER: Thank you.

18 THE CLERK OF COURT: Juror No. 1, Shane McCarson, is
19 this your verdict?

20 THE JUROR: It is.

21 THE CLERK OF COURT: Is it still your verdict?

22 THE JUROR: Yes, sir.

23 THE CLERK OF COURT: Juror No. 2, Michael Vandalen,
24 is this your verdict and still is your verdict?

25 THE JUROR: Yes, sir.

1 THE CLERK OF COURT: Juror No. 3, Lakenya Gleaton, is
2 this your verdict and still your verdict?

3 THE JUROR: Yes.

4 THE CLERK OF COURT: Juror No. 4, Ta'rque Frederick,
5 is this your verdict and still your verdict?

6 THE JUROR: Yes.

7 THE CLERK OF COURT: Juror No. 5, Marquette
8 Seawright, is this your verdict and still your verdict?

9 THE JUROR: Yes.

10 THE CLERK OF COURT: Juror No. 6, Sherry Rucker, is
11 this your verdict and still your verdict?

12 THE JUROR: Yes.

13 THE CLERK OF COURT: Juror No. 7, Sharnay Colton, is
14 this your verdict and still your verdict?

15 THE JUROR: Yes.

16 THE CLERK OF COURT: Juror No. 8, Joshua DiColter, is
17 this your verdict and is still your verdict?

18 THE JUROR: Yes.

19 THE CLERK OF COURT: Juror No. 9, Ashley Jeffcoat, is
20 this your verdict and is still your verdict?

21 THE JUROR: Yes.

22 THE CLERK OF COURT: Juror No. 10, Mark Oglesby, is
23 this your verdict and is still your verdict?

24 THE JUROR: Yes.

25 THE CLERK OF COURT: Juror No. 11, Lashawn White-

1 Simpson, is this your verdict and still your verdict?

2 THE JUROR: Yes.

3 THE CLERK OF COURT: Juror No. 12, Tracy Woodrow, is
4 this your verdict and still your verdict?

5 THE JUROR: Yes.

6 THE COURT: Thank you, ladies and gentlemen. Please
7 return to your jury room. I'll be in there momentarily to
8 release you.

9 (Jury exits at 5:15 p.m.).

10 THE COURT: Counsel, absent anything further I'm
11 going to ask the Clerk to go ahead and release the jury.

12 Mr. Clerk?

13 THE CLERK OF COURT: Yes, ma'am.

14 THE COURT: So, sir, do you want to prepare a
15 sentencing sheet? Oh, is there one already --

16 MR. LUPTON: Your Honor, there's already a sentencing
17 sheet in the file.

18 THE COURT: Parties ready to proceed?

19 MR. LEIENDECKER: We are.

20 MR. LUPTON: State's ready, Your Honor. Your Honor,
21 I believe the Court is aware the State is filing a notice of
22 intent to seek life without parole based on prior -- three
23 prior most serious convictions of kidnaping, car jacking,
24 and armed robbery, as well as a prior most serious of
25 entering a bank with intent to steal that was on a separate

1 date.

2 Based on that, we vote there's only one possible
3 verdict that was served upon him more than 10 days ago and
4 filed more than 10 days ago.

5 THE COURT: Anything from the Defense?

6 MR. LEIENDECKER: Your Honor, other than to renew my
7 -- my motions -- which I'm never certain if I have to do
8 that -- but I always want to do that out of an abundance of
9 caution that regarding the mistrial.

10 There really is no need for mitigating evidence
11 presented in a case where notice has been served pursuant to
12 the LWOP statute, and so I will not spend time or waste time
13 with the Court other than to say that my client is at this
14 time 47 years of age or will be 47 very soon.

15 THE COURT: Yes, sir. Anything further from anyone?

16 (No response.)

17 THE COURT: On Indictment 2017-GS-09110, for the
18 charge of armed robbery, you're hereby committed to the
19 State Department of Corrections for the remainder of your
20 natural life.

21 MR. LEIENDECKER: Thank you.

22 MR. LUPTON: Thank you, Your Honor.

23 (Off the record at 5:18 p.m.)

