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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Honorable Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTLY JERMAINE SCOTT,

APPELLANT

APPELLATE CASE NO. 2022-000266

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RAYMOND HAUPT - CROSS EXAMINATION BY MR. LEIENDECKER

1 State Route 45?

2 A. Correct.

3 Q. And tell us where State Route 45 goes?
4 East? West? North? South? What towns does it go
5 through? It goes into Eutawville; right?

6 A. Yes. It goes into Eutawville. I'm not
7 -- like I said, on the map it would be in the top
8 right.

9 Q. Uh-huh. And if you come back down it,
10 you can connect with 176?

11 A. Correct.

12 Q. Which is also known as Old State Road;
13 correct?

14 A. That's correct.

15 Q. Okay. And Gemini Drive, if you follow
16 it straight up on the dirt roads and you cross
17 over, you can go -- without making any significant
18 turns, you can connect with Old Highway Six;
19 correct?

20 A. Correct. And that's what I testified
21 to earlier.

22 Q. Right. And that location which isn't
23 the one that you followed twists and turns, but
24 that location is somewhere between Eutawville and
25 Santee; correct?

RAYMOND HAUPT - CROSS EXAMINATION BY MR. LEIENDECKER

1 A. That's correct. It's not as far to
2 Santee though.

3 Q. No. No. I didn't say it was at
4 Santee. Route -- Old Route Six, if you put pins in
5 it, it is in Eutawville and you can take it from
6 Eutawville and it will take you to Santee; correct?

7 A. Where it would have came out from
8 Gemini would have been within a few miles.

9 Q. Okay. I am -- I'm only confusing you,
10 I hope, and not me. Not --

11 A. I can show you on the map again if you
12 would like.

13 Q. We may get there. But not relating to
14 Gemini Road, I'm just making sure that I understand
15 correctly. If I'm in Eutawville and I want to go
16 to Santee, I can do that on Old Route Six?

17 A. Yes, that's correct.

18 Q. Okay. And where Gemini Drive goes
19 straight without any turns, it comes out on Old
20 Route Six, but closer to Eutawville than to Santee?

21 A. Yes.

22 Q. Okay. I almost think I'm done, but I
23 just need to check with my handler. Thanks,
24 Investigator.

25 A. Thank you.

RAYMOND HAUPT - CROSS EXAMINATION BY MR. JOHNSON

1 THE COURT: Mr. Johnson?

2 MR. JOHNSON: Thank you, Your Honor.

3 THE COURT: Yes, sir.

4 CROSS EXAMINATION BY MR. JOHNSON:

5 Q. Investigator, you said you worked for
6 the Solicitor?

7 A. Yes, sir.

8 Q. And part of your duties you said you go
9 out and you can interview witnesses for the
10 Solicitor?

11 A. Yes, sir.

12 Q. And if the Solicitor wants to, he can
13 ask you to go out and interview people if law
14 enforcement failed to interview someone whose name
15 came up in an investigation; correct?

16 A. We could interview them, yes.

17 Q. Right. So if law enforcement failed to
18 interview somebody, he can say, you go talk to them
19 to establish where they were when the crime was
20 committed?

21 A. Yes.

22 Q. Okay. And if you talked to them, you
23 can look down and you can ask them to look at their
24 shoes; right?

25 A. I mean, if I'm talking to somebody,

RAYMOND HAUPT - CROSS EXAMINATION BY MR. JOHNSON

1 yeah, I can ask them that.

2 Q. Yeah. You could say do you consent,
3 let me look at your shoes. Take a picture of them.
4 Whatever. Sure. Did the Solicitor ask you to talk
5 to Michael Smith?

6 A. Well, so Mr. Osborne didn't ask me to
7 go and talk to anyone. We work together.

8 Q. Well, that's what I'm saying. His the
9 solicitor?

10 A. Right.

11 Q. And he can ask you -- you just said, he
12 can ask you to go talk to witnesses?

13 A. Sure.

14 Q. Law enforcement has failed to talk to
15 them and ask them where they were when the crime
16 was committed?

17 A. Correct.

18 Q. And you said, yes. So I'm asking you,
19 did he ask you to go interview Michael Smith?

20 A. No.

21 Q. Steven Singletary?

22 A. No.

23 Q. Dominique Washington?

24 A. No.

25 Q. Todd Dukes?

RAYMOND HAUPT - REDIRECT EXAMINATION BY MR. OSBORNE

1 A. No.

2 Q. Wayne Smalls known as Killa?

3 A. No.

4 Q. Terrell Lawson?

5 A. No.

6 Q. Lamont Darby?

7 A. No.

8 Q. Ron Davis?

9 A. No.

10 Q. Damien Elmore?

11 A. No.

12 MR. JOHNSON: No more questions, Your

13 Honor.

14 THE COURT: Anything on redirect?

15 MR. OSBORNE: Just one.

16 REDIRECT EXAMINATION BY MR. OSBORNE:

17 Q. The call from Jerome Butler to
18 Christopher Wright at 7 p.m., I don't think I
19 asked, did that call connect?

20 A. It did not.

21 MR. OSBORNE: No further questions.

22 THE COURT: Ms. Zmroczek, anything on
23 recross?

24 MS. ZMROCZEK: Nothing further.

25 THE COURT: Mr. Leiendecker?

MICHELLE EICHENMILLER - DIRECT EXAMINATION BY MR. OSBORNE

1 MR. LEIENDECKER: No.

2 THE COURT: Okay. Mr. Johnson?

3 MR. JOHNSON: Nothing further, Judge.

4 THE COURT: All right. You may step
5 down, Investigator. Okay. Who's next?

6 MR. OSBORNE: State calls Michelle
7 Eichenmiller.

8 MICHELLE EICHENMILLER,
9 being first duly sworn, was examined and testified
10 as follows:

11 THE CLERK: Please be seated. State
12 your full name for the record.

13 MS. EICHENMILLER: My name is Michelle
14 Eichenmiller.

15 THE CLERK: Thank you.

16 THE COURT: All right. And she is your
17 witness, Mr. Osborne.

18 MR. OSBORNE: Thank you, Judge.

19 DIRECT EXAMINATION BY MR. OSBORNE:

20 Q. Ms. Eichenmiller, where do you
21 currently work?

22 A. I work for the South Carolina Law
23 Enforcement Division, otherwise known as SLED. I
24 work in the forensic lab in the firearms
25 department.

1 Q. Okay. And how long -- and when we're
2 talking about firearms, we're talking about
3 firearms identification?

4 A. Yes.

5 Q. And how long have you worked in
6 firearms identification with SLED?

7 A. It will be 17 years this year.

8 Q. And what does the field of firearms
9 identification consist of?

10 A. Firearms identification deals with any
11 evidence found at crime scenes that could have come
12 from a firearm. So bullets, cartridge cases, the
13 firearm itself, anything that shot shells.

14 Q. Okay. What is your educational
15 background?

16 A. I have a bachelor degree in biology and
17 psychology. I also is a Master of Science in
18 forensic science.

19 Q. Have you received any specialized
20 training in the area of firearms identification?

21 A. In order to be a firearms examiner
22 there's no school you can really attend. You have
23 to be trained on the job. So it was like an
24 apprenticeship program. It's three to four years
25 at SLED. I learned under the examiners that were

MICHELLE EICHENMILLER - DIRECT EXAMINATION BY MR. OSBORNE

1 already trained. I did a lot of reading and a lot
2 of mock case work on my own. After the three to
3 four year period when I completed it, I took a
4 comprehensive exam. And then when I passed they
5 said I can do case work on my own.

6 Q. And I know this is kind of -- y'all
7 don't really call it this, but are you authorized
8 and certified by SLED to conduct firearms
9 identifications?

10 A. I'm sorry.

11 Q. I said, are you authorized or certified
12 by SLED to conduct firearms identifications?

13 A. Yes.

14 Q. And how many cases have you worked
15 while employed with SLED concerning firearms
16 identifications?

17 A. If I had to estimate it would be
18 possibly be hundreds.

19 Q. Okay. Are you a member of many
20 professional organization related to firearms
21 identification?

22 A. Yes. I'm a member of the association
23 of firearm and tool mark examiners. It's a
24 International organization of professionals in
25 firearms identification.

1 Q. Have you ever been qualified as an
2 expert in the area of firearms identifications?

3 A. I have.

4 Q. And how many times?

5 A. Approximately 100.

6 Q. In what courts?

7 A. The state courts of South Carolina.

8 Q. You ever failed to qualify?

9 A. No.

10 MR. OSBORNE: Your Honor, at this time
11 the State offers as an expert, Ms. Eichenmiller in
12 the field of firearms examination.

13 THE COURT: Any objection,
14 Mr. Leiendecker?

15 MR. CHISHOLM: No, Your Honor.

16 THE COURT: Any objection?

17 MS. ZMROCZEK: No objection.

18 THE COURT: Mr. Johnson?

19 MR. JOHNSON: No objection.

20 THE COURT: All right. Ladies and
21 gentlemen, you've heard me say this enough, but I'm
22 going to repeat it one more time. Ms. Eichenmiller
23 has been qualified as an expert in the area of
24 firearms identification and as such she may offer
25 an opinion in this area. You are -- that does not

MICHELLE EICHENMILLER - DIRECT EXAMINATION BY MR. OSBORNE

1 mean that you must accept her opinion, but you
2 should treat it like any other evidence and give it
3 the weight you believe it deserves. All right.

4 Mr. Osborne?

5 Q. As way of background, Ms. Eichenmiller,
6 can you describe the difference between a fired
7 bullet and a fired shell casing?

8 A. A fired bullet is what will exit the
9 firearm through the barrel. So it's what comes out
10 the front end of the firearm. A cartridge case
11 depending on the firearm type could get ejected in
12 a semiautomatic pistol or it could stay in the
13 firearm if it was a revolver.

14 Q. Okay. So typically speaking, when
15 you're dealing with a semiautomatic, which
16 direction if, you know, you hold it the
17 conventional way straight up, the pistol, which
18 direction would the fired shell casings eject from
19 the pistol?

20 A. It's dependent on the firearm. It
21 seems most are either from the right or the top.

22 Q. Okay. And when we're dealing with
23 revolvers, the fired shell casing just stays in
24 there until it's manually unloaded?

25 A. Yes.

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1 Q. All right. So in your profession, how
2 do you go about matching a fired shell casing or a
3 fired bullet to a particular weapon? What's your
4 process?

5 A. In the case of receiving a firearm and
6 a fired bullet or cartridge case, I'll examine the
7 firearm. I'll shoot test fires for myself so I
8 know what gun they came from and then I'll compare
9 those cartridge cases or bullets to the test
10 specimens that I made.

11 Q. Okay. Now, with regard to this case,
12 and I think it's going to be -- you have two
13 different lab numbers. The first one, L15-09627
14 and L15-10037, did you have the occasion to examine
15 some evidence submitted by the Orangeburg County
16 Sheriff's Office?

17 A. I did.

18 Q. And I believe you came into possession
19 of these around what, July 24th of 2015?

20 A. I think so.

21 Q. Okay. Well, did they appear to be
22 damaged, altered, tampered with in any way? Were
23 they packaged correctly when you got them?

24 A. Yes. They're all -- evidence is sealed
25 with evidence tape seals, initials, and dates when

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1 they're accepted to the SLED lab.

2 Q. Okay. Let me kind of move along a
3 little bit. Well, I've got to kind of go through
4 this. And if it helps to look to reference your
5 report, you certainly can. So we're going to talk
6 about some items and I think easiest, maybe, just
7 to first identify the items and then we'll talk
8 about what your results were when you analyzed
9 them, okay?

10 A. Okay.

11 Q. First item, SLED item 9, already been
12 identified as State's 12 is a fired bullet and two
13 fragments from the autopsy of Shamekia Sanders.
14 Does that sound correct?

15 A. Yes.

16 Q. SLED item 15 already identified as
17 State 13 is a fired bullet and one bullet fragment
18 from the autopsy of Krystal Hutto?

19 A. Yes.

20 Q. SLED 27 which is State's 11 is one
21 small bullet fragment, fired bullet jacket, one
22 jacket fragment, one bullet core, and two led
23 fragments from the autopsy of Tamara Perry?

24 A. Yes.

25 Q. SLED 33, State's 14 is one fired bullet

1 core from the autopsy of Jerome Butler?

2 A. Correct.

3 Q. SLED 34, State's 15 is one fired bullet
4 core and one fired bullet jacket from the autopsy
5 of Jerome Butler?

6 A. Yes.

7 Q. SLED 35, State's 16 is one copper
8 jacket fragment and two core fragments from the
9 autopsy of Jerome Butler?

10 A. Yes.

11 Q. SLED 36, State's 17, one bullet jacket
12 fragment from the autopsy of Jerome Butler?

13 A. Yes.

14 Q. SLED 37, State 18, one bullet jacket
15 fragment from Jerome Butler?

16 A. Yes.

17 Q. SLED 62, State 17, one fired bullet
18 found on the ground next to Jerome Butler?

19 A. I just have decedent's left side.

20 Q. Oh, okay. SLED 63, State 8 is a bullet
21 on the passenger seat of the Camero?

22 A. Yes.

23 Q. SLED 64, State 9, fired bullet from the
24 right corner molding?

25 A. Yes.

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1 Q. SLED 74, State 1, fired bullet and two
2 bullet fragments removed from juvenile Golden Doe?

3 A. Yes.

4 Q. SLED 57, State 2, found cartridge
5 casing which is also another word for fired shell
6 casing?

7 A. Yes.

8 Q. .40 Smith and Wesson on the ground near
9 the Camero, placard number 2?

10 A. Yes.

11 Q. SLED 58, State's 3, found cartridge
12 casing, .40 Smith and Wesson on the ground near the
13 Camero, number 5?

14 A. Yes.

15 Q. SLED 59, State's 4, found cartridge
16 casing .380 on the floor under a walker?

17 A. Yes.

18 Q. 60, State's 5, a .380 on the floor by
19 the TV?

20 A. Yes.

21 Q. 61, State's 6, a .40 found cartridge
22 casing on the floor behind the TV?

23 A. Yes.

24 Q. And 75, State's 10, found cartridge
25 casing .40 Smith and Wesson on the ground near

1 fence?

2 A. Yes.

3 Q. And then we've got two pistols. One is
4 a silver and black Ruger 9mm and I think that's
5 your SLED 1 under the 0037?

6 A. Yes.

7 Q. And then, lastly, we have an H&R model
8 911 .22 pistol, State's 263 and your SLED 2?

9 A. The H&R is a model 922.

10 Q. 922, okay. .22 caliber?

11 A. Yes.

12 Q. Okay. All right. So now we can get
13 into your analysis. Ms. Eichenmiller, let's begin
14 with the fired projectiles in this case. Okay.
15 Through your training experience, do you find that
16 sometimes when bullets go through bodies they split
17 up into various fragments and pieces?

18 A. Yes, that's my experience.

19 Q. Okay. And are there times there's just
20 no way or there's just not enough there to draw any
21 real conclusions?

22 A. Yes.

23 Q. All right. So let's start with items
24 35 through 37. And that's going to be State's 16,
25 17, and 18 and these are all labeled as fragments

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1 or jackets recovered from Jerome Butler.

2 So these fragments or jackets that were
3 recovered from Jerome Butler, after analyzing
4 these, what were your results? And it's going to
5 be your 35, 36 and 37.

6 A. Item 35, were no marks of value and was
7 unsuitable for identification.

8 36 was the same. It had no marks of
9 value for identification.

10 37 was the same. It had no marks of
11 value.

12 Q. Okay. Now we're moving on to SLED item
13 9. It's going to be State's 12. Identified as --
14 labeled as a fired bullet and two bullet fragments
15 from the autopsy of Shamekia Sanders. And item 15,
16 so we're talking about item 9 and 15 for you. And
17 15 is labeled as one fired bullet and one fired
18 bullet fragment from the autopsy of Krystal Hutto.
19 So we have Shamekia Sanders and Krystal Hutto, what
20 if anything can you tell me after analyzing these
21 two?

22 A. I physically and microscopically
23 examined them. The two bullet fragments, my item
24 9, were no marks of value and were unsuitable for
25 identification. The bullet, I could compare to any

1 other evidence that was the similar caliber.

2 Item 15 had two bullet fragments as
3 well and they were unsuitable for identification.
4 But item 15 could be compared to other suitable
5 evidence.

6 Q. Okay. Can you give any opinion as to
7 what the bullets, what caliber those bullets were
8 most consistent to?

9 A. Item 9 and 15 bullets were most
10 consistent with being .22 rim fired caliber, so
11 they were .22 caliber.

12 Q. .22 caliber?

13 A. (Nodded)

14 Q. Okay. Can you -- because I guess the
15 next question would be, can you say whether these
16 two bullets were fired from the same gun? Did you
17 have enough there to be able to make that
18 determination?

19 A. I could compare the bullets. The only
20 way I would compare bullets if they had similar
21 rifling and similar numbers of lands and grooves.
22 So these two both were fired from a firearm with
23 six right conventional rifling, so I compared them
24 to each other, but there weren't enough marks there
25 to give a definitive answer.

1 So in firearms identification, the
2 answers we can give are positive it was fired by
3 the same firearm. Negative, not the same firearm
4 or inconclusive. In this case, my conclusion was
5 inconclusive.

6 Q. Okay. So while it was fired through a
7 conventionally rifled barrel with six grooves and
8 did it have a right twist?

9 A. Yes.

10 Q. You still just didn't see enough there
11 to be able to say these were fired from the same
12 gun?

13 A. Correct.

14 Q. Okay. Inconclusive. And that was from
15 the gun that shot Shamekia and Krystal. All right.
16 So now -- all right. What if anything can you tell
17 us about your item 29 labeled as one small bullet
18 fragment, bullet jacket, and fragments taken from
19 the autopsy of Tamara Perry?

20 A. You said 27? Item 27?

21 Q. 29, sorry. And you know what, why
22 don't I do it like this. I'm going to go through
23 each one of them because I think they're similar
24 results rather than doing them all.

25 A. Okay.

1 Q. So that's item 29. Item 34 is labeled
2 as one fired bullet and jacket from the autopsy of
3 Jerome Butler. 62 is labeled as one fired bullet
4 on the ground next to Jerome Butler. 63 is labeled
5 as one bullet on the passenger seat of the Camero.
6 And 64 is labeled as one fired bullet from the top
7 right corner of the molding. What were your
8 results after analyzing those?

9 A. Those items were most consistent with
10 being fired from a .40 S&W or 10mm auto caliber
11 firearm. So what I can do is measure the diameter
12 and the diameter of the bullets were consistent
13 with .400 which is .40 caliber. You can't tell
14 from a bullet if it's .40 S&W or 10mm auto, so my
15 results say both.

16 Q. Okay. Can you say whether the bullets
17 from 9 through 15 were consistent with a .22? Were
18 they fired from the same gun that shows 29, 34, 62,
19 63, and 64, or were they two different guns?

20 A. Two different firearms.

21 Q. Okay. So we have at least two
22 different guns?

23 A. Yes.

24 Q. All right. So now let's move on to the
25 last fired bullet. I think it's item 74, labeled

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1 as removed from the juvenile listed as Golden Doe.

2 What if anything can you tell me about those

3 results?

4 A. Item 74 also had no marks of value and

5 was unsuitable for identification.

6 Q. Were you able to determine what that

7 bullet -- what type of caliber I guess gun would be

8 most consistent with having fired that bullet?

9 A. If I can look at my notes real quick.

10 Q. Yes, ma'am.

11 A. Based on what I saw remaining of that

12 bullet, the diameter was consistent with a .22ish

13 caliber.

14 Q. Okay. So the bullets that were taken

15 from Golden Doe, Shamekia, and Krystal Hutto were

16 all most consistent with a .22?

17 A. Yes.

18 Q. And then all the other bullets were

19 most consistent with a .40?

20 A. Yes.

21 Q. Okay. So now let's go on to the fired

22 cartridge casing. And I think again I can kind of

23 do them in a group because it seems like they're

24 all similar.

25 Item 57 labeled as a .40 on the ground

1 near Camero. 58 labeled as a .40 on the ground
2 near Camero. 59 labeled as a .380 on the floor
3 under walker. 60 labeled as a .380 on the floor
4 behind a TV. 61 labeled as a .40 on the floor
5 behind the TV. And 75 labeled as a .40 on the
6 ground near the fence. Can you tell me what your
7 results were after analyzing all the fired
8 cartridge casings in this case?

9 A. I examined the like calibers so I
10 examined all the .40 caliber cartridge cases with
11 each other. Based on my examination, I found
12 matching individual identifying characteristics on
13 items 57, 58, 61, and 75 which led me to the
14 opinion they were all fired by one firearm.

15 Q. Okay. So all the .40s were fired by
16 one gun?

17 A. Yes.

18 Q. Okay.

19 A. And then the other, the .380 cartridge
20 cases I compared with each other, same thing. I
21 matching individual identifying characteristics to
22 conclude that they were fired by a second firearm.

23 Q. Okay. And so the .40s, it's definitely
24 not the same gun with the .380s?

25 A. Right.

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1 Q. Okay. And the .380s are not the
2 bullets from the .22s?

3 A. Correct.

4 Q. Okay. Did you come into possession of
5 two -- well, we kind of did, you talked about it.
6 Did you come into possession of two firearms to
7 compare to all of the ballistics in this case?

8 A. Yes.

9 Q. All right. I want to show you 262 and
10 263. Can you tell me if you recognize these?

11 A. Whenever I receive evidence in the
12 case, I will mark it. I'll engrave on it with my
13 initials, the case number, and the item number. So
14 this is the item 1 Ruger that I examined in -- my
15 lab number L15-10037.

16 Q. Okay. And that's 262, that's the 9mm?

17 A. Yes.

18 Q. All right. Do you mind taking a look
19 at the next one?

20 A. This is the revolver that I examined in
21 this case.

22 Q. Okay. And, obviously, whenever -- and
23 that's 263?

24 A. Yes.

25 Q. And, obviously, when you got 263, it

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1 had a cylinder it in? It wasn't broken apart like
2 this?

3 A. Actually, I received it with the
4 cylinder out.

5 Q. Okay. So -- but this is one of these
6 guns I guess you can take it in and out pretty
7 easily?

8 A. Yes. I think it was for -- to render
9 it safe.

10 Q. Okay. All right. So first let's just
11 go ahead and get the 9mm out of the way. Was there
12 any evidence that this 9mm fired any of the bullets
13 or the fired cartridge casings in this case?

14 A. No.

15 Q. All right. Now I'm going to show you
16 320, 321, and 321-A. Take a look at those and tell
17 me if you recognize those.

18 A. Yes. These are the photographs I took
19 to document the evidence as I received it.

20 Q. Okay.

21 MR. OSBORNE: Your Honor, at this time,
22 State seeks to admit 320, 321, and 321-A.

23 THE COURT: All right. Any objection
24 to 320, 321, and 321-A?

25 MR. CHISHOLM: No, Your Honor.

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1 MS. ZMROCZEK: No, Your Honor.

2 MR. JOHNSON: No, Your Honor.

3 THE COURT: All right. Those three are
4 in evidence without objection.

5 (WHEREUPON, State's Exhibit Numbers
6 320, 321, and 321-A were entered)

7 MR. OSBORNE: Beg the Court's
8 indulgence.

9 Q. Okay. Showing you 320. So what are we
10 looking at here?

11 A. This is a photograph I took of the
12 revolver as I received it.

13 Q. Okay. The .22?

14 A. Correct.

15 Q. Okay. And 321, what are we looking at?

16 A. This is a photograph I took of the
17 cylinder of the revolver as I received it.

18 Q. All right. So it looks like this
19 revolver carries how many rounds?

20 A. Nine.

21 Q. Now, when you were looking at the
22 rounds that were in the cylinder, did you make note
23 of anything, I guess, specific about one of the
24 rounds?

25 A. One of the cartridges is a misfire.

1 Q. Now what does -- how does that happen?
2 How does a gun misfire?

3 A. A misfire happens when -- it can happen
4 when the hammer hits the cartridge and it just for
5 some reason doesn't go off. So the bullet is still
6 in that cartridge case. It looks like it's whole
7 except for that mark on the top of it that I noted.

8 Q. And sometimes does that happen because
9 the bullet is maybe doesn't have enough gunpowder,
10 I guess?

11 A. That could be. Or in this case, these
12 are rimfire cartridges, so perhaps the gunpowder is
13 just not in that area before the hammer hit it.

14 Q. Okay. Did you test fire this gun?

15 A. I did.

16 Q. So it functions?

17 A. Yes, it did.

18 Q. But that particular round did not go
19 off?

20 A. Correct.

21 Q. Now, if these bullets -- if these
22 bullets had been fired and I think maybe it's
23 obvious, but if it had been fired, how would the
24 bullet appear differently than like an unfired
25 bullet, I guess?

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1 A. This picture you wouldn't be able to
2 make note of the differences. I have it --

3 Q. I'll show you the next one then.
4 Thanks.

5 A. Yeah, the next picture will show that
6 the bullets are still there. If they were actually
7 fired, you wouldn't see the bullets anymore because
8 they would have exited the firearm.

9 Q. Okay. I'm showing you 321-A. Are we
10 looking at those same bullets?

11 A. Yes. These were the cartridges I
12 removed from the revolver cylinder and as you can
13 tell, all the bullets are still there.

14 Q. So basically looks the same as the
15 other ones?

16 A. Yes.

17 Q. Okay. You said that you had test fired
18 this gun?

19 A. I did.

20 Q. I guess the question everyone's
21 wondering is did the test fired round come back
22 matching the revolver, the .22 revolver?

23 A. When I compared items 9 and 15 which
24 were the .22 caliber bullets from the first case,
25 due to the damage and the insufficient marks of

1 value, the answer was inconclusive still.

2 Q. Okay. Couldn't eliminate it, couldn't
3 include it; is that fair?

4 A. Correct.

5 Q. All right. Did you compare the test
6 fired bullet to item 9, the bullet labeled as taken
7 from Shamekia Sanders's autopsy as well as bullet
8 15 taken from Krystal Hutto's autopsy?

9 A. Yes, I compared to both of them.

10 Q. And what were your results of those?

11 A. The -- my opinion was that it was
12 inconclusive. I couldn't tell for certain if they
13 came from that revolver or a different firearm.

14 Q. Okay. And so there's just not enough?

15 A. Correct.

16 Q. To be able to conclusively say?

17 A. Right.

18 Q. Or inconclusive. Okay. So you had
19 mentioned earlier that the bullets that were taken
20 from Krystal and Shamekia were fired through a
21 barrel with six grooves with a right twist; is that
22 right?

23 A. Yes.

24 Q. And does the barrel of the revolver
25 from the test fired bullet also have six grooves

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1 with a right twist?

2 A. It does.

3 Q. Would the bullets that were taken from
4 the H&R revolver, would those be consistent with
5 the same type of .22 bullets that were recovered
6 from Krystal and Shamekia?

7 A. Due to the damage, I can't tell for
8 certain if they're the same type.

9 Q. Okay.

10 MR. OSBORNE: No further questions.

11 THE COURT: Mr. Chisholm, your witness.

12 MR. CHISHOLM: Thank you, Your Honor.

13 May it please the Court.

14 THE COURT: Yes, sir.

15 CROSS EXAMINATION BY MR. CHISHOLM:

16 Q. Good afternoon.

17 A. Hello.

18 Q. And it's Agent Eichenmiller?

19 A. Yes.

20 Q. Okay. And I think you told me you had
21 been at SLED doing this for 12 years?

22 A. About 17.

23 Q. Sorry. Seventeen, that's along time.

24 And tell me again what you went -- your undergrad
25 and whatnot, what was your education before you

1 went to SLED?

2 A. I have a bachelor's degree in biology
3 and psychology. And I have a Master of Science in
4 forensic science.

5 Q. Okay. So master's in forensic science,
6 was this your end game? Did you plan to get into
7 firearms analysis when you were in school or did
8 you kind of fall into it?

9 A. I didn't expect to get into firearms.
10 I expected to go into DNA because it's the best
11 field at least from the outside. Once I got into
12 it, I realized that that wasn't what I wanted to
13 do. I did my internship in firearms and found that
14 this was the area I wanted to be an expert in.

15 Q. Okay. Very good. Are you a hunter?
16 Do you have firearms in your home?

17 A. No, I don't.

18 Q. None at all?

19 A. I had never fired a gun until I did
20 that internship.

21 Q. I guess it didn't take with you if you
22 don't have any after 17 years, huh?

23 A. Right.

24 Q. Okay. Fair enough. I got a lot of
25 questions, I'll try to keep them somewhat in order

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1 so it makes sense, so just follow along with me. I
2 guess let's start from the beginning. Modern
3 firearm analysis, it seems like it kind of
4 originated with the idea that you can look through
5 a microscope, split into two, and look at two items
6 and compare them side by side. Is that -- really,
7 a dumb down version of what you do?

8 A. Yes.

9 Q. And that's been around for quite a
10 while; is that correct?

11 A. Correct.

12 Q. And I'd imagine your equipment and
13 techniques and all that have evolved, but at the
14 end of the day it's still fairly similar; right?

15 A. Pretty much.

16 Q. And whether you're comparing a fired
17 cartridge casing to one that you get with a gun or
18 however you want to compare them. You're basically
19 looking for unique identifying marks on the casings
20 to compare them to one another; is that right?

21 A. Correct.

22 Q. And when you have like say a fired
23 cartridge casing, I'm going to dumb this down
24 further for myself to make sure I understand.
25 That's also what people refer to as the brass on

1 the bullet; right?

2 A. Yes.

3 Q. And that's what holds all the
4 gunpowder; right?

5 A. Correct.

6 Q. And then if it's a centered fired
7 cartridge on the bottom of that you got a primer,
8 it's in a pocket; right?

9 A. Yes.

10 Q. And then the bullet sits on top if you
11 got this thing pointing upwards?

12 A. Yes.

13 Q. And then the bullet is kind of crimped
14 or the cartridge casing is kind of crimped onto the
15 bullet; is that right?

16 A. Yes.

17 Q. And that tension is what keeps -- if
18 you have bullet and you waive it upside down, the
19 bullet doesn't fall out because it's got that
20 tension from the case being squeezed on it; right?

21 A. Yes, that's correct.

22 Q. Okay. So when you put these cartridge
23 casings or brass, I might use them interchangeably,
24 in a gun, any gun, and you fire and then you pull
25 that casing out and you put it under a microscope,

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1 when you talk about identifying marks or however
2 it's properly phrased, basically is what you're
3 talking about, would that be like imperfections
4 from the gun itself?

5 A. It's imperfections or over the lifetime
6 of the firearm its treatment. So during
7 production, little imperfections could happen based
8 on the machining processes that they do to the
9 firearm and then of course over its lifetime, if
10 it's treated well, cleaned every day, you know, not
11 kept in a rusty area, then it will keep -- get some
12 more marks, but it could get worse if it's not
13 cleaned or it gets rusted or abused.

14 Q. So if you get a gun and in the chamber
15 there's a burr from the manufacturing process, when
16 you put a cartridge casing or a cartridge into that
17 gun, it might leave a scratch on it, something like
18 that?

19 A. Yes.

20 Q. And then -- so let's say you get a case
21 where you have cartridge casings that have been
22 fired from a crime scene and they're submitted to
23 you. And then they submit a gun and say I want to
24 know if this gun fired these casings. So what you
25 could do is the gun that you receive you test fire

1 it; is that right?

2 A. Yes.

3 Q. You do that into like a tank of water
4 or how do you do it?

5 A. We have a bullet recovery tank at SLED.
6 It's two stories tall, full of water. I shoot into
7 it. It collects the bullets at the bottom and then
8 I use those in my comparisons.

9 Q. And I'm assuming you use that so that
10 when you do the test fire, the bullet remains in
11 tact and doesn't get smashed up?

12 A. Correct.

13 Q. That's why you don't shoot into the
14 floor?

15 A. Right.

16 Q. Okay. So you got the casing that's
17 submitted. You've got the casing that comes from
18 your test firing. So you've got two things to
19 compare with each other?

20 A. Yes.

21 Q. And then you put them both under the
22 microscope and you're looking to see if the puzzle
23 pieces fit basically; is that fair to say?

24 A. Correct. I have a microscope that
25 looks like a pair of binoculars. On one side is

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1 one cartridge case, on the other side is the other.
2 I can increase the magnification. I can change the
3 lighting to see if I see any of those imperfections
4 that were made by the firearm.

5 Q. Okay. And if you test fire that gun
6 and it leaves a certain scratch from a burr, it's
7 kind of like a fingerprint of the gun and it's a
8 mark that you'd need to see on other shell casings
9 to say this gun fired those; right?

10 A. Yes, it's similar.

11 Q. Okay. And now, I guess, probably more
12 pertinent to this case, the bullets. Can you tell
13 me how you can identify a bullet to a certain gun?

14 A. So guns are -- firearms are
15 manufactured with certain criteria. So if they
16 have lands and grooves, the manufacturer can decide
17 how many they would like in a barrel. Lands and
18 grooves are just grooves into a gun. It helps to
19 keep stability for the bullet when it's fired.
20 These manufacturers can also make the sizes of the
21 lands and grooves. They can choose the number and
22 they can choose the direction of twists.

23 Q. Okay. And the lands and grooves that
24 are in the barrel, if you look down a barrel, you
25 can see those; right?

1 A. Yes.

2 Q. With magnification or with a light?

3 A. If you shine a flashlight in there you
4 can see them.

5 Q. Gotcha. And is the point of that that
6 when you shoot a bullet through a barrel, it kind
7 of puts a spin on it like a football to prove
8 accuracy and whatnot?

9 A. Yes.

10 Q. Okay. And so when a bullet is then
11 fired through a rifled barrel, the grooves and
12 lands, they leave impressions on the actual bullet;
13 is that right?

14 A. Yes.

15 Q. And that's one of the things you look
16 at under the scope or however you do it to kind of
17 see if it looks like it came from the same type of
18 barrel; right?

19 A. Correct.

20 Q. So you look for rifling
21 characteristics, you look at the weight, you look
22 at the diameter of the bullet I'm assuming is a big
23 one; right?

24 A. Yes.

25 Q. And when we talk about the diameter of

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1 a bullet, now, obviously, they come in all types of
2 like shapes and sizes. But to dumb it down
3 further, if this is a bullet sitting on top of a
4 cartridge, it's pointing up. Basically you've got,
5 it can be a round nose, it can be pointy for
6 hunting rifles and whatnot --

7 A. Yes.

8 Q. But they've got -- usually they have a
9 flat base; is that right?

10 A. Yes.

11 Q. So we're talking about the diameter of
12 the bullet. You're looking for the largest part of
13 the bullet to measure?

14 A. Yes.

15 Q. I guess is that usually the base?

16 A. The part that would have been in the
17 cartridge case, yes.

18 Q. Okay. So you measure the base of the
19 bullet. And you, I believe, probably jumped around
20 a little bit, but you said that items 9 and 15 in
21 particular came back as consistent with a .22
22 rimfire based on the -- that's your best guess for
23 caliber; is that right?

24 A. Yes. Based on the diameter of the
25 bullet it was near point 22 which would be a .22

1 caliber.

2 Q. Okay. And when we come to these
3 diameters, some are in, I guess what is it,
4 imperial measuring system and some are in metric;
5 is that right?

6 A. Yes.

7 Q. Because point .22 is or .220 that's
8 almost a quarter of an inch; right?

9 A. Yes.

10 Q. I'm not great with math. That's two
11 tenths and two hundredths of an inch, however that
12 works?

13 A. Yes.

14 Q. And let me ask you this. If I were to
15 give you a box of ammunition, you know, typical 50
16 round box and say, can you please analyze this
17 bullet and tell me what caliber it is. You've got
18 the box, you got a pristine bullet, you know,
19 factory new. Would you be able to look at that and
20 say like -- like say if it was a box of 9mm
21 ammunition, could you take that out, do your
22 analysis and say this is a 9mm bullet?

23 A. Yes.

24 Q. Okay. There wouldn't been any real
25 question about it if it's in pristine condition;

1 right?

2 A. Correct.

3 Q. But you don't deal with a lot of
4 pristine bullets I would imagine from fired shots
5 anyway; correct?

6 A. Not usually.

7 Q. And the shot, the bullets for the most
8 part that you got in here particularly 9, 15, and
9 74, I think they're all badly damaged; right?

10 A. Yes.

11 Q. So when you're trying to get a diameter
12 off of a bullet that's in bad shape, it's
13 distorted, does that make it more difficult to get
14 a good idea of the diameter you're dealing with?

15 A. Yes. I try to find the best area of
16 the base and get a measurement and sometimes it
17 ends up being a range.

18 Q. Okay. And I don't know the proper
19 terminology, but within say .22 rimfire, for
20 example, within that you have several different
21 types of ammunition. What I mean is .22 short, .22
22 long, .22 long rifle, there's a bunch of different
23 things within that; right?

24 A. Uh-huh.

25 Q. And they're all .22 rimfire; correct?

1 A. Yes.

2 Q. Okay. What are those called? Are
3 those called varieties? Or what do you call that
4 within the same caliber?

5 A. Well, they're just different calibers.
6 So a .22 short is in a smaller cartridge case. .22
7 long and long rifle are in the same cartridge case,
8 but the bullet is a different size. So they're
9 just variations that manufacturers decided they
10 were going to manufacture.

11 Q. So you can have a .22 caliber bullet,
12 the part that comes out the gun, in a shorter case
13 or in a longer case; right?

14 A. Yes.

15 Q. Okay. And depending on what kind of
16 gun you're using, some will work in a gun and some
17 won't; right?

18 A. Right.

19 Q. Okay. And I wanted to ask you about
20 the rifling patterns that you mentioned on items 9
21 and 15. And I think you said you were checking
22 your notes. I just want to make sure we're on the
23 same page here. When you say your notes, do you
24 mean the bullet projectile worksheet?

25 A. Yes.

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. CHISHOLM

1 Q. Perfect. Okay. Do you have your
2 worksheet for item number 9?

3 A. Yes.

4 Q. Okay. And this was the fired bullet
5 and fragments from Shamekia Sanders; correct?

6 A. Correct.

7 Q. Okay. And going through your report.
8 You got the diameter listed as around .221 inches;
9 is that right?

10 A. Yes.

11 Q. And that's -- is that your best
12 estimate based on the damage?

13 A. Yes.

14 Q. Okay. And then it's got the number of
15 lands and grooves. It says -- I'm reading one
16 visible; is that right?

17 A. Yes.

18 Q. Okay. And based on that, that's how
19 you make your -- give your opinion that it's six
20 grooves as opposed to something else; right?

21 A. Yes. There was one visible land and
22 groove and then I could estimate that there would
23 be six all together.

24 Q. Is it -- as far as giving a definitive
25 answer that is definitely, you know, six grooves or

1 12 or whatever the case may be, it is more helpful
2 when you have a bullet in better condition where
3 you can count more lands and grooves?

4 A. It's usually better to have the bullet
5 in good condition.

6 Q. Because one I'm guessing is the lowest
7 number you could have; right?

8 A. Right.

9 Q. Other than zero?

10 A. Right.

11 Q. Okay. Below that you've got the
12 direction of twist. And it says right, but it's
13 got a question mark. Why was there a question mark
14 on that one?

15 A. It was difficult to tell due to the
16 damage, but it appeared to be more right than left.

17 Q. But it's fairly unclear, I guess, is
18 why you had a question mark?

19 A. Right. It was a little unclear.

20 Q. Okay. And in the rest of your notes
21 here it's got that it was badly damaged and is that
22 de-constructive prior to exam? Decon, I'm not sure
23 --

24 A. Decontaminated.

25 Q. Decontaminated. Gotcha. That makes

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. CHISHOLM

1 more sense. Okay. If we can go to item number 15.

2 Do you have that one?

3 A. Yes.

4 Q. Okay. And that's the fired bullet

5 and/or fragments from Krystal Hutto; correct?

6 A. Yes.

7 Q. And the diameter of this one is point

8 223 roughly, best guess?

9 A. Yes.

10 Q. Okay. And this one had, is it one to

11 two visible lands and grooves?

12 A. Correct.

13 Q. So it's still on the lower end where

14 you'd like to six or however many there are; right?

15 A. Right.

16 Q. Okay. And this also has the direction

17 of twist as right with a question mark. So it's

18 tough to tell?

19 A. Right. Due to the damage and then

20 these bullets didn't have very good jacketing

21 material, so it's difficult -- it makes it -- all

22 of that makes it difficult to determine the

23 direction of twists.

24 Q. Okay. And let me jump back in time a

25 little bit here. I noticed some of the language in

1 here involves -- you gave the opinion that you
2 believed it was most consistent with a .22 rimfire
3 cartridge. I'm assuming that's not accidental
4 language. Most consistent with as opposed to
5 saying these are .22 rimfire cartridges; right?

6 A. Correct.

7 Q. Is that based -- and I don't want to
8 put words in your mouth, but it seems like it was
9 hard to get a really good sample to tell what you
10 had here if there weren't a lot of lands and
11 grooves visible, if it's hard to tell if it's right
12 verses left twist. Is this basically saying that
13 the best guess you can give based on what you have?

14 A. Well, it's not a guess. It's based on
15 my expertise and my training and seeing many
16 bullets over the course of my carrier. So based on
17 what I saw and what I know, I could calculate that
18 there should have been six lands and grooves on
19 there based on the measurements of the one really
20 good land I had. Based on its weight is another
21 factor I take into consideration. It was close to
22 what I would expect a .22 caliber bullet to be.

23 Q. Okay. And going back to the diameter
24 .22 caliber, you've got point 220 which is, I
25 think, we talked about long rifle, short, and all

1 that kind of stuff; right?

2 A. Yes. It's the same diameter.

3 Q. And you've also got .22 center fire;
4 right?

5 A. I'm not very familiar with center fire
6 .22s. We don't see many.

7 Q. How were you able to determine that
8 this was a .22 rimfire as opposed to center fire
9 then?

10 A. It was .22 caliber.

11 Q. But you don't know if it's rimfire or
12 center fire? Is there a way to tell?

13 A. Not based on the bullet.

14 Q. Okay. And I believe a moment ago you
15 testified that item 74, I think that's your item
16 number not the State's. This is the bullet and/or
17 fragments from listed in your report as Golden Doe
18 who has been identified as D.N. [REDACTED]; is that
19 right?

20 A. Yes.

21 Q. Okay. And you identified that
22 basically you had the same conclusions on this
23 bullet as you did items 9 and 15; is that right?

24 A. No. In this case there were not enough
25 -- there were any lands and grooves. I couldn't

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. CHISHOLM

1 tell the direction of twists. There was nothing to
2 measure. I just had the diameter.

3 Q. And when you got the caliber listed on
4 this one, you've got UATD and then it's got
5 diameter point 193 to point 292. Can you tell me
6 what UATD means?

7 A. Unable to determine the caliber. But
8 the measurements that I got were point 193 to point
9 292.

10 Q. I might have misheard you, but earlier
11 I thought when Mr. Osborne was questioning you, you
12 said that this was also consistent with a .22
13 caliber?

14 A. Based on the jacketing material, we
15 don't usually see the jacketing material that I
16 observed on this damaged fragment on other
17 calibers. So it was consistent with the other
18 ones.

19 Q. But you were unable to determine it
20 when you wrote the report?

21 A. I couldn't tell if this was .22
22 caliber. But what I saw left was consistent with
23 the other bullets.

24 Q. Okay. And when you talk about grooves
25 and lands and twists and all this stuff we've been

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. CHISHOLM

1 talking about, I think you said manufacturers, when
2 they make these guns, they make them all different
3 ways as far as number of lands and grooves and the
4 twist rate and all that kind of stuff; right?

5 A. Yes, they can choose it.

6 Q. Okay. Is a barrel a six grooves and a
7 right twist is that uncommon?

8 A. It's very common.

9 Q. Very common. And is it limited to say
10 rifles or is it found in rifles and all kinds of
11 handguns?

12 A. Most types of gun could be six right.

13 Q. So having a rifling characteristic like
14 that, six grooves with a right twist, basically
15 narrows it down to what, probably millions of guns
16 in this country?

17 A. Correct.

18 Q. Okay. And down that same kind of path,
19 .22, let's take for example .22 rimfire, .22 long
20 rifle, is that maybe the most common round in the
21 country?

22 A. I'm not sure about that. I mean, a lot
23 of people know .22s because that's what they
24 learned on.

25 Q. That's a starter gun for a lot of

1 people?

2 A. Yes.

3 Q. Hunters and everything else; right?

4 A. (No response)

5 Q. Okay. And are you able to tell what
6 kind of gun fired these bullets? Like as far as
7 action or rifle, shotgun, are you able to tell that
8 from just the bullet?

9 A. No. It's a rifled barrel is all I can
10 tell.

11 Q. But the rifle barrel is in pistols and
12 everything else; right?

13 A. Correct.

14 Q. Okay. So you can't tell if it's a
15 rifle, a pistol, revolver, or anything else from
16 the bullets; right?

17 A. Right.

18 Q. And can you tell the action, what I
19 mean by the action, can you tell if it's a
20 semiautomatic verses a bolt action verses a pump
21 action or anything else out there?

22 A. No, we can't tell anything like that.

23 Q. Okay. So taking what you're able to
24 get, the grooves and the twists and assuming we're
25 right on the .22 rimfire stuff, that again leaves

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. CHISHOLM

1 tons of guns that fit that profile; correct?

2 A. Yes.

3 Q. And I'm not going to get into the .40
4 caliber 10mm stuff as much detail, but I'm guessing
5 this one was easier for you to narrow it down as
6 far as manufacturers?

7 A. Yes. There was more for me to be able
8 to determine what manufacturers could be. We have
9 a data base that we can put all these measurements
10 in and direction of twists and rifling and then it
11 will tell us what manufacturers make firearms with
12 those specifications.

13 Q. And the .40 10mm bullets, those -- in
14 this case you were able to tell that they were
15 fired from a Polygonal? I don't know if I've got
16 that right.

17 A. Yes.

18 Q. Rifled barrel; is that right?

19 A. Yes.

20 Q. And that's much different than lands
21 and grooves that are typical rifling; right?

22 A. Polygonal rifle just means that they're
23 a little smoother. They don't have real sharp
24 shoulders, so it's a little more difficult to tell
25 where they start and end. It's a smother rifling

1 pattern.

2 Q. Less common than traditional rifling?

3 A. Yes.

4 Q. Okay. When you fire a gun, I think
5 Mr. Osborne asked you about a revolver and fire it
6 and you can dump it out, dump the cylinder out
7 right there in front of you and the bullets fall to
8 the ground; right?

9 A. If they're unfired the bullets will
10 fall to the ground, otherwise if they were fired
11 they came out of the barrel.

12 Q. I'm sorry. See, that's what I told
13 you. I'm going to get the terms wrong. I mean,
14 the cartridges, the casings?

15 A. Yes. They'll just fall out of the
16 revolver cylinder.

17 Q. Right. So if I was shooting at a
18 target, they don't just naturally fall to the
19 ground until I empty the cylinder; right?

20 A. Correct.

21 Q. Okay. And other guns, I think he was
22 asking you about ejection patterns and things like
23 that. You know, bolt action or semiautomatic,
24 whatever the case may be. You shoot the gun, the
25 shell casing comes out; right?

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. CHISHOLM

1 A. Yes.

2 Q. And they fall to the ground; right?

3 A. Yes.

4 Q. And then they remain there unless you
5 pick them up?

6 A. Yes.

7 Q. Okay. The .380 that you looked at, I
8 don't think you were able to tie that to anything
9 in this case; right?

10 A. No, just the two cartridge cases to
11 each other.

12 Q. Okay. And at the end of the day,
13 you're unable to tie either one of these firearms
14 to any of these bullets; correct?

15 A. Correct.

16 MR. CHISHOLM: If I can have a moment.
17 Thank you.

18 THE COURT: Ms. Zmroczek?

19 MS. ZMROCZEK: May we take just a quick
20 break.

21 THE COURT: Yes, ma'am, we can. All
22 right. Ladies and gentlemen, we're going to take a
23 little five, ten minute break and I'll get you back
24 in here as soon as I can. Okay. Remember not to
25 talk about any of the testimony you've heard so

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MS. ZMROCZEK

1 far. Thank you.

2 (WHEREUPON, the jury left the courtroom
3 at 2:46 p.m.)

4 THE COURT: Okay. Ten minutes, ladies
5 and gentlemen.

6 (WHEREUPON, there was a short break)

7 (WHEREUPON, the jury entered the
8 courtroom at 3:03 p.m.)

9 THE COURT: We're going to continue
10 with the cross examination of the State's witness.
11 Ms. Eichenmiller, remember you're still under oath.

12 MS. EICHENMILLER: Yes, sir.

13 THE COURT: Okay. Thank you, ma'am.
14 She is your witness.

15 MS. ZMROCZEK: Thank you, Your Honor.

16 CROSS EXAMINATION BY MS. ZMROCZEK:

17 Q. Good afternoon.

18 A. Hello.

19 Q. You test evidence at SLED that's
20 provided to you for testing; right?

21 A. Correct.

22 Q. And so bullets that you received to be
23 tested, nowhere in your notes do you say -- did you
24 test any of the bullets or test fire any of the
25 bullets that were corrected -- collected, excuse

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MS. ZMROCZEK

1 me, from the actual crime scene; right?

2 A. Correct.

3 Q. Okay. And then I want to show you
4 what's already in evidence.

5 MS. ZMROCZEK: And I don't have the
6 number written down, Your Honor. This is a picture
7 that I put in through Chris Wright through a
8 vehicle that was of his silver BMW. I'm sorry,
9 Your Honor.

10 Q. Okay. What I'm showing you what's
11 already in evidence as Defense 34. Okay. I'm
12 showing you what's in evidence as Defense 34. And
13 let me call out in particular the area that -- hang
14 on. Are you able to determine if that is similar
15 to either a casing or some sort of projectile?

16 A. No.

17 Q. Okay. And so were you -- and you were
18 never provided anything from the search warrant of
19 a BMW to compare against any of these items, were
20 you?

21 A. No. I did not receive anything from a
22 BMW.

23 Q. Okay. And as I understand your
24 testimony, you operated science not speculation;
25 right?

MICHELLE EICHENMILLER - CROSS EXAMINATION BY MR. JOHNSON

1 A. Correct.

2 Q. And there is nothing that links either
3 one of these two guns, especially the .22 to any of
4 the things that you received in this case; correct?

5 A. Correct.

6 Q. Thank you.

7 MS. ZMROCZEK: Nothing further.

8 THE COURT: Mr. Johnson?

9 MR. JOHNSON: Just briefly, Your Honor.

10 CROSS EXAMINATION BY MR. JOHNSON:

11 Q. Just to kind of be clear, you got shell
12 casings from a .40 caliber and .380?

13 A. Correct.

14 Q. You didn't get any .22 shell casings?

15 A. No.

16 Q. And while some firearms that are .22
17 will eject the shell casing, that pistol does not?

18 A. The revolver does not.

19 Q. The resolver does not.

20 MR. JOHNSON: No more questions, Judge.

21 THE COURT: Anything on redirect?

22 MR. OSBORNE: Just a couple.

23 REDIRECT EXAMINATION BY MR. OSBORNE:

24 Q. So I understand that a .22 isn't linked
25 to the bullets, but it is fair to say they're most

1 consistent with the .22; right?

2 A. Correct.

3 Q. Well, and I was a little bit confused
4 by this. Have you ever been given -- well, I guess
5 live rounds and asked to test live rounds?

6 A. Occasionally, we've been asked to just
7 look at unfired ammunition. The best I can do is
8 to say if it was -- what caliber firearm it would
9 be appropriate for.

10 Q. But you would also just look at the
11 head stamp; right?

12 A. Correct.

13 Q. Okay. Ms. Eichenmiller, Mr. Chisholm
14 asked this, a .22 is a starter gun for a lot of
15 people?

16 A. For a lot of people, yes.

17 Q. In your expert opinion, what caliber
18 gun fired the bullets recovered from the autopsies
19 of Golden Doe, Shamekia Sanders, and Krystal Hutto?

20 A. A .22 caliber.

21 Q. Okay.

22 MR. OSBORNE: No further questions.

23 THE COURT: Anything on recross,
24 Mr. Chisholm?

25 MR. CHISHOLM: One second, Your Honor.

1 THE COURT: Take your time.

2 MR. CHISHOLM: Just one thing of
3 clarification.

4 RECROSS EXAMINATION BY MR. CHISHOLM:

5 Q. You are now testifying that the bullet
6 from Golden Doe was most consistent with a .22
7 caliber; is that right?

8 A. No. It's still not a -- it was most
9 consistent with being a .22 caliber, but I couldn't
10 definitively say.

11 Q. Okay.

12 MR. CHISHOLM: Thank you. No further
13 questions.

14 MS. ZMROCZEK: Just one.

15 RECROSS EXAMINATION BY MS. ZMROCZEK:

16 Q. And in your expert opinion, you can't
17 link this .22 to anything in this case?

18 A. Correct.

19 Q. Thank you.

20 THE COURT: Mr. Johnson?

21 MR. JOHNSON: No questions, Your Honor.

22 THE COURT: All right. Thank you, Ms.
23 Eichenmiller. Appreciate it. Can she be excused
24 from her subpoena?

25 MR. OSBORNE: Yes, sir.

1 THE COURT: Any objection?

2 MR. CHISHOLM: No, Your Honor.

3 THE COURT: No objection?

4 MR. JOHNSON: No objection.

5 THE COURT: All right. Is the State
6 ready to call its next witness?

7 MR. OSBORNE: Yes, Your Honor. State
8 calls Dr. Janis Ross.

9 JANIS ROSS,
10 being first duly sworn, was examined and testified
11 as follows:

12 THE CLERK: Please be seated. State
13 your first and last name in the microphone, please.

14 MS. ROSS: Janis Edwards Ross, R-O-S-S.

15 THE CLERK: Thank you.

16 THE COURT: And, Dr. Ross, if you will
17 speak into the microphone as well as you can. The
18 jury is all out as you can see over your left
19 shoulder, so they need to hear. And I'm behind
20 this wall of glass, I can't hear no matter what, so
21 I need for you to speak into it as much as you can,
22 okay.

23 MS. ROSS: Yes, Your Honor.

24 THE COURT: Okay. Thank you, ma'am.
25 She is your witness.

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 DIRECT EXAMINATION BY MR. OSBORNE:

2 Q. All right. Dr. Ross, where are you
3 currently employed?

4 A. Right now I'm in Charleston, South
5 Carolina. I have a private corporation. And
6 previous to that, I was in Newberry Pathology
7 Associates in Newberry, South Carolina.

8 Q. Okay. And what is your educational
9 background?

10 A. I have four years of college. Four
11 years of medical school. Over five years of
12 training in the field of pathology. Pathology is a
13 field where we are physicians who diagnose and help
14 diagnose diseases using the microscope, using the
15 laboratory. We also learn how to do an autopsy to
16 find the cause of death.

17 I'm further trained in forensic
18 pathology where we do a more concentrated autopsy
19 identifying patterns of injury in the cases of
20 natural deaths, but also accidents, suicides,
21 homicides. And we identify patterns of injury and
22 document evidence for a court of law. During that
23 autopsy we also draw fluids for the field of
24 toxicology.

25 Q. Okay. Approximately how many autopsies

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 have you performed in your professional career?

2 A. Fifteen thousand.

3 Q. Have -- silly question. Have you ever
4 been qualified as an expert in court in the field
5 of forensic pathology?

6 A. Yes, approximately 300 times in South
7 Carolina.

8 Q. Have you ever failed to qualify?

9 A. No.

10 Q. Okay.

11 MR. OSBORNE: Your Honor, at this time,
12 the State is moving to qualify Dr. Ross as an
13 expert in the field of forensic pathology.

14 THE COURT: Any objection?

15 MR. LEIENDECKER: No objection.

16 MS. ZMROCZEK: No objection.

17 MR. JOHNSON: No objection.

18 THE COURT: Dr. Ross has been qualified
19 as an expert in the area of forensic pathology and
20 may give opinion testimony in that area. You
21 should consider an expert's opinion like any other
22 evidence and give it the weight you believe it
23 deserves, ladies and gentlemen of the jury.
24 Mr. Osborne, she is now your witness.

25 MR. OSBORNE: Thank you, Judge.

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 Q. All right. Dr. Ross, while working for
2 Newberry, did you have the occasion to perform
3 autopsies on this case, the victims being Jerome
4 Butler, Krystal Hutto, Tamara Perry, and Shamekia
5 Sanders?

6 A. Yes.

7 Q. All right. Doctor, let's start with
8 Mr. Butler. How tall was he and about how much did
9 he weigh when you examined him?

10 A. He measured 66 inches in height and we
11 didn't have a scale in the morgue, but we estimated
12 his weight as 160 pounds.

13 Q. Okay. Doctor, is it standard
14 procedure, and I think you did sort of mention
15 this, for you to take blood and run a toxicology on
16 the victim?

17 A. Yes.

18 Q. And was that done with Mr. Butler?

19 A. Yes.

20 Q. And does that toxicology, I guess,
21 include drugs, ethanal, metabolite of alcohol?

22 A. Yes.

23 Q. And please tell the jury what positive
24 results came back for Mr. Butler's autopsy?

25 A. The blood alcohol was .18 which the

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 legal limit is .08. So it's above -- that's almost
2 over twice the legal limit. He also had some
3 cocaine in him and some cocaine metabolites.

4 Q. Okay. Have you prepared a diagram
5 depicting Mr. Butler's injuries?

6 A. Yes.

7 Q. And would referring to that diagram
8 assist you in explaining to the jury Mr. Butler's
9 injuries?

10 A. Yes.

11 Q. I'm just going to show them all to you
12 now and then we'll talk about them. I'm showing
13 you -- and did you do that for each of the victims?

14 A. Yes.

15 Q. All right. I'm showing you State's
16 332, 333, 334, and 335. Could you take a look at
17 those and tell me if you recognize those?

18 A. Yes. These are diagrams that I made at
19 the time of the autopsies on these four victims.

20 Q. Okay.

21 MR. OSBORNE: Your Honor, at this time,
22 State seeks to admit 332, 333, 334, and 335 into
23 evidence.

24 THE COURT: Any objection, Mr.
25 Leiendecker?

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 MR. LEIENDECKER: No objection.

2 THE COURT: Ms. Zmroczek?

3 MS. ZMROCZEK: No objection.

4 THE COURT: Mr. Johnson?

5 MR. JOHNSON: No objection.

6 THE COURT: State's 332, 333, 334, and
7 335 are all in evidence without objection.

8 (WHEREUPON, State's Exhibit Numbers
9 332, 333, 334, and 335 were entered)

10 THE COURT: Please continue, Mr.
11 Osborne.

12 Q. We'll start by showing you 332. And I
13 know it's awkward, you know, how you're seated
14 there, Doctor. But if you wouldn't mind just sort
15 of tell the jury the results of your findings and
16 the injuries to Mr. Butler.

17 A. May I stand to point?

18 Q. Yes, ma'am.

19 A. I will speak up.

20 Q. I have a pointer if you'd like one.

21 THE COURT: Well, if you can speak
22 loudly enough, Dr. Ross.

23 MS. ROSS: Yes, sir.

24 THE COURT: Thank you, ma'am.

25 A. He had three wounds essentially. One

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 went into the left side of the head and went from
2 left to right and upward where it exited here just
3 at the top of the head and just to the right of
4 midline.

5 The second wound came into his right
6 cheek and it went downward and towards the left.
7 It went through the larynx, the thyroid, and into
8 the left lung where we found that bullet.

9 So bullet number one -- we number these
10 according -- just to organize their self just from
11 top to bottom. It does not mean that's the order
12 in which he received them.

13 So the first bullet of course went in
14 and out, so we didn't have that bullet. The second
15 one came down and we found that bullet in the upper
16 left lung. And that caused hemophage in that chest
17 cavity. The third one went into the right arm
18 towards the side. It came out of the arm and then
19 went back into the back. So this is his right,
20 this is his left, and the bullet then stayed
21 underneath the skin of the right back.

22 Q. Okay. And, Doctor, just a couple of
23 things. I know you were saying that the numbering
24 is just a way for you to keep track of the
25 documentation?

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 A. Exactly.

2 Q. It's not necessarily sequence of shots.
3 And the way the figure is, it's anatomically, so it
4 doesn't mean that's obviously how Mr. Butler was
5 positioned when we was shot?

6 A. That's correct.

7 Q. And in your expert opinion, does it
8 appear as though he was shot three times?

9 A. Correct.

10 Q. All right. And I don't think we need
11 to show this to you, but were there some bullets
12 and bullet fragments and whatnot that were taken
13 from the autopsy that was later then turned over to
14 the sheriff's department?

15 A. Yes.

16 Q. Okay. All right. Now let's move on to
17 Krystal Hutto. And while I'm getting this set up.
18 How old was Krystal Hutto when she passed away?

19 A. I was given the age of 28, born in
20 1987.

21 Q. Okay. And did you do a toxicology on
22 her as well?

23 A. Yes.

24 Q. And what positive findings did you find
25 from her autopsy?

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 A. She was negative for alcohol, but she
2 did have nonlethal methadone, hydrocodone,
3 dihydrocodeine, oxycodone, cocaine and cocaine
4 metabolite and cocaine itself in the parent form
5 can be fatal. Can cause arrhythmia of the heart
6 and alprazolam.

7 Q. Okay. All right. I'm showing you now
8 State's 333. And if you would, and I know this one
9 isn't as long, but if you would, would you tell the
10 jury what injuries you observed when performing the
11 autopsy to Ms. Hutto?

12 A. Yes. She had one gunshot wound in the
13 basically the middle of the forehead that went --
14 the bullet went backward and to the left and we
15 found the bullet in the back of the left side of
16 the brain. This mark here indicates a bruise, also
17 call a contusion. She had a little bit of an
18 abrasion here, a bruise here, and an abrasion there
19 that didn't have a pattern to it, so it could have
20 been from lots of things.

21 Q. Okay. Could you or are you able to
22 tell if the bruises and the contusions to the back
23 of the head, did it appear as though that could
24 have been consistent with having been inflicted at
25 the time of death or near the time of death?

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 A. Yes. It wasn't real reactive, so it
2 could be from as she fell --

3 Q. Okay.

4 A. -- for instance.

5 Q. And then I just want to ask about and I
6 didn't ask this with Jerome, and I guess I can ask
7 it now. Did you see any signs of soot or stippling
8 on any of the victims?

9 A. No. When we talk about soot and
10 stippling, it talks about the range of the gun. In
11 other words, how far the gun was from the victim.
12 When a bullet comes out of a gun so does soot and
13 so does powder. But the soot and powder only go up
14 to 18, 24 inches, whereas, obviously a bullet will
15 go further. But the range is also dependent on the
16 type of weapon as far as the soot and the powder
17 go.

18 Q. Okay. All right. And now we're moving
19 on to Tamara Perry. How old was Tamara Perry
20 reported to be when she died?

21 A. Fourteen.

22 Q. Now I'm showing you State's 334. And,
23 again, would you mind doing the same thing with
24 Tamara in talking about her injuries?

25 A. Yeah. She had an entrance gunshot

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 wound in the -- her left cheek. And the bullet
2 when we looked inside, went upward and to the
3 right. It tried to get out of the skull, but it
4 didn't make it all the way out through the skin.
5 So we retrieved that bullet from underneath the
6 right mid skull.

7 Q. And that bullet was turned over to
8 sheriff's office too?

9 A. Yes.

10 Q. Okay. Now I know when we're talking
11 about trajectories and victims it gets a little bit
12 tricky. But would this injury be consistent with
13 Tamara standing and the shooter lying on the ground
14 and shooting up at Tamara as she was standing?

15 A. It's consistent. Bullets go straight,
16 so -- and you can move your head around. You have
17 two movable people, so there are several scenarios
18 that you could identify.

19 Q. And might another scenario also be
20 Tamara laying on the ground and the shooter
21 standing over her?

22 A. That's a possibility, yes.

23 Q. And with Krystal and Tamara and also
24 Shamekia, were criminal sexual conduct examination
25 kits done?

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 A. Yes.

2 Q. And they were turned over to the
3 sheriff's office as well?

4 A. Yes.

5 Q. Lastly, I'm showing you 335. Shamekia
6 Sanders, how old was she reported to be when she
7 died?

8 A. Seventeen.

9 Q. And the toxicology reports on Tamara
10 and Shamekia, what did they come back to or what
11 did they come back as?

12 A. They were negative.

13 Q. Okay. And would you mind doing the
14 same thing with Shamekia talking about her
15 injuries?

16 A. Yes. Shamekia had a gunshot wound to
17 the head. More so in the back of the head.
18 Entering her left -- the left side and going to the
19 right. And she also had a wound, and this is my
20 mistake, I put the wound on the incorrect hand. It
21 should be the right hand on the index finger.

22 Q. And was that wound on her right index
23 finger consistent with a gunshot wound?

24 A. Yes.

25 Q. And a sexual assault kit was done on

JANIS ROSS - DIRECT EXAMINATION BY MR. OSBORNE

1 her as well?

2 A. Correct.

3 Q. All right. Dr. Ross, did you determine
4 within a reasonable degree of medical certainty a
5 manner and cause of death of Jerome Butler?

6 A. Yes.

7 Q. And what was that?

8 A. That was laceration of the brain due to
9 the gunshot wound to the head.

10 Q. Okay. And that would be what the cause
11 of death, I guess?

12 A. It's the cause of death. Manner of
13 death would be homicide.

14 Q. Okay. And did you determine within a
15 reasonable degree of medical certainty the manner
16 and cause of death to Krystal Hutto?

17 A. Yes.

18 Q. And what was that?

19 A. It's also laceration of the brain due
20 to the gunshot wound to the head.

21 Q. And also homicide?

22 A. Manner of death homicide.

23 Q. Tamara Perry?

24 A. Laceration of the brain due to the
25 gunshot wound to the head. Manner of death

JANIS ROSS - CROSS EXAMINATION BY MS. ZMROCZEK

1 homicide.

2 Q. And Shamekia Sanders?

3 A. Laceration of the brain due to gunshot
4 wound to the head. Manner of death homicide.

5 Q. Thank you. No further questions.

6 THE COURT: Ms. Zmroczek?

7 MS. ZMROCZEK: Thank you. May it
8 please the Court.

9 THE COURT: Yes, ma'am.

10 CROSS EXAMINATION BY MS. ZMROCZEK:

11 Q. Good afternoon, Doctor?

12 A. Good afternoon.

13 Q. I just have a few questions. What's
14 the difference between -- so when you get a blood
15 alcohol -- you have Mr. Butler's toxicology?

16 A. Yes.

17 Q. Okay. And then -- so I'm looking on
18 the third page of his toxicology. What's the
19 difference between the ethanol analyte on page 1
20 and page 3? And why is there a difference?

21 A. Okay. The third -- on the one on the
22 page 3 is .27. That's -- I'm sorry .216. That's
23 fluid from the eye. The chemicals in that fluid
24 lags behind the blood by approximately an hour. So
25 with the blood alcohol being less than the eye

JANIS ROSS - CROSS EXAMINATION BY MS. ZMROCZEK

1 alcohol, we can say at least at one point the blood
2 -- the blood alcohol was also .216.

3 Q. Okay. And you said there's about an
4 hour lag?

5 A. About, yes.

6 Q. Okay. And then -- so I notice that you
7 talked about cocaine and then cocaine metabolite.
8 Why do they show up differently?

9 A. It just shows a breakdown of the
10 cocaine molecule. One of them is what we call BE
11 because it's benzoylecgonine. That's a breakdown
12 product of the cocaine that's broken down in the
13 body. And cocaine -- and the other one was
14 cocaethylene which is a cocaine molecule combining
15 with some alcohol. Cocaine itself breaks down
16 fairly quickly within hours. So if you see the
17 parent cocaine present, then you can surmise that
18 the person used cocaine within a few hours of
19 death.

20 Q. And that's -- and so we saw that active
21 in Krystal Hutto; correct?

22 A. Yes.

23 Q. And then -- we talked about how bullets
24 go straight. So there are possibilities -- there
25 are most endless possibilities unless you have

JANIS ROSS - CROSS EXAMINATION BY MR. JOHNSON

1 someone either recreate it with all the other
2 evidence, we can come up here and say she was lying
3 down. She was hanging from the ceiling. She was
4 on a trapeze. But what we know is that the bullets
5 go straight; right?

6 A. That's correct.

7 Q. And we can't guess as to what scenario
8 happened unless we have crime scene or some other
9 people come in and actually do testing; right?

10 A. Correct.

11 Q. Thank you so much. Have a great day.

12 A. Thank you.

13 THE COURT: Mr. Johnson?

14 MR. JOHNSON: Briefly, Your Honor.

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION BY MR. JOHNSON:

17 Q. Doctor, I just wanted to ask, based on
18 your testing, do you have any information or any
19 test results that link this to my client Antly
20 Scott?

21 A. No, sir.

22 MR. JOHNSON: No more questions, Your
23 Honor.

24 THE COURT: Mr. Leiendecker, I guess.

25 MR. LEIENDECKER: I have no questions.

1 Thank you, Dr. Ross.

2 THE COURT: Anything on redirect?

3 MR. OSBORNE: No, Your Honor.

4 THE COURT: Thank you, Dr. Ross. You
5 are excused.

6 MS. ROSS: Thank you.

7 THE COURT: All right. Mr. Osborne, is
8 the State prepared to call its next witness?

9 MR. OSBORNE: Your Honor, if it's okay,
10 I am 99 percent sure we are going to rest. And if
11 we are coming back on Tuesday, then I would just
12 like to go over the evidence again and make sure
13 and then rest on Tuesday morning.

14 THE COURT: Okay. All right. Ladies
15 and gentlemen, we're going to call it quits for
16 this afternoon. We've got a long weekend ahead of
17 us. I hope y'all are looking forward to having
18 Monday off as much as I am. Again, remember, don't
19 read anything. Don't investigate anything. Don't
20 talk with anybody. And, please, don't talk among
21 yourselves. I will see you at 9:30 Tuesday
22 morning. Okay. Y'all have a wonderful weekend.
23 Thank you. Stay safe.

24 (WHEREUPON, the jury left the courtroom
25 at 3:31 p.m.)

1 THE COURT: All right. Ladies and
2 gentlemen, we are done for this week. I will see
3 y'all at 9:30 Tuesday morning. I hope y'all have a
4 great weekend.

5 (WHEREUPON, court was adjourned)

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1 (February 22, 2022)

2 THE COURT: Have y'all chosen the order
3 in which y'all want to argue directed verdict
4 motions? That way? You going first?

5 MR. LEIENDECKER: Sure.

6 THE COURT: Okay. All right.

7 MS. ZMROCZEK: I can go first, Your
8 Honor.

9 THE COURT: Okay. Ms. Zmroczek?

10 MS. ZMROCZEK: Thank you, Your Honor.
11 It's our understanding that when the jury comes
12 out, the State does intend to rest, Your Honor.
13 Therefore, we understand that this is the
14 appropriate time for DV motions.

15 Under Rule 19, Your Honor, we are
16 seeking a directed verdict motion on all charges
17 and I'll tell you why. Judge, I think the State
18 has put themselves in a pretty -- a pretty bad
19 predicament. Because we have one eyewitness who is
20 D.N. ; right, who identifies one
21 defendant, specifically doesn't -- I mean,
22 specifically says doesn't know the other two. And,
23 in fact, maybe identifies Derrick Coleman -- not
24 maybe, does identify Derrick Coleman as the burned
25 up man unless there's another burned up man that

1 we're unaware of being in his house.

2 Your Honor, a few witnesses after that,
3 they put up Derrick Coleman who says was never
4 there, never saw these kids, was never in the
5 house, was never near the house, and also doesn't
6 identify Mr. Bailey. So under the State's theory
7 as it's in front of the jury now, they've put two
8 witnesses who are either -- who are -- one of them
9 is lying or they're both lying. And that's a
10 problem, Your Honor, under Rule 3.8. Because
11 either you believe D.N. and you let us go, or
12 you believe Coleman and you let Mr. Bailey go. But
13 what the State could say is, oh, but there's jury
14 charges about you can believe some and -- parts of
15 testimony, but not all.

16 Your Honor, I would agree. But when
17 the State makes it their case to put up two
18 witnesses who cannot be telling the truth, the rule
19 suggests that that is -- both of those evidence
20 should be ignored especially in a case like this,
21 Your Honor. Because all you have is when you're
22 looking at Mr. Smith in particular is the word of
23 Mr. Coleman, again, who is completely contradicted
24 by the word of Mr. Nelson. And then you have a
25 snitch who is in his cell for two months in 2019.

1 Your Honor, so at this point, Mr. Smith
2 would move for a directed verdict based on all of
3 those reasons.

4 THE COURT: Thank you, ma'am. And
5 just, you know, there is evidence in the record
6 that the jury could consider and also believe or
7 disbelieve. But the Court's job is not to take
8 that away from the jury and it will be up to the
9 jury to decide what they believe. Which is part of
10 my charge. So, Ms. Zmroczek, I'm going to deny the
11 directed verdict motion on behalf of your client.

12 Mr. Johnson, do you want to go?

13 MR. JOHNSON: I'll go, Judge.

14 THE COURT: Yes, sir.

15 MR. JOHNSON: Your Honor, make a motion
16 for a directed verdict on all charges in favor of
17 my client Mr. Antly Scott. The evidence presented
18 by the State clearly when the surviving victim
19 testified, he indicated there was a white male that
20 came in the room, Pocket. Never identified my
21 client. Never pointed out Mr. Scott. Chris Wright
22 testified he didn't know Mr. Scott. Never seen
23 him.

24 The State's witness Ms. Buxton seemed
25 to indicate she didn't know what day or where it

1 was or was very confused. I think she indicated at
2 one point she didn't know whether or not she had
3 children in 2015. There was a shoe print expert
4 that said it was Chris Wright's shoe. There's a
5 fingerprint expert, DNA expert, testified more DNA
6 submitted in this case than almost any other case
7 in the history of SLED. Nothing matching my
8 client. Nothing matching Antly Scott.

9 Point out that the ballistics points
10 towards an expert saying that it really doesn't
11 match a .22, but the .22 is found with codefendant
12 Bailey, not with my client. And also point out
13 that the -- of course, Dr. Ross had nothing linking
14 to my client. And the evidence as it stands, Your
15 Honor, I think would justify a directed verdict at
16 this time.

17 THE COURT: Thank you, sir. And,
18 Mr. Johnson, again, I appreciate your argument, but
19 it is not the providence of this Court to make a
20 decision on this matter at this time. There has
21 been some evidence that the jury can consider and
22 believe that your client is guilty, so I am going
23 to deny your motion. And --

24 MR. JOHNSON: Your Honor --

25 THE COURT: Go head. Yes, sir.

1 MR. JOHNSON: I'm sorry. Just for the
2 record, I forgot to add in regarding Derrick
3 Coleman.

4 THE COURT: Okay.

5 MR. JOHNSON: Since Derrick Coleman was
6 the only witness stating that my client was at what
7 he described as the crime scene, would also at one
8 point Derrick Coleman testified he didn't know
9 where he was --

10 THE COURT: That night; correct.

11 MR. JOHNSON: -- and that's the only
12 witness stating my client was present and then
13 changes his story multiple times.

14 THE COURT: Right. Thank you, sir. I
15 am going to deny your motion. And, Ms. Zmroczek, I
16 meant to say after I denied your motion that I'm
17 going to note your objection on the record. And,
18 Mr. Johnson, I will note yours as well so they will
19 be preserved. Okay. Mr. Leiendecker?

20 MR. LEIENDECKER: We would move for a
21 directed verdict on behalf of Robert Bailey in
22 large part with the same arguments you already
23 heard from Ms. Zmroczek in that the only witness
24 that discusses Mr. Bailey is the juvenile who
25 testified. It's clear that that evidence not only

1 is questionable, but demonstrates a lot of problems
2 with recalling and other things.