24
25 -- END OF TRANSCRIPT OF RECORD --

CERTIFICATE

I, the undersigned, Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Calhoun County, South Carolina, on the 21st through the 23rd day of May, 2019.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

E/Bonnie H. Kelly

Bonnie H. Kelly, CVR

Court Reporter

Columbia, South Carolina

December 9, 2019

STATE OF SOUTH CAROLINA
COUNTY OF CALHOUN

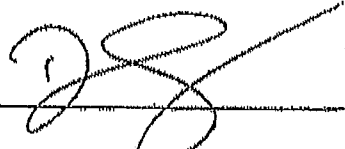
INDICTMENT
2017GS09-0110

As a Court of General Sessions, convened on November 17, 2017 the Grand Jurors of CALHOUN County present upon their oath:

ARMED ROBBERY

That on or about December 13, 2014, in Calhoun County, the defendant, Derrick Tyler Mills did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed with a deadly weapon or a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, [REDACTED] with the intent to permanently deprive the victim of possession of the goods or monies. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

472

WITNESSES

Kendra D Williams

Calhoun County Sheriff

ARREST WARRANT NUMBER

2014A0910200047

Arrested: April 26, 2017

ACTION OF GRAND JURY

Indy S. Monroe

Foreperson of Grand Jury Nov 17 2017
Date: November 17, 2017

VERDICT

guilty

Foreperson of Petit Jury *Shane McLarson*
Date: 5-23-19

DOCKET NO. 2017GS09-0110

The State of South Carolina
County of CALHOUN

COURT OF GENERAL SESSIONS

November 27, 2017 TERM

THE STATE
vs.

Derrick Tyler Mills

Indictment for

Armed Robbery

SC Code: 16-11-330(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

KENNETH HASTY
CLERK OF COURT
CALHOUN COUNTY
COLUMBIA, SC

2017 NOV 17 A 10:11

FILED

473

WITNESSES

Kendra D Williams

Calhoun County Sheriff

ARREST WARRANT NUMBER

2014A0910200047

Arrested: April 26, 2017

ACTION OF GRAND JURY:

John S. Morris

Foreperson of Grand Jury
Date: November 17, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS09-0110

The State of South Carolina
County of CALHOUN

COURT OF GENERAL SESSIONS

November 27, 2017 TERM

THE STATE
VS.

Derrick Tyler Mills

Indictment for
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After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED
2017 NOV 17 - A 10 11
KENNETH HASTY
CLERK OF COURT
CALHOUN COUNTY
SOUTH CAROLINA

ARREST WARRANT

2014A0910200047

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Calhoun

THE STATE
against

Derrick Tyler Mills

Address: [REDACTED]

Phone: [REDACTED]

Sex: M Race: Height: 6 Weight: 230

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0090000

Prosecuting Agency: Calhoun County Sheriff

Prosecuting Officer: K. Williams - 1080

Offense: Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Derrick Tyler Mills
on 4-25-14St. C. O. [Signature]
Signature of Constable Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
1623 Bridge Street
Post Office Box 191
St. Matthews, SC 29135

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Calhoun

Personally appeared before me the affiant K. Williamsbeing duly sworn deposes and says that defendant Derrick Tyler Millsdid within this county and state on or about 12/13/2014State of South Carolina for ordinance of ☒ County/ ☐ Municipality of

Calhoun

in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on December 13, 2014, in the city/county of Calhoun, one Derrick Tyler Mills did take from the victim \$500.00 and a pair of
pants with intent to deprive while armed with a deadly weapon. Above is evidence by an eye witness.

Signature of Affiant

K. Williams

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Calhoun

Affiant's Address: 2811 Old Belleville Road

St. Matthews 29135

Affiant's Telephone: [REDACTED]

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/13/2014 defendant Derrick Tyler Mills

did violate the criminal laws of the State of South Carolina for ordinance of

☒ County/ ☐ Municipality of Calhoun

) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable.
Sworn to and subscribed before me
on 12/14/2014

Signature of Issuing Judge

Thomas Randolph Jr

Judge Code: 7160

Judge's Address: Post Office Box 663

Cameron, SC 29030

Judge's Telephone: (803) 823-2266

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

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Form Approved by
S.C. Attorney General
April 23, 2003
SCA025

AFFIDAVIT

14-858

who

violate the criminal laws of the

KENNETH HARTY
CLERK OF COURT
CALHOUN COUNTY
ST. MATTHEWS
FILED
MAY 4 PM 2:57

STATE OF SOUTH CAROLINA

COUNTY OF CALHOUN

INDICTMENT

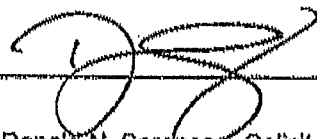
2017GS09-0109

As a Court of General Sessions, convened on November 17, 2017 the Grand Jurors of CALHOUN County present upon their oath:

MURDER

That in Calhoun County on or about December 13, 2014, with malice aforethought, the defendant, Derrick Tyler Mills did kill one [REDACTED] by means of multiple gunshots. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

496

WITNESSES

Kendra D Williams

Calhoun County Sheriff

ARREST WARRANT NUMBER

2014A0910200046

Arrested: April 26, 2017

ACTION OF GRAND JURY

[Signature]
NOV 17 2017
Foreperson of Grand Jury
Date: November 17, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS09-0109

The State of South Carolina
County of CALHOUN

COURT OF GENERAL SESSIONS

November 27, 2017 TERM

THE STATE
vs.