3 And then the State turns to a alleged
4 second witness of the crime in Mr. Coleman and that
5 person not only didn't identify Mr. Bailey as ever
6 being there or ever being a party to it, but
7 presented a somewhat second theory of the crime.
8 And we think that that demonstrates that. What the
9 State's really doing here today is they still
10 haven't solved this crime and they'd like the jury
11 to solve the crime. And that's not what juries are
12 for. Juries are here to test the evidence and I
13 believe that the evidence is insufficient for the
14 case to proceed against Mr. Bailey.

15 THE COURT: Thank you, Mr. Leiendecker.
16 And I appreciate it. You know, it has indeed been
17 an interesting case and it's a case that's going to
18 boil down to credibility or believability of the
19 witnesses and like that. And, again, even though
20 -- but the State's witness, the boy D.N. , did
21 identify your client, so I am going to deny your
22 motion for a directed verdict and preserve your
23 objection to my ruling, Mr. Leiendecker. Okay.
24 Thank you, sir.

25 All right. I think we're ready -- and

ROBERT BAILEY - EXAMINATION BY THE COURT

1 the State is going to rest?

2 MR. OSBORNE: Yes, Your Honor.

3 THE COURT: Okay. All right. What I
4 want to do before I call the jury on out, I wanted
5 to question -- are your clients ready for me to
6 question them about whether they're going to
7 testify?

8 MR. LEIENDECKER: Yes, Your Honor.

9 THE COURT: Y'all have already talked
10 to them? All right. I'm going to start with
11 Mr. Bailey if that's all right.

12 MR. LEIENDECKER: That's fine.

13 THE COURT: Mr. Bailey, do you mind
14 standing? I need to swear you in, please, sir.

15 ROBERT BAILEY,
16 being first duly sworn, was examined and testified
17 as follows:

18 EXAMINATION BY THE COURT:

19 THE COURT: Okay. And, Mr. Bailey, I'm
20 going to need for you to speak up if you don't
21 mind. You see this thing right here? You know,
22 so...

23 Mr. Bailey, I'm going to explain to you
24 some of your rights. If you don't understand
25 something I say, please, let me know. If you want

ROBERT BAILEY - EXAMINATION BY THE COURT

1 me to explain anything in more detail, again, let
2 me know. Do you understand that?

3 MR. BAILEY: Yes, sir.

4 THE COURT: Okay. We've now reached
5 the stage in the trial where you may present your
6 defense. You have the right to claim the
7 protections given to you by the Fifth Amendment of
8 the Constitution of the United States. This
9 amendment states in part that no person shall be
10 compelled in any criminal case to be a witness
11 against himself. This means you cannot be required
12 to testify in this case. You have the right to
13 testify on your own behalf. However, no one can
14 make you testify. This is a personal right and no
15 one can waive this right except you.

16 If you decide to testify, you will be
17 subject to the same rules that govern other
18 witnesses and you may be examined and cross
19 examined on any relevant issue in this case. In
20 addition, if you have any convictions involving
21 dishonesty or false statements or for crimes
22 punishable by imprisonment for more than one year
23 and this Court determines that the probative value
24 of admitting this evidence outweighs its
25 prejudicial affect to you, the Solicitor will be

ROBERT BAILEY - EXAMINATION BY THE COURT

1 able to introduce your record to attacked your
2 credibility.

3 If you decide to testify, this decision
4 on your part must be freely, voluntarily, and
5 intelligently made with the knowledge of the
6 protections given to you by the Fifth Amendment and
7 the consequences of your decision to testify. If
8 you decide not to testify, I will instruct the
9 jurors that they cannot give the fact that you did
10 not testify any consideration whatsoever. And that
11 there is to be absolutely no prejudice to you
12 because you did not testify. It is left entirely
13 up to you whether or not you testify.

14 You may talk with your attorney, your
15 family, your friends or anyone else, but the final
16 decision will be left entirely up to you. Do you
17 understand what I've explained to you?

18 MR. BAILEY: Yes, Your Honor.

19 THE COURT: Do you have any questions
20 about what I've explained to you?

21 MR. BAILEY: No, sir.

22 THE COURT: Okay. Have you discussed
23 with your lawyers whether you should or should not
24 testify?

25 MR. BAILEY: Yes, sir.

LUTHER SMITH - EXAMINATION BY THE COURT

1 THE COURT: Okay. Do you wish to talk
2 to your lawyers anymore at this time?

3 MR. BAILEY: No, sir.

4 THE COURT: Okay. You feel comfortable
5 making your decision now; correct?

6 MR. BAILEY: Yes, sir.

7 THE COURT: Okay. Then my question to
8 you is, do you wish to testify?

9 MR. BAILEY: No, sir.

10 THE COURT: Okay. Thank you,
11 Mr. Bailey. Appreciate it. Okay. All right.
12 Mr. Smith. I need to swear you in, please, sir.

13 LUTHER SMITH,
14 being first duly sworn, was examined and testified
15 as follows:

16 EXAMINATION BY THE COURT:

17 THE COURT: Thank you, sir. Now,
18 Mr. Smith, I'm going to go through the same thing
19 that I just went over with Mr. Bailey, okay.

20 At this time, I'm going to explain
21 certain of your rights. If you don't understand
22 something I say, please, let me know and if you
23 want me to explain anything in more detail, please,
24 also let me know. Do you understand that?

25 MR. SMITH: Yes, sir.

LUTHER SMITH - EXAMINATION BY THE COURT

1 THE COURT: Okay. We've now reached
2 the stage of the trial where you may present your
3 defense. You have the right to claim the
4 protections given to you by the Fifth Amendment of
5 the Constitution of the United States. This
6 amendment states in part that no person shall be
7 compelled in any criminal case to be a witness
8 against himself. This means you cannot be required
9 to testify in this case. You have the right to
10 testify on your own behalf; however, no one can
11 make you testify. This is a personal right and no
12 one can waive this right except you.

13 If you decide to testify, you will be
14 subject to the same rules that govern other
15 witnesses and you may be examined and cross
16 examined on any relevant issue in this case. In
17 addition, if you have any convictions involving
18 dishonesty or false statement or for crimes
19 punishable by imprisonment for more than one year
20 and this Court determines that the probative value
21 of admitting this evidence outweighs its
22 prejudicial affect to you, the Solicitor will be
23 able to introduce your record to attacked your
24 credibility. Do you understand that?

25 MR. SMITH: Yes, Your Honor.

LUTHER SMITH - EXAMINATION BY THE COURT

1 THE COURT: Okay. If you decide to
2 testify, this decision on your part must be freely,
3 voluntarily, and intelligently made with knowledge
4 of the protections given to you by the Fifth
5 Amendment and the consequences of your decision to
6 testify.

7 If you decide not to testify, I will
8 instruct the jurors that they cannot give the fact
9 that you did not testify any consideration
10 whatsoever and that there is to be absolutely no
11 prejudice to you because you did not testify. It
12 is left entirely up to you whether or not you
13 testify.

14 You may talk with your attorneys, your
15 family, your friends and -- or anyone else, but the
16 final decision is left entirely up to you. Do you
17 understand what I've explained to you?

18 MR. SMITH: Yes, Your Honor.

19 THE COURT: Do you have any questions
20 about what I've explained to you?

21 MR. SMITH: No, sir.

22 THE COURT: Have you discussed with
23 your lawyers whether you should or should not
24 testify?

25 MR. SMITH: Yes, sir.

ANTLY SCOTT - EXAMINATION BY THE COURT

1 THE COURT: Do you wish to talk with
2 your lawyers anymore at this time?

3 MR. SMITH: No, sir.

4 THE COURT: Do you understand what
5 you're doing now?

6 MR. SMITH: Yes, sir.

7 THE COURT: Okay. Do you wish to
8 testify?

9 MR. SMITH: No, sir.

10 THE COURT: All right. Thank you, sir.
11 Thank you. All right. Mr. Scott. Hey, Mr. Scott.
12 Mr. Scott, I need to swear you in.

13 ANTLY SCOTT,
14 being first duly sworn, was examined and testified
15 as follows:

16 EXAMINATION BY THE COURT:

17 THE COURT: Okay. Thank you, sir.
18 And, Mr. Scott, I'm going to go through the same
19 thing that I've gone with the other two gentlemen.
20 You understand?

21 MR. SCOTT: Yes, sir.

22 THE COURT: Okay. At this time I'm
23 going to explain to you certain of your rights. If
24 you do not understand anything I say, please, let
25 me know. And if you want me to explain anything in

ANTLY SCOTT - EXAMINATION BY THE COURT

1 more detail, I'll be happy to do so. Do you
2 understand that?

3 MR. SCOTT: Yes, Your Honor.

4 THE COURT: Okay. We've now reached
5 the stage of the trial where you may present your
6 defense. You have the right to claim the
7 protections given to you by the Fifth Amendment of
8 the Constitution of the United States. This
9 amendment states in part that no person shall be
10 compelled in any criminal case to be a witness
11 against himself. This means that you cannot be
12 required to testify in this case. You have the
13 right to testify on your own behalf; however, no
14 one can make you testify. This is a personal right
15 and no one can waive this right except you. If you
16 decide to testify, you'll be subject to the same
17 rules that govern other witnesses and you may be
18 examined and cross examined on any relevant issue
19 in this case.

20 In addition, if you have any
21 convictions involving dishonesty or false
22 statements or for crimes punishable by imprisonment
23 for more than one year and this court determines
24 that the probative value of admitting this evidence
25 outweighs it's prejudicial affect to you, the

ANTLY SCOTT - EXAMINATION BY THE COURT

1 Solicitor will be able to introduce your record to
2 attacked your credibility.

3 If you decide to testify, this decision
4 on your part must be freely, voluntarily, and
5 intelligently made with the knowledge of the
6 protections given to you by the Fifth Amendment and
7 the consequences of your decision to testify. Do
8 you understand that?

9 MR. SCOTT: Yes, sir.

10 THE COURT: Okay. If you decide not to
11 testify, I will instruct the jurors that they
12 cannot give the fact that you did not testify any
13 consideration whatsoever. And that there is to be
14 absolutely no prejudice to you because you did not
15 testify. It is left entirely up to you whether or
16 not you testify. You may talk with your attorney,
17 your family, your friends or anyone else, but the
18 final decision is left entirely up to you. Do you
19 understand what I've explained to you?

20 MR. SCOTT: Yes, Your Honor.

21 THE COURT: Do you have any questions
22 about what I've explained to you?

23 MR. SCOTT: No, sir.

24 THE COURT: Have you discussed with
25 your lawyer whether you should or should not

ANTLY SCOTT - EXAMINATION BY THE COURT

1 testify?

2 MR. SCOTT: Yes, sir.

3 THE COURT: Do you wish to talk to your
4 lawyer some more at this time?

5 MR. SCOTT: No, sir.

6 THE COURT: Do you understand
7 everything I've told you?

8 MR. SCOTT: Yes, Your Honor.

9 THE COURT: Okay. Then my question to
10 you is, do you wish to testify?

11 MR. SCOTT: No, Your Honor.

12 THE COURT: Okay. All right. All
13 right. Gentlemen, we'll now -- what's going to
14 happen is we're going to bring the jury out and the
15 State will rest and then y'all are going to be --
16 then y'all will be ready to put up whatever defense
17 or testimony y'all want to put up. Okay.

18 MS. ZMROCZEK: And, Your Honor, I'm
19 just making sure that this technology works so we
20 don't have that issue.

21 THE COURT: All right. You do that and
22 as soon as she finishes checking that out, go get
23 the jury. I'm going to be right back.

24 THE BAILIFF: Yes, Your Honor.

25 (WHEREUPON, the jury entered the

1 courtroom at 10:22 a.m.)

2 THE COURT: Good morning, ladies and
3 gentlemen. I'm glad y'all are all back. I hope
4 y'all enjoyed the long weekend. I did. I got to
5 keep -- my wife and I got to keep our two-year-old
6 granddaughter at our house for the first time ever.
7 So we had a great time and I'm tired.

8 Now, y'all remember that when y'all
9 come in, I've got to ask you -- I've got some
10 questions I need to ask you. If you need to
11 respond to the questions, I need for you to stand.

12 First of all, I need to make sure that
13 no one has read anything about this case in the
14 paper or in any other source?

15 Okay. No one is standing.

16 I want to make sure no one has gone
17 online, done any research, checked with your
18 smartphone, checked with computer, read anything on
19 any social media like Facebook or stuff like that
20 about this case?

21 All right. No one is standing.

22 I want to make sure nobody has
23 contacted you and tried to talk to you about this
24 case?

25 And no one is standing.

1 And I want to make sure y'all have not
2 been talking about this case among yourselves?

3 No one is standing.

4 All right. Ladies and gentlemen, we're
5 now going to continue with the State's case.
6 Mr. Osborne?

7 MR. OSBORNE: The State rests, Your
8 Honor.

9 THE COURT: Thank you, sir. All right.
10 We have now heard all of the State's testimony.
11 What we're going to do now is we're going to begin
12 with the defense case. Y'all may or may not
13 recall, but when we started the trial, everyone
14 gave opening statements except Mr. Leiendecker and
15 he wanted to reserve the time to make his opening
16 statement before the defense began their case.

17 Mr. Leiendecker represents Mr. Bailey
18 and I believe, Mr. Leiendecker, you're prepared to
19 do your opening now?

20 MR. LEIENDECKER: Yes, Your Honor.

21 THE COURT: All right. You have the
22 floor.

23 MR. LEIENDECKER: Thank you, Your
24 Honor.

25 THE COURT: Yes, sir.

OPENING STATEMENT BY MR. LEIENDECKER

1 OPENING STATEMENT BY MR. LEIENDECKER:

2 MR. LEIENDECKER: Ladies and gentlemen
3 of the jury, you've already met us several times.
4 I'm one of the defense attorneys in this case and I
5 represent Mr. Robert Bailey who is seated at table
6 with cocounsel.

7 You have been hearing testimony, but
8 I'm going to give you a little prospective as we
9 did at the opening about this case and about the
10 handling of or at least the listening to the facts
11 in evidence in the case.

12 July 14/15, 2015 was a terrible night
13 at [REDACTED] Old State Road in Holly Hill here in
14 Orangeburg County. We know that four people were
15 killed that night by a single gunshot wound to the
16 head and one eight-year-old boy was wounded. We
17 know that there was a ton of evidence collected
18 related to this case. What we know is that this
19 was within the jurisdiction of the Orangeburg
20 County Sheriff's Office and that they put their
21 full forces to work on this case. They sent
22 everything they had in that morning of the 15th.
23 We've heard about evidence collection. We've heard
24 about first responders to the scene. We've heard
25 about investigators. We've heard about perimeter

OPENING STATEMENT BY MR. LEIENDECKER

1 searches. We are going to hear evidence about all
2 of that.

3 If you paid attention, you were asked
4 questions before this case began about the people
5 that would testify. And we were given the names of
6 all of the investigators of Orangeburg County
7 because this was a full on investigation.
8 Lieutenant Culpepper, Lieutenant Shumpert,
9 Investigator Thrower, Investigator Journey,
10 Investigator Boyne, the crime scene investigators,
11 and collectors. The forensics, Mr. -- Lieutenant
12 or Captain Carter, Mr. Ketcherside, and many other
13 officers and officials from Orangeburg County
14 Sheriff's Office. Everybody was on board.
15 Everybody wanted to solve this case.

16 We know that there were no arrests made
17 for over a year. We know that there was
18 investigation done throughout that time. And what
19 we've heard from the experts and from the officers
20 who have testified that that investigation
21 continued even beyond the September 2016 arrests.

22 The State through the evidence
23 collected and the investigation undertaken by the
24 Orangeburg County Sheriff's Office has the
25 responsibility of solving this crime. They have

OPENING STATEMENT BY MR. LEIENDECKER

1 the responsibility of presenting before the jury
2 sufficient evidence and testimony to convince you,
3 the jury, beyond a reasonable doubt that my client
4 Robert Bailey committed a crime on the night and
5 early morning hours of the 14th and 15th.

6 Proving facts or providing facts,
7 that's the question. Facts of proof convince
8 someone beyond a reasonable doubt that an
9 individual committed a crime. Providing facts
10 suggests that someone gathered up a bunch of
11 evidence, but they're not the same thing. You need
12 to as you think about and hear the evidence in this
13 case and weigh it eventually, consider whether the
14 facts regarding Robert Bailey prove that he
15 probably did this crime. That's not enough. If
16 that's what we've got, that's not enough.

17 If the facts you think are that Robert
18 Bailey likely did this crime, that's not going to
19 be enough. That's not enough. Even if you think
20 that the facts that the Orangeburg County Sheriff's
21 Office gathered make it likely that Robert Bailey
22 committed this crime, that is not enough.

23 This is a horrible, horrible incident
24 that happened that night and so many families have
25 been traumatized by it. But your decision must not

OPENING STATEMENT BY MR. LEIENDECKER

1 be based on the emotion of this case. You must
2 listen to the facts and you must hold them to the
3 standard that they must prove that Robert Bailey
4 committed a crime beyond a reasonable doubt. The
5 State through the Orangeburg County Sheriff's
6 Office is responsible for solving this crime. You
7 are not. You are only responsible for holding them
8 to the standard required by the law that they prove
9 this crime to you beyond a reasonable doubt. And
10 that's what Robert Bailey asks you to do and that's
11 what we expect you to do. Thank you.

12 THE COURT: Thank you, Mr. Leiendecker.
13 Mr. Leiendecker, I was going to go in order, are
14 you prepared to call your first witness?

15 MR. LEIENDECKER: I am.

16 THE COURT: Okay.

17 MR. LEIENDECKER: I want to make sure
18 the witness is here if that's okay, Your Honor.

19 THE COURT: Yeah. Go ahead.

20 MR. LEIENDECKER: Thank you, Your
21 Honor. If it please the Court. We would call
22 Spencer McInvaille.

23 THE COURT: And the last name again is
24 what?

25 MR. LEIENDECKER: McInvaille.

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 THE COURT: McInvaille?

2 MR. LEIENDECKER: M-C-I-N-V-A-I-L-L-E.

3 THE COURT: Okay.

4 SPENCER MCINVAILLE,

5 being first duly sworn, was examined and testified
6 as follows:

7 THE CLERK: Please be seated. In the
8 microphone, please state your first and last name
9 for the record.

10 MR. MCINVAILLE: Spencer McInvaille.

11 THE CLERK: Thank you.

12 THE COURT: Thank you, sir.

13 MR. OSBORNE: Your Honor, I'm going to
14 object to whatever is on the screen right now. We
15 have not seen it. That needs to be taken off.

16 THE COURT: Okay.

17 MS. ZMROCZEK: May we --

18 MR. OSBORNE: Yeah, we'll have a matter
19 of law.

20 (WHEREUPON, there was a bench
21 conference)

22 THE COURT: All right. If y'all will
23 just bear with us for a second. I'm going to let
24 them discuss their issues back there and then bring
25 them back out. Okay. Now, if y'all want to go

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 back to the jury room for a minute, I'll let you do
2 that. But if y'all just want to sit and wait for a
3 second. Okay. Y'all good?

4 JURORS: We're good.

5 THE COURT: Okay. All right. If y'all
6 don't mind just waiting for a second, I'd
7 appreciate it.

8 (Off the record)

9 THE COURT: Mr. Leiendecker, I believe
10 he is your witness.

11 MR. LEIENDECKER: Thank you, Your
12 Honor.

13 DIRECT EXAMINATION BY MR. LEIENDECKER:

14 Q. My last name is Leiendecker and I'm
15 going to go with Spencer if that's okay?

16 A. That's fine.

17 Q. Spencer, would you please state your
18 name, your full name to the jury?

19 A. Spender McInvaille.

20 Q. Okay. Spencer, where do you work?

21 A. I work for Envista Forensics.

22 Q. And what is your title with Envista?

23 A. I'm a digital forensics examiner.

24 Q. How long have you been in that job as a
25 digital forensic examiner?

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 A. With Envista Forensics coming up on
2 five years now. Prior to that in law enforcement
3 since 2013.

4 Q. Okay. And you specifically been
5 involved since 2013 in digital forensic?

6 A. Yes.

7 Q. And could you explain to the jury what
8 digital forensic work is?

9 A. So the type of disciplines that I deal
10 with is mostly cell phones. So cell phone
11 location, the data that comes from cell phones,
12 GPS, various ways to locate those devices as well
13 as look at it and understand the content that comes
14 off of cell phones.

15 Q. And, Spencer, where did you attend
16 school?

17 A. Lancaster High School. I'm from South
18 Carolina. And as well as the various training and
19 different experiences I've had over the years
20 through law enforcement as well as continuing in
21 that through Envista.

22 Q. What training and degrees do you have
23 in the area of digital forensic?

24 A. So I certifications with Cellebrite.
25 That's the -- one of the premier companies that

1 produces software to retrieve mobile device
2 evidence. I have two certifications from them.
3 Certified Cellebrite operator as well as certified
4 Cellebrite physical analyst. As well as
5 telecommunications certifications. That
6 information deals with how we look at the records
7 that come from the carriers, how the network
8 operates so that we can determine those records and
9 understand location. Two certifications with that
10 as well.

11 Q. Okay. And in the area of digital
12 forensic, are there any kind of particular
13 associations or groups?

14 A. There are. I'm involved with the --
15 it's called IION, the International Institute of
16 Navigation. That deals with a lot of GPS
17 information and location. There are others that
18 deal with computer forensics, that type of
19 information.

20 Q. Have you, Spencer, been asked to
21 testify in any cases in court regarding digital
22 forensics?

23 A. Yes. So in both state and federal
24 courts. Here in South Carolina as well as I
25 believe about ten other states. Again, both state

SPENCER MCINVAILLE - VOIR DIRE BY MR. OSBORNE

1 and federal.

2 Q. And if you could estimate about how
3 many times have you testified in court?

4 A. I believe the last I checked it was
5 about 22 or 23 times.

6 Q. Okay. And can you tell us, if you
7 know, how many cases of digital forensic evidence
8 you have investigated for individual matters?

9 A. I believe last I checked it was over
10 400 since I've been at Envista.

11 Q. Okay. And --

12 MR. LEIENDECKER: At this point, I
13 would ask and submit him as an expert in the area
14 of digital forensics specifically in the area of
15 cell phones.

16 THE COURT: Okay. Any objection?

17 MR. OSBORNE: I would just voir dire on
18 two questions.

19 THE COURT: Yeah, go ahead.

20 VOIR DIRE EXAMINATION BY MR. OSBORNE:

21 Q. Spencer, have you been qualified as an
22 expert in this field before?

23 A. Yes, I have.

24 Q. Okay. Have you ever failed to qualify?

25 A. No, sir, I have not.

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 Q. Okay.

2 MR. OSBORNE: No objection, Your Honor.

3 THE COURT: Okay. Ladies and gentlemen
4 of the jury, you've heard me speak on this before.
5 This witness has been qualified in the area of
6 digital forensic exams with -- specific with cell
7 phones. And by being qualified as an expert may
8 give an opinion as -- in that area. You should
9 consider an expert's opinion like any other
10 evidence and give it the weight you think it
11 deserves. All right. Mr. Leiendecker?

12 MR. LEIENDECKER: Thank you, Your
13 Honor.

14 CONTINUED DIRECT EXAMINATION BY MR. LEIENDECKER:

15 Q. Spencer, I have just a clearing
16 question first. You were sent information and you
17 reviewed it in this case. Have you prepared a
18 report regarding that information?

19 A. I have.

20 Q. Okay. And I'm really not going to get
21 into much of that right now. But I would like to
22 approach the witness and show you this. This is an
23 extraction report from a Samsung U365 phone that
24 was identified in court before you arrived as
25 belonging to my client Mr. Robert Bailey. It's

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 approximately five pages long. Have you looked at
2 this report which was admitted into evidence?

3 A. I have.

4 Q. Okay. And I tell you what, why don't
5 you hang on to that. I think I have the line
6 numbers. My wife suggests, just an aside, that I
7 can't be sent to the grocery without -- with a list
8 longer than three items because I can't remember
9 it. But I want you to look at three lines and I
10 think I can remember them. On that report lines 13
11 and 14. On page 2, I believe.

12 A. Okay.

13 Q. And those are phone calls with an
14 individual identified as whom?

15 A. It says the party involved is Cuz,
16 C-U-Z, June, J-U-N-E.

17 Q. And can you read the phone number?

18 A. [REDACTED] 8402.

19 Q. Okay. There has been testimony
20 submitted that that is a Tracfone. I think
21 T-R-A-C. And that when that was analyzed by the
22 investigator that it came to a P. O. Box in
23 California. Okay?

24 A. Okay.

25 Q. Were you asked to look into this and

1 determine why that P. O. Box would show up relative
2 to that phone number?

3 A. It's pretty common to see anything
4 involved with -- this is what we call a mobile
5 virtual operator. It's anytime that you see if you
6 were to go to Walmart or anything similar and go
7 pick up a phone, typically in the box where it's
8 prepaid, whatever the name is on the front of that
9 phone, it could be Tracfone H2O, it could be
10 anything. What happens is is those companies are
11 essentially renting out those phone numbers from
12 say Verizon or AT&T, that sort of thing.

13 So what happens is, when you get the
14 records because those companies are the ones still
15 servicing those phones, you're just paying your
16 bill say through Tracfone. When you receive those
17 Tracfone or those records back from the carrier, it
18 will often list those mobile virtual network
19 operators as the subscriber in their records. So
20 you often see the P. O. Box for that company as the
21 subscriber for that telephone number.

22 Q. And that doesn't indicate who's
23 actually using the phone or has the phone, is that
24 what you're saying?

25 A. That's correct. It would be the

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 company that is reselling that number.

2 Q. Okay. And I'd like to turn your
3 attention to line 17 which I believe is on page 3.

4 A. Okay.

5 Q. There's a text, this is a text message;
6 is that correct?

7 A. It is.

8 Q. I asked you to look at this and analyze
9 it for us regarding the date and time of this text
10 being sent; is that correct?

11 A. You did.

12 Q. Can you tell us what you found in your
13 research?

14 A. Yes, sir.

15 Q. And how you discovered it?

16 A. Sure. So often times in any types of
17 records that we deal with in phones, one of the key
18 issues there is that we make sure whatever record
19 we're looking at is in the correct time zone. So
20 when we look at different records, they will be
21 indicators in these records that tell us what time
22 zone it's operating in. So commonly we will see
23 what is called UTC time. And UTC is just a time
24 standard. If you thought about where it's at in
25 relative position on the earth, it's generally

1 around the England area is where it would be. So
2 it would be overseas. We have to subtract time
3 from that time standard to be able to understand
4 what time the phone is actually in. So for --

5 Q. I'm sorry.

6 A. I was going to say --

7 Q. Let me break it down so it may be
8 step-by-step and would help us. So that record
9 you're looking at you were analyzing it to see if
10 it was actual eastern standard or daylight time
11 whatever we were in or UTC time; correct?

12 A. Correct.

13 Q. And did you also -- were you also given
14 call detail records from the individual that the
15 text was sent to, Mr. Ramseses?

16 A. That's correct.

17 Q. And tell us what happened when you
18 compared the call detail records to the time listed
19 for the text?

20 A. The call detail records for the phone
21 number associated with the Ramseses name, those
22 records are in eastern time. So when you look at
23 those, they don't match up to what you see here and
24 it's because of that offset. So that's how you
25 know for sure that that call -- or excuse me, that

SPENCER MCINVAILLE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 text didn't have happen at 3:40 a.m., but that it
2 happened at 11:40 p.m. the previous day.

3 Q. And this is just a glitch in the
4 Cellebrite that you check by checking the call
5 detail records?

6 A. Yes. So the examiner when they're
7 working on the phones, they just have to select
8 what time zone they want the phone in. If they
9 don't, it will often default to this UTC time.

10 Q. Okay. So the text sent to Mr. Ramseses
11 was not at 3:40 a.m., but it was at 11:40 p.m. the
12 night before the 14th; is that correct?

13 A. That's correct.

14 Q. And you confirmed that this mistake in
15 time by going to the call detail records; correct?

16 A. Yes. That's one way you can verify it.

17 Q. Okay. All right.

18 MR. LEIENDECKER: I don't have any
19 further questions for this witness at this time.

20 THE COURT: Okay. Ms. Zmroczek, any
21 questions of this witness?

22 MS. ZMROCZEK: Yes, Your Honor. Thank
23 you. And I'm going to mark this.

24 (WHEREUPON, Defendants' Exhibit Number
25 87 was marked for ID)

1 CROSS EXAMINATION BY MS. ZMROCZEK:

2 Q. Good morning, Spencer.

3 A. Good morning.

4 Q. I'm going to show you what's been
5 marked as Defendants' 87 and ask if you recognize
6 this?

7 A. Yes.

8 Q. And is that a fair and accurate -- what
9 is that?

10 A. It's my report.

11 Q. Okay. And is that a fair and accurate
12 representation of what's behind you on the screen?

13 A. Yes, it should be.

14 MS. ZMROCZEK: Your Honor, at this
15 time, we would move 87 into evidence.

16 THE COURT: Mr. Osborne, any objection?

17 MR. OSBORNE: No. No objection. I've
18 seen it.

19 THE COURT: Mr. Leiendecker?

20 MR. LEIENDECKER: No objection.

21 THE COURT: Mr. Johnson?

22 MR. JOHNSON: No objection.

23 THE COURT: State's 87 is in evidence
24 without objection --

25 MS. ZMROCZEK: That would be

SPENCER MCINVAILLE - CROSS EXAMINATION BY MS. ZMROCZEK

1 Defendants' 87, Your Honor.

2 THE COURT: I mean -- did I say State?

3 MS. ZMROCZEK: You did.

4 THE COURT: I apologize. Let the
5 record reflect that it's really the Defendants' 87.
6 Thank you for reminding me.

7 MS. ZMROCZEK: Thank you.

8 (WHEREUPON, Defendants' Exhibit Number
9 87 was entered)

10 Q. And so, Spencer, I want to talk to you
11 a little bit about phone evidence. Is it -- so
12 you've been with Envista for five years?

13 A. Just about, yes.

14 Q. Okay. And is that -- is that something
15 that -- is there like, can you go to school for
16 digital forensics?

17 A. You can.

18 Q. Okay. But is it science that is
19 changing often?

20 A. Always. So as you all know, brand new
21 phones come out every day. So, obviously, what we
22 deal with is ever changing as well.

23 Q. And what is -- what's so important
24 about phones especially cell phones these days?
25 What kind of information can you get off of them, I

1 guess?

2 A. Everything. So most people would not
3 like to have their phone, you know, they don't want
4 it to be missing, they don't want to have to give
5 it to anyone, those type of things because it
6 contains everything that they deal with. You now
7 do your banking, your communication with your loved
8 ones, you do everything on that device. And so
9 those devices will reveal a lot about the person.
10 Their location, who they're talking to, the actual
11 content of those conversations, so there's -- I
12 mean, you can really understand a lot about someone
13 from their phone.

14 Q. And are there photographs that are also
15 stored on phones?

16 A. Absolutely.

17 Q. And we heard you talk about UTC and
18 then that's just kind of a general, like a time
19 zone that can be adjusted to match the time zone
20 that you're in or that the phone is located in; is
21 that correct?

22 A. That's correct. It's just a standard
23 for us to reference different time zones. So if I
24 give you a UTC time and you live in California and
25 I live in South Carolina, if I give you UTC time,

SPENCER MCINVAILLE - CROSS EXAMINATION BY MS. ZMROCZEK

1 we can understand whose time is what based off of
2 that standard.

3 Q. Okay. And so it want to show you a
4 picture, I believe, it's already in evidence, a
5 picture from a phone that has a photograph and also
6 has some time -- a time stamp on it; correct?

7 A. It does.

8 THE COURT: Ms. Zmroczek, I hate to
9 interrupt. I just need it to be identified for the
10 record.

11 MS. ZMROCZEK: Your Honor, it is --
12 since I can't, I will mark it because I know it's
13 already in under the State and so I don't mind just
14 putting it in again since I don't know the State's
15 number unless you happen to know it.

16 MR. OSBORNE: Not off the top of my
17 head.

18 MS. ZMROCZEK: Yeah, it will probably
19 take -- I'll just put it in, Your Honor.

20 THE COURT: Okay. This is Defendants'
21 88?

22 MS. ZMROCZEK: Defendants' 88.

23 THE COURT: Okay. And it's a duplicate
24 of a State exhibit?

25 MS. ZMROCZEK: Yes, sir.

1 (WHEREUPON, Defendants' Exhibit Number
2 88 was marked for ID)

3 Q. Just so we're not waiting here while I
4 sort through a million pictures, I'm going show
5 Defense 88. Have you seen this picture before?

6 A. I have.

7 MR. OSBORNE: It's 327-C as in Charles,
8 Judge.

9 THE COURT: 327-C?

10 MS. ZMROCZEK: 327-C. So I don't need
11 to move it in, Your Honor, I can just leave it
12 marked as ID, but at least he has seen it before.

13 THE COURT: Okay.

14 Q. Okay. So this picture, what can you
15 tell us about the time that this picture was taken?

16 A. Sure. The time stamp on this
17 particular photo is 7:15 2015. That's at 12:42:54
18 a.m.

19 Q. A.m., so it had just turned -- it's
20 still dark outside; right?

21 A. Yes.

22 Q. Okay. All right. And so one thing
23 that we can do with photos and phone records is
24 kind of help establish a timeline; is that correct?

25 A. Most often that's what we are doing

SPENCER MCINVAILLE - CROSS EXAMINATION BY MS. ZMROCEK

1 either by location or by activity.

2 Q. Okay. And so -- and so you talk about
3 location and activity. Is it required to have the
4 physical phone? Like, do you have to have my
5 physical phone in order to get location information
6 -- is there some information that you can only get
7 from the physical phone?

8 A. Yeah. So it's very dependent on the
9 device itself. But either the device can tell us
10 locations or the cell phone records from the
11 carrier can also give us locations. Of course,
12 with the phone we're looking at more content type
13 stuff, you know, the actual message that's being
14 sent. So it can be done both ways with a few, you
15 know, exceptions.

16 Q. Okay. And so I guess the point is like
17 the call detail records, if you -- if someone
18 requests the call detail records, you can still get
19 the location even if you don't have the actual
20 physical phone?

21 A. Yes, so we can see then what towers
22 that device is connected to so we can understand
23 where it is.

24 Q. Okay. And so we talked about towers
25 and I'm going to -- I'm going to bring up your --

1 bring up your report here and ask you to just to
2 explain to the jury what you were asked to do
3 specifically by me with phones and towers in this
4 case.

5 A. Yeah. So in the records that we're
6 looking at, we're looking at a few different
7 things. We have call detail records which are
8 those individual records for a particular person's
9 phone. It tells us when calls and texts occur. It
10 can provide us what tower and sector is being used
11 so we can understand the location. It will tell us
12 who's in contact with each other. Those similar
13 records are also captured in what we commonly refer
14 to as a tower dump. Same information but rather
15 than queering say just your phone number we're
16 going to look at the individual towers and see who
17 all communicated just on that tower or various
18 towers in the area.

19 And then as well as we've talk about
20 too, you can get that information from -- or at
21 least some of this information from the cell phone
22 itself as well. So there's a combination of a few
23 different things.

24 Q. Okay. And so in this case you were
25 given call detail records, download -- Cellebrite

SPENCER MCINVAILLE - CROSS EXAMINATION BY MS. ZMROCZEK

1 downloads from actual phones as well as what you
2 call a tower dump; right?

3 A. Correct.

4 Q. Okay. And a tower dump as I understand
5 it is, so let's say that my house is here where
6 this tape recorder is and there are towers -- cell
7 phone towers located in various positions; right?

8 A. That's correct.

9 Q. And then so information can be
10 received, for example, from a certain time period,
11 all the phone calls that were -- or any kind of
12 activity that was bouncing off that tower; correct?

13 A. That's right. You can think about it
14 as if you're making a phone call from your home as
15 well as all of your neighbors, instead of just
16 seeing your calls, we're seeing all of those calls.
17 So all your neighbors making phone calls, sending
18 messages, all that.

19 Q. So we're talking about a lot of
20 information?

21 A. Yeah. You can see a ton of information
22 in a tower dump.

23 Q. And so is there a way -- how do you --
24 how can you sort through this tower dump and find
25 what you're looking for?

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1 A. Commonly we're going to be looking at,
2 you know, a specific timeframe. Tower dumps
3 generally are, you know, a small timeframe of data
4 though they can have a lot of information just
5 because of the number of people, but we're going to
6 look at it based on time. We may look at it just
7 based on particular phone numbers that we know of
8 that are involved. There's a few different ways to
9 break that down.

10 Q. Okay. And I want to talk about towers
11 for a moment and put the next page of your report
12 up there. So we've all seen -- I'm assuming, the
13 towers are these big giant metal towers; right?

14 A. They can be or they can be affixed to
15 say a building or other structures, yes.

16 Q. Okay. And so can you explain a little
17 bit about how they work?

18 A. Yes. So a cell phone tower, let's just
19 say is nothing more than a structure to give the
20 antenna that we use to communicate back and forth
21 on up off the ground so that they can project their
22 energy across the landscape where we live. As that
23 happens, each of the towers have what we call
24 sectors. And those sectors provide service into a
25 particular area. So, for example, if I am the cell

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1 phone tower and I have three different sectors of
2 coverage here, I would have one that would take
3 care of the jury box. But there would also be one
4 to take care of back behind me towards the
5 prosecutor as well as toward the judge. There
6 would also be one towards this area. That helps us
7 understand whether or not you're in the jury box or
8 you're behind me at the judge's box. It gives us a
9 better understanding of where those positions are.
10 So that's how we talk about towers and sectors.

11 Q. And were you -- the tower dumps that
12 you were provided, what -- how many cell phone
13 towers were dumped? If that makes sense.

14 A. I don't recall right offhand. I know
15 there's a picture in here to show each one, there
16 were several.

17 Q. Okay. And so you talked about the
18 different kind of sectors to see from where we're
19 calling, is that what this a demonstrative of?

20 A. Correct. So then understanding what
21 the sectors, you know, how they're laid out, we
22 have to show you something on the map so that you
23 understand which way the sector's oriented so you
24 can understand which way the towers projecting
25 energy so you understand where the device should be

1 in relation to that tower. And that's what this
2 graphic is used for.

3 Q. Okay. And then next, so you were
4 provided a little bit of background information
5 about this case; right?

6 A. Correct.

7 Q. Okay. So you know at the incident
8 location, a 9-1-1 call was made; is that correct?

9 A. That's correct.

10 Q. And were you able to locate that 9-1-1
11 call?

12 A. Yeah. So if you look at the top record
13 there, this is how we view it in the Excel
14 spreadsheets that are provided. In the beginning
15 it will tell us a little bit of information about
16 the network itself. But then it will tell us what
17 phone number is making the call. The second -- the
18 third column, excuse me, the dial digits, that's
19 the number they are calling. You see the actual
20 digits there so you see the 9-1-1 call going
21 through. You see the direction, the date and time
22 that that occurs. And then you start to see how
23 long it lasts as well as what tower was used. So
24 in this instance you're seeing the cell tower used
25 as Tower 125.

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1 Q. And does that kind of give you a base
2 to know -- so we are assuming -- well, we're not
3 assuming, in evidence is a 9-1-1 call and that
4 police responded to that 9-1-1 call which was at
5 that location on Old State Road; correct?

6 A. Correct. So there's times when we look
7 at records when we don't know the exact position of
8 the phone. We know details about it and that we're
9 looking at these records to try and understand
10 where that device could be. In a situation like
11 this where we have say a vehicle accident or a
12 9-1-1 call, we know where the devices are because
13 we have other information. So in this instance we
14 know where this 9-1-1 call was created from and we
15 can see what tower was used.

16 Q. And so -- and then I see that you have
17 the tower dump as the first kind of explanation
18 line, the cell detail -- the call detail records as
19 the second explanation line, what if any
20 differences are there and why do you have that as a
21 --

22 A. So there's really no difference. What
23 you're seeing is the two different versions of the
24 record. The tower dump again being all those calls
25 that are created let's say in the neighborhood

1 verses the call detail records for that specific
2 number. That number ending in 0710, so you can see
3 in those actual records for that particular phone,
4 you can see that the 9-1-1 call goes through. You
5 can see that they match up with each other.

6 Q. And so you were given -- I'm moving
7 down to the third paragraph. You were given the
8 [REDACTED] 0710 and [REDACTED] 3863, now when you were
9 provided numbers, are you given names
10 independently?

11 A. Sometimes, yes. I can either end up
12 with just phone numbers or phone numbers and names.

13 Q. But in this case you know that those
14 are the two numbers associated with Christopher
15 Wright; is that correct?

16 A. Correct.

17 Q. Okay. And so then explain what the
18 jury is looking at underneath.

19 A. Sure. So this is a depiction from the
20 call detail records for the, I believe it's the
21 1105 number, I believe.

22 Q. And that 1105 number was the number of
23 the phone that was, I believe you're sent a
24 picture, it was found in the backpack of Jerome
25 Butler; correct?

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1 A. I believe that's correct.

2 Q. Okay. And so does this indicate that
3 that phone was indeed working?

4 A. Yes, correct. You see calls
5 originating from that device.

6 Q. Okay. And are there any calls between
7 that 1105 number and any number associated with
8 Christopher Wright?

9 A. You will see on the third line of
10 records, so the first line is the column headers.
11 Then three lines down you will see the contact
12 between the 1105 number and the 3863 phone number.

13 Q. And what time does that indicate?

14 A. That was on July 14, 2018 at 18:59 or
15 6:59 p.m.

16 Q. 6:59 p.m. on July 14th?

17 A. Yes.

18 Q. Thank you. All right. And I see that
19 there is -- all right. So there's a dial digit --
20 so there's a mobile directory number, a dial digit
21 number, and then way at the end is a calling party
22 number. Can you explain the difference amongst
23 those three?

24 A. Yep. So the mobile directory number is
25 the person calling. So that's the caller. The

1 dial digit is the receiver of the call. And then
2 again, calling party is also the same thing on the
3 -- that is the calling party number on the end.

4 Q. Okay. So what --

5 A. So you're seeing caller and called.

6 Q. So what this shows is that the calling
7 party would be 1105 on that 18:59 call and that
8 would be calling to Chris Wright's business phone?

9 A. The 3863 number, that's correct.

10 Q. Okay. Additionally, you were given --
11 you were tasked to kind of talk about cell towers
12 and locations; is that correct?

13 A. That's correct.

14 Q. Okay. And so I want to go back to this
15 just one more because I meant to ask you a question
16 about this. So these are from the call detail
17 records. Can you also gain times of calls from
18 Cellebrite downloads?

19 A. Do you mean match them up between each
20 other?

21 Q. Right.

22 A. Yes, you could.

23 Q. Okay. And so moving on to your next
24 board. Kind of explain to the jury what they're
25 looking at here.

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1 A. Yes. So this is an overview of this
2 area. You have a few different of the addresses
3 that were provided as well as you will see some of
4 the black triangles that are listed on the map.
5 Those triangles are the Verizon towers in this area
6 because most of what we're talking about here at
7 the moment is Verizon. So it's giving you an
8 understanding of what that network looks like.

9 Q. Okay. And so we see these little black
10 triangles kind of all over the map. Explain kind
11 of how the frequency of the towers are -- when I
12 say frequency, the number and how that affects how
13 calls and texts bounce off of those towers.

14 A. Sure. So the network's set up in a way
15 that we can make calls, send texts, use data, do
16 all those things that we like to do on our phones,
17 but while we're doing that actually be able to move
18 around. That's the nice part about cell phones is
19 we can move while we do all this. So what you can
20 see is the towers are spread out in a way that they
21 provide coverage to a particular area.

22 So, for example, this tower in
23 Branchville, we wouldn't expect to service anyone
24 over in say Holly Hill or Santee. It provides
25 service to the area that it's built in. So Verizon

1 will go in, build this structure, it costs them
2 quite a bit of money, and then they set it up in a
3 way so that it provides service to the subscribers
4 in that area. So then following tower has its own
5 carrier. And the goal is to be able to drive
6 through these areas and constantly be able to
7 change over to the next tower over so that you can
8 move along.

9 So if you were to travel down 95 like I
10 did this morning, be able to make a phone call if
11 you need to, and be able to maintain that service
12 as you go along. But you're not going to just stay
13 on that one tower the entire time. You need to
14 then transfer over constantly as you move about.
15 So the tower service a particular area.

16 Q. And how is that reflected when you're
17 looking at phone records like call detail records?
18 How can we see that that's reflected?

19 A. Sure. So what we look at is we look at
20 where the towers are positioned. So that's why we
21 plot all of the towers on the map. We want to see
22 all of the other towers not just the ones being
23 used. That helps us understand, you know, if we
24 look and see a phone using a particular tower, it
25 helps us understand what the general area that it

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1 would be in verses, you know if we don't see all
2 the others, we might not know that the tower in
3 Branchville might not service say Santee with all
4 those towers in between. Just helps us gain a
5 better understanding of it.

6 Q. And so are there times that, for
7 example, phone calls can bounce off of towers that
8 they weren't expected to?

9 A. It doesn't happen that often and
10 commonly what it does, the call will drop. At --
11 the phone is the one that's making that decision at
12 the time of what tower to connect to. And what
13 it's looking for is not just the strongest signal,
14 but the best quality signal. Generally, that
15 happens from a tower that's in close proximity to
16 that device. But line of sight and different
17 issues are what we look at, but generally what
18 you're going to see is the tower that's servicing
19 that area is going to be the one it's connected to.

20 Q. Okay. And I'm looking at the -- on the
21 map, on the -- the green square is the address; is
22 that correct?

23 A. Yes. That's just a marker so that you
24 can see where on the map we're referencing that
25 particular location.

1 Q. And it's actually there's a cell tower
2 located in close proximity to that square?

3 A. There are. There's a few times that
4 the tower location is kind of hidden behind some of
5 the other icons that are on the screen. There's a
6 lot of information to take in here.

7 Q. Is that same for the blue address as
8 well?

9 A. That's correct. Right under Eutawville
10 you can see the triangle there as well.

11 Q. Okay. And then so generally looking at
12 this map, we're trying to get an understanding of
13 what calls would bounce off of the  Old State
14 Road and that's the red square; correct?

15 A. Correct.

16 Q. Okay. I'm going to show you the next
17 slide. So explain to the jury what they're looking
18 at here.

19 A. So earlier you asked me about what
20 towers were queried in the tower dump. This is a
21 depiction of that. So you saw all of the other
22 towers in the area, these are just the towers that
23 were queried during the tower dump, so it gives us
24 all of the calls that come off of each of these
25 towers that are depicted here. So there are eight

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1 towers.

2 Q. Okay. That were query?

3 A. Yes.

4 Q. Okay. And so the 9-1-1 call that --
5 and I'll go back again. I'm talking about this
6 9-1-1 call.

7 A. Yep.

8 Q. You said it was -- it says first
9 serving cell site, you said that was the tower?

10 A. That is.

11 Q. And how are the towers identified?

12 A. With that under column G, first serving
13 cell site.

14 Q. I mean, are they identified by number?

15 A. They're identified by a number, yes.

16 Q. Sorry. And so that 9-1-1 call was
17 utilizing cell Tower 125, am I reading that
18 correctly?

19 A. That's correct.

20 Q. Okay. So let's go back to the Verizon
21 query for the tower dumps and where are we talking
22 about this Tower 125?

23 A. Sure. If you can see here just under
24 the Holly Hill name, you can see the tower is
25 located there at those cross roads.

1 Q. Okay. And so we know for sure that a
2 9-1-1 call was made, it bounced off of that tower;
3 is that correct?

4 A. That's correct.

5 Q. Did you look at several other phone
6 calls in the area from Krystal Hutto -- which tower
7 were they also bouncing off of?

8 A. If I recall, they were [REDACTED] as well.
9 [REDACTED] is the tower in Holly Hill and should service
10 that Old State Road address.

11 Q. Okay. Let's go to the next slide. You
12 were provided a phone number -- a cell phone number
13 for Derrick Coleman which was [REDACTED] 4097; is that
14 correct?

15 A. That's correct.

16 Q. And so the question -- or so tell the
17 jury what they're looking at here.

18 A. So, again, we've been talking about the
19 towers, we're talking about individual call detail
20 records now for one particular phone. So what we
21 can see is generally through a given time period
22 what towers were connected to during that time for
23 one particular phone.

24 So as you can see, you have one call up
25 at the top using the tower up in Summerton. You

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1 have a call at 2:10, 21 p.m. and that was on July
2 14th. And then you have two other calls -- or
3 excuse me, three other calls -- excuse me. One
4 more call on the 14th at 10:02:14 p.m. and then the
5 following day of 7/15/2015 at 1:15:23 a.m. and then
6 2:30:47 p.m.

7 Q. And so that tower for the 7/15 phone
8 calls at 1 in the morning and 2 in the afternoon on
9 the 15th, those calls are clicking with what tower?

10 A. That is Tower [REDACTED] in Summerton.

11 Q. If someone was sitting outside of [REDACTED]
12 Old State Road, 20 yards from the driveway, where
13 would you expect a phone call to bounce off of?

14 A. I would expect either the Holly Hill
15 tower or one in close proximity possibly the tower
16 behind in Providence or the tower close by. Again,
17 one of those towers that points into that area in
18 close proximity.

19 Q. And so you were able to come up with
20 some conclusions in this case?

21 A. That's correct.

22 Q. Tell the jury what they were.

23 A. Sure. So when looking at these
24 different calls, of course, we looked at where
25 these devices were at the given times, who's

1 communicating with each other. And so what we were
2 able to determine is that [REDACTED] number that we just
3 reviewed, would not be at the [REDACTED] Old State Road
4 address in Holly Hill while using that tower in
5 Summerton at the 1:15 a.m. phone call.

6 Q. Were you ever provided any phone
7 downloads for Mr. Smith's phone of [REDACTED] 6212?

8 A. I believe so, yes.

9 Q. Okay. Were you provided any downloads
10 from it?

11 A. Oh, excuse me. No.

12 Q. Okay. And, in fact, I believe it
13 showed up on the tower dump on July 14th at some
14 point?

15 A. That's correct.

16 Q. Okay. And was that phone that was
17 associated with Mr. Smith ever bouncing off of that
18 tower at Holly Hill?

19 A. That's correct, it was not.

20 Q. Okay. And then even if you didn't have
21 the physical phone, were you ever provided any call
22 detail records for a Mr. Smith's phone

23 [REDACTED] 212?

24 A. No.

25 Q. Okay.

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1 MS. ZMROCZEK: Beg the Court's
2 indulgence.

3 THE COURT: Okay.

4 MS. ZMROCZEK: I have no further
5 questions. Thank you.

6 THE COURT: Mr. Johnson, anything on
7 cross examination?

8 MR. JOHNSON: Thank you, Your Honor,
9 just briefly.

10 CROSS EXAMINATION BY MR. JOHNSON:

11 Q. Just briefly, sir. Did you examine
12 these records for a cell phone assigned to Sarah
13 Branham ending in 7782?

14 A. Yes, sir.

15 Q. And did you discover -- are there any
16 calls or text messages coming from the phone you
17 just testified about belonging to Derrick Coleman
18 going to Sarah Branham?

19 A. Not for the 14th or 15th, I don't
20 believe.

21 Q. Okay. So no calls, no text messages?

22 A. Correct.

23 Q. Okay. And once again, during that 1:15
24 a.m. call, most likely you're saying where was
25 Derrick Coleman's phone?

1 A. That was in the Summerville or if I
2 have that correct. Can you --

3 MR. OSBORNE: Summerton.

4 A. Summerton. Excuse me.

5 Q. Okay. And it was not being sent -- a
6 call was not being sent out of the incident
7 location and beaming off that Holly Hill tower?

8 A. That's correct.

9 Q. Okay.

10 MR. JOHNSON: No more questions, Your
11 Honor.

12 THE COURT: Mr. Osborne, anything on
13 cross examination?

14 MR. OSBORNE: Yes, Your Honor.

15 CROSS EXAMINATION BY MR. OSBORNE:

16 Q. Okay. My name is David Osborne, it's
17 nice meeting you.

18 A. Hey, how you doing?

19 Q. I know you talked to my investigator,
20 Ray Haupt on the phone last night; is that correct?

21 A. Yes, sir.

22 Q. So this -- I mean, I have to ask you,
23 Spencer, and I know this isn't your fault, when did
24 you put this presentation together?

25 A. Last night.

SPENCER MCINVAILLE - CROSS EXAMINATION BY MR. OSBORNE

1 Q. Okay. So we're kind of going off the
2 fly here, but I would like to ask you some
3 questions about this. Did you have the -- well,
4 let me ask you something first. Are you familiar
5 with FBI Agent Matt Wilde, his work?

6 A. I am.

7 Q. A pretty solid guy?

8 A. Yes.

9 Q. You have any reason to question his
10 work?

11 A. No.

12 Q. Okay. So did you have a chance to look
13 at his work in this case?

14 A. I did. He have a very similar report.

15 Q. He did. But there was one thing that I
16 noticed that was really different. I just want to
17 bring this up to you. And it may not be that big
18 of a deal. So I'm looking at this right here. And
19 so this presentation here, right by 244 Galliard
20 underneath that blue square is that a tower there?

21 A. There under Eutawville?

22 Q. Yeah.

23 A. Yes.

24 Q. So you're saying there are two towers
25 there?

1 A. Yes, sir.

2 Q. Did you go back and look at what the
3 towers were back in 2015?

4 A. So what I believe the difference is, is
5 I believe map displayed just the 3G towers.
6 They're also 4G towers in the area.

7 Q. Okay.

8 A. So I think that's the only difference.

9 Q. So Matt made a mistake?

10 A. I don't think it's a mistake, it's just
11 a difference in what set of data was displayed.

12 Q. Okay. So if we ask Matt to give us the
13 towers that were in that area and he left out that
14 tower, that was a mistake?

15 A. No, again, not a mistake.

16 Q. Okay. But we weren't interested in 3G,
17 4G, or even 5G, we would have been asking for the
18 towers that were in that area.

19 MR. LEIENDECKER: Objection, Your
20 Honor. This witness isn't here and certainly the
21 State can't testify about what they asked the
22 witness, Mr. Matt Wilde.

23 MR. OSBORNE: Agent Matt Wilde -- FBI
24 Agent Matt Wilde.

25 THE COURT: Okay. If you would just

SPENCER MCINVILLE - CROSS EXAMINATION BY MR. OSBORNE

1 rephrase your question, please.

2 Q. So he just neglected to put on that
3 tower?

4 A. Yes, I believe so.

5 Q. Okay. Now on here, we're looking --
6 and I don't see the tower depicted on there; is
7 that correct? Did you just neglect to put it on
8 that one?

9 A. No. I believe it might just be covered
10 up. Not showing, but it's in the same -- oh,
11 excuse me. No, these are just the towers queried.

12 Q. Oh.

13 A. That's the difference. These are just
14 those in the tower dump. Excuse me.

15 Q. Okay. I see. And so -- and so that's
16 interesting, isn't it. So back in 2015 when they
17 were querying the towers, they asked -- the
18 sheriff's office asked for all the towers in the
19 area, but they too didn't query about that one
20 tower that Matt Wilde didn't put on there?

21 A. It's not there, no.

22 Q. What's that?

23 A. It's not there, no.

24 Q. Okay. All right. Well, while we're
25 here I guess we can talk about this. All right.

1 And I don't know, I couldn't really see it, but I
2 think you and -- you and Agent Wilde's conclusions
3 were similar in regards to and I think it's that
4 triangle up there, cell site ID 1717. That's the
5 tower that Derrick Coleman's, it's a missed call;
6 right? It goes straight to voicemail?

7 A. Are you talking about the 1:15 a.m.?

8 Q. 1:15.

9 A. It's not. There's actually another
10 tower north of Summerton that's 1703.

11 Q. Okay. The one just above that?

12 A. Correct.

13 Q. All right. Let me ask you something.

14 Did you have the occasion to go back and look at
15 Derrick Coleman's call detail records?

16 A. Yes.

17 Q. Did you notice that he pinged off that
18 tower quite a bit?

19 A. Which one, 1703?

20 Q. Yeah.

21 A. Correct.

22 Q. Okay. And so -- and you mentioned some
23 of this before. There are factors that come into
24 play with what tower your phone hits off when
25 you're making a call?

SPENCER MCINVILLE - CROSS EXAMINATION BY MR. OSBORNE

1 A. Correct.

2 Q. Like city verses rural?

3 A. Yes.

4 Q. If I'm in a rural area, you're not
5 going to have as much towers because there's not as
6 much stuff in the area to interfere with the
7 signal; is that right?

8 A. It's mainly the people, yes. There's
9 not as many people to service.

10 Q. Oh, so now we're -- right. Right. So
11 we're talking about like load on the tower?

12 A. Not just the load, but they can service
13 more people with one tower verses if you pile a
14 bunch of people in there they may have to build two
15 towers.

16 Q. Okay.

17 A. It's just the density.

18 Q. But there are geographical things that
19 can affect the single strength; right?

20 A. There are.

21 Q. Like and I've heard it described before
22 like if I were to shine a flashlight over water, it
23 will go further because there's nothing in the way?
24 And that's kind of like a cell tower or cell
25 signal, it will go further over water; right?

1 A. It could, yes.

2 Q. And Derrick Coleman, were you told
3 where he lived?

4 A. Yes, I believe it was the Old Number
5 Six address maybe?

6 Q. No, that was the --

7 A. It was one of the --

8 Q. -- that was Pocket. He lived right on
9 the lake.

10 A. Okay.

11 Q. And I think they call that in your
12 profession like the line of sight?

13 A. Yes, it can be line of sight.

14 Q. Okay. So and then my investigator I
15 know asked you this last night, but I just want to
16 ask you. There is a way though so -- All right.
17 Let me back up. Sorry. So if we really want to
18 know, Derrick Coleman, when he is standing on his
19 back porch and he makes a call, there is a way that
20 we can test it to see what tower he would most
21 likely hit off of, that's called the dry test;
22 right?

23 A. Right. Matt Wilde could have brought
24 his technology out, driven the area, and surveyed
25 the area to be able to provide them a more accurate

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1 coverage area.

2 Q. And have you ever done that?

3 A. Yes.

4 Q. And so to -- I mean -- well, I have to
5 ask the smart question. Well, you could have done
6 it too; right?

7 A. Well, actually we couldn't. Because I
8 started working on this case earlier this month.
9 The networks change constantly. What capabilities
10 they have, what frequencies are available, all of
11 this information. So now that you're almost eight
12 years later, no, I would never suggest to do a site
13 survey now.

14 Q. And, thank you. That is a very
15 accurate and honest answer. It would be almost
16 pointless right now to do a dry test; right?

17 A. It is pointless.

18 Q. It is pointless. All right. And so
19 that's sort of the point. We really don't know and
20 I think your words were, unless we had a time
21 machine to be able to know when Derrick Coleman is
22 at his house or the icon right next to it, and then
23 receives a call, whether that would -- whether it's
24 possible that that might hit on a tower that was
25 further away?

1 A. Again, I think what you're going
2 towards is whether or not it's absolutely
3 impossible or not. I don't know that anybody is
4 going to answer that it is absolutely impossible,
5 but I don't think it's likely.

6 Q. What if Derrick told you I've never
7 even been to Summerton?

8 A. Again, when we're talking about a
9 Summerton tower that may not mean he's directly in
10 Summerton.

11 Q. That's right. That's what I'm saying.
12 Okay. Christopher Wright, you mapped his
13 information, nothing to suggest that he was in
14 Holly Hill at the time of the murders; right?

15 A. Not that I recall, no.

16 Q. Okay. I do want -- oh, while she's
17 doing that. This is an obvious question I know,
18 but if you're not using the phone there's nothing
19 to map; right?

20 A. That's right. So in these records
21 we're looking at calls when they're actually coming
22 and going, so if nothing happened, you don't know
23 where the phone is.

24 Q. Okay. This is my last questions. All
25 right. So I'm showing you 329-C. We talked about

SPENCER MCINVAILLE - CROSS EXAMINATION BY MR. OSBORNE

1 this call log a little bit that was from Bailey's
2 phone. So I noticed the first entry here says UTC
3 zero, generally. So -- and just so recapping here,
4 UTC zero means that's the time in UTC that's zero.
5 And if you want to get to eastern you have to,
6 what, subtract, some time to get to it?

7 A. Correct.

8 Q. Okay. And so this is saying UTC zero.
9 So generally what we would do when we look at this
10 is we'd have to subtract to get to eastern. But
11 isn't it true that that's actually the correct time
12 here, 9:57?

13 A. Not that I'm aware of, no.

14 Q. Okay. I mean, I know -- and I'm
15 putting you in a bad spot, I know, you didn't
16 download this phone, did you?

17 A. I did not.

18 Q. Okay. So you never had the opportunity
19 -- are you familiar with Paul McManigal?

20 A. Yes, sir.

21 Q. Okay. He downloads phones for a
22 living, that's what he does?

23 A. Correct.

24 Q. And so are you aware that he downloaded
25 this phone?

1 A. That's correct.

2 Q. Are you aware that he recognized that
3 there might be an issue with the time here and he
4 verified the time on the call detail records for
5 Preddy?

6 A. I'm not aware of his, no.

7 Q. All right. But you would have no
8 reason to doubt Paul if he said that was the actual
9 time?

10 A. Again, I haven't been able to verify
11 it. I don't know.

12 Q. Okay. Well -- All right. Well, I can
13 just explain it, I guess. You looked at the call
14 detail records from Ramseses Hughes and verified
15 that the texts were inaccurate, the times on the
16 texts?

17 A. Correct.

18 Q. Okay. But you didn't look at -- did
19 you look at the call detail records as well to
20 verify the times on the calls?

21 A. I did. What phone number did you say?

22 Q. Well, we'll just stick with Ramseses?

23 A. Okay. I looked -- I was just about
24 that text message, that's the one I verified.

25 Q. Okay. So the times on the calls could

SPENCER MCINVAILLE - CROSS EXAMINATION BY MR. OSBORNE

1 be accurate? And the only reason why I ask because
2 I know sometimes with call detail records with
3 phone companies, they report times in text,
4 actually different times than calls. I mean, it
5 makes it a lot of fun trying to figure out exact
6 times; right?

7 A. Generally, we don't have that problem
8 in Verizon, that would be a Sprint issue, but it
9 depends on the carrier.

10 Q. And T-Mobile?

11 A. They're in UTC as well.

12 Q. But the text, I'm talking about the
13 text and call detail. They report them on
14 different times.

15 A. Sprint does, that's correct.

16 Q. Okay. All right. So -- and then I
17 guess I can just end it with this. So the only one
18 that we know, you know, unless Paul said something
19 different, was that Ramseses's texts appear in UTC,
20 so you just have to subtract some time on those
21 texts?

22 A. Four hours; correct.

23 Q. Four hours for Ramseses. I guess maybe
24 using that same rational, maybe the text we need to
25 subtract a little bit of time, but the calls, time

1 on the calls is accurate?

2 A. Again, I --

3 Q. You didn't look at that?

4 A. I did not look at that.

5 Q. Okay. All right.

6 MR. OSBORNE: No further questions.

7 THE COURT: Anything on redirect,
8 Mr. Leiendecker?

9 MR. LEIENDECKER: I don't have
10 anything. Thank you.

11 THE COURT: May he be excused?

12 MS. ZMROCZEK: Just briefly.

13 MR. LEIENDECKER: I'm only --

14 THE COURT: I thought you had direct?
15 You said no other questions.

16 MR. LEIENDECKER: I'm sorry. I might
17 have a few.

18 THE COURT: Okay. Give it a shot then.
19 Okay. Mr. Leiendecker?

20 REDIRECT EXAMINATION BY MR. LEIENDECKER:

21 Q. Two things. Without the pictures or
22 the documents or anything else, you were asked to
23 check the text and your research checking the call
24 records verified that the text was actually 11:40
25 p.m.; correct?

SPENCER MCINVAILLE - REDIRECT EXAMINATION BY MR. LEIENDECKER

1 A. That's correct.

2 Q. And as far as the tower which there's
3 been a lot of discussion about 1703 I think is the
4 number, that is in Summerton, South Carolina on the
5 other side of Lake Marion. If someone was in
6 Eutawville near the lake, would it be uncommon for
7 that phone to shoot across the lake and hit that
8 tower?

9 A. Again, I don't think anybody could get
10 up here and say it's absolutely impossible. I just
11 don't think it's likely.

12 Q. And if they were further back in Holly
13 Hill which is -- the lake is here, Eutawville is
14 here, Holly Hill is here, is it even less likely
15 that that phone would reach clear across the lake?

16 A. Right. The Holly Hill is definitely
17 not serviced by that 1703 tower.

18 Q. Okay. But if line of sight if your
19 house is right on the lake it could bounce off
20 1703?

21 A. Again, not -- I can't say it's
22 absolutely impossible.

23 Q. Okay.

24 MR. LEIENDECKER: Nothing further.

25 THE COURT: Anything on recross?

1 MS. ZMROCZEK: Thank you. Just
2 briefly.

3 THE COURT: All right. Ms. Zmroczek,
4 he is your witness.

5 RECROSS EXAMINATION BY MS. ZMROCZEK:

6 Q. You were asked about when you created
7 this report; is that correct?

8 A. That's correct.

9 Q. And you were aware that you were
10 contacted on February 4, 2021 when the -- when
11 Mr. Smith and other Defendants received all these
12 tower dumps; right?

13 A. That's what I understand.

14 Q. Okay. And then -- so I guess to
15 follow-up on that question. If you were to take
16 all of Derrick Coleman's cell phone records and
17 plot them out and we know that he lives at [REDACTED]
18 Saint Julien place and you were to see a lot of
19 those numbers bouncing off of that Summerton tower,
20 would that then say, oh, well, this is where the
21 cell phone connects when he's on the lake or at the
22 lake?

23 A. It could be possible if you know that's
24 the exact location of the device, yes.

25 Q. Okay. And then Sarah Branham, you were

SPENCER MCINVAILLE - RECROSS EXAMINATION BY MS. ZMROCZEK

1 asked by Mr. Osborne about if you had seen the FBI
2 report; right?

3 A. Correct.

4 Q. And you were provided a cell phone
5 number for Sarah Branham?

6 A. Correct.

7 Q. And where was that number located all
8 times relevant to this case?

9 A. I believe there in the Holly Hill area.

10 Q. Well, actually, the Sarah Branham
11 number, was that actually located in Columbia?

12 A. I'm sorry, is it the 77 --

13 Q. 7753?

14 A. Okay. I believe that's correct, yes.

15 Q. That was actually in Columbia, South
16 Carolina?

17 A. I believe so, yes.

18 Q. Okay. And so if someone --
19 hypothetically, if someone said that they were
20 calling someone on Sarah Branham's number to tell
21 them that they were taking too long inside of a
22 house and they were doing that from the front of
23 Holly Hill Road, you would expect to see not only
24 that phone that's in front of Holly Hill Road, but
25 Sarah Branham's number to all show up around a

SPENCER MCINVAILLE - RECROSS EXAMINATION BY MS. ZMROCZEK

1 tower close to Holly Hill; correct?

2 MR. OSBORNE: Your Honor, I'm
3 objecting. I don't even know what that question
4 was, but it's objectionable.

5 MS. ZMROCZEK: I'll break it down, Your
6 Honor.

7 Q. If someone was calling a number sitting
8 outside 20 yards down from the driveway at Holly
9 Hill. Okay. Where would you expect that number to
10 bounce off of, which tower?

11 A. Again, there within Holly Hill.

12 Q. The 125?

13 A. Yes. Or something very close to that,
14 yes.

15 Q. Okay. And if they then said they were
16 calling or texting someone who was allegedly inside
17 the house at Holly Hill from a number associated
18 with Sarah Branham, where would you expect that
19 number to also bounce off of?

20 A. Again, in the Holly Hill area.

21 Q. And, again, your report indicates that
22 none of the numbers associated with Derrick Coleman
23 bounced off of Holly Hill?

24 A. Correct.

25 Q. Thank you.

SPENCER MCINVAILLE - RECROSS EXAMINATION BY MR. OSBORNE

1 THE COURT: Mr. Johnson, anything on
2 recross?

3 MR. JOHNSON: No questions, Your Honor.

4 THE COURT: Mr. Osborne, anything on
5 recross?

6 MR. OSBORNE: Just one.

7 RECROSS EXAMINATION BY MR. OSBORNE:

8 Q. Signals travel unobstructed over water?

9 A. They can, yes.

10 Q. Okay.

11 MR. OSBORNE: That's it, Your Honor.

12 THE COURT: All right. Thank you, sir.

13 Mr. McInvaille, thank you. You are excused from
14 your subpoena; is that right?

15 MS. ZMROCZEK: Yes.

16 MR. LEIENDECKER: Yes.

17 THE COURT: Thank you, sir. Have a
18 safe trip. Mr. Leiendecker, are you prepared to
19 call your next witness?

20 MR. LEIENDECKER: Yes, Your Honor.

21 THE COURT: State would call
22 Investigator John Tisdale from the public
23 defender's office.

24 JOHN TISDALE,
25 being first duly sworn, was examined and testified

WILLIAM TISDALE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 as follows:

2 THE CLERK: Please be seated. State
3 your first and last name in the microphone for the
4 record.

5 MR. TISDALE: William Tisdale.

6 THE CLERK: Thank you.

7 THE COURT: Mr. Tisdale, do you mind
8 getting a little closer to the microphone. Thank
9 you, sir. Now, he's your witness.

10 DIRECT EXAMINATION BY MR. LEIENDECKER:

11 Q. William, you go by John; is that
12 correct?

13 A. Correct.

14 Q. Your name is William Jonathan Tisdale?

15 A. Correct.

16 Q. All right. If you don't mind, I'm
17 going to call you John.

18 A. That's great.

19 Q. Let's get a little background and I
20 think it's important, who do you work for?

21 A. The First Circuit Public Defender's
22 Office.

23 Q. How long have you been at the First
24 Circuit Public Defender's Office?

25 A. For over six years.

WILLIAM TISDALE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 Q. Okay. Can you tell us your background
2 before that?

3 A. Sure. I started in law enforcement in
4 2002. In 2012, I left law enforcement, entered the
5 private sector. During my time in law enforcement
6 I worked in patrol, field training officer, I was a
7 SWAT team member. I possessed training in gang
8 investigation, death investigation, detective --
9 I'm sorry. Detective in criminal investigator
10 course, basic fingerprint, interviewing techniques,
11 and some other law enforcement courses.

12 Q. John, have you been involved in working
13 and investigating the what is commonly referred to
14 as the Holly Hill murder case in the public
15 defender's office?

16 A. Yes, sir.

17 Q. And how long you been working that
18 case?

19 A. Six years.

20 Q. All right. John, did you do any
21 investigation at my request concerning a New Jersey
22 phone number that was called or called Mr. Bailey's
23 phone on 7/14/2015?

24 A. Yes, sir.

25 Q. And in the call detail records, how was

1 that name identified?

2 A. Cuz June, C-U-Z, June like the month.

3 Q. Okay. Did you use any of your software
4 research to follow that phone and try to figure out
5 who it belonged to?

6 A. Yes, sir. We utilize LexisNexis. It's
7 a government provided -- or a government data base
8 that's utilized by governments and private
9 entities. And it's a clearing house for records
10 that are public that you pay subscription to, you
11 can have access to all kinds of information.

12 Q. Okay. Did you run this phone number
13 through that?

14 A. I did.

15 Q. And can you tell me what answer you got
16 concerning who the phone belongs to?

17 A. The phone number [REDACTED] 8402, it came
18 back with two hits. One is Jay Isaac in Trenton,
19 New Jersey and the other is Isaac Jenkins in
20 Trenton, New Jersey.

21 Q. Okay. And did you follow-up in any way
22 regarding that phone number to confirm who that
23 number belonged to?

24 A. Yes. Once I had a name, Isaac Jenkins,
25 I did another search by name and location and it

WILLIAM TISDALE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 pops up Isaac Jenkins Jr. in Trenton, New Jersey.

2 Q. What did you do next?

3 A. I called the phone number, the

4 [REDACTED] 8402 number. A male answered the phone. I

5 asked who was speaking. He said, Isaac. And I can

6 verified the name was Isaac Jenkins Jr. He

7 verified that was him.

8 Q. Okay. Do you happen to know or have
9 you spoken with Mr. Bailey's mother who also lives
10 here now in South Carolina?

11 A. Yes, sir.

12 Q. And what is Mr. Bailey's mother's name?

13 A. Margie Jenkins.

14 Q. Okay. And do you know where the
15 Jenkins' and Baileys' moved from about 20 years ago
16 when they came to South Carolina?

17 A. The Trenton, New Jersey area.

18 Q. Okay. And you were able to confirm
19 this phone number belonged to Mr. Isaac Jenkins Jr.
20 through a quick search in the public record and by
21 making a phone call to Mr. Jenkins; is that
22 correct?

23 A. Correct.

24 Q. All right. Did you also do some
25 research on a text that was introduced into

WILLIAM TISDALE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 evidence regarding securing something called a
2 chopper?

3 A. Yes, sir.

4 Q. Okay. And how did you do that
5 research?

6 A. Through years in law enforcement and
7 gang investigations, a chopper is referred to as an
8 assault rifle, an AK-47 style or an M4/AR-15 style
9 weapon. I also verified through several urban
10 dictionary slang websites.

11 Q. And in your experience as an officer
12 and through this research in slang and urban
13 dictionaries, tell me again what a chopper is?

14 A. Is an assault style rifle like an
15 AR-15/M4 or AK-47.

16 Q. Okay. Following the testimony of the
17 solicitor's investigator, were you asked to go back
18 out to the area where the burned car was located in
19 Gemini Road?

20 A. Yes, sir, I went last night.

21 Q. And what was your reason for going
22 there?

23 A. Just to verify the scene and jump feel
24 for the area.

25 Q. Okay. What did you do when you were

WILLIAM TISDALE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 there relative to the home of Mr. Bailey located on
2 Old State Road Number Six?

3 A. I traveled two routes from the location
4 of the burned vehicle to Mr. Bailey's house. One
5 route was from the burned vehicle down Gemini Lane
6 to Gladstone Road to Dukenfield which exit out onto
7 Holly Number Six. And the second route was from
8 Mr. Bailey's house down Harvest Road to Dukenfield
9 to Gladstone to Gemini Lane.

10 Q. And what did you find concerning the
11 distances?

12 A. The shorter route which is not going
13 through Harvest Lane, it's just Gemini Road to
14 Gladstone to Dukenfield. It's about -- it was 2.8
15 miles long to about 12 minutes drive due to the
16 conditions of the road. The longer version took
17 about 20 minutes due to the road conditions. It
18 was five -- I think five and a half miles long.

19 Q. Okay. I'm going to hand you three
20 distance maps and ask you if you recognize these.
21 See if this would help you with the exact numbers
22 and to refresh your memory. I think you mapped it
23 three ways; is that correct?

24 A. Yes, sir.

25 Q. What's the shortest distance way?

WILLIAM TISDALE - DIRECT EXAMINATION BY MR. LEIENDECKER

1 A. The shortest distance is a straight
2 line as a (inaudible) flies and that's 2.12 miles.

3 Q. Okay. Following the roads?

4 A. On the roads it would be Gemini,
5 Gladstone, to Dukenfield, 3.85 miles.

6 Q. Okay. And following the roads through
7 the dirt roads to the exit nearest Mr. Bailey's
8 home, how far is that?

9 A. That would be Gemini to Gladstone to
10 Dukenfield to Harvest Road, that's 5.08 miles.

11 Q. Okay. When you were out there and you
12 went to the location where the burnt car was found,
13 what did you find? What was the field area like?

14 A. The area is now a peach tree orchard.

15 Q. Okay. It's not an empty field?

16 A. No, sir.

17 Q. Okay.

18 MR. LEIENDECKER: That's all I have
19 right now in questions for this witness.

20 THE COURT: Any questions of this
21 witness, Ms. Zmroczek?

22 MS. ZMROCZEK: Yes, Your Honor, just
23 briefly.

24 (WHEREUPON, Defendants' Exhibits
25 Numbers 89 through 92 were marked for ID)

WILLIAM TISDALE - CROSS EXAMINATION BY MS. ZMROCZEK

1 CROSS EXAMINATION BY MS. ZMROCZEK:

2 Q. Investigator Tisdale, so one of the
3 things that you do as an investigator is to look at
4 the location so you know where you're talking
5 about?