Derrick Tyler Mills

Indictment for

Murder

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED
2017 NOV 17 A 10:11
KENNETH HASTY
CLERK OF COURT
CALHOUN COUNTY
SOUTH CAROLINA

478

ARREST WARRANT

2014A0910200046

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Calhoun

THE STATE

against

Derrick Tyler Mills

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: [REDACTED] Height: 6 Weight: 230

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency OR#: SC0090000

Prosecuting Agency: Calhoun County Sheriff

Prosecuting Officer: K. Williams - 1080

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Derrick Tyler Mills on 4-28-17

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
1623 Bridge Street
Post Office Box 191
St. Matthews, SC 29135

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Calhoun

Personally appeared before me the affiant K. Williamsbeing duly sworn, deposes and says that defendant Derrick Tyler Millsdid within this county and state on or about 12/13/2014State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Calhoun)

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on December 13, 2014 in the city/county of Calhoun, one Derrick Tyler Mills did, with malice and aforethought, cause the death of victim by multiple gunshots. Above is evidence by an eye witness.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Calhoun

Affiant's Address 2811 Old Belleville RdSt. Matthews 29135

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/13/2014 defendant Derrick Tyler Mills

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Calhoun) as set forth below.

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 12/14/2014

Signature of Issuing Judge (L.S.)

Thomas Randolph Jr

Judge Code: 7160

Judge's Address Post Office Box 663Cameron, SC 29030Judge's Telephone (803)823-2266Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
SC Attorney General
April 21, 2004
SCCA538

AFFIDAVIT

14-858

who

violate the criminal laws of the

Calhoun

FILED
2017 MAY -4 P 2:51
KENNETH HARTY
CLERK OF COURT
CALHOUN COUNTY
ST. MATTHEWS

STATE OF SOUTH CAROLINA

COUNTY OF

Calhoun

FILED

IN THE COURT OF GENERAL SESSIONS

STATE

2010 MAY 24

AND DOCKET/CASE#

2017-09: 110

vs. Derrick Tyler Mills

AW# 2014 A09 1020 0047

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☒ PLEADS

TO:

In violation of § 16-11-332 (A)

of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☒ MOST SERIOUS

☐ Mandatory GPS

☐ §17-25-45

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

Attorney for Defendant

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Pardon and Parole Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-136.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-85 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SODPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2104

Sentence Date

5/23/18

*Fees:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2985 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$25

\$500

\$25

\$150

\$50

\$40/ea

\$5

Clerk of Court/Deputy Clerk

Court Reporter:

General Sessions Tracking Sheet
Indictment # 0000GS09

Name: Mills, Derrick Tyler

AKA:

Address: [REDACTED]

SSN: [REDACTED]

Sex: M Race:

DOB: [REDACTED]

DL# [REDACTED]

Warrant/Ticket #: 2014A0910200046

Date of Arrest: 04/26/2017

Date of Offense: 12/13/2014

Date Rev by Clerk 05/04/2017

Magistrate: Clerk Of Court O P, O S, And Family Court

Counts: Code: 0116/Murder / Murder

Indictment # 0000GS09

FILED

2019 MAY 24 A 9:00

KENNETH H. S. J.
CLERK OF COURT
CALIFORNIA COUNTY
ST. ANGELO, TEXAS

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: 5-23-19

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 9. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: WITH Leave to Restore

Explain: IF Armed Robbery

Explain: Conviction overturned

Judge: _____

Defense Atty: _____

Counts: _____ Code: _____

Sentence: _____

Court Reporter: _____

Solicitor: _____

STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CALHOUN COUNTY
Court of General Sessions
The Honorable Maite Murphy

Case No.: 2019-000926

RECEIVED

Sep 21 2020

SC Court of Appeals

State of South Carolina,

Respondent,

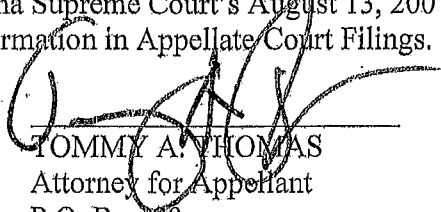
vs.

Derrick Tyler Mills,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record of Appeal complies with Rule 210 (g), SCACR, and also complies with the South Carolina Supreme Court's August 13, 2007 Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.


TOMMY A. THOMAS
Attorney for Appellant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

September 18, 2020