6 A. Correct.

7 Q. And do you look at them or do you go
8 there or do you do both?

9 A. Both.

10 Q. Okay. I'm going to show you what's
11 been marked Defendants' 89 through 92. See if you
12 recognize those.

13 A. I do.

14 Q. Are those just overall views of the
15 four different locations that we've been talking
16 about here?

17 A. Yes, ma'am.

18 MS. ZMROCZEK: Your Honor, at this time
19 we would move 89 through 92 into evidence.

20 THE COURT: Any objection?

21 MR. OSBORNE: No, Your Honor.

22 THE COURT: Mr. Leiendecker, any
23 objection?

24 MR. LEIENDECKER: No, Your Honor.

25 THE COURT: Mr. Johnson?

1 MR. JOHNSON: No objection.

2 THE COURT: Defendants' 89, 90, 91, and
3 92 are all in evidence without objection.

4 MS. ZMROCZEK: Thank you.

5 (WHEREUPON, Defendants' Exhibit Numbers
6 89 through 92 were entered)

7 Q. Additionally, you talked about driving
8 different routes or different locations. Are there
9 different ways to get to different places?

10 A. Yes.

11 Q. Okay. So in doing that, do you -- are
12 you able to either rely on Google or figure out how
13 long it takes to get from one place to multiple
14 places or another?

15 A. Yes.

16 Q. Okay. Did you have an occasion, I know
17 that you've been on this case for quite some time.
18 When the case first started, did you have an
19 occasion to go out to this Indian Bluff Recreation
20 Park?

21 A. Yes.

22 Q. What if anything did you notice about
23 the lighting? Were there any lights?

24 A. Right. When I went out there in
25 October of 2016, they just installed lighting at

WILLIAM TISDALE - CROSS EXAMINATION BY MR. OSBORNE

1 the landing and security cameras.

2 Q. They had just installed lighting and
3 security cameras, but that was in October of 2016?

4 A. Correct.

5 Q. Okay. And are you aware -- are you
6 familiar with jail policies and practices -- can
7 jail phone calls be recorded?

8 A. Yes, ma'am.

9 Q. And were you ever provided any jail
10 phone calls in this case from June, Lionell
11 McFadden?

12 A. No, ma'am.

13 Q. Okay.

14 MS. ZMROCZEK: No further questions,
15 Your Honor.

16 THE COURT: Mr. Johnson, any questions
17 of this witness?

18 MR. JOHNSON: No questions, Your Honor.

19 THE COURT: Mr. Osborne, any questions
20 of this witness?

21 MR. OSBORNE: Just briefly.

22 CROSS EXAMINATION BY MR. OSBORNE:

23 Q. Mr. Tisdale, just kind of go backwards.
24 Jail calls can be recorded, but, I mean, there are
25 a lot of different ways to make phone calls from a

1 jail, isn't there and not pick it up?

2 A. Yes.

3 Q. Switch pens? Use burner phones; right?

4 A. Correct.

5 Q. Okay. So there's another person in
6 this case and we've heard testimony to this that
7 saved the contact of June when that number didn't
8 actually belong to Lionell McFadden; isn't that
9 correct?

10 A. Correct.

11 Q. It belonged to his girlfriend Krystal?

12 A. Correct.

13 Q. But he saved it as June?

14 A. Correct.

15 Q. All right. So this Isaac Jenkins, you
16 did some background on him?

17 A. Yes.

18 Q. Are you familiar with -- well, does he
19 run with the blood, sex, money, murder set out of
20 New Jersey?

21 A. I'm not sure.

22 Q. Okay. Are you familiar that that
23 number come up in a joint FBI DEA task force
24 operation called Operation Backfire?

25 A. No, sir.

WILLIAM TISDALE - REDIRECT EXAMINATION BY MR. LEIENDECKER

1 Q. Okay. Of all the roads that you were
2 talking about here there is one road though that
3 dumps right out just right down the road from his
4 house; right?

5 A. Correct.

6 Q. Okay.

7 MR. OSBORNE: No further questions.

8 THE COURT: Anything on redirect?

9 REDIRECT EXAMINATION BY MR. LEIENDECKER:

10 Q. Of all those roads, if someone were to
11 walk that distance, it's the farthest; correct?

12 A. Correct. That's the Harvest Road
13 route. That distance is about five miles.

14 Q. Okay.

15 THE COURT: Anything on recross?

16 MS. ZMROCZEK: Just briefly.

17 RECROSS EXAMINATION BY MS. ZMROCZEK:

18 Q. Mr. Osborne asked you about phone
19 numbers and locations or phone numbers being used
20 in other operation areas. When you took the road
21 to where the burned out car is, did it -- what road
22 did it also intersect or get close to?

23 A. I believe it's Branchdale Highway.
24 It's the paved road.

25 Q. And then he asked you about, you know,

WILLIAM TISDALE - RECROSS EXAMINATION BY MS. ZMROCZEK

1 other investigations, FBI and the like. Were there
2 other investigations into murders in that same
3 area?

4 A. Yes, ma'am.

5 Q. Thank you.

6 MS. ZMROCZEK: No further questions.

7 THE COURT: Mr. Johnson, any questions?

8 MR. JOHNSON: No questions, Your Honor.

9 THE COURT: And, Mr. Osborne, any
10 questions?

11 MR. OSBORNE: No, Your Honor.

12 THE COURT: All right. Thank you,
13 Mr. Tisdale. You may step down. Defense ready to
14 call its next witness?

15 MR. LEIENDECKER: The defense on behalf
16 of Mr. Bailey rests.

17 THE COURT: Okay. Ms. Zmroczek?

18 MS. ZMROCZEK: Your Honor, the defense
19 on behalf of Mr. Luther Joseph Smith rests.

20 THE COURT: Mr. Johnson?

21 MR. JOHNSON: The defense on behalf of
22 Mr. Scott rests, Your Honor.

23 THE COURT: All right. Thank y'all.
24 Anything -- All right. Ladies and gentlemen,
25 you've now heard the defense part of the case too.

1 The State have anyone on recall?

2 MR. OSBORNE: No, Your Honor.

3 THE COURT: All right. Ladies and
4 gentlemen, you've heard all the testimony in this
5 case. I'm going to let y'all go back to the jury
6 room and I need to talk over some timing issues
7 with the attorneys to see where we're going to go
8 from here. But -- and I'll bring you back out in
9 just a minute. I just need to find out what we
10 need to do.

11 Remember, even though you've heard all
12 the testimony in the case, you cannot begin talking
13 about this case at all. Okay. All right. I'll let
14 you go on back in the jury room for just a second.
15 I appreciate it.

16 (WHEREUPON, the jury left the courtroom
17 at 11:52 a.m.)

18 THE COURT: Let's take about a five
19 minute break -- ten minute break and then y'all
20 want to meet me back in my chambers in about ten
21 minutes. Thank you.

22 (WHEREUPON, there was a short break)

23 (WHEREUPON, court was adjourned)

24

25

1 (February 23, 2022)

2 (WHEREUPON, Defendants' Exhibit Number
3 93 was entered)

4 THE COURT: The next thing as I
5 understand is y'all are going to renew your
6 directed verdict -- each Defendant is renewing
7 their directed verdict motions; is that correct,
8 Mr. Leiendecker?

9 MR. LEIENDECKER: Yes, Your Honor.

10 THE COURT: Ms. Zmroczek, is that also
11 your -- you're renewing your directed verdict
12 motion?

13 MS. ZMROCZEK: Your Honor, yes. Not
14 only do I renew my directed verdict motions, but I
15 believe that I have been preserving all of the
16 other issues. But at this time now that we're at
17 the end of trial, I need to make sure I preserve
18 the -- including the severance and all the motions
19 that we had pretrial hearings on.

20 THE COURT: And, Mr. Leiendecker and
21 Mr. Johnson too just --

22 MR. LEIENDECKER: As well.

23 THE COURT: All the objections are
24 being preserved. And, Mr. Johnson, you're renewing
25 your directed verdict motion and preserving those

1 objections as well?

2 MR. JOHNSON: Yes, sir. Renewing all
3 motions, objections, and preserving them and
4 renewing my directed verdict motion at this time.

5 THE COURT: All right. And I'm
6 renewing my decisions on each one of those so we
7 can go ahead and proceed with the closing. Now,
8 y'all have already picked an order of how y'all
9 wanted to do --

10 MR. LEIENDECKER: Yes, Your Honor.

11 THE COURT: You're one?

12 MS. ZMROCZEK: I'm one.

13 MR. LEIENDECKER: Two.

14 THE COURT: Three?

15 MS. ZMROCZEK: Three.

16 MR. LEIENDECKER: Yes, sir.

17 THE COURT: All right.

18 (WHEREUPON, Defendants' Exhibit Number
19 93 is in evidence per stipulation)

20 THE COURT: Bring the jury on in,
21 please.

22 (WHEREUPON, the jury entered the
23 courtroom at 10:25 a.m.)

24 THE COURT: All right. Ladies and
25 gentlemen, you know, this is the day y'all were

1 chosen for. We're down to the closing arguments of
2 counsel and my charge on the law.

3 Before we get started, I've got to go
4 through my morning ritual of asking y'all questions
5 and if you need to respond to my questions, I need
6 for you to stand.

7 Has anybody in the jury pool read -- in
8 the jury or the alternates, read anything about
9 this case in the news, on the Internet,
10 smartphones, anything like that? If so, please
11 stand.

12 No one is standing.

13 Has anybody done any investigation by
14 going on your computer, Google search, any social
15 media platform or anything like that to find out
16 anything about this case? If so, please stand.

17 No one is standing.

18 Has anyone talked to you or contacted
19 you about this case? Get you to talk about this
20 case? If so, please stand.

21 Again, no one is standing.

22 And, finally, have y'all already begun
23 discussions about this case and had talks among
24 yourselves? If so, please stand.

25 All right. No one is standing.

CLOSING ARGUMENT BY MR. OSBORNE

1 Ladies and gentlemen, the way this is
2 going to go is the State begins with -- Mr. Osborne
3 will start with his opening statement and then as I
4 understand it, Ms. Zmroczek, you're going first.
5 Then Mr. Johnson is going and then Mr. Leiendecker
6 is going for the Defendant. And then Mr. Osborne
7 gets to stand up and do his rebuttal. Then after
8 we've done that I will do my charge on the law.

9 These arguments can take a while and we
10 will be taking some breaks doing this, so don't
11 think we're going to be here, you know, without
12 getting up and taking a break. Okay. Mr. Osborne,
13 are you ready?

14 MR. OSBORNE: Yes. Thank you, Your
15 Honor.

16 THE COURT: Thank you.

17 CLOSING ARGUMENT BY MR. OSBORNE:

18 MR. OSBORNE: It is a late summer
19 night. Shamekia, Tamara, D.N., and Krystal are
20 all watching TV on the sofa in the living room. A
21 car pulls up. The lights are out. Armed intruders
22 begin to circle the home planning a drug raid. As
23 they make their way to the back door, they come
24 across an unexpected man, Jerome Butler. Jerome
25 was sitting in the passenger seat of the Camero.

CLOSING ARGUMENT BY MR. OSBORNE

1 Jerome would be shot twice in the Camero and later
2 he would be shot while he lie on the ground.

3 Once the killing started, it could not
4 stop. You can rob a dope dealer, the stash house,
5 you can rob the family, and police won't get
6 called. You leave a dead man on the ground and
7 there's no turning back. There can be no be
8 witnesses because the dead won't talk.

9 After the car pulled up, Krystal opened
10 the door and briefly looked out. She saw the
11 trouble and called the one person that she could to
12 help, Christopher. But he didn't answer. She then
13 went inside and took those kids and rushed them to
14 the furthest room in the house, the kids' room in
15 the back, hid them in the closet. Can you imagine
16 the panic that went through that home when that
17 back door was kicked in. While hiding and cowering
18 in that closet, the kids would hear that bedroom
19 door was forced in. The intruders were now in
20 their room.

21 Just 30 or so minutes after taking this
22 picture right here, Shamekia would find herself in
23 the closet with her younger brother and her younger
24 sister. After the intruders entered that room,
25 Pocket would pull them out of their closet. Put

CLOSING ARGUMENT BY MR. OSBORNE

1 them on the floor. Krystal would then be escorted
2 out of that room. Those children would be left in
3 that room on the floor shaking, petrified, alone.
4 Pocket then pulled out that old-timey revolver, put
5 it to [REDACTED] 's head and then everything went
6 black.

7 Now, in a cruel, cruel way, [REDACTED] was
8 lucky that everything went black. You see, he
9 would be the first that would be shot, so he would
10 have no memory of what happened next. Shamekia and
11 Tamara knew they were about to die and as they held
12 each other's hand with their brother lying between
13 them, they would both be executed.

14 Over the next six to seven hours,
15 [REDACTED] would fight for his life between his dead
16 sisters, covered in his blood and their blood.
17 There were five people in the home that night.
18 Five would all be shot in the head. This was pure
19 evil. These men thought that they had silenced the
20 witnesses. They thought that they had erased all
21 evidence of their guilt. They thought there would
22 be no one left to tell you what they did and they
23 were wrong.

24 Ladies and gentlemen, over the last two
25 plus weeks, the dead have spoken to you. They have

CLOSING ARGUMENT BY MR. OSBORNE

1 talked to you through the evidence, through the
2 crime scene, through the photographs, through the
3 witness statements, through the Defendants' own
4 statements themselves, and, lastly, through the
5 testimony of that brave young man who came in here
6 and faced down the man that shot him. And when you
7 listen to what they're saying, it's loud and clear.
8 These men are all guilty of murder.

9 All right. Before I get into the
10 evidence in this case, I want to talk to you about
11 something that's really important in criminal cases
12 and it's credibility. This is all yours. You can
13 believe all, none, or some of what a witness tells
14 you. When you're thinking about it, look at what
15 fits and look at what doesn't fit. Most
16 importantly, corroboration. You corroborate what
17 one witness tells you with what another witness
18 tells you, compare that to the physical evidence,
19 and when there's a difference, ask yourself why.
20 And most importantly, use your common sense. When
21 you go back there in that deliberation room you are
22 not required to check your common sense at the
23 door. Take it with you.

24 All right. Let's first look at the
25 crime scene and what it tells you about these

CLOSING ARGUMENT BY MR. OSBORNE

1 brutal murders. We know the point of entry into
2 that home was the back door. All right. Now,
3 remember, on the night of the murders, that silver
4 BMW would not have been there. That was
5 Christopher's car. He arrived the following
6 morning. So as these intruders made their way to
7 that back door, Jerome Butler would have been
8 sitting right there in that red Camero in the
9 passenger seat.

10 With all the brutality and the carnage
11 that occurred that night with those children and
12 Krystal, it is so easy to forget about Jerome. But
13 Jerome had a life too and he did not deserve to be
14 gunned down like that. Jerome was simply sitting
15 in his car drinking a beer. Jerome was homeless
16 and he was harmless. He was truly at the wrong
17 place at the wrong time. But they weren't
18 expecting a man to be there. Their plan was simply
19 to overpower some women and children, but they came
20 across an expected man. And in that brief moment,
21 everything changed.

22 Now, Jerome was shot first. What does
23 the crime scene and the evidence tell you that
24 makes me say that? All right. Well, first, your
25 common sense. You've heard testimony that there

CLOSING ARGUMENT BY MR. OSBORNE

1 were two phones in that car. You know one of them
2 worked because he tried to called Christopher about
3 7 p.m. Jerome would not have sat in that car while
4 those armed intruders kicked in that door and just
5 waited. Derrick said it was about 45 minutes. And
6 that could be, you saw the house tore apart. He
7 would have either called 9-1-1 or he would have got
8 out of there. Jerome was the first person that was
9 shot. And you've heard a lot about what the phone
10 records show, well, look at what they didn't show.
11 Jerome didn't call 9-1-1 because he didn't have
12 time.

13 Next, let's look at Krystal Hutto's
14 phone records. This is coming from Krystal's phone
15 that was downloaded. She makes two calls at 1:22.
16 The first one is to Christopher's first phone, the
17 second one is to the second phone. Both of these
18 calls were not answered. And next, we look at
19 Christopher's call detail records. There are the
20 calls and then there's that 9944 number. That's
21 Tamara trying to call her dad. Christopher placed
22 his kids in the most dangerous possible position
23 that he could and when they needed him most, he
24 didn't answer.

25 So why didn't Krystal or Tamara just

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1 simply call 9-1-1? Krystal cannot call 9-1-1. You
2 heard that there was never not dope in that house.
3 Always there. If she calls 9-1-1 when the police
4 show up, she's going to jail. Well, what about
5 Tamara? You heard Anna Weatherford, and now
6 pastor, testify that Shamekia knew what was going
7 on in that house. Well, you can assume that Tamara
8 did too. And this is just one of the so like many
9 heart wrenching details about this case. Tamara
10 didn't call the police because her daddy would go
11 to jail and she knew it. So she called him, but he
12 wasn't coming.

13 All right. But there's more evidence;
14 right? You heard from Derrick Stone. Derrick is
15 the jailhouse cellmate of that man, Luther Smith.
16 And Derrick told you that he said that when they
17 got -- when he got there that there was an
18 unexpected man, shot him by the car. Jerome was
19 shot twice in the car. .40 caliber projectile taken
20 from the autopsy, Jerome's autopsy. .40 caliber
21 projectile recovered from the passenger seat of the
22 car. Both of these bullets fired by the same gun.

23 Now, Agent Eichenmiller told you that
24 when you shoot a semiautomatic, the fired shell
25 casings will eject to the right. Well, that's

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1 exactly what you see here. While Jerome was
2 sitting in that car, he was shot and those eject --
3 those fired shell casings ejected to the right.
4 Those are both .40s, again, fired from the same
5 gun.

6 All right. As one of the things that's
7 important about that Camero and y'all saw it, there
8 is a folded up knife that is on the passenger
9 floorboard. The sheriff's office found this. The
10 blade is open. Jerome Butler's empty pouch case.
11 When Jerome saw trouble coming, he took his knife
12 out and he opened it. And we don't know what
13 happened then, only Jerome can tell us that and
14 these guys. But we know one thing, Jerome was shot
15 in the car and he would later be shot on the
16 ground. And I'm going to tell you about that in a
17 second. Once that shooting started, there was no
18 turning back.

19 All right. Now, after the intruders
20 dealt with that unexpected man, these Defendants
21 had an option; right? They could have simply got
22 in the car and got out of there. But they came for
23 the drugs and they weren't leaving without the
24 drugs. So they kicked in the back door. Once the
25 intruders made entry into the home, there's the

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1 kids' room, furthest room in the back. There's
2 where Krystal would be found. They made entry into
3 that kids' room there. And I want to talk about
4 that room for a second.

5 We know the door was locked. But these
6 guys wanted in so bad that they forced open the
7 door. There is a found shell casing off to the
8 left. And that's a .380. More found shell casings
9 off to the right. We have a .40 caliber and a
10 .380. There is absolutely no evidence that the
11 .380 was used to kill any of the victims. All the
12 bullets that were recovered from the victims in
13 this case are either .40 or most consistent to a
14 .22. But there's plenty of evidence that that .40
15 was used.

16 Tamara. Tamara was shot once in her
17 left cheek at an upward angle. That bullet was
18 recovered from the autopsy, it's a .40 caliber.

19 Shamekia. Shamekia was shot once on
20 the right side of the back of her head at a
21 downward angle. This bullet is a different bullet.
22 Most consistent with a .22. She was also shot on
23 the right side on her ride index finger.

24 Also in that room and, lastly, we have
25 D.N. . D.N. was shot once in the head. And I

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1 know there was -- Ms. Eichenmiller, there was some
2 testimony there, but in her expert opinion, what I
3 heard, was that it is most consistent with a .22.

4 And now let's talk about the room in
5 which Krystal was found. You make entry into that
6 room here. Directly across from the kids' room.
7 Unlike the kids' room, there was no evidence that
8 that door was forced open. None. The door was
9 either unlocked or open when those intruders and
10 Krystal entered that room. Two shots appeared to
11 have been fired from that room from two different
12 guns. The first, that's a .40 caliber projectile
13 from the casing up there. And next, Krystal.
14 Krystal was shot dead center with a round most
15 consistent with a .22.

16 Just another point, Dr. Ross said there
17 was no soot or stippling with this shot, that means
18 it wasn't placed to her head. But she was shot
19 dead center. Now, again, I'd like to show this,
20 but there is absolutely no evidence that she was
21 shot and then dragged into this room. Krystal
22 would take her last breath in this room right here.

23 I'm not going to go through all of this
24 with you, okay. But there is plenty of evidence
25 that -- of why these people were here. And it's

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1 the business that their dad was in. The victims'
2 dad was in, drugs. They tore that house apart.
3 They weren't guessing if there was drugs there.
4 They knew there were drugs there. And they even
5 went into the attic and one of them fell through.

6 All right. I want to go back to Jerome
7 for a second. Again, shot twice while sitting in
8 the Camero. But those intruders must have heard or
9 realized that Jerome was still alive. The carnage
10 started with Jerome and it ended with Jerome. They
11 can leave no witnesses. With that killer standing
12 -- or the guy that was armed with the .40, standing
13 right over him, he would shoot Jerome. The bullet
14 would enter at a steep angle, exit, it would be
15 recovered right next to him. That's three.

16 The next day, Lieutenant Ketcherside
17 went back looking for that shell casing and found
18 it. Found shell casing -- a fired shell casing
19 eject to the right, so he found it exactly where
20 you would expect to. Again, a .40. All fired by
21 the same gun. Jerome was shot three times, .40,
22 same gun.

23 All right. Now why do I tell you that
24 the carnage started with Jerome and it ended with
25 Jerome? There is one piece of significant forensic

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1 evidence recovered from this case. And that's
2 here. Captain Carter told you that he swabbed the
3 exterior passenger door handle of that Camero. And
4 when they sent it up to Paul Meeh who testified,
5 Paul said he found something interesting there.
6 This is blood. But it's not Jerome's blood. It's
7 Krystal Hutto's blood. Krystal was already dead.
8 How does Krystal Hutto's blood get on that door?
9 It was transferred. When they open that door they
10 would then execute Jerome on the ground.

11 All right. Now let's get into the
12 investigation and I want to start by talking about
13 that miracle young man that you all heard from,
14 Golden Doe, D.N. . When D.N. was found alive,
15 he would be rushed out and airlifted to MUSC.

16 D.N. would spend a couple of months in the
17 hospital, so that would mean he would be released
18 like around September or October of 2016.

19 Remember, D.N. testified around February of 2016
20 or thereabouts, he heard his mom talking on the
21 phone to Veronica Bryant. Veronica is D.N.'s
22 aunt. His mom's sister. He heard his mom say,

23 D.N. doesn't remember anything. He was asleep.

24 D.N. spoke up. He said, I remember. I
25 remember. And he told his mom and he told Amari

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1 who shot him.

2 Now, [D.N.] said no one ever asked him
3 what he remembered. Can you imagine that for a
4 second? Just stop and think about that. His dad
5 never once came up to [D.N.] and said, [D.N.],
6 who shot you? Who killed my two daughters? Who
7 killed Krystal? Never once asked. Drugs are a
8 dirty, dirty business. I'm going to get back to
9 that in a second.

10 Before I get into what [D.N.] told
11 you, remember what I said in the beginning,
12 credibility is going to be important in this case.
13 Corroborated, okay. So does [D.N.] remember
14 anything about Krystal's house? Does he remember
15 anything about the murder? Now, keep in mind as I
16 go through these photographs, [D.N.] has never
17 been shown any photographs from that crime scene
18 and for good reason.

19 I asked, [D.N.], did you or your
20 sisters like to play any games at Krystal's house?
21 [D.N.] says, yes. We like to play Monopoly,
22 Sorry, Uno, Operation.

23 Where are those games kept? On a shelf
24 by the kitchen.

25 [D.N.], did you or your sisters like

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1 to play any games at -- okay. Already got that.

2 D.N., when you were at Krystal's house, did you
3 have an Xbox, a PlayStation or a Wii? Yep, we had
4 a Wii.

5 Did you all have an old Nintendo at the
6 house? Yep, it belonged to my dad. Christopher
7 Wright testified that he left his old Nintendo
8 there for the kids to play.

9 D.N., did Shamekia or Tamara like
10 Hello Kitty? No, but Hayden did. Hayden is
11 Krystal's daughter. Thankfully Hayden wasn't home
12 that night. D.N. said both of his sisters had
13 phones. There's Shamekia with the white iPhone.

14 Now, D.N., did one of those phones,
15 was it a blue phone maybe? Yep. One of my sisters
16 had a blue phone.

17 The important question. Was it locked
18 in any way? Could you get into it? No, it was
19 locked. Okay. How was it locked? Was it one of
20 these where you punch in numbers or was it a
21 pattern? It was a pattern. Well, digital evidence
22 unit forensic examiner Paul McManigal testified he
23 couldn't get into that phone. It's one of those
24 kind of older phones, maybe a knockoff phone or
25 whatever, and they don't have that technology to

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1 get into that. It's not common. But the important
2 thing he told you the reason why he couldn't get
3 into the phone is because it was pattern locked.

4 Just like D.N. said.

5 D.N., does Tamara or Shamekia smoke?

6 No.

7 How about Krystal? Yes.

8 What brand does she smoke? Newport's.

9 Does she sometimes smoke in the kids'
10 room? Yes.

11 There is that blue Aquos phone in the
12 kids' room and right next to it, an empty pack of
13 Newport cigarettes. You know what these crime
14 scene photographs are telling you? They're telling
15 you that D.N. remembers.

16 All right. So now let's look and see
17 if we're able to corroborate anything that D.N.
18 told you about the murders themselves to what the
19 crime scene tells you happened and what other
20 witnesses are saying. D.N. said that while
21 watching TV, a car pulled up. The lights were out.
22 Krystal went out to check. Well, you know who else
23 said that? That man right there, Luther Smith.
24 Luther Smith told his cellmate Derrick Stone that a
25 white girl came out. Was on the phone. Just like

CLOSING ARGUMENT BY MR. OSBORNE

1 D.N. said. How does D.N. know that? Because
2 he remembers. How does he know that? Because he
3 was there.

4 Now, shortly after there was -- after
5 Krystal came back there was a loud kicking at the
6 door. There are three exterior doors to that home.
7 Three. Which door did they kick in, D.N. ? They
8 kicked in the door that led to the kitchen and the
9 living room area. D.N. said that Krystal then
10 hid everyone into the closet. In the far back
11 room. The kids' room. Krystal said, be quite.
12 There are three bedrooms in that home. Three.
13 D.N. said they were in the far back bedroom, the
14 kids' room.

15 Now, while there, D.N. heard the
16 intruders were searching through the home or I
17 think he said actually, searching, going through
18 their stuff. And you've already seen plenty of
19 evidence of that. But stop and think about what
20 D.N. said next. When the intruders found the
21 victims, they were all in one place. Of all the
22 rooms in the home, the only one with a forced in
23 door was the kids' room. Because this is where
24 Krystal hid them. Just like D.N. said.

25 And let me talk about Krystal for a

CLOSING ARGUMENT BY MR. OSBORNE

1 moment. You have heard in the beginning this
2 fantasy fiction story that was -- let's be honest,
3 it was disgraceful. There is no evidence that any
4 of that happened. None of it. In fact, there is
5 evidence that when Krystal called Christopher, he
6 didn't answer. When Tamara called Christopher, he
7 didn't answer. Yes, Krystal was addicted to drugs.
8 And, yes, Christopher fed that addiction so that he
9 could use that house as his stash house while he
10 was far away. But make no mistake about it,
11 Krystal was a mother.

12 And even though Tamara, D.N., and
13 Shamekia were not her biological kids, you know
14 that she loved them. Her instincts kicked in.
15 Remember Captain Carter told you that front door
16 was unlocked. When those intruders made entry into
17 that home, it would have been easy for Krystal to
18 just run out that front door and leave those kids.
19 But she didn't. She stayed. She tried to save
20 them. When the chips were down, she was brave.

21 Once those intruders forced open that
22 kids' room door, bedroom door, D.N. testified it
23 was Pocket who pulled him from the closet. Pocket
24 is no stranger to this man. D.N. knows Pocket.
25 D.N. used to play on the trampoline with

CLOSING ARGUMENT BY MR. OSBORNE

1 Pocket's kids. D.N.'s grandma used to live on
2 the same road as Pocket. Pocket used to come over
3 to Krystal's house. Christopher told you that.
4 D.N. told you that. So you know who else would
5 have known Pocket? Krystal. That's why Pocket
6 then called out and Krystal was escorted out of
7 that room into another room. The dead don't talk.

8 Now, I repeat, no one has shown D.N.
9 any of these crime scene photographs, okay.

10 D.N. said Krystal had been escorted out of that
11 room and into another room. That would mean that
12 D.N., Tamara, and Shamekia were all left in one
13 room alone. Krystal would have been in another
14 room. And that is exactly how the sheriff's office
15 found them. D.N., Shamekia, and Tamara in one
16 room. Krystal escorted out in another room.
17 Krystal did not barricade herself in this room.
18 She did not lock herself in this room. She was
19 escorted into this room. Likely at gunpoint just
20 like D.N. said.

21 When Krystal was taken out of this
22 room, D.N. said he was on the ground between his
23 two sisters. Shamekia and Tamara would then see
24 their little brother get shot in the head and they
25 knew they were next. Shamekia would be shot in the

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1 back of her head. Again, this was a .22. And
2 remember, she was shot once in her right hand. She
3 held her head down. Tamara shot once and this is
4 at an upward angle. Okay. There's only two ways
5 this happens. Either that shooter is super short
6 because Tamara is only five foot three or he was
7 standing right over her.

8 Tamara was lying just like she is right
9 now with the killer standing over her. Shamekia
10 would have been sitting up. Right hand over the
11 right side of her head with their little brother in
12 between them, these girls are holding each other's
13 hands because they know what's coming. Pocket.

14 D.N. said one of the intruders was
15 armed with an old-timey revolver. Well, when the
16 sheriff's office spoke to Christopher, Christopher
17 -- they asked him, who do you think could have done
18 this? Christopher said, oh, I've got an idea. It
19 might be Pocket. So the detectives went to go talk
20 to Pocket off Old Number Six Highway.

21 All right. When they got there, Pocket
22 was found in a BMW. This guy right here, Shyheim
23 Lippman, he was in the rear passenger seat. Pocket
24 was in the driver's seat. Pocket was arrested.
25 There's Pocket. He was arrested. Deputy searched

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1 the car and not surprisingly, they found some weed
2 in the car. You've heard a lot of testimony about
3 Pocket's the weed guy. But they found something
4 else that was interesting inside the car. They
5 found a baggy of cocaine that had ten individually
6 wrapped bags of cocaine in it. Look at who is now
7 a dope dealer.

8 Pocket is now a cocaine dealer just
9 hours after a cocaine dealer stash house was hit.
10 Bailey was placed under arrested and he was
11 searched. Bailey was found to be in possession of
12 about over \$900. Christopher told you in that safe
13 was about \$4500 or so. How many people are
14 involved in this crime? Four that you know of.
15 There might be another. Four that you know of.
16 How many defendants? Four. You divide it up,
17 looks like a fairly even split.

18 But Bailey has a much different
19 explanation for that money and it's one that
20 deputies rarely ever hear, especially not from dope
21 dealers. Oh, that money right there, yeah, that's
22 money that I get. That's proceeds from my
23 business. See, I'm a dope dealer. Dope dealers
24 don't say that. You know why? Penalties are worse
25 and your money gets seized. But he wants them to

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1 believe that's dope money. That's not murder
2 money.

3 You want to hear what a dope dealer
4 says when he's caught with a bunch of money? You
5 heard it from Christopher Wright himself. On the
6 morning after when they found the bodies, they
7 interviewed Christopher Wright and he was asked,
8 what are you doing with all that money on you?
9 Christopher told you what he told them. Oh, I cut
10 grass. That 4,000 bucks, I'm a grass cutter.
11 That's what a dope dealer says.

12 They find something else. 9mm handgun.
13 They recovered this from a black purse that was
14 found on the front passenger floorboard. No
15 evidence this 9mm is involved in this crime at all.
16 So Bailey is quick to claim that one. Yeah, that's
17 my gun. Sure, I use that gun for protection, you
18 know, in my enterprises as a dope dealer. The
19 deputies found another gun and this one Bailey
20 wanted nothing to do with. That is an H&R .22
21 revolver. And I want to ask you all something.
22 .22 now. If I ask you to describe this gun right
23 here, how would you describe it? Would you say
24 that that's an old-timey revolver? That's exactly
25 how D.N. described it.

CLOSING ARGUMENT BY MR. OSBORNE

1 Now, SLED firearms examiner
2 Ms. Eichenmiller can't say for sure, just not
3 enough of those bullets to say -- detail on the
4 bullets to say for sure that this is the murder
5 weapon. But you know what it is? It's a .22
6 revolver. Revolvers do not eject fired shell
7 casings. There were no fired shell casings found
8 on that scene.

9 And I'm going to tell you another thing
10 too and maybe y'all were picking up on it. Anna
11 Weatherford, the pastor, said that she spent a lot
12 of time at that home and she saw Shamekia a lot.
13 Okay. She saw [D.N.]. She saw Krystal. So now
14 you have Krystal, Shamekia, and [D.N.], if they
15 were there a lot and Pocket was there, they would
16 know who Pocket is. You want to know who was all
17 shot with a .22? Shamekia, Krystal, and [D.N.].
18 The very witnesses that would know who he is.
19 Can't leave any witnesses especially when they know
20 who you are.

21 All right. Christopher testified that
22 he was involved in a vehicle swap on the day before
23 the murders and that's what you see here on the
24 phone records. A lot of communications between
25 Preddy, that's Christopher, and the Defendant,

CLOSING ARGUMENT BY MR. OSBORNE

1 Robert Bailey, coordinating that vehicle swap. And
2 then you'll see Ramseses in there as well. That's
3 the other guy. And these communications go on well
4 into the afternoon.

5 Now, Paul McManigal told you when he
6 looked at that phone, he saw that there was an
7 image that was taken. There's lot of evidence that
8 ties back to Bailey, but one piece of evidence that
9 would tie back to Bailey would be Christopher's
10 motorcycle. Not a problem. We'll just delete it.
11 And we'll come back to some other entries on
12 Bailey's phone here in a minute.

13 But let's move on to the next day. The
14 day that everyone would discover the murders. That
15 morning, Bailey makes a phone call to Veronica
16 Bryant, [REDACTED] 's aunt. And Veronica told you,
17 Bailey doesn't initiate calls to her, why would he?
18 That's her weed guy. She calls Bailey. But this
19 particular morning, Bailey called her. And just
20 take a look at the time here. 6:57 a.m. Deputy
21 Clinton told you that that 9-1-1 call that was
22 placed by Wright was made at 6:48 a.m. Before
23 deputies even arrived on scene, he is calling the
24 one person from that family that can give him
25 information, Veronica Bryant. [REDACTED] 's aunt.

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1 Now, Veronica that day would give
2 Pocket the worst possible information that he could
3 hear. There is a survivor. And it's not just any
4 survivor, it's **D.N.**. The boy who knows him. So
5 now Bailey's nervous and he should be. Y'all have
6 this text back there with you. Of all the people
7 in Orangeburg County, Eutawville, Vance, Summerton,
8 Bowman, Holly Hill, Wells, Bailey is the one that
9 needs a chopper. That little revolver that he's
10 got just simply won't cut it. He knows he needs
11 fire power because there is a witness. And that
12 witness knows Bailey.

13 Now, with an eyewitness alive, Bailey
14 can't be going around caught with a half loaded .22
15 revolver. So Ms. Eichenmiller told you that when
16 she took this gun apart, she noticed something that
17 was interesting. By all accounts this looks to be
18 a fully loaded gun. But when she took a closer
19 look, one of those bullets has what they call like
20 a light strike. Tried to pull the trigger. Tried
21 to fire, but it didn't fire. When he was reloading
22 that gun, pulling out the spent shell casings, he
23 didn't need to pull that one out because he thought
24 it was a live round. Guns don't spontaneously pull
25 their own trigger.

CLOSING ARGUMENT BY MR. OSBORNE

1 I'm going to tell you another thing
2 that this text right here tells you. And I'm sure
3 the Defense is going to bring this up. I mean, why
4 wouldn't he just get rid of the murder weapon;
5 right? Well, he would have. When you kill a dope
6 dealer and the dope dealer's family, you have to
7 worry about the police for sure, but you know what
8 you better worry about? You better worry about
9 retaliation. He was in the process of getting
10 another gun before the sheriff's office got to him.
11 He just didn't have time. He thought he did though
12 because at this point D.N. was still
13 unconscious.

14 Right after that, we have this text to
15 Ramseses. Call me ASAP. I don't know what that
16 means, NAP never sleep. But I think it means, he
17 takes naps. He never sleeps. He's always on his
18 guard.

19 All right. After that text, we have
20 Veronica doing as Veronica was told to do. She is
21 reporting on D.N.'s condition. He got shot in
22 the head. We're praying he makes it through the
23 night. The doctor is saying the chances are slim.
24 Now, Bailey wouldn't get these two messages because
25 he was already in custody at that time. Veronica

CLOSING ARGUMENT BY MR. OSBORNE

1 told you from this day forward, Pocket is really
2 concerned about what D.N. remembers. At least
3 once a day, sometimes three times a day he would
4 call Veronica with just one question, what does
5 D.N. remember? Well, all that concern would end
6 the day that Veronica told him D.N. was asleep.
7 He doesn't remember anything. But like I told you
8 in the beginning, Veronica didn't have the whole
9 story.

10 Okay. So you've heard about the
11 motorcycle swap, that was Christopher, Bailey,
12 Ramseses, the day before. Now, you heard me ask
13 Christopher, on that day when y'all did that
14 motorcycle swap, were you serving up customers
15 serving dope to people? And, eventually, I think
16 he admitted to it. And that's why we called Anna
17 Weatherford. Anna came in and said, on the day
18 before the murders, I went over there and I bought
19 from Christopher who sold to me -- now I know Anna
20 said she bought marijuana; right? No evidence that
21 Christopher was selling marijuana. But it doesn't
22 matter, the point is that she went over there and
23 was served by Christopher. And she said there were
24 some other guys there that she didn't even know who
25 it was. Christopher was getting careless. He was

CLOSING ARGUMENT BY MR. OSBORNE

1 serving customers recklessly, showing that he had
2 product, whoever tore that house apart knew that
3 Christopher had dope. They weren't guessing it.

4 Now, the details of the vehicle swap
5 are significant though because that led
6 investigators to Derrick Coleman. So detectives
7 called Derrick, and you heard Derrick testify, they
8 didn't give him a choice. We want to talk to you.
9 You either come to us or we're coming to you. So
10 he knew he had to come. But these Defendants
11 weren't trusting Derrick to keep his mouth shut, so
12 he got an escort. Luther Joseph Smith went with
13 him. Tell them enough, but not too much. And it
14 seemed to work. Derrick, Luther, and Antly were
15 good. For the next several months while Bailey was
16 nervous about that eyewitness checking in every
17 single day, the boys in the trailer were fine. And
18 Derrick even told you that. After the murders that
19 party was going so strong that they left from
20 Mark's house -- trailer and then went to his lake
21 house. And they were partying hard. I'll talk
22 more about that in a second.

23 But I do want to talk about something
24 significant that would happen in between their
25 arrests. Amari told you -- and law enforcement

CLOSING ARGUMENT BY MR. OSBORNE

1 would not hear about this, Amari told you that
2 around February 2016, D.N.'s mom was on the
3 phone to Veronica. D.N.'s mom said he doesn't
4 remember. D.N. then told, no, I remember. Now,
5 what happened after that? Well, let me tell you
6 and Amari told you, when they found out that it was
7 Pocket who was responsible, they were scared. And
8 for good reason. D.N. is the only surviving
9 eyewitness. So Donsha told them, keep quite.

10 A few months after that, D.N. went
11 to a softball game with Amari and Diamonique. Now,
12 just imagine, there's little D.N. at the
13 softball game and at this point he was still
14 wearing that protective helmet, so he kind of stood
15 out a little. Diamonique and D.N. went to a
16 concession stand and when they did, they saw
17 Pocket. They went running back to Amari. Amari
18 knew what the deal was. She took them back home.
19 The older sister.

20 Now, you know he saw D.N. because
21 Veronica then said that she got a phone call and
22 said, well, was D.N. at the softball game? See,
23 Veronica is supposed to be reporting back things
24 like this, but she didn't even know. So you might
25 assume that since he's so concerned about D.N.

CLOSING ARGUMENT BY MR. OSBORNE

1 that he might have walked over and said, hey,
2 buddy, everything going all right? You doing good?
3 Not a word. He stayed as far away from that
4 eyewitness as possible.

5 All right. There's Derrick's house
6 now. But back when that party was going on, that's
7 what it looked like. But you know one guy that
8 wasn't invited to that party and that was Luther.
9 Luther's conscious was getting the best of him. In
10 May of 2016, the Orangeburg County Sheriff's Office
11 Investigator Boyne told you that he went to assist
12 the Eutawville PD with a call. It was a call at
13 Mark's trailer. At that call, Luther's girlfriend,
14 Amanda Howard, was being arrested. Luther's anger,
15 his anxiety, and that drunken moment got the best
16 of him. And that's what he said.

17 Now, this caught Investigator Boyne's
18 attention and for good reason. So he called
19 Lieutenant Journey. And said, you know, you need
20 to come talk to this guy. And Lieutenant Journey
21 tried to talk to him, but Luther had been drinking,
22 so it wasn't good to talk to him then. But
23 Lieutenant Journey didn't forget about Luther.

24 Now, remember back when Derrick came
25 into the interview the day after the murders, he

CLOSING ARGUMENT BY MR. OSBORNE

1 got an escort, that was Luther. And now that
2 Luther is making comments that seemed to indicate
3 that he knows something about these murders, they
4 want to talk to Luther. So investigators just got
5 -- since Derrick was with Luther and Luther seems
6 to know something about it, they now want to talk
7 to Derrick.

8 So on July 19th, they bring Derrick in.
9 But this time Derrick has a different escort.
10 They're not leaving Derrick alone. That man back
11 there, Antly Scott, Jackie Man, he comes with him.
12 If there's a weak link in this operation, it's
13 Derrick. They're going to keep a close eye on him.
14 But, you know, he's also that \$3,000 a month golden
15 goose.

16 On August 24th, about a month later,
17 investigators went to Derrick's lake house. Had
18 some more follow-up questions. On that date,
19 Derrick and Antly would be arrested for simple
20 possession of marijuana. Derrick panicked. These
21 are homicide detectives coming to my house
22 arresting me for simple possession of marijuana.
23 Something's not right. They're getting closer, so
24 he took off. Got out of South Carolina and went to
25 Alabama. Didn't sell his house or nothing. Just

CLOSING ARGUMENT BY MR. OSBORNE

1 got out.

2 Now, once Derrick got to Alabama, he
3 didn't stay there long. He realized that he had he
4 left in such a hurry that he had left something
5 back in South Carolina. So he came back. Then he
6 got Antly, Jackie Man. And brought him back to
7 Alabama. Jackie Man's got a new home. And for
8 that short time that he was back in South Carolina
9 -- that Derrick was back in South Carolina,
10 Lieutenant Journey caught wind of it.

11 So Lieutenant Journey went to his
12 partner, Lieutenant Shumpert. You heard Lieutenant
13 Journey testify, the best interviewer and
14 interrogator I know and he's my partner. So I went
15 to him. Saw him outside playing around with him,
16 you know, binoculars and everything, cutting grass.
17 And he said, hey, look, Derrick's back in, will you
18 come help? Got off his lawnmower, showered, got
19 dressed, he know it was his off day and went with
20 Lieutenant Journey.

21 Now, I'm sure this is going to come up
22 and you may even be thinking this. Did the
23 sheriff's office treat this case differently than
24 they did other cases? You bet they did. And you
25 would expect they would. Children had been

CLOSING ARGUMENT BY MR. OSBORNE

1 massacred. So Lieutenant Journey and Shumpert went
2 looking for Derrick, but he was already back in
3 Alabama. But there was someone else that was still
4 around, Luther.

5 As this investigation progressed, the
6 sheriff's office obtained information that Derrick
7 was lying. So they secured arrest warrants to
8 charge Derrick with obstruction of justice. He
9 told you that, lying. And when they track down
10 Derrick in Foley, Alabama, they found Jackie Man
11 was living with him.

12 When Lieutenant Shumpert heard that
13 Derrick had been arrested, he didn't wait for him
14 be extradited. He went to Alabama. And I want to
15 talk about Derrick for a second, okay. Yes,
16 Derrick is a State's witness. We did not pick
17 Derrick as a partner in this crime, they did. But
18 when you pick someone to testify, you better feel
19 real confident that he didn't pull the trigger.
20 And y'all saw Derrick. That man ain't pulling no
21 triggers. But don't think for a second that we're
22 in bed with Derrick, okay. We've made no deals
23 with him. Is he hoping that he's going to get out
24 from underneath 30? Yeah, he is. Derrick will
25 have his day in court. We are not here for him,

CLOSING ARGUMENT BY MR. OSBORNE

1 we're here for them.

2 But let's take a look at what Derrick
3 told you or told detectives back in 2016. During
4 Derrick's first interview with Lieutenant Shumpert,
5 he tried to lie; right? He had already gotten away
6 with it two separate times, so try again. Derrick
7 first told Lieutenant Shumpert, I don't know
8 nothing about those murders. I was home all night.
9 But this was a much different interview.

10 On cross examination, Derrick testified
11 that Lieutenant Shumpert put Luther on the phone.
12 And, remember, Derrick said he believed that
13 Lieutenant Shumpert believed that Luther was not
14 involved. So it doesn't take a rocket scientist to
15 assume that Derrick must have thought that Luther
16 rolled on him. But did not implicate Luther. So
17 Derrick just went with it.

18 Sure Luther wasn't there. Derrick said
19 he drove Antly and Pocket to Krystal's, not Luther.
20 Remember, you judge credibility. Believe all,
21 none, or some of what a witness tells you. And,
22 lastly, use your common sense. When you're talking
23 about someone who has already lied, you need to
24 scrutinize what they're telling you and see if you
25 can corroborate it with other witnesses and the

CLOSING ARGUMENT BY MR. OSBORNE

1 evidence.

2 Derrick testified that on the night of
3 the murders that he heard talk about going to a
4 strip club. Well, I want to talk here for a second
5 about Samantha Buxton. She was in the trailer that
6 night. Okay. Can you imagine that if as a
7 prosecutor we make the decision not to put Samantha
8 on the stand and testify? There is a witness that
9 was in the trailer. We all know she's in custody.
10 They would have had a field day with that. You
11 have to put her up. She was there. It's one thing
12 for us not to call the Defendant's brother, okay.
13 And we all know what he might say. But Samantha on
14 the other hand, got to put her on the stand.

15 When you have meth users committing
16 crimes, they're hanging out with meth users. And
17 that's what it is. But having said that, Samantha
18 also says that she heard talk about going to a
19 strip club that night. They ran out of dope. Does
20 that sound familiar? Derrick, Luther, Antly -- and
21 Antly leave the trailer in Derrick's truck to go on
22 a drug run. Sounds familiar too.

23 Now they stop by Pocket's. Antly says,
24 Pocket doesn't have any drugs, but I know where we
25 can get some. Well, of course, after talking to

CLOSING ARGUMENT BY MR. OSBORNE

1 Pocket, he would know where to get some because
2 Pocket just saw him serving up drugs hours earlier.
3 You want to know the common link to Christopher?
4 It is Pocket and it is Derrick. And Pocket just
5 got off the phone with Christopher. I'm going to
6 talk about that in a second. So Pocket knows this
7 is an easy lick. It's just women and children.
8 There aren't going to be any men there. Pocket
9 knows, everyone knows that when you're going to
10 jack somebody, it's a good idea to bring a jack
11 man. Jackie Man.

12 And now let's talk about the route.
13 And this is where Derrick's testimony kind of
14 starts falling apart a little bit. So Derrick says
15 that -- there's the crime scene down here. He says
16 that, you know, we left Eutawville. We came down
17 Holly Hill and then we turned. And then we pulled
18 over, you know, to a house he wasn't familiar with
19 at that time. And then he said he did some kind of
20 T-turn. I assume he means a U-turn. Well, if that
21 were true, then he would be facing back toward
22 Holly Hill. That's the side of the road that he
23 would have been on. But he says he was facing the
24 wrong way. Back toward Wells. These lies are hard
25 to keep track of, the little details like this.

CLOSING ARGUMENT BY MR. OSBORNE

1 But you can tell when Derrick is
2 telling the truth; right? Well, Derrick, what did
3 you do when he told you to shut the hell up? I
4 shut the hell up. Derrick didn't sit on the side
5 of the road here for 45 minutes waiting for a drug
6 deal. Cop could have pulled by, what are you
7 doing? No. And Derrick wasn't 20 yards away. He
8 wasn't 800 yards away. Derrick was in that
9 driveway. He heard those gunshots. Did Derrick go
10 into that house?

11 MS. ZMROCZEK: Your Honor, I hate to do
12 this, but -- and it may be a good time for a break.
13 But I need to raise a matter of law.

14 THE COURT: Okay. All right. Ladies
15 and gentlemen, we're going to take just a very
16 short break and I'll get you back in here.
17 Remember, you cannot begin talking among yourselves
18 about this case at all. So I'll let you go back
19 and we'll come on back out here in just a minute,
20 okay. Thank you.

21 (WHEREUPON, the jury left the courtroom
22 at 11:18 a.m.)

23 THE COURT: Yes, ma'am.

24 MS. ZMROCZEK: And, Your Honor, I do
25 hate to do this, but this closing has gone so far

CLOSING ARGUMENT BY MR. OSBORNE

1 off the rails of inferences. What Mr. Osborne has
2 done in his closing is admitted to putting a liar
3 on the stand. And then he's just putting in facts
4 which are completely opposite of what the person
5 that he is talking about testified to. And that
6 was his witness, Your Honor. He said Coleman, you
7 know, 20 yards, 25 yards, and he stuck with that
8 testimony. And for him to now put up and say, no,
9 Derrick was in the yard, da, da, da. There's no --
10 I mean, it's not even an inference testimony, Your
11 Honor. There's no testimony to that.

12 I would move that portion, that entire
13 portion of his closing be stricken. I would move
14 for a mistrial especially on behalf of Mr. Smith.
15 Because Derrick Coleman is the witness against my
16 client Mr. Smith and now we have the Solicitor
17 instructing the jury or arguing to the jury and not
18 just inference, but saying he lied. He wasn't 20
19 yards. He was -- I mean, he's totally saying all
20 of his testimony was untrue. And, Your Honor, that
21 is just simply improper in a closing argument. I
22 let the emotion stuff go with the kids holding
23 hands and blah, blah, blah, and I didn't object to
24 that, but this, Your Honor, is too far.

25 MR. OSBORNE: Do I need to respond to

CLOSING ARGUMENT BY MR. OSBORNE

1 that?

2 THE COURT: Well, I would like for you
3 to respond on the record if you don't mind.

4 MR. OSBORNE: Okay. For the record,
5 yes, I will. I guess she's referring to old law.
6 There was a time where you could not call up a
7 witness if you thought that they might lie. Well,
8 that's old law. That's been changed a long time
9 ago. You can call up with a witness and impeach
10 your own witness and that's exactly what I did over
11 and over again. And I questioned him about those
12 very matters, where did you park? You sure you
13 didn't stop anywhere? Because I'm not through with
14 Derrick. I'm just getting started. And I do want
15 to say for the record, that is bad form. You could
16 have made this objection at the end. You didn't
17 have to make this objection right now. You could
18 make reasonable inferences during a closing
19 argument and that's what I've done. I don't think
20 anybody watching Derrick's testimony is going to
21 sit there and buy everything that came out of his
22 mouth. And that's what I'm pointing out. We're
23 not buying it either.

24 THE COURT: Well -- yes, ma'am.

25 MS. ZMROCZEK: I'm sorry, Your Honor.

CLOSING ARGUMENT BY MR. OSBORNE

1 Again, you know, I have let a lot of things go and
2 this was just too far. I mean, I'm very familiar
3 with Rules 3.4 and 3.8 of the prosecutor's duty to
4 seek justice. But when he's just talking about
5 facts that are not in evidence and that he -- I
6 mean, it's not even an inference. It is opposite
7 of the facts. And he didn't impeach Coleman about
8 where he parked. In fact, he, you know, had him
9 point it out and had him describe it. And that's
10 the problem. And, again, you know, I apologize,
11 but it's my client's rights, Your Honor --

12 THE COURT: I understand what you're
13 saying. And I remember when he was cross examining
14 -- well, not cross examining, when he was directly
15 examining Derrick and going over those things, and
16 it seemed to me like when Derrick would say
17 something, he would go back and say, are you sure
18 this is correct. You know, things like that. I
19 mean, because, you know, which is usually the
20 method when somebody is saying something either he
21 told you differently or he changed his mind when he
22 was on the stand. You know, but, you know,
23 everybody has to decide whether those witnesses are
24 lying or not.

25 The arguments that you have just made,

CLOSING ARGUMENT BY MR. OSBORNE

1 you know, are great arguments to use in front of
2 the jury. I mean, they really are. You're going
3 to stand up and say this is what he did, you know,
4 this is not the testimony we heard, that's a great
5 response to that. And because you have the ability
6 to do that and because this case has gone on for
7 three weeks and because I think he's got the right
8 to say that his client, you know, he didn't believe
9 it himself.

10 I'm not going to grant the mistrial.
11 I'm going to note your objection to the mistrial,
12 so that's preserved. You made some good points.
13 But, you know, the lead way he's got to do this,
14 you're going to have the same lead way when you get
15 ready to go. So, you know --

16 MS. ZMROCZEK: And, Your Honor, just as
17 the -- I'm sorry to interrupt.

18 THE COURT: I thought -- and I don't
19 know what he's going to do, but I thought he was
20 going to do like everything else and say why does
21 the evidence show this or that or the other, you
22 know. But he got interrupted before he got to do
23 that, so I don't know whether or not -- but go
24 ahead and say whatever you want to say.

25 MS. ZMROCZEK: And I'm sorry. I would

CLOSING ARGUMENT BY MR. OSBORNE

1 just so I don't have to do it again, I'll just note
2 my objection and I will -- as it continues, I will
3 --

4 THE COURT: You can point out all the
5 things that you believe are objectionable, you
6 know. Mr. Leiendecker, you got the same thing,
7 you're welcome to do the same. I noticed the way
8 you moved.

9 MR. LEIENDECKER: I would only say for
10 the record that we would join in the motion for
11 mistrial. And I understand what the Solicitor is
12 saying, but I do not believe the record will
13 reflect that he impeached his witness on these
14 matters. He may have asked him two or three times.
15 And I do not believe the evidence reflects anything
16 that the Solicitor has drawn as an assumption
17 regarding the driveway. We haven't gotten into any
18 of the other stuff. But I want to be on the record
19 that we would join that motion and understand the
20 Court's ruling.

21 THE COURT: Yeah. And, Mr. Johnson,
22 you join it also?

23 MR. JOHNSON: I join it also, Your
24 Honor, the objection and motion. But I also want
25 to point out, in addition to the information about

CLOSING ARGUMENT BY MR. OSBORNE

1 the placement of the driveway, I wanted to add, I
2 don't know if Ms. Zmroczek mentioned it, he stated
3 to the jury that he, referring to Derrick Coleman,
4 heard those shots. And the testimony was clearly
5 when asked directly, said didn't -- no, I did not
6 hear shots. So he's giving misinformation that was
7 not in testimony, Your Honor.

8 MR. OSBORNE: Well, I certainly didn't
9 mean to do that. In fact, what I was trying to say
10 is he should have heard those shots.

11 MR. JOHNSON: He did not say that,
12 Judge.

13 MR. OSBORNE: Oh, I know. That's why
14 I'm calling him a liar.

15 MR. JOHNSON: He said Derrick did not
16 hear the shots is what the Solicitor stated. I
17 object to that, Your Honor.

18 THE COURT: Right.

19 MR. OSBORNE: If I said that, I will
20 definitely clarify that.

21 THE COURT: I took that -- I realize
22 when you get going, you know, yeah. All right.
23 Since we've taken a break, we're going to take a
24 break now. I don't know how much longer you got.

25 MR. OSBORNE: How long have I gone?

CLOSING ARGUMENT BY MR. OSBORNE

1 THE COURT: I'm not trying to get you
2 to hurry up, but I figured since we're taking a
3 break.

4 MR. OSBORNE: I would have been
5 finished by now.

6 THE COURT: Huh?

7 MR. OSBORNE: I would have been
8 finished by now.

9 THE COURT: Let's take a comfort break
10 right now. Let's do it now. So, Ms. Zmroczek, you
11 going next?

12 MS. ZMROCZEK: (Nodded)

13 THE COURT: All right. Let's take a
14 break.

15 (WHEREUPON, there was a short break
16 taken)

17 THE COURT: Would you bring the jury on
18 back out.

19 (WHEREUPON, the jury entered the
20 courtroom at 11:38 a.m.)

21 THE COURT: All right. Ladies and
22 gentlemen, we are going to continue with the
23 closing arguments. Mr. Osborne, if you would
24 please continue. Thank you, sir.

25 CONTINUED CLOSING ARGUMENT BY MR. OSBORNE:

CLOSING ARGUMENT BY MR. OSBORNE

1 MR. OSBORNE: Thank you, Judge. Just
2 backing up just a little bit make sure we didn't
3 miss anything. Derrick said that he did a U-turn.
4 If he had did a U-turn and he was on the opposite
5 side of the road like he said he was, then he
6 should have been facing Wells. All right. But
7 that's not what he testified to. That's different.
8 And I just pointed out the obvious. If he was
9 sitting out there, he would have heard all those
10 gunshots. He claims he didn't hear a one. Derrick
11 wasn't out on the road, Derrick was in the
12 driveway. You know who else testified that there
13 was a car in the driveway? D.N. . Oh, and then
14 I also said, did Derrick go in that house? Yeah,
15 he probably did. He didn't sit out there in that
16 car for 45 minutes just waiting.

17 All right. But all, none, or some.
18 Then we got Derrick saying, after he stopped,
19 Luther and Antly got out of the car and then they
20 come running back after about 45 minutes or so.
21 And, you know, like I told you, you know, that it
22 would have taken about that long to tear that house
23 apart the way it was tore apart. Coming running
24 back to the truck. Antly, go! Go! Go! Go!
25 Derrick says they then went toward Wells. Well,

CLOSING ARGUMENT BY MR. OSBORNE

1 remember, if he did the U-turn like he said, he
2 should have been going back toward Holly Hill.
3 Easy to get turned around, you know, when you want
4 to say you were on the side of the road. He was in
5 that driveway.

6 All right. But now we get something
7 that seems pretty credibility. He's so upset that
8 he has to pull over, Luther then takes the wheel.
9 And that, again, certainly seems like it could have
10 happened. Because at that point, Derrick in way
11 over his head.

12 Then they drive to Indian Bluff.
13 Derrick says, what the hell happened? You know
14 what he was really saying? What went wrong? Then
15 Jackie Man said, shut the F up! I just killed five
16 f'g people! Quit giving me shit! And Derrick does
17 as he's told. The guy that just said I killed five
18 people tells you to be quite, you're probably going
19 to shut up.

20 And notice how Luther didn't say a
21 word. He didn't admit to killing anyone. And this
22 is exactly what Luther has been trying to tell
23 anyone who will listen. Transport Officer Ashley
24 Frazier. Ms. Frazier, I just went for the dope.
25 If I killed those kids, I would have killed myself.

CLOSING ARGUMENT BY MR. OSBORNE

1 Luther told that to Derrick Stone as well. I
2 didn't kill anyone. But Luther is far from off the
3 hook. I'm going to talk to you about that in a
4 minute.

5 All right. Now, I want to show you
6 something else that's significant, okay. Right
7 here is about where Mark's trailer is. Back over
8 there would be where Derrick's lake house is. They
9 said they went to Indian Bluff; right? Look at
10 whose trailer they have to pass, just basically
11 pass right by, Pocket's trailer. That's why I
12 asked Derrick over and over again, did y'all stop
13 anywhere on your way to Indian Bluff? No, we
14 didn't stop anywhere.

15 Remember whenever he says that he and
16 Antly went around the corner and smoked some weed
17 to calm their nerves? Look at who's right around
18 the corner. Derrick is not going to tell you that
19 they went back over there and split up the dope and
20 split up the money and smoked some weed with the
21 weed guy. And I'm going to tell you why later.

22 Now, you bet -- you bet that when
23 Derrick has his day in court, whether it be a
24 trial, whether it be a plea, whatever, this is
25 coming up. All right. So now I want to take a

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1 second to talk about the evidence that was
2 collected along the route by the sheriff's office.
3 Again, we're back to the map. There's the crime
4 scene, Krystal's house.

5 Shortly after responding to the scene
6 and processing the evidence, the sheriff's office
7 received a call about a car on fire down a long
8 dirt road winding which led to another dirt road.
9 They found Christopher's car. His stolen Mercedes
10 completely torched. Why take then search the car?
11 Well, you heard Anna, she told you, Christopher hid
12 dope everywhere, especially in cars. And when I
13 said to you there was likely another person
14 involved in this? Remember what Lieutenant
15 Ketcherside -- no, Investigator Boyne told you? He
16 put his K-9 out. He tracked around that car.
17 There is no evidence that anyone walked away
18 because they had a ride.

19 Burned car would have been about here.
20 Investigator Haupt told you, he drove that a while
21 ago and he was having a hard time finding that.
22 He's not familiar with those roads. Those are dirt
23 roads. Those are back roads. You have to be from
24 that area to know your way around. The killer had
25 to know those roads. And one road that when you

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1 take that road and there's the blue X down there
2 where the car was taken or where the burned
3 Mercedes was recovered, that road dumps you out
4 right in front of Pocket's house.

5 Now, let's take a look at another piece
6 of evidence that is very significant in the case.
7 When detectives interviewed Christopher, they found
8 out that Krystal had a small flip phone. So they
9 ping that phone and they found it right there.
10 See, it's just right around the corner from the
11 crime scene on Caswell Lane. Caswell Lane is also
12 a dirt road and there's a field. There's the flip
13 phone.

14 Now, Captain Carter told you that the
15 sheriff's office found six phones in that house,
16 two phones in that car. What was so important
17 about this phone right here that the intruders
18 would have to take that phone? Well, Anna
19 Weatherford told you that that phone right there,
20 when a person called that phone, she would then
21 forward the call to Christopher. That person would
22 call so much that Christopher would save that
23 contact in his phone, June. And when June called
24 and Krystal forwarded, Christopher better answer.

25 Who is June? Lionell McFadden. Well,

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1 you've heard there was an undercover -- as an
2 undercover officer went to June, he was the target
3 of a multi-jurisdictional investigation. They
4 tried to purchase dope from him. They wanted to
5 take him down. June's no dummy though, he doesn't
6 get his hands dirty, so he sent that undercover to
7 Christopher. Christopher sold to the undercover on
8 two occasions back in 2013.

9 Now, Christopher was selling dope for
10 June. And Christopher told you that people thought
11 that he had snitched and for good reason. June
12 went to jail for federal drug law violations, not
13 Christopher. And remember what Lieutenant Journey
14 told you? That's not just any man, that's not any
15 dope dealer, that is the biggest dope dealer in
16 Orangeburg County. You do not mess with this man.
17 You do not snitch on this man.

18 What does June have to do with these
19 Defendants? When you look at the call log for
20 Pocket, you will see that on July 14th, he gets a
21 call. Never got a call from that number before.
22 It's a seven minute call. And you heard
23 Investigator Haupt try to track down that number.
24 James Jones, maybe an Isaac Jenkins. I'll talk to
25 you about that later if I need to. But I'll tell

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1 you, after this seven minute phone call, Bailey
2 creates for the first time in his phone a contact.
3 Bailey tells you who he's talking to. Don't say
4 his name. Keep your mouth shut.

5 Who does Bailey call then? The next
6 call, he calls Christopher. Next outgoing call.
7 What is so significant about July 14th? Why would
8 June then call Bailey for the first time and talk
9 to him for seven minutes and then Bailey then call
10 Christopher? Word on the street was that
11 Christopher had snitched on June. Guess what date
12 June was arrested? July 14th, a year to the day.
13 That is no coincidence. We will never know what
14 Bailey was relaying to Christopher after talking to
15 June. Christopher's never going to say.

16 Christopher lied to you. He told you
17 that that call from Bailey on the night of the
18 murders was a disconnected call. He talked to that
19 man for two minutes and forty seconds. The same
20 man that he would later tell the detectives that he
21 suspected as killing his kids. You think he has no
22 memory of that call? Not a chance. You know why
23 Christopher didn't go into that house? Because he
24 knew what was behind that door. And you know why
25 he suspected Pocket? Because that two minute call

CLOSING ARGUMENT BY MR. OSBORNE

1 from Bailey was some kind of warning or some kind
2 of message and he's too big of a coward to come in
3 here and tell you.

4 We cannot prove that June is involved
5 in these murders. If we could, you bet he would be
6 sitting right over there. But what we do know is
7 there is one piece of evidence in that house that
8 directly links back to June and that is Krystal's
9 phone and these guys made sure that they were going
10 to get rid of it. June is the biggest dope dealer
11 in Orangeburg County. Don't mess with him. Don't
12 snitch on him.

13 Now, I want to talk to you about the
14 law briefly. Okay. And I do want to mention
15 something that's important and it's real important
16 in this case. What I say is not evidence. Okay.
17 What they're going to tell you is not evidence.
18 The evidence came from right there on that witness
19 stand. If I say something, I -- we all can tell
20 y'all have been paying attention. If I said
21 something that didn't come out of that witness
22 stand or they say something that doesn't come out
23 of that witness stand, you follow your own memory,
24 okay. And then it's also important when it comes
25 to the law. Because I'm going to give you just a

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1 brief summary of what the law is or what I think to
2 be the important parts of the law. But the Judge
3 is going instruct you on the law. If I or them say
4 anything different from what the Judge says, you
5 follow the Judge's instruction, okay.

6 I'm going to save murder for last. The
7 Defendants have been charged with burglary in the
8 first-degree. All right. These are the elements.
9 There's more, but these are the key points. The
10 Defendants entered the dwelling with the intent to
11 commit a crime. When entering or fleeing, the
12 Defendants were armed with a deadly weapon or it
13 occurred at nighttime. Now, we've hit them both.
14 We got deadly weapons, you know, people were
15 murdered and it occurred at nighttime.

16 Intent to commit a crime. Notice it
17 doesn't say what crime. We don't have to prove
18 that they were going in there with the intend to
19 murder. Although, I think there's a pretty good
20 inference they were. We'll do the drug raid,
21 whoever's here has got to go. But it's just the
22 intent to commit a crime. If they went in there
23 with the intent to steal, guilty of burglary first.
24 You already got the gun.

25 Attempted murder. This is exactly what

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1 you think it is. With the specific intent to kill.
2 Attempt to kill another person with malice
3 aforethought. I'll talk about that in a second.
4 You don't shoot a kid in the head and say I was
5 just trying to hurt you. They were trying to kill
6 him.

7 Murder. Killed another person with
8 malice aforethought. All right. So malice
9 aforethought is like an Old English term, you know,
10 we don't use that anymore. No one says malice
11 aforethought. But basically what's it broken down
12 to is, malice is a hatred, an ill will, or
13 hostility toward another person. It's the
14 intentional doing with the intent to inflict harm.
15 Without just cause or excuse. That's sort of
16 self-defense. You're not going to hear anything
17 about self-defense in this case. It's basically
18 exactly what you think it is.

19 This next part when you tie these two
20 terms together is a little bit different. Just
21 remember when you're thinking about aforethought,
22 that there's no time requirement. Okay. It's not
23 like we need to prove that they left the house --
24 the trailer with the intent to kill when they left.
25 Aforethought can be formed in an instant.

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1 All right. And next I want to talk to
2 you about something that's very important in this
3 case. Remember how I said that Luther saying he
4 didn't kill anyone doesn't get him off the hook.
5 Luther might not have killed anyone. Maybe you
6 didn't pull the trigger, but, Luther, you are still
7 guilty of murder. In our State, the hand of one is
8 the hand of all.

9 If a crime is committed -- and probably
10 every other State, if a crime is committed by two
11 or more people who are acting together in
12 committing the crime, the act of one is the act of
13 all. A person who joins with another to commit an
14 unlawful act is criminally responsible for
15 everything done by the other person that is a
16 natural and probable consequence of the acts done
17 in carrying out the common plan and the common
18 scheme.

19 All three were acting together. All
20 are equally responsible for those cruel, cruel
21 deaths. I didn't pull the trigger. My meth buddy
22 and the guy who orchestrated this did. That is no
23 defense. They brought multiple guns because they
24 knew they might have the use them. And they used
25 them over and over and over again.

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1 All right. I want to talk to you a
2 second about reasonable doubt. Now, sometimes you
3 will hear defense attorneys come up and give you
4 like, you know, cute little metaphors or analogies
5 to describe what reasonable doubt is. That's all
6 fine, but that's not the law. Okay. And the judge
7 is going to instruct you on the law.

8 Proof beyond a reasonable doubt. Proof
9 that leaves you firmly convinced of the Defendant's
10 guilt. The law does not require proof that
11 overcomes every possible doubt. There are few
12 things in life that we know to an absolute
13 certainty. You might hear the judge talk to you
14 about hesitation. And, you know, sometimes I will
15 hear defense attorneys say, if you walk back there
16 and you hesitate then that's not guilty. Don't
17 confuse hesitation with deliberation. You should
18 go back there, you should deliberate, you should
19 talk about it. That's not hesitation, that's
20 deliberation.

21 Now, I'm going to end with this. Many
22 times in cases like this, you as jurors are going
23 to have sympathy for the victims and you may even
24 have sympathy for one or more of the Defendants.
25 And that's completely normal. But sympathy has no

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1 place in that deliberation room. When you get back
2 there, you check your sympathy at the door.
3 Emotion has no place in a criminal trial. Convict
4 these men because the evidence proves they are
5 guilty. Not based on emotion.

6 When these men killed Jerome, Krystal,
7 Shamekia, and Tamara, they thought and thought that
8 they had killed D.N., they hoped they had erased
9 all evidence of their guilt and silenced the
10 witnesses. We're asking you to prove these
11 Defendants wrong. The dead have spoken. D.N.
12 has spoken. And you have listened. Find these men
13 guilty of the ruthless acts that they all
14 committed. Find them guilty of all charges. Thank
15 you.

16 THE COURT: Thank you, Mr. Osborne.
17 Ms. Zmroczek, are you prepared to go forward now?

18 MS. ZMROCZEK: (Nodded)

19 THE COURT: Thank you, ma'am.

20 MS. ZMROCZEK: May I have just a moment
21 just to kinda get everything set up?

22 THE COURT: Yes, ma'am.

23 MS. ZMROCZEK: Thank you, Judge. May
24 it please the Court.

25 THE COURT: Yes, ma'am.

CLOSING ARGUMENT BY MS. ZMROCZEK

1 CLOSING ARGUMENT BY MS. ZMROCZEK:

2 MS. ZMROCZEK: Good morning.

3 THE JURY: Good morning.

4 MS. ZMROCZEK: Almost afternoon at this
5 point. I want to thank you on behalf of Joseph
6 Smith and myself. And I'm quite sure everyone else
7 for the time and attention that you have given this
8 case because that's what it needed. I know I've
9 heard myself talk all week, as have y'all, so I'm
10 going to try to streamline this so that I don't
11 talk all week. I want to focus on the facts, the
12 evidence.

13 How I've broken down my closing is
14 this. I want to talk to you about my fears in this
15 case. Then I want to talk about what the evidence
16 -- what we believe the evidence shows. I want to
17 talk about the closing that we just heard from the
18 State. And I want to tell you that this is my only
19 opportunity to get to speak with you. Because when
20 I'm done, Mr. Johnson will come up on behalf of his
21 client, Mr. Leiendecker will come up on behalf of
22 his client, and then Mr. Osborne gets to make what
23 we call the rebuttal argument.

24 And I'll tell you as a defense
25 attorney, as a trial attorney, that's the hardest

CLOSING ARGUMENT BY MS. ZMROCZEK

1 time. Because I can't then come back up and point
2 out things that don't make sense. Things that
3 don't add up. But it's done that way for a very
4 important reason. And that's because the burden of
5 proving Joe Smith guilty beyond a reasonable doubt
6 is on this man. On this team. It is the burden of
7 the government. You will hear that over and over
8 when Judge Dickson gives you the charges, and that
9 burden does not change. I could have sat there and
10 not asked one question, not put one piece of
11 evidence in, and the burden still would be theirs.

12 Now, just because I did ask questions
13 and I did put evidence in, doesn't change the
14 burden. It's the highest burden in juris prudence.
15 And it's done that way because we're talking about
16 someone's liberty. You are here to answer a very
17 important question of fact. I submit at this point
18 you probably have more questions than you do
19 answers. And when that happens, Judge Dickson is
20 going to tell you that you must, must follow the
21 law. Ladies and gentlemen, this is an amazing
22 opportunity for you to sit in judgement, to see the
23 evidence, to look at the facts, and to decide how
24 those facts apply to the evidence.

25 I want to talk to you about my fear.

CLOSING ARGUMENT BY MS. ZMROCZEK

1 Mr. Osborne addressed it at the end, I submit he
2 addressed it at the beginning as well. A verdict
3 in this case cannot be based upon sympathy,
4 passion, prejudice, emotion, or some other
5 consideration that's not found in the evidence.
6 But I submit, the first ten minutes of the closing
7 where we talk about these horrible killings and I
8 have said it from the beginning, these were
9 horrible killings. But the details about holding
10 hands, and the children, and those things were told
11 to you just for this reason. But that's not -- but
12 that's not why we're here. It's not proper and
13 it's not proper under the law. What we have to do
14 is look at the burden, look at the facts, and apply
15 those to our case.

16 In the beginning of this case, I told
17 you Joe Smith is innocent and the government got it
18 wrong. And I want to talk to you a little bit
19 about three things that you will take with you to
20 the jury room. I know credibility, consistency,
21 and corroboration. And we've heard corroboration a
22 lot. And corroboration can mean many things. It
23 can mean a picture of games. Sure, it can. But
24 the kind of corroboration that we're talking about,
25 are people saying they're at one place and their

CLOSING ARGUMENT BY MS. ZMROCZEK

1 phones not being there. People saying things to
2 the best interviewer, best interviewer ever. But
3 we don't hear from him. And I want to talk a
4 little bit about that. Because you are the judges
5 of the credibility, the consistency, and the
6 corroboration.

7 As you learned throughout this case,
8 evidence was still being tested at the end of last
9 year. Phone records, tower dumps, tower dumps were
10 turned over February 4, 2022. And then when those
11 tower dumps didn't match Derrick Coleman and his
12 testimony and all the statements that he had been
13 given, then we have to move to D.N. . And I'm
14 going to talk about that a lot. Because what I
15 heard in the closing argument of the government
16 today was D.N. is their star witness. And if
17 you believe that, then you must find Joe not
18 guilty. Because D.N. said numerous times and,
19 in fact, you're going to get a copy of the
20 stipulation of the -- of the facts that he told
21 these Solicitors, 2019, twice; December 20, '21;
22 January 28, 2022; never saw Joe.

23 At first he said he saw a white guy.
24 And then I was very specific with him. Can you
25 describe the white guy? Because apparently our

CLOSING ARGUMENT BY MS. ZMROCZEK

1 best interviewers didn't ask those questions. We
2 had no description. And he says, kind of short,
3 kind of tall like medium. But the most important
4 thing was the beard. No beard. And then he goes
5 on to say, no, no, a black male entered the room,
6 escorted Krystal out. D.N. saw a white girl,
7 Pocket, the burned up guy, and a black male. Joe
8 may be many things, but he is none of those.

9 If we are to believe D.N., and I
10 submit that's where they're laying their case, then
11 you cannot under the law convict Joe. And I know
12 it's been difficult because three attorneys, three
13 Defendants -- well, several attorneys, three
14 Defendants, we are separate. And the judge is
15 going to be very clear that you have to evaluate
16 the evidence individually for each Defendant as to
17 each charge.

18 Talked a little bit about in opening, I
19 told you that the State's case would it make sense.
20 And that has come to fruition with the closing
21 argument in which the lead prosecutor in this case
22 admitted to putting a liar on the stand. Derrick
23 Coleman he says is a liar. Can't believe him.
24 That's his -- that's what he says. I submit he's
25 correct for different reasons. I think that -- I

CLOSING ARGUMENT BY MS. ZMROCZEK

1 submit that the evidence shows that Derrick Coleman
2 was the victim of some aggressive interview
3 interrogation strategy, some of which we got to
4 see, but again, we didn't get to explore that.

5 Well, Ms. Zmroczek, why didn't you call
6 so and so? Why didn't you put up this -- again,
7 the burden is not on the defense. Never on the
8 defense. Either you believe D.N. or you believe
9 Coleman, you can't believe both. Yes, the Judge
10 will charge you that you can believe all of the
11 testimony, some of the testimony, or none of the
12 testimony. Which -- in trying to think of it in
13 laymen's terms, you go out to lunch. You order a
14 bowl of spaghetti. You're eating your spaghetti
15 and there's a roach in there. Do you pick out the
16 roach and continue to eat your spaghetti? No. You
17 take that bowl and throw it out. And that's what
18 we have to do with Coleman's testimony. And I
19 submit as you see the lack of corroboration with
20 most of the testimony that's been put forth here.

21 We're going to talk about what the
22 objective evidence shows. Why you didn't hear or
23 see a lot of things. And at the end of my closing,
24 I'm going to ask you to follow the law and to find
25 Joe not guilty because they have not proved he is

CLOSING ARGUMENT BY MS. ZMROCZEK

1 not guilty. And you will be proud to do that. You
2 will be proud to do that duty. You have not left
3 your homes and jobs for going on the third week
4 just so that we can get the State a conviction,
5 close this mess up, and move on. Because I believe
6 in the integrity of our justice system. I believe
7 in each and everyone of you individually and
8 collectively.

9 Okay. Who you didn't hear from and
10 why. The lead investigator. I've been trying
11 cases now for over 13 years. And never in a
12 quadruple -- I've never had a quadruple homicide.
13 Okay. But I've had one. And I've had two, but
14 never have I not heard from the lead investigator.
15 Investigator Culpepper. You heard his name. You
16 see him in a picture of a screen shot of an
17 interview that we don't get to see because --
18 because once the interviewer comes in and says
19 something, it cuts off. We don't get to see that.
20 But we don't get to hear from Culpepper. We don't
21 get to ask Culpepper, when you took out that
22 warrant of obstruction of justice on Coleman, on
23 whose word was it? Who did you believe strong
24 enough to take out a warrant and get an indictment
25 from the grand jury against Derrick Coleman? We

CLOSING ARGUMENT BY MS. ZMROCZEK

1 don't get to ask him those questions.

2 The current lead investigator,
3 Lieutenant Shumpert, and his stories. The best,
4 the best investigator in this county or state or
5 however they want to talk about it. Then why
6 didn't we hear from him? Why didn't we get to ask
7 him what kind of techniques did you use to get
8 people to say what you wanted to say? How many
9 times did you interview Joe Smith? How come we
10 didn't see any of them? How come we didn't hear
11 any of them? How come the only evidence we heard
12 about what Joe Smith did comes from Derrick
13 Coleman, who they said is a liar? They said it,
14 and Derrick Stone, and I'll get back to him in a
15 bit. Why can't we hear it from the best
16 investigator himself? The best interviewer
17 himself.

18 You heard just yesterday, we don't have
19 to put up a case. We didn't have to. Even though
20 we did, the burden doesn't shift and I'm going to
21 continue to say that because it's just a hard
22 concept to grasp. But you heard Mr. Osborne ask
23 our phone guy, well, did you see the FBI phone
24 maps? They had FBI phone maps. You know why?
25 Because they knew what our evidence showed you.

CLOSING ARGUMENT BY MS. ZMROCZEK

1 They already knew that. Which was Derrick Coleman
2 wasn't at this location. Wasn't there. Just
3 wasn't there. And they knew that. But they didn't
4 want to put that evidence in front of you. You got
5 to ask yourself why. Because justice and juries
6 and trials are not about wins, they're about the
7 integrity of our system. And, ladies and
8 gentlemen, I hope -- I know you will remember that.

9 Any statement given to an interrogator
10 by Joe, don't have any of those. We have a
11 statement from a man who has eight charges pending
12 and was in a cell for two months in 2019 and then
13 Derrick Coleman. Oh, oh, but what about Deputy
14 Frazier -- Director Frazier. She herself told you,
15 not a confession. Didn't even think about it.
16 They didn't want you to evaluate this evidence.
17 Why is this evidence being withheld from you? Is
18 that an honest and forthright prosecution? No,
19 it's absurd. It's absurd that they just admitted
20 to putting a liar up here and they want you to use
21 that testimony to convict Joe Smith.

22 Talked about the red herrings. So the
23 red herrings in this case didn't get to be fully
24 developed because we didn't get to put all the
25 evidence in. We didn't get to know what Shumpert

CLOSING ARGUMENT BY MS. ZMROCZEK

1 knew and where he was going with his investigation.
2 But you heard a little bit about through
3 questioning Coleman, they thought -- they, the
4 State, thought that there was some drugs in the
5 tire of a dirt bike or a motorcycle which was
6 nonsensical. They want you to ignore the credible,
7 competent evidence and just focus on a, bless his
8 heart, 8 year old who is 14 now. Eight years old,
9 experiences an incredible trauma, and we're
10 supposed to believe that he can remember things and
11 that's fine. And that's fine. That's what the
12 State wants you to lay your hat on, then you have
13 to remember that they were watching TV all night
14 long.

15 And so you look at the -- in fact,
16 watching TV when they got this noise or headlights
17 or whichever thing that set them off. But then you
18 get to take -- so there's tons of pictures, tons of
19 pictures in evidence for you. And you get to take
20 them and you get to compare them just like
21 Mr. Osborne said, compare them to the testimony.
22 And so, remember, I specifically asked forensic
23 investigator sergeant -- the name is escaping me.
24 Carter. Gerald Carter. Sorry. And I said, now
25 when you go in, do you do anything to alter the

CLOSING ARGUMENT BY MS. ZMROCZEK

1 evidence? No. No, ma'am, that's not proper. And
2 I agree with him that's not proper. And then you
3 look at the TVs. So what we are to believe is in
4 45 minutes, three or four, if you believe today's
5 closing, people go into a house, execute four
6 people inside they think, and one person outside,
7 ransacked the place in 45 minutes and are smart
8 enough and good enough to do it without leaving one
9 bit of forensic evidence. One bit.

10 And they wanted the dope. Then why in
11 this red cup -- and you'll have this picture back
12 there, why is there cocaine in this red cup? Right
13 here. If they wanted the dope so badly, they're
14 going to leave cocaine? They're going to leave an
15 edible -- some edibles in the drawer. Coleman is
16 not passing up a chance to eat or smoke marijuana,
17 he told you that.

18 Ladies and gentlemen, as was told to
19 you in an opening statement just yesterday, the
20 police cannot solve this crime and they want you to
21 do it for them. This case was the -- one of the
22 top five biggest cases. Paul Meeh for -- DNA from
23 SLED. One of the top five biggest cases. One of
24 the top five biggest cases and we don't hear from
25 the lead investigator. Ladies and gentlemen, you

CLOSING ARGUMENT BY MS. ZMROCZEK

1 have to shake your head. There is no excuse -- if
2 Joe Smith was involved, there is no excuse for not
3 having his cell phone downloaded. Didn't even
4 collect it. Okay. Let's say he didn't have it.
5 We don't know because they didn't tell us why they
6 didn't collect it, but let's say it wasn't around.
7 Okay. CDR records. We have Coleman's, we have
8 Wright's, we have everybody's, we have 93 of their
9 -- countless cell phones, but none to the man that
10 they want you to say is guilty of these crimes
11 based on words. And now the words of a liar.

12 If it weren't so tragic, it would
13 almost be comical. And sure, the crime scene log,
14 maybe they forgot to fill it out, but the point is,
15 you can't cut corners. You can't cut corners. And
16 Sergeant Carter wants to tell you that the blood --
17 and you'll see, you'll have the pictures, but the
18 blood on the ceiling in the corner is from this
19 little girl down here. How does that happen?
20 Okay. Okay. Let's just say it happens. But how
21 does it get on the wall? Is it going multiple
22 places? How does it get on the packages? How does
23 it get on the carport?

24 Ladies and gentlemen, if this case was
25 that important, SLED even told you, they have a

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1 unit that does crime scene reconstruction. How
2 hard would it be? Things that don't make sense.
3 When I started this slide, it was the one that came
4 to mind immediately. And one thing that I'm going
5 to continue to remind you of, this is not -- this
6 is not the job of the jury to understand what the
7 State thinks their case is and then make it fit.
8 In fact, the Constitution says it's quite the
9 opposite. Joe Smith is innocent. Innocent as he
10 sits there today. And you know who's protecting
11 that? The Constitution and we are. Because you
12 have to take every little piece of evidence that
13 the State wants to tell you convicts Joe Smith and
14 you have to test it. Because that's what we do as
15 jurors.

16 And when you start to do that, and I
17 submit you probably already have been thinking
18 about it, obviously, not talking about it, but as
19 you start to do that, you will see that this
20 doesn't make sense. Why in the world would you
21 shoot five people in the head when you had \$500 for
22 drugs that cost \$200? It makes no sense. Why
23 would you steal the drugs when you had free cash?
24 You heard Coleman. When they want you to focus on
25 what you can and can't believe in his testimony, I

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1 don't know. But I do believe the evidence shows he
2 said he gets \$3,000 a month and he readily spent
3 that on drugs. And bless his heart, he was buying
4 his friends and that's not a place for judgement,
5 but it is a fact that he had cash. Had a car.
6 Drove these people around. So why go and execute
7 all of these people? And execute is a very
8 important word.

9 The State used it in their opening.
10 It's one time we agree on some things, I absolutely
11 agree these were executions. Not the work of drug
12 dealers high and drunk running around. You heard
13 Dr. Ross's testimony. No soot or stippling, yet
14 they can do a forehead shot to Krystal Hutto.
15 There's got to be more to that story. If you're
16 going to ransack and kill people, again, why leave
17 the drugs behind? And not just the cocaine in the
18 little red cup, the marijuana, and the gummies that
19 we saw, but what about all of those pill bottles
20 that I showed you. They were full. Not filled,
21 but they had drugs inside of them.

22 If you are a drug addict and you need
23 drugs so badly and you're going to kill five people
24 who you don't even know, that's the one thing that
25 every witness, liar or not, can agree on. Joe

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1 Smith doesn't know Chris Wright. Doesn't know his
2 family. Never been to his house. No phone
3 connections. Nothing. Wasn't even involved in
4 that dumb motorcycle deal. He has no connection to
5 these people. But now the government wants you to
6 believe that he goes with Pocket who he doesn't
7 know, doesn't associate with, and who somehow just
8 ended up at this crime scene because there's been
9 no testimony about how he got there and he's going
10 to enter into this kind of crime with someone he
11 doesn't know. Does that make sense? Please do not
12 leave your common sense at the door. Another thing
13 I can agree upon.

14 The phone evidence. Again, this has
15 been my focus from the beginning. Because I agree,
16 people lie, people leave out things, people try to
17 minimize their involvement. But one thing they
18 can't do is change phone records. And our cell
19 phones are so vital to our lives that they tell us
20 a lot. And that's what they did in this case. The
21 problem is, is that the government didn't bother to
22 look at that tower dumb until February 4th of 2022.
23 Then they have to completely change their path.
24 All of a sudden, Derrick Coleman, nothing adds up.
25 So now we're just going to put him up and call him

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1 a liar. That's the strategy to get past the
2 corroborative evidence. And we'll come back to
3 that.

4 Jerome Butler's actual involvement.
5 Jerome Butler keeps being described as homeless and
6 helpless. But what we do know now thanks to the
7 tower dumps is that he had phone 1105 and he was
8 calling it from Tower 125. Right there at Holly
9 Hill. Right where the 9-1-1 call was. Right where
10 Krystal's call was. And one of those times, 6:59
11 p.m., probably right as he was all walking into
12 Walmart, he's calling Chris. A warning? Perhaps.

13 What about that -- I'll never forget
14 it, marker placard N, that Old English beer can
15 that was on the front of the house on the side of
16 the road. Matched all the Old English beer cans in
17 the Camero. Is it possible -- is it possible that
18 Mr. Butler was protecting that area? It's just as
19 possible as somebody doing a crime with somebody he
20 doesn't even know. And they talk about the drugs
21 that were taken. A fourth of an ounce of cocaine
22 and meth. Never have we seen any evidence of meth,
23 meth usage, or any of that at Chris Wright's house.
24 We saw a lot of flour, a lot of chicken, a lot of
25 cocaine presses, cocaine itself, gummies, no meth.

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1 Just doesn't make sense.

2 Again, three on trial. I represent Joe
3 Smith. So let's talk about Chris Wright, the drug
4 trafficker. He was absolutely the target of this.
5 Suspected snitch. And I'm glad that the government
6 pointed out, because I have it later on in my
7 PowerPoint, who gets hit with an execution on his
8 family the day the biggest drug dealer in
9 Orangeburg, the anniversary that he is
10 incarcerated. Just ignore the obvious. That's
11 what they want you to do.

12 You accused of being a snitch? Yes. I
13 wasn't a snitch, but I was accused of it. Anna,
14 Pastor Anna, wouldn't even say June's name.
15 Lieutenant Journey who wants to have involvement,
16 but then not have the full facts, Lieutenant
17 Journey told you that June at the club had a
18 following. He was like a celebrity. And I'm quite
19 sure that people are going to laugh when
20 Mr. Johnson comes up and starts naming off all
21 these people that we don't know where they were,
22 how they were involved. It's not funny. It's not
23 funny. Because a lot of those persons should have
24 been cleared. And if they were, you should have
25 heard about it from the best investigator --

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1 interrogator around. But you didn't.

2 Does it make sense that Chris Wright
3 sees his friend of 20 years laying on the ground
4 and doesn't go in to check on his children or the
5 mother of his child, who just gave birth three
6 weeks ago? Does that make sense? I want to talk
7 about that for a minute. Chris Wright. Chris
8 Wright says -- and these are pictures that you will
9 have in evidence. Okay. Chris Wright says, I
10 didn't go past the mat. That was his testimony.
11 Right. And even though this is what the camera
12 shows, maybe he was on the mat so he was able to
13 see the ransack, the kitchen in disarray. Okay.

14 But then he says that he knows that
15 \$4500 was stolen from his safe. You mean this safe
16 right here in the room with Krystal Hutto? That
17 safe? The government says, oh, \$4500 splits well
18 four ways. What about the \$4,000 that Chris Wright
19 had on him while he's sitting inches from this best
20 investigator, best interviewer, and they don't
21 collect it. Coincidence. In the legal field we
22 call coincidences clues. Just like Chris Wright's
23 house, his other house with his other fiancée,
24 being burglarized less than two weeks before --
25 after this. Less than two weeks.

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1 You're going to have these phone
2 records. You don't have them all, but you actually
3 do have all of Chris Wright's. One thing I want to
4 tell you about the evidence. Because it's
5 important for you to know this. One, and the court
6 reporter is going to shoot me in the head for this.
7 No pun intended. You are allowed to rehear any
8 testimony, any testimony. If something isn't clear
9 in your mind, you're allowed to say, Mr. Foreman,
10 we want to hear all that testimony again. Because
11 Mr. Osborne said that he was impeaching
12 Mr. Coleman. And I say, he wasn't.

13 That's why you are here and you get to
14 say, Dear Judge, we're going to write you a note,
15 so we need to hear that testimony. We need to hear
16 it not for what these attorneys think it stands
17 for, but we need to make our own minds. And you're
18 going to have these phone records and let's just --
19 phone records are difficult. That's why we have
20 experts. Okay. In there, in Mr. Wright's phone
21 record that you have, 293. What 293 is, it's a
22 timeline, so they do different downloads in your
23 phones. You can get, you know, just the text
24 messages, just the calls, just incoming, outgoing,
25 and then they have a timeline. Okay. And so you

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1 get to look at the timeline and you get to see when
2 things happen.

3 And remember the expert, the expert
4 says, UTC. If it has a UTC plus zero, that means
5 you subtract four hours. Right. Let's see how
6 that adds up. 7:15, 2015; 5:23:16 UTC plus zero
7 from June. If you subtract four hours, I did the
8 math earlier, 1:23. Okay. And you remember
9 Christopher Wright, come on man, you know your
10 daughter called. She did. Right up here. Tamara,
11 7:15 2015, 1:02 a.m. UTC plus zero minus four.
12 That's why he didn't have a missed call from her
13 because it was earlier. It was at 9 or 10 o'clock.
14 It wasn't at 1 in the morning with Krystal's.

15 You'll get to see all the numbers that
16 he called and talked to. They want to say that
17 June in his -- in Christopher Wright's phone is
18 really June in jail. That's what they want you to
19 believe. Okay. Then read the text messages.
20 Because if June in jail is telling Chris that she
21 -- that he loves him so much and that she knows he
22 cheats, but she just wants the -- he just wants the
23 old Chris back, hey, more power to him. Judgement
24 free. But does it make sense? No. Read all the
25 text messages. You'll get them. And see which

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1 ones were deleted. Because all of the ones to
2 Krystal Hutto were deleted.

3 You'll see fights that he was having
4 with his other fiancée. And, again, subtract the
5 four hours. You have these records back there and
6 I know that each of you will look at them
7 thoroughly like you will each piece of evidence.
8 But, I mean, if you need to open these shoes and
9 these -- all of these things, go ahead. But I
10 submit to you, we waisted two weeks or at least a
11 week of your time waiting for that, you're the
12 father moment, and we never got it. Because none
13 of the DNA, none of the fingerprints, nothing
14 matched Joe Smith. But not only that, we had DNA
15 in Krystal Hutto's mouth that matched two people,
16 but not Joe Smith.

17 So Christopher gives an explanation as
18 to why he didn't keep a lot of drugs in the house.
19 Well, Pastor Anna told you that she stole from him
20 and that Krystal stole from him. It doesn't make
21 very good business to leave a lot of drugs with
22 drug addicts. And I submit, go back to the phone
23 records because you will see June asking for prices
24 and product. And that's what you will see.

25 He was the target. Did they run those

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1 phone records to -- she even said she -- excuse me.
2 Christopher Wright even said that she filed a
3 police report, Ms. Woods. Filed a police report.
4 Certainly, certainly that was looked into, just not
5 presented. And I'm not knocking on Jerome.
6 Everybody is certainly entitled to do whatever job
7 they need to do. Is it possible that Jerome, with
8 his knife, and his cell phone, and his beer outside
9 the property was perhaps looking out for things?
10 And when things weren't quite right, especially
11 with Krystal, because we know that she's messed up
12 making bad decisions, is it possible that he was
13 maybe a part of this and then finished off? Just
14 as possible as Joe going in and executing five
15 people that he doesn't even know.

16 These are some questions that I have
17 for Chris Wright. How did he know the money was
18 missing when the safe was in the bedroom? It took
19 them three days, three days to evaluate all that
20 evidence and they still missed some. Because that
21 place was a wreck. Yet they want you to believe
22 that my genius was in there for 45 minutes not
23 leaving a clue, shoot people in the head, turning
24 things over, pulling things out, and leaving drugs.

25 I want to ask Chris about that money in

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1 his pocket. I submit it was not from lawn mowing.
2 I submit it was from drug dealing from that safe
3 when he went in to get the money. I would love to
4 have tested it, but it wasn't collected.

5 So, D.N. , and, again, my favorite
6 witness because he sees a burned up guy, a white
7 lady, Pocket, and a black guy. None of those are
8 Joe. But I found it coincidental that he referred
9 to Coleman as the burned up guy. Because eight
10 years old, are you going to know what someone with
11 severe burns looks like? Or is that something that
12 you're going to maybe pair it that you hear from
13 your dad who used that same nomenclature on direct
14 and cross.

15 We talked about -- oh, we talked about
16 Jerome Butler. One of the things -- and I put it
17 into evidence so y'all will get to see the pictures
18 in the backpack and everybody was like, oh, why is
19 she putting Mexican paper in there? Because we're
20 talking about drugs, big time drug dealers. Arrest
21 warrants for undercover sales in that kitchen that
22 happened in 2013. Just think about this. What if
23 those arrest warrants had been served in the last
24 two years? These people would still have their
25 loved ones.

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1 As the State pointed out, is it a
2 coincidence that June was arrested on July 14, 2014
3 and not for little petty state charges, we're
4 talking federal -- federal crimes, big time. And
5 then all of a sudden the person who actually sold
6 the drugs for him, Chris Wright wasn't arrested.
7 Was never caught up in that investigation. And as
8 Chris testified, stopped sending money to the jail.
9 And mind you, smearing June's products good name
10 with that Miami Magic.

11 Joe. And everybody wants to call him
12 Luther because that's what the police call him.
13 Yes, that is his official name. Everybody --
14 everybody calls him Joe. Joe looks a lot
15 different, but he does not look like a burned up
16 man or a white lady. And I submit to you this is
17 what he looked like in 2015. This is what he
18 looked like in 2016.

19 Joe's biggest, biggest problem and I
20 don't -- and I'm not, not diminishing him at all.
21 But he is someone who requires medication, has
22 anxiety, had an IEP, he goes to the police for help
23 and he puts himself in this case. He sees Officer
24 Boyne and goes running to him. Not away and this
25 is May of 2016. May 2016 is so important, but they

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1 don't document that interview at all. Even if he
2 were drunk, we don't get that interview. We don't
3 know what it says. We can't ask the best
4 interviewer because they didn't put it in. They
5 didn't even take any notes of it. We don't have a
6 video. We have no idea what it says.

7 Okay. Joe's smart enough to get away
8 with this, but then dumb enough to put himself in
9 the mix a year later. Ladies and gentlemen, does
10 that make sense? Show us all the interrogations.
11 Let's see what he said.

12 Okay. So evidence against Joe. Again,
13 Director Frazier, she testified she didn't even
14 consider it a confession. Says he -- when I feel
15 this, drugs make me say or do bad things. And he
16 said he just wanted drugs not I went there for the
17 drugs. And, again, if you need to rehear the
18 testimony, you can. Because for an hour, several
19 days in a row, he was in a car -- by the way, by
20 the way, this vicious killer is allowed to be in a
21 car with just a female. No recordings. That's how
22 dangerous they consider him. No recordings. No
23 protection. That little -- he was in chains and
24 that little separator, but they're having
25 conversations. Because bless his heart he still

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1 believes that the police are going to do the right
2 thing. And quite honestly, she did. Because when
3 she heard that on Monday, February 7th, she didn't
4 go running to anybody. It happened to come up in a
5 conversation on a Friday night. And Lieutenant
6 Shumpert jumps on it.

7 So we have a statement from 2022,
8 February 4th, and we have a statement to Lieutenant
9 Boyne on May 2016, although, we don't have the
10 actual interview. And then again in September --
11 sorry, it says 2015, it should be 2016. September
12 of 2016, walks up to Investigator Boyne again and
13 says, yeah, I got that right here. But this is the
14 criminal master mind. I submit he is not.

15 "False witness shall perish, but the
16 man who hears him will speak the truth -- will
17 speak endlessly." Ladies and gentlemen, that's
18 what your job is to do.

19 Derrick Stone. He's getting his 30
20 pieces of silver. He's got multiple charges. Oh,
21 he said they're old. 2021 isn't old. Multiple
22 charges. And he finally admits that he asked for
23 help. And let me ask you this. And talking about
24 things that make sense. This stranger is in a cell
25 with Joe for two months in 2019 and yet he just

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1 decides to confess all of this stuff. Never heard
2 from people before. Never heard -- I mean, he's
3 been in jail since September of 2016. Line them
4 up. Let's get all the people that he confessed to.

5 And then when I said, well, give me
6 some specifics. Give me some specifics.

7 Interestingly, some of the specifics in the State's
8 eyes try to corroborate D.N.'s testimony. But,
9 again, does it make sense? Does it make sense that
10 the kids are so afraid that they go into this
11 little closet and you'll get to see the closet,
12 you'll get a picture of it with Krystal, but then
13 Krystal goes outside, so they're in there with at
14 least one phone that's working, if not two,
15 Shamekia's and Tamara's, and they don't call 9-1-1.
16 Because they don't want to go to jail. Those these
17 kids aren't going to jail. Let them call 9-1-1,
18 that's what they teach you in kindergarten.

19 I submit that they didn't call 9-1-1
20 because that's not how it went down. I submit how
21 it went down is Krystal needed to feed her
22 addiction and so she calls people up and she does
23 what she needs to do. And I am not knocking her.
24 I've never been an addict, but I've known a lot and
25 I understand that they lose their minds. And I

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1 agree she was respectful having the kids stay away
2 from that. Where it went bad, is why we're here.

3 And then how does Derrick Coleman -- or
4 how does Derrick Stone's testimony stack up to
5 Coleman's. But, again, apparently Coleman is a
6 liar. Man outside the house. Yes. Man outside
7 the house. And, again, this is Osborne -- this is
8 Mr. Osborne asking questions of Stone. Okay. Not
9 getting the answers.

10 Talked about credibility of the
11 witness. And I agree that the Judge -- Judge
12 Dickson is going to charge you on that and you can
13 believe several over one. Part of testimonies,
14 reject the remaining. But remember, it's your job,
15 it's your job to make sure that the State meets its
16 burden.

17 And so in order to do that, you have to
18 weigh all of the testimony as it relates to Joe.
19 And if the State wants you to believe D.N., so
20 do I. Because Joe was not there.

21 I put this slide in expecting an
22 objection quite honestly until the State got up and
23 told you themselves that they put liars, they put
24 people they knew weren't telling the truth on the
25 stand for you. And they want you to take that

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1 evidence as real. Don't take that bug out, throw
2 away the whole meal.

3 Samantha Buxton. Bless her heart, I
4 couldn't even -- this poor woman can't even
5 remember if she had children. Bless her heart.
6 She couldn't remember if she had children much less
7 remember anything else. I mean, we can't take a
8 word of what she says. I'm not even quite sure she
9 testified her name was Samantha Buxton, bless her
10 heart. But there's a common theme as you see
11 running through these witnesses. Coleman, Smith,
12 Buxton, these are people who are weak. They are
13 susceptible to somebody telling them that they
14 weren't at their house when the phone records
15 eventually show that Mr. Bailey called Coleman at
16 his home phone to help with the motorcycles. She
17 testified that she was scared to lose her children,
18 if she had any, and that she was just telling them
19 what they wanted to hear. And the reason that that
20 is so important is because that's a common theme
21 that we heard through Coleman, we didn't get to
22 hear through Smith, because they didn't put any of
23 his interviews in or interrogations.

24 Coleman. Well, witness or Defendant?
25 Well, he's a witness. He was given that

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1 opportunity to be a witness or a Defendant. And,
2 again, why would Derrick lie? Do I think Derrick
3 was there? I don't know, I wasn't there. I don't
4 think the evidence -- the objective evidence shows
5 he was there. But why would he lie? Ladies and
6 gentlemen, I want to be real clear about this.
7 This is not a death penalty case. Okay. And I'm
8 not trying to give any confusion, this is not a
9 death penalty case. But as Coleman sat on that
10 stand on February 7th -- up until February 17th at
11 11 a.m. he believed he was facing the death
12 penalty. And the reason that's so important is
13 because that shapes why his stories change, why
14 he's doing whatever he wants, whatever needs to be
15 said so that he doesn't face the death penalty.

16 Ladies and gentlemen, if that's not a
17 reason to lie, I don't know what is. Does that
18 make it okay? Does it make it right? Absolutely
19 not. Does it make it important when you're
20 considering these facts in your deliberations?
21 Absolutely. It's easy to break people down.
22 Especially ones that are using these heavy drugs.
23 Stories that change are not reliable. And they
24 started changing as soon as actual evidence started
25 coming in that didn't match their stories.

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1 One of the charges in the credibility
2 of the witnesses, the judge is going to say, you
3 can, you know, listen to their stories, see how it
4 adds up, blah, blah, blah. He's also going to say,
5 you get to judge their demeanor on the stand. For
6 example, on direct, Mr. Coleman had no problem
7 saying, I just killed five f'g people! Loud as can
8 be. No problems with his memory. In fact, he was
9 so clear, he was even able to tell you, the jury,
10 that Lieutenant Shumpert was confused. There's
11 some confusion all right.

12 Look at all these interviews.
13 7/15/2015, doesn't mention Mr. Smith. It's not
14 recorded because it was just out front. Coleman
15 says it was with Lieutenant Shumpert. Lieutenant
16 Shumpert says it wasn't me. July 19, 2016, in the
17 interview room. Officer Culpepper. No video put
18 in because we have a screen shot and then right
19 after that it stops. And then we go to 9/26/16,
20 Alabama. It was recorded thank goodness. We
21 didn't get to see all of it. A minute -- an hour
22 and 18 minutes with, again, Lieutenant Shumpert.
23 And then there's a 48 minute video with no audio.
24 Again, Lieutenant Shumpert. And then that same
25 day, a 16 minute video where, remember, because

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1 it's recorded, we don't have to worry about what he
2 remembers because it's recorded.

3 So we know we can see and he finally
4 admitted that Lieutenant Shumpert, the best
5 interviewer, kept asking him over and over and over
6 the same things. Because he needed to get those
7 things firmly implanted in Coleman's mind. Which
8 is why they were -- Coleman was so believable up
9 until they got the phone records. Because he like,
10 I was out front, half a mile, 20, 25 yards. Today,
11 apparently, that's a lie. But it's all a lie.
12 Because there are no phone records pinging off of
13 that area. And we know he was on his phone because
14 there are phone records, his phone records that
15 show where he was or where he wasn't more
16 importantly. Oh, well, there was a 2:05 call to
17 Sarah. Okay. Our expert couldn't find it. The
18 State didn't put it up. And then he says, oh,
19 wait. No. No. No. I was confused about that
20 time. That I believe is true. But that makes us
21 call this testimony into question.

22 Okay. The things that he said on the
23 stand, 2,410 days after this case for the first
24 time he now says that he didn't text Antly Scott.
25 Even though every single interview before that he

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1 had said that. Because when they got the phone
2 records and saw it didn't match, they had to change
3 course.

4 Another example of changing course.
5 When I was cross examining Christopher Wright and
6 asked him about that phone and he identified it as
7 probably one of his old phones, and I said, would
8 it surprise you that there was a call between you
9 -- and then Mr. Osborne gets up and says would it
10 surprise you that it didn't show up on the
11 Cellebrite. Learning the evidence six years later
12 with the death of four human lives and three human
13 lives on the line is not -- it's not good enough.

14 He was incorrect he says about some
15 stuff because it was finally disproved by the phone
16 records. And then he was able to say what Shumpert
17 believed at the time. Well, oh, that's because
18 Shumpert believed Joe. That's because Shumpert
19 believed that there was dope in the motorcycle.
20 That's testimony we should hear from Shumpert.
21 He's been sitting here.

22 Again, a lot of these, I think,
23 pointing these things out are pointless since the
24 government has admitted that he's a liar and can't
25 be believed. Okay. I do have some questions for

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1 Coleman. How does Scott give him turn-by-turn
2 directions when Chris Wright said he doesn't even
3 know Mr. Scott, never been to his house, never sold
4 him drugs. Yet he can give him turn-by-turn
5 directions.

6 They want to talk about hand of one,
7 hand of all. Then there has to be a plan. There
8 has to be credible, competent evidence that Joe
9 Smith, A, was there; B, was involved in some plan
10 and you have heard neither.

11 You did hear Coleman being told by
12 another suspect to man up and tell them what they
13 want to hear. And you heard Coleman say, I was
14 just telling them what they wanted to hear. If
15 you're confused with the Sarah cell phone
16 information, how are you not confused with
17 everything? Because he doesn't want to get the
18 death penalty which he was never facing, but
19 believed he was.

20 All right. We go to Lieutenant
21 Shumpert's stories. He lied to witnesses and
22 suspects. We know that because Coleman said I knew
23 he was lying. In fact, in the October interview,
24 Coleman is still saying when Lieutenant Shumpert
25 says, I know you weren't at home, you were at

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1 Mark's trailer. And he's just like, yes. He's
2 just acquiescing at that point. But we know the
3 phone records show that Mr. Bailey called him at
4 his home. Investigation. Corroboration.

5 One of the things that you may have
6 been confused about, so what we do as a case, we
7 never know what evidence is going to come in or how
8 people are going to testify. We hope that the
9 State only puts up truthful witnesses or witnesses
10 they believe to be truthful, but apparently that's
11 not the case. But, remember, the first witness,
12 the first responder, Mr. Clinton, he was asked by
13 all three Defendants, are you sure those children
14 weren't covered up? Why were we asking that
15 question? We didn't get to ask the best
16 investigator, so I would infer that it's made up
17 another part of the story that just didn't add up.

18 One of the things that you got to hear
19 and see in some of the clips was Lieutenant
20 Shumpert suggesting facts and then asking the
21 question. For example, it's possible you just
22 don't remember driving Pocket and Jackie Man over
23 there. It's possible. You may just not remember
24 it. And then two questions later, who did you
25 drive over there? Uh, Jackie Man and Pocket. And

CLOSING ARGUMENT BY MS. ZMROCZEK

1 then, are you sure there wasn't a third person?
2 And he kept getting asked and asked and asked the
3 same questions and little facts being fed in right
4 up until they realized that those facts weren't
5 going to add up with the actual evidence.

6 Okay. This timeline. This timeline is
7 actually really important. So what we know, not
8 from any witnesses, but from actual facts.
9 Objective evidence. Coleman, remember he said it
10 was dark, 10 or 11, but couldn't really tell what
11 time. Bless Buxton's heart, I don't even think she
12 knew what planet she was on, even D.N. says, no.
13 No. No. Midnight. I remember midnight.

14 And, again, you can ask to hear this
15 testimony if I'm misstating it. Because
16 Mr. Osborne says to D.N. -- because at first he
17 said 6 and then he goes, no. No. No. He corrects
18 himself. He goes midnight. And Mr. Osborne goes,
19 are you guessing or did you look at a clock? And
20 he said, I looked at a clock. Midnight he hears
21 this woman, the burned up guy, and some other
22 people pulling into the driveway with or without
23 lights, whatever, at midnight. But we know -- and
24 I'm not calling him a liar. Bless his heart, I am
25 not calling him a liar. If anyone has the right to

CLOSING ARGUMENT BY MS. ZMROCZEK

1 not understand things is because they took a bullet
2 to their brain. But 7/15/15, capture time. 12:42,
3 we know at 12 o'clock there was nobody kicking in
4 doors because we have a selfie. Right here. I
5 told you these phones.

6 And then we know it wasn't even 1
7 o'clock because we have two missed calls from
8 Krystal Hutto to Chris Wright at 1:23:08. And,
9 again, look at his phone records. And we know that
10 that's the accurate time. But then this evidence.
11 All right. We know the 9-1-1 call was made at 6:47
12 a.m. Veronica, again, she's not my witness. I
13 don't have a dog in her fight. But how did she
14 know to tell Mr. Bailey about the murders before
15 even the 9-1-1 call.

16 But then we have this phone in Jerome
17 Butler's backpack. Making calls. Making calls.
18 Making calls. Even to Christopher Wright on his
19 business phone at 18:59. And then he's making
20 calls. Making calls on July 14th all the way up
21 until 20:06. 20:06. But the government wants you
22 to believe that instead of grabbing the phone, he
23 reached in his pocket, opened his knife, took out
24 his knife, just call 9-1-1. If you're in fear for
25 your life, going to jail is the least of your

CLOSING ARGUMENT BY MS. ZMROCZEK

1 concerns. Again, unexplainable deferences in the
2 witnesses. But now we know they don't want you to
3 even believe Mr. Coleman. How many cockroaches do
4 you need in your food before you send it back? All
5 right.

6 So this is the timeline we talked
7 about. These are the objective evidence. We know
8 that at 1:23 a.m. Krystal Hutto was alive. We
9 don't know with whom. We don't know what she was
10 doing. We do know that she was doing cocaine.
11 Because remember, Investigator -- excuse me, Dr.
12 Ross testified about how quickly cocaine
13 metabolites in your system. And that it can get
14 out of your system really quickly. But she saw
15 active cocaine in Krystal and Jerome. Active,
16 meaning done recently prior to death.

17 We saw pictures of the Mercedes and
18 talked about that. What we didn't hear is how long
19 did that take to burden. Because that could have
20 been helpful in our timeline. Also, who drove the
21 Mercedes? Is it a mystery? Is it the mystery
22 third or fourth person that we're trying to find?

23 The government wants to tell you over
24 and over and over and over again what they believe
25 the facts are and they are certainly entitled to do

CLOSING ARGUMENT BY MS. ZMROCZEK

1 that. But you as jurors are charged with not just
2 accepting it, but challenging each and every piece
3 of that evidence and then consider other
4 possibilities. Is it possible that Krystal Hutto
5 was getting drugs using her body and hid from the
6 kids? Is it possible June was seeking revenge? It
7 is possible June's people were getting it done? I
8 know that we laugh about Killa, but wait until you
9 get to Chris Wright's phone records and see how
10 many calls and what his text messages say. And
11 look at the threats with Hoop. Man, my product's
12 not right. Or Pa-Pa, you're not right on the
13 money. Chris Wright was in a world of hurt. He
14 owed money and drugs. Look at his text messages.
15 Is it possible Butler was a lookout? Possible that
16 Mexican's were involved. And the reason I say that
17 is because we know that's where this big quality
18 drugs come from. Journey testified to it.
19 Reluctantly. We know that there was paper in
20 Jerome Butler's backpack that was not in English.
21 Jealous girls, husbands, reasons to doubt.

22 So the government -- and I promise you
23 I'm winding down. The government wants to say
24 that, you know, we like to tell cute little stories
25 about reasonable doubt. Well, because here's the

CLOSING ARGUMENT BY MS. ZMROCZEK

1 thing. Reasonable doubt is something that's very
2 hard to understand. And the judge is going to
3 charge you on it and that is the law. One way that
4 I explain it is like this and it's a story and it's
5 true. I'm the oldest of seven girls. My dad
6 wanted a boy so badly, but he just kept having us
7 girls. And it's February in Louisiana much like
8 this weather, comes and goes, we were talking about
9 planning a crawfish boil. As being the oldest, I
10 always get in trouble because I'm supposed to be
11 the responsible one. I'm supposed to -- my sisters
12 could say anything. She hit me. She did this.
13 She did that. Do. Do. Do. Much like an arrest
14 warrant. You know, she did this. She did that.
15 And I would generally get in trouble for it.

16 So one day, my sister comes home and
17 she's had a bad day at school and she's slamming
18 doors and my dad's like, don't slam that door. And
19 she runs up those stairs -- stomps up those stairs,
20 slams that door. And he's like, that's it. You're
21 getting it. And I'm like, yes. And my dad's
22 running up the stairs, cursing at her. I'm running
23 up behind him encouraging him. He opens that door
24 and she's sitting on the floor and right then a
25 gust of wind comes in and slams that doors shut

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1 just as loud as we heard before. And he took that
2 hand and he put it down. Because, ladies and
3 gentlemen, that is a hesitation to act. It's not
4 deliberation. Yes, you will deliberate. And when
5 you test each of these pieces of evidence against
6 each of these pieces of evidence, it will be a hand
7 not connecting with my sister's hinny
8 unfortunately.

9 So, again, there's no 90 percent, 75
10 percent, 50 percent. The judge is going to talk to
11 you about the burden and reasonable doubt. And I'm
12 going to keep hitting on this because there are so
13 many reasons to doubt. And these reasons are
14 actual reasons.

15 Reason number one, they just told you
16 that one of their star witnesses and the one that
17 connects my client is a liar. You can believe all
18 of these things. Probably not, maybe not, perhaps,
19 suspected, possibly guilty, guilt likely, we've got
20 a strong belief of guilt. And what the judge is
21 going to tell you is that is not enough. You must
22 be firmly, firmly convinced of the guilt. And if
23 you can't be, the law makes it very easy for you.
24 The law says you must find Joe Smith not guilty.

25 Ladies and gentlemen, I don't like to

CLOSING ARGUMENT BY MS. ZMROCZEK

1 read my PowerPoint's, but this is one that deserves
2 reading. Because you may be thinking, I do have
3 some doubt and that means I'm supposed to acquit,
4 but someone murdered these innocent people and they
5 should pay. Wouldn't it be more of a tragedy for
6 the victims and their families if we find the
7 Defendants not guilty. That's what gets it
8 backwards. It's not your job to solve the crimes.
9 That's for the police. It's your job to decide if
10 the government proved the Defendants, but
11 specifically Joe Smith, beyond a reasonable doubt
12 of his guilt.

13 I've listed some of the reasons. I
14 suspect that as you go through the evidence you
15 will have more questions. There are more than a
16 reasonable doubt. These are very serious doubts.
17 Equally important. If you punish the wrong people,
18 you virtually guarantee that the real culprits
19 remain free. We know they're still investigating
20 it because like I said, just, just two and a half
21 weeks ago they did the tower dumps.

22 The way to honor the victims and their
23 families is not to convict people when the evidence
24 is against them is very shaky on very shaky
25 witnesses. I was being generous. The State called

CLOSING ARGUMENT BY MS. ZMROCZEK

1 him what he was. A liar.

2 Ladies and gentlemen, I told you this
3 in the beginning, sanctify them with their truth,
4 your words, your truth. I have been doing this for
5 a long time. A long time. And I know that your
6 job is hard. And I know that you're going to take
7 it with the amount of responsibility that it
8 deserves. And I'm confident that when you do, that
9 you will do the right thing under the law and find
10 Joe Smith not guilty because the government has not
11 proven his guilt. Thank you.

12 THE COURT: Thank you, Ms. Zmroczek.
13 All right. Ladies and gentlemen, we're going to
14 take a break for lunch. Your lunch is here.
15 Remember, you cannot begin talking about this case
16 yet. Until I tell you you can begin discussing
17 this case, you cannot talk about it. Okay.
18 Particularly even among yourselves. Okay. I'll
19 let y'all go back into the jury room. Let y'all
20 eat. And don't hurry, but when y'all are finished
21 eating, if you would let the bailiff know that
22 y'all are through, we'll come back out here and
23 pick back up where we've left off. Okay. Thank
24 y'all. Y'all are being very attentive and I
25 appreciate it. Thanks.

CLOSING ARGUMENT BY MR. JOHNSON

1 (WHEREUPON, the jury left the courtroom
2 at 1:10 p.m.)

3 THE COURT: Thank you. All right.
4 We're going to take a break for lunch, probably
5 about 30 minutes, I guess. So grab something and
6 run back.

7 (Lunch break)

8 (WHEREUPON, the jury entered the
9 courtroom at 2:13 p.m.)

10 THE COURT: Ladies and gentlemen, I
11 hope you enjoyed your lunch that was provided free
12 by the county. Okay. I hope y'all enjoyed that.
13 Y'all can thank the clerk for that. Okay. We're
14 going to continue now with the closings. I
15 believe, Mr. Johnson, you're up next.

16 MR. JOHNSON: Yes, sir, Your Honor.

17 THE COURT: All right.

18 MR. JOHNSON: Thank you, Your Honor.
19 May it please the Court.

20 CLOSING ARGUMENT BY MR. JOHNSON:

21 MR. JOHNSON: You know, sometimes the
22 government gets it right. Sometimes the government
23 gets it wrong. I told at the beginning of this
24 trial, I started out with a story about my father.
25 And I love telling stories about his adventures all

CLOSING ARGUMENT BY MR. JOHNSON

1 over the world. He's a career military man and how
2 he went to Vietnam. And I told the story about he
3 got there and he got grounded as a pilot following
4 World War II and Korea because of his hearing. So
5 he was a supply officer at Da Nang and he got there
6 right before the big Tet Offensive. And he got
7 there and noticed, well, they're stealing
8 batteries. And they said --

9 THE COURT: The court reporter can't
10 hear you. And I appreciate it, but when your back
11 is turned like that -- you can actually hold the
12 microphone if you want. Thank you, sir.

13 MR. JOHNSON: And I said, my father got
14 grounded and they said where is the supply officer.
15 Pocket rank was Major, but his sleeve rank was, you
16 know, the highest enlisted you can be. And he
17 noticed the batteries were being stolen and they
18 dump them on the beach and everybody said, well,
19 that's now the Navy does it. And then, of course,
20 well, batteries can be hooked up to a Russian
21 rocket, so what happens pretty soon thereafter, Tet
22 Offensive. Thousands of Viet Cong storming the
23 wires, storming every base in Vietnam, a bunch of
24 people got killed. That's what gave him his PTSD
25 and his nightmares in seeing all that.

CLOSING ARGUMENT BY MR. JOHNSON

1 But I wanted to finish the story
2 because what happened was, of course, after all of
3 that and the carnage and the great battles, they
4 said, well, let's check the batteries. How many
5 batteries do you have? So that's a good question.
6 Then they go back in the supply room and they go,
7 oops, some batteries are missing from this locked
8 supply area. Because you've got batteries on the
9 beach, but why are these missing? Investigation.

10 So my father says, well, I'm supply
11 officer, we're going to find out what's going on.
12 And he says, well, rule number one, he would tell
13 me the story, said, well, let's talk to everybody.
14 Talk to everybody that has access to this area.
15 They start with a young man who's a private, says,
16 well, you know, there is some Vietnamese in here
17 because we have some civilian employees. They had
18 civilian employees working on different bases in
19 every country we go to. And so there is some
20 Vietnamese. And they were milling around maybe and
21 that's probably what happened.

22 And they would talk to the guards and
23 they would talk to people. And it just seems
24 strange because that story that the young man told
25 really didn't make sense. As you look at the facts

CLOSING ARGUMENT BY MR. JOHNSON

1 and look at the logs, they have guards out here
2 with dogs outside, the wire. They had all these
3 people checking people in and out. People with
4 schedules when they were on and when they were off
5 work. And said, well, doesn't make sense because
6 these Vietnamese civilian employees don't have
7 access.

8 Well, then what happens. Well, the
9 story changes. Well, okay, it was locked. Maybe I
10 accidentally left it unlocked. And then maybe I
11 brought somebody in here that's a friend of mine,
12 you know. And they just didn't know about it. I
13 snuck them in. You know, and they just milling
14 around, just being nice. And I gave them some
15 supplies. And the story changed and the story
16 changed. And, eventually, my father says, well,
17 you know, you got to talk to everybody. You got to
18 see everybody. You can't skip anybody.

19 And then -- and says, well, that's rule
20 number one. Rule number two, if a story doesn't
21 make sense, go back to the person who's telling you
22 the story that doesn't make sense and say, well,
23 this has to make sense. Because this young man was
24 saying stuff that just didn't make any sense. And,
25 eventually, the young man said, well, okay, he took

CLOSING ARGUMENT BY MR. JOHNSON

1 the batteries. He sold them. Because you walk
2 outside, you go downtown apparently and there's
3 plenty of people willing to buy them and those were
4 probably people selling to Viet Cong. He didn't
5 want to get in trouble.

6 The point has to be those two rules.
7 Rule one, talk to everybody. And my father was a
8 pilot. Trained as a pilot. Class 42-J out of
9 Chicago. He was not a trained investigator in
10 anyway, but he used common sense. Solicitor talked
11 about common sense. And Ms. Zmroczek talked about
12 my names. And you'll notice that I -- when I
13 talked to officers during this trial, I asked every
14 officer, you know, I ran down some names. And the
15 reason I did that, to be honest with you, I think
16 about when my father said, but I also think about
17 back when I was a solicitor. Because I've been
18 doing this a little over 20 years. I used to be a
19 solicitor. I did it in Lexington. I did it in
20 Aiken. And when I was a solicitor, it used to kind
21 of drive me crazy if I would get a case and, you
22 know, just like any other case you look at it and
23 you say, well, did the prosecuting -- did the
24 arresting agency, did they talk to everybody? And
25 I would have cases where I'd go out and I had

CLOSING ARGUMENT BY MR. JOHNSON

1 investigators, you know. They have Investigator
2 Haupt back here and he testified, and I asked
3 investigator, I said, well, you work for the
4 solicitor and the solicitor found out sheriff's
5 department didn't talk to somebody, he can ask you
6 to go talk to them. He said, yeah, that's right.
7 I said, okay. Well, I ask that question because
8 that's what I always did. Let's go fill in the
9 holes. Let's find out what's going on. Let's find
10 out what everybody is saying we got to find out who
11 stole these batteries; right.

12 And so that's what you do. I mean, to
13 be honest with you, ladies and gentlemen, I'm
14 talking about stuff you can figure out watching TV.
15 This is basic police work. This is not fancy.
16 Nothing that complicated about it. You go into an
17 investigation, they have names. The names pop up.
18 Okay. Joe Smith or Joe Blow or whoever and you ask
19 people with where were you that night. They're
20 going to give you an answer. And then you go down,
21 were you at momma's house? I was at my
22 girlfriend's house. I was over here. Okay. Well,
23 go. Were they there? Confirm, is there an alibi?
24 Whatever they say.

25 Now, there's a lot of other stuff you

CLOSING ARGUMENT BY MR. JOHNSON

1 can do. Okay. We heard about DNA. We heard about
2 shoe prints. Well, you can ask the officer, can't
3 you pull -- oh, just pull the shoes off. Or say,
4 can I see your shoes? Fingerprints. You can do
5 all of that. But you got to talk to the person.
6 You have to talk to them. And when I had my names,
7 well, there's a reason. I'm not just sitting up
8 here throwing out names. Because Chris Wright
9 testified. Who did you sell drugs to? Chris
10 Wright, the drug dealer. Admitted drug dealer.
11 Dustin Ferguson, sold him drugs. Dominique
12 Washington, sold him drugs. Lewis Todd Dukes, sold
13 him drugs. I asked him about Pat-Pat, sold him
14 drugs. Double J, sold him drugs. And then you
15 also heard about, well, I've said it a bunch of
16 times talked about Killa. Dwayne Sanford Smalls,
17 a/k/a Killa.

18 And then Chris said, oh, I went to
19 school with Killa. I know Killa. Went to school
20 with him. And I said, well, has he been over to
21 your house? Oh, yeah, he's been over at my house.
22 I grew up with him. Knows Killa. And then I asked
23 about some other people. There's Lippman. Shyheim
24 Lippman. He goes through the names. I'm talking
25 about the fellow that was in the car with Bailey

CLOSING ARGUMENT BY MR. JOHNSON

1 where they found the guns. Shyheim Lippman.
2 Solicitor talked about. Showed you a picture. I'm
3 talking about him. I'm talking about fingerprint.
4 Lewis Todd Dukes. They go into the crime scene,
5 ladies and gentlemen, this is basic stuff. Okay.
6 Ground floor. This is where I start. That's what
7 I did when I was a solicitor, that's what I do now.
8 You go into a crime scene, what did the Solicitor
9 say? We went through all the DNA. Went through
10 fingerprints. But what happened? You got prints
11 on this guy, Dukes. Okay. Go talk to Dukes.
12 Chris Wright said he sold him drugs. Okay. First
13 thing I'm going to do, let's start talking to some
14 of these people.

15 Did you hear any testimony from the
16 State about these people being interviewed? Where
17 they were? Do you have an alibi? Let me look at
18 your shoes. Let me get your DNA. Can I get your
19 fingerprints? I mean, we heard about buying drugs.
20 You heard about them going over to the house, some
21 of them. I talked to -- well, I talked to their
22 witness, the lady, Ms. Veronica who's the victim's
23 aunt. She knew Killa. She didn't want to talk
24 about June. I said, well, what about Killa? Oh,
25 yeah. I knew him. Okay. So the victim's aunt

CLOSING ARGUMENT BY MR. JOHNSON

1 knows him. Chris knows him. He goes over to the
2 house a couple of times. Chris has known him since
3 school. Where was he at? Is that a fair question?
4 I mean, is it a fair question to ask?

5 When you're trying to -- as I started,
6 I said, very important and I'll say it again, Antly
7 Scott sitting right there. That's my client, Antly
8 Scott. He's born innocent just like we're all
9 innocent unless and until the solicitor transforms
10 him, changes him into a guilty man. They have to
11 transform him into a guilty man by proving this
12 case beyond a reasonable doubt. That's what they
13 have to do. That's their burden. He's innocent
14 sitting over there right now.

15 Did they do the basic work on a case
16 this important? And they said, well, as Ms.
17 Zmroczek stated, as far as cases go this might be
18 the one of the top four ever sent DNA to SLED.
19 Really, it's that important. The Solicitor said,
20 well, everybody from the sheriff's department runs
21 down there, they're all going down there. But
22 SLED, and everybody in the sheriff's department,
23 they're so committed, they're working so hard.
24 Well, they're working so hard, why didn't they talk
25 to these guys? Did you pull their DNA? Did you

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1 look at their shoes? Where were they at? I mean,
2 that's a fair question. And this is really about
3 being fair. It's all about being fair.

4 And I would say that lesson number one
5 from my father's story, talk to everybody. Talk to
6 everybody. Lesson two from my father's story,
7 aside from, you know, make sure you got the Marine
8 Corp surrounding you in case you get attacked
9 because that certainly saved his life. Lesson two,
10 if it doesn't make sense, my father would say it's
11 probably a lie. If someone is telling you a story
12 that doesn't make sense, it's probably a lie.

13 Ladies and gentlemen, it boils down
14 pretty simple to my client, Antly Scott. They've
15 got one witness, Derrick Coleman, who says my
16 client was at the crime scene and committed this
17 crime. And that's it. Derrick Coleman is it.
18 You've got to believe Derrick Coleman beyond a
19 reasonable doubt. Well, my client is not guilty
20 and that's a fact. That's a fact.

21 D.N., that poor boy sat up here, and
22 god bless him and I wish him well, he sat right
23 here. My client sitting right over there. He
24 never picked out my client. And he looked at
25 Bailey and picked him out. And the Solicitor stood

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1 right here and questioned D.N. , but nobody ever
2 picked my client out and he's sitting right over
3 there.

4 So let's look at their case and the
5 stories that made sense or didn't make sense.

6 D.N. did not pick out my client. Captain Carter
7 testified. He talked about the crime scene. They
8 found a fingerprint. We know they found one
9 fingerprint on there, somebody that didn't live
10 there. Mr. Dukes. We talked about SLED. They
11 brought in Sergeant Kittrell. Talking about the
12 description somebody with a red afro. Ketcherside,
13 with his crime scene pictures. And some of this
14 stuff is a little repetitive. I can talk about the
15 cocaine they found. Why is cocaine sitting there?
16 If the State's theory is that they're all going
17 down there to get drugs. They leave a big cup of
18 cocaine sitting on the counter. Well, that's for
19 you to consider.

20 But when you look at other things, and,
21 of course, I don't think I need to rehash
22 Ms. Buxton too much. Poor lady didn't know what
23 day it was. But when you look at the actual
24 testimony and what the State seems to be doing,
25 they're trying to fill in these holes. I keep

CLOSING ARGUMENT BY MR. JOHNSON

1 going back to why didn't you talk to these people
2 that you could of talked to, would that have filled
3 in some of these holes for you?

4 Because the Solicitor got up here and
5 said, well, I'm sure -- I'm sure Derrick was in the
6 house y'all. That's the Solicitor, that's not
7 testimony from a witness. But then if there's
8 evidence that Derrick was in the house, as you look
9 through things like the stipulation that Ms.
10 Zmroczek mentioned, well, okay, well then, how many
11 people are involved? The Solicitor got up and
12 said, well, there's probably some other people out
13 there. Wait a minute. There's probably other
14 people out there? What about my names? Where is
15 Killa.

16 They brought in testimony about June
17 sitting in jail. Well, June is in jail y'all.
18 Okay. I'll scratch his name off the list. What
19 about all these other names? What about Lippman?
20 What about, you know, and it really boils down, I
21 always keep going back to Derrick Coleman because
22 Derrick Coleman is so important. And Ms. Zmroczek
23 went through a lot of this stuff that was
24 inconsistent about him and I wanted to add a few
25 things as it relates to Antly Scott. Because as I

CLOSING ARGUMENT BY MR. JOHNSON

1 said, Derrick Coleman is it. You got to believe
2 him beyond a reasonable doubt. Because he's the
3 only person says my client was there. Period.

4 D.N. didn't point him out. It's Derrick Coleman
5 and that's it.

6 Derrick Coleman said, he admitted on
7 the stand, that, well, okay, at first I said Bailey
8 was there. I switched it. And then I said it was
9 Antly Scott and Bailey and then I said it was Antly
10 Scott and Luther, but that's not all. First couple
11 of times he was interviewed, he didn't say anything
12 about my client saying, go! Go! Go! And he
13 didn't say anything about my client saying he
14 killed anybody. And then he said he never saw any
15 guns. He never saw anybody carrying any dope. He
16 never saw anybody wearing any gloves. Never heard
17 any shots. And then Derrick Coleman says, well,
18 oh, wait, we stopped. Whoa. Whoa. Now it changes
19 again. Stop here. Had to calm down. And then I
20 stopped at the lake. Okay.

21 So one of these interviews, here's a
22 new detail. What happened at the lake? I saw a
23 spark. I saw a flicker. Well, what's that all
24 about? Well, he tried to say, well, I just saw --
25 I don't know. When they came out, went back to

CLOSING ARGUMENT BY MR. JOHNSON

1 Mark's house, whoa. Whoa. Antly Scott's pulling
2 out all these drugs. He admitted that he told the
3 police that Antly Scott came back to the truck
4 wearing his boxers. He saw a flicker like
5 something's being burned. And then my client runs
6 up in his underwear. And I asked him, I said,
7 underwear, has he got any clothes on? Oh, yeah, he
8 had clothes on. He pulled drugs out.
9 Inconsistencies.

10 As the Solicitor stated, you know, you
11 got to look at what's corroborated, what makes
12 sense, use your common sense. Can you remember
13 this important night where you're being accused of
14 murder, can you remember whether or not somebody
15 had clothes on? Can you remember whether or not --
16 or who was there? Start with the basics, who was
17 there? If Derrick Coleman has all these problems,
18 ladies and gentlemen, that is for you to consider.
19 Those are inconsistencies.

20 And the corroboration, well, the
21 problem is, to corroborated it, Derrick Coleman is
22 it. So they don't have any corroboration of other
23 witnesses. Derrick Coleman is the only witness
24 saying my client was there.

25 And when you look -- let's talk about

CLOSING ARGUMENT BY MR. JOHNSON

1 cell phones. And I'm like everybody else. I mean,
2 I get a little confused once you start getting into
3 the details and the weeds about all these cell
4 phone records. But the expert said Derrick Coleman
5 was not -- his phone was not pinging off that tower
6 right there at Holly Hill. It was not.

7 And Derrick Coleman admitted that he
8 told the police, well, I was sitting out there and
9 there was this Sarah Branham's cell phone and gave
10 to Antly Scott, so I'm trying to call and text and
11 find out what's taking so long, what's going on.
12 And then the expert said, well, no, there was no
13 calls to Sarah Branham's cell phone. If he said
14 Antly Scott had the cell phone, there's no calls
15 coming out of Derrick's phone, no text messages to
16 Sarah. And ole Sarah's phone is over in Columbia.
17 So they're saying Antly Scott was in Columbia?
18 Well, there's no calls anyway. That's the expert
19 testimony. That's more inconsistencies.

20 So to convict my client, you got to
21 believe this man Derrick Coleman with the cell
22 phone that's not reading right or the cell tower
23 records, they're not matching up, and all the
24 testimony that keeps changing. That's Derrick
25 Coleman. If the story doesn't make sense, it's

CLOSING ARGUMENT BY MR. JOHNSON

1 probably not true. So you got to dig, you got to
2 get the truth.

3 They've done all the digging they're
4 going to do. This is the trial. As I stated, when
5 I was a solicitor, I used to go out, I had
6 investigators and say, well, you know, and I
7 certainly wouldn't want to step on anybody's toes,
8 but if law enforcement didn't talk to somebody, not
9 before I get up in a courtroom, I'm going to say,
10 well, we're going to go talk to these people. If I
11 had a case where somebody wasn't interviewed, I'd
12 say, no, we better. And I'm going to tell you
13 right now, if we had a fingerprint at a murder
14 scene, you better believe if it was my case, Ola
15 Johnson Solicitor, there's going to be some
16 interviews taking place.

17 Because you can bring evidence in of an
18 interview and say, well, ran it down, did the job,
19 they weren't there. You can bring in that and they
20 can just talk about it all day long. Investigator
21 Haupt can come up here and say, well, I interviewed
22 that person, ran it down. He was at his mom's
23 house. Mom confirmed it and, you know, duh, duh,
24 duh. They have that ability. They have the
25 resources. This is the State. They brought in

CLOSING ARGUMENT BY MR. JOHNSON

1 SLED. They had all this DNA going off to SLED.
2 They have all these resources, their own
3 investigators, sheriff's department, multiple
4 agencies.

5 When you look at it, you have to ask
6 yourself, is that enough? And you have to ask
7 yourself some basic common sense questions. And
8 something that Ms. Zmroczek brought up, I was going
9 to bring it up too. Chris Wright said he didn't
10 know my client. Said, I don't know. I don't know
11 Antly Scott. Okay. Derrick Coleman said, I don't
12 know where I was at. I was told directions. If
13 that's the case, then how in the world do you get
14 directions to the house if Chris Wright didn't know
15 my client? I mean, just common sense stuff.

16 We talked about the inconsistencies.
17 You heard all about it. We talked about the total
18 lack of DNA, fingerprints, nothing linking my
19 client to the crime scene. Talked to the doctor
20 who did the autopsy. Anything linking this to
21 Antly Scott? No. No. And it keeps rounding me
22 back to the same question. Tell the jury, it's all
23 about Derrick Coleman and really it is. And if you
24 believe him, if you don't believe him, that's for
25 you to consider and I would say you've got to

CLOSING ARGUMENT BY MR. LEIENDECKER

1 believe him beyond a reasonable doubt. Is that man
2 believable beyond a reasonable doubt? Facing life
3 sentences. After he admitted to sitting up here
4 and lying.

5 And the Solicitor sat up here and told
6 you, well, I'm sure Derrick was in the house.
7 Well, I guess he's saying that Derrick's lying.
8 Derrick didn't say he was in the house. That's
9 their witness. That's what they've presented. And
10 I would offer to you that that is simply not
11 enough.

12 When you get the story, you got to talk
13 to everybody when you're doing the investigation.
14 When a story doesn't make sense, it's not the
15 truth. You got to find the truth. And this says
16 one thing, the answer is not guilty for Antly
17 Scott. Because Derrick Coleman, that's their case.
18 Thank you.

19 THE COURT: Thank you, Mr. Johnson.
20 Mr. Leiendecker.

21 CLOSING ARGUMENT BY MR. LEIENDECKER:

22 MR. LEIENDECKER: There's been a lot of
23 supposition today and I'm going to join in it.
24 Y'all are so excited to see a fourth attorney. But
25 what I have to say and as it relates to my client,

CLOSING ARGUMENT BY MR. LEIENDECKER

1 Mr. Bailey, is as important as everything we've
2 heard up to this point, so I covet your attention
3 and your indulgence and I will try to get through
4 this.

5 I just opened in this case yesterday
6 because I reserved my opening. And I told you then
7 that it's the State's responsibility to prove every
8 element of the crimes against my client and all
9 three Defendants, in fact, beyond a reasonable
10 doubt. And that the State should not place the
11 responsibility on the jury to solve this crime.
12 The State should never bring this case until the
13 investigators have solved this crime.

14 I don't know if it's a good definition
15 of reasonable doubt or not, but I like this one.
16 If the State spends an hour in a closing argument,
17 espousing the theory that people went to a home to
18 steal drugs and bumbled that robbery attempt by
19 shooting someone outside and then had to kill
20 everybody else. And then pivots in the last 20
21 minutes and tells you a known drug kingpin placed a
22 call to one of those Defendants and ordered a hit
23 and this group carried out that hit. That's as
24 plain and clear as example I can give you of
25 reasonable doubt. The State doesn't even know what

CLOSING ARGUMENT BY MR. LEIENDECKER

1 happened.

2 Mr. Johnson talked about the fact that
3 the case rises and falls for his client on the
4 credibility of Derrick Coleman. I pray to be in
5 that situation. Derrick Coleman had nothing to say
6 about my client after he lied about him at the
7 beginning with Lieutenant Shumpert and the other
8 authorities. And admitted on a September 20th
9 walkthrough that he'd never saw Mr. Bailey on the
10 night in question. That he never saw Mr. Bailey at
11 the Wright house and that he had been lying.

12 The State's first key witness is
13 Christopher Wright, the father, and they spend a
14 fair amount of time throwing him under the bus, so
15 we don't have to do anymore of that. But what
16 Mr. Wright did tell us that the State wants to
17 throw out is that he didn't leave drugs at his home
18 when he went to his other home. He didn't leave
19 drugs with his fiancée when he went to spend the
20 night with his other fiancée, he took them with
21 him. He even described how deals went down if he
22 was gone. He would get a call. He would set up a
23 meet and he would go make that meeting somewhere
24 between the residences. And he gave a pretty
25 logical explanation for why that happened.

CLOSING ARGUMENT BY MR. LEIENDECKER

1 Because at least one of the women, in
2 fact, we found out later, two of the women that
3 were in the house had a terrible addiction and
4 would steal the drugs from him. In fact, we
5 learned from one of the witnesses that she not only
6 took part in stealing drugs, but she knew many of
7 the places in the house where he hid the drugs. So
8 I'm sorry, I think common sense tells me, the
9 Solicitor's word, he probably took those drugs with
10 him.

11 We do know that he admitted and the
12 evidence demonstrates, he sold a lot of drugs. And
13 he sold those drugs out of this house and he may
14 have been selling those drugs out of a house in
15 Summerton. And we know even from the State's
16 evidence that people saw a lot of people coming to
17 the house to buy drugs. And that they even saw
18 people on the day in question buying drugs.

19 Well, the State wants to suggest that
20 that was Mr. Wright being negligent or too casual
21 in his dealings. I don't believe that's probably
22 the case. He had been at this a long time. He had
23 a large business. And I think there was no strange
24 event going on on the 14th, the day before on the
25 13th, the day before that on the 12th of July in

CLOSING ARGUMENT BY MR. LEIENDECKER

1 2015. I think there was a steady stream of people
2 coming there to buy drugs in the Holly Hill area.

3 We know that right after this he went
4 right back to dealing drugs in Summerton. In fact,
5 when he was locked up, he even got a person to make
6 a phone call for him asking his fiancée to get the
7 drugs out of the house because there had been a
8 robbery attempt. That robbery attempt two weeks or
9 less after the event that happened in Holly Hill.
10 I didn't hear anything about the Orangeburg County
11 investigation or work with the Summerton police
12 regarding that investigation of that robbery. I
13 don't know. Could they be related? Could those
14 people have been the people at the home on the
15 night of the 15th, the early morning hours?

16 What we did hear repeatedly was that
17 there was a motorcycle deal that afternoon. That
18 it involved my client, Mr. Bailey, that it involved
19 Christopher Wright, that there were at least two
20 other people, a Ramseses Hughes that we heard
21 about, and maybe someone else that was involved in
22 swapping motorcycles. Actually swapping a truck
23 and I'm not sure whether the truck ran or not, he
24 talked about the motor being the important thing.
25 And then making a side deal as it went down for a

CLOSING ARGUMENT BY MR. LEIENDECKER

1 different little motor bike, a dirt bike. And that
2 that required Mr. Wright to actually ride from his
3 house to check out the dirt bike that Mr. Bailey
4 wanted to swap and then get a ride back to his
5 house from Mr. Coleman. And that's how Mr. Coleman
6 became involved.

7 What we heard from Christopher Wright
8 was, I didn't know the guy. I rode back with a
9 guy. Yeah, he was distinct. He was -- that man,
10 he was burned up. A burned up man.

11 We heard from a lot of experts. And
12 I'll just hit them very quickly. Everybody else
13 has talked about them. We heard that from the DNA
14 serology experts that there was no DNA, there were
15 no fingerprints, there are no shoe prints or
16 footprints that matched my client or any of the
17 Defendants. Also, we heard that the serology found
18 evidence of male DNA in the mouth of Ms. Krystal
19 Hutto. Male DNA from two sources in the mouth of
20 Krystal Hutto. Male DNA that is linked to
21 ejaculation or pre-ejaculation.

22 Realistically, the only thing that we
23 really obtained from this -- the experts from SLED
24 in forensic serology is that there are two unknown
25 male contributors that were in the house. Probably

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1 in very short time before this event, two. In the
2 room where Krystal Hutto was executed as the State
3 describes it, and I agree, there was evidence of
4 two guns. A .40 caliber shot into the window frame
5 and a smaller caliber that no one was able to
6 officially identify the caliber of that executed
7 Ms. Hutto. Two guns, two unknown men. We still
8 haven't figured out who they were. Ladies and
9 gentlemen, it's not your job to solve this crime.

10 Forensic generally concerning
11 fingerprints was that there were a bunch of
12 unusable fingerprints all over the house. A lot of
13 them smeared, a lot of them just unreadable, and
14 the ones that were readable came back to -- I'll
15 count on Mr. Johnson to give you that list and I
16 think he already has, but didn't come back to my
17 client or any of the Defendants.

18 The firearms expert, when she
19 ultimately answered the question says, the 9mm
20 definitely wasn't involved in this crime. And the
21 .22 revolver you gave me, there's no way I can say
22 that gun committed this murder or was involved in
23 the commission of this murder. In fact, I can't
24 even tell you for certain that the bullet that was
25 ultimately removed from D.N. is a .22.

CLOSING ARGUMENT BY MR. LEIENDECKER

1 She gave a range. And at the end of her report, if
2 you remember, she said she wrote a question mark
3 because she wasn't certain.

4 We heard from the crime scene
5 investigators. We heard how they did their work.
6 How they spent two days there. How they collected
7 everything that they thought was important. How
8 they even sent one of the investigators on a
9 perimeter search to determine if there was any
10 evidence that someone had walked on to the property
11 from somewhere other than the house. Drive. And
12 he said, there was no evidence except footprints in
13 the neighboring property. And that those
14 footprints ultimately would determine to probably
15 belong to the retired gentleman that lived there.
16 But there was no vegetation disturbed where
17 somebody parked in a back road and came through.

18 And why is that important? Because
19 even the State's case doesn't suggest any way that
20 my client, Robert Bailey, could of or would of
21 arrived at the crime scene on the night in
22 question.

23 I don't really have to go into
24 Mr. Coleman, you've heard a lot about him. Even
25 the State has decided to throw him under their bus

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1 and deem him to be a liar. Except, let me say,
2 except for the things they like and the things they
3 want. Everything else that seems inconsistent,
4 that's a lie. But I remind you, he initially
5 identified my client and then said, actually said,
6 before the trial on the record with the
7 investigating officer, Lieutenant Shumpert, that
8 that was a lie. He hadn't seen Bailey that night.

9 Now, let's turn specifically to the
10 evidence that the State wants us to look at
11 concerning Mr. Bailey. One of those pieces of
12 evidence they've given you are phone and text
13 records. We've already through our expert
14 established that one of the texts which they wanted
15 you to look at that says it came at 3:40 in the
16 morning on the 15th, actually came at 11:40 the
17 evening before and was between Ramseses Hughes and
18 my client. And what the State didn't do when they
19 selectively gave you State's Exhibit 329(c) is,
20 they didn't include all of the communications that
21 happened in those hours. They just cherry picked
22 the ones that they liked.

23 I know it's their burden to prove the
24 case, but it's also their burden to show you all of
25 the evidence. They didn't show you that there are

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1 other texts on there. They didn't show you how
2 those related to the 11:40 text. And that they all
3 dealt with the motorcycle or motorcycles and
4 problems they were having with the cycles running.

5 When they came to their big pivot this
6 morning after an hour and they revealed to you that
7 behind this curtain is an assassination plot. An
8 assassination plot put together in a very, very
9 short time between a drug pin that was incarcerated
10 waiting trial on federal charges in Charleston
11 County and Robert Bailey. And the way they believe
12 that we can know that is after Robert got done
13 talking to that individual, he saved it in his
14 phone as Cuz June.

15 You heard from my investigator who
16 tried to take on this stunning mystery of who was
17 Cuz June. And he told you that with a few simple
18 keystrokes, a review of public records, and dialing
19 the telephone, he reached a gentleman in New Jersey
20 named Isaac Butler -- Jenkins, excuse me. Isaac
21 Jenkins Jr. and that that is in fact the family
22 name of my client who moved here from New Jersey
23 about 20 years ago.

24 Now, how many of you have heard of
25 Occam's Razor? It's a theory that says, if there

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1 are multiple theories about what happened, almost
2 always it's the simplest and easy answer. He spoke
3 with a cousin of the family who goes by Junior
4 which can be abbreviated or often referred to as
5 June. The State's theory that this had anything to
6 do with Lionell McFadden, the drug pin June, is
7 nothing more than supposition. That is not
8 evidence beyond a reasonable doubt.

9 Another huge piece of evidence with the
10 State's definition is that on the morning -- or the
11 afternoon, I should say, five something in the
12 afternoon of the 15th, Mr. Coleman had in his car a
13 gun -- two guns and cocaine when the police stopped
14 and arrested him. He claimed the cocaine and he
15 claimed the 9mm and someone else in the car was
16 charged with the revolver. And we heard,
17 reluctantly we heard, from the Orangeburg County
18 sheriff investigator who was there that someone
19 else was charged with it.

20 Veronica Bryant. Aunt Red.
21 Originally, when I asked her questions and I showed
22 her her interviews with the Orangeburg County
23 Sheriff's Office her handwritten interview notes
24 that she wrote a statement about what she knew soon
25 after the facts. She stated that Pocket was

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1 concerned -- this is in 2016, Pocket was concerned
2 about [D.N.] and would talk to her about him and
3 that he probably mentioned or talked to [D.N.]
4 about three times over the course of a year.
5 That's July 15 to July 16, three times. That
6 became three times a day right up until he was told
7 that [D.N.] couldn't remember anything.

8 We had a President years ago when the
9 iron curtain came down and the Soviet Union broke
10 up, Ronald Reagan, one of President Reagan's famous
11 sayings is and was during this time of the breakup
12 of the Soviet Union and the ending of their nuclear
13 war hit program, trust but verify. Okay. State's
14 doing a thorough job. Doing a great investigation;
15 right? They've got all the manpower in Orangeburg
16 County at work on this. And they get a statement
17 first that says, I talked to him about [D.N.]
18 three times over the last year. And then,
19 apparently, they get an update on that and it was
20 three times a day.

21 They know Veronica Bryant's phone
22 numbers because they identified them to her and
23 showed her texts and she said, yeah. Yeah, that
24 sounds like me. That was my phone. So they had
25 all that information. Where's her phone record?

CLOSING ARGUMENT BY MR. LEIENDECKER

1 Where's the verified part? Because I'm sorry, this
2 is a serious criminal case and I'm not willing to
3 just rest on trust. I am not willing to just rest
4 on trust and neither should you. Verify.

5 The answer is, there is no
6 verification. The further answer is, by that time
7 they'd seized Mr. Bailey's phone with his arrest in
8 '15 and they never checked his subsequent phone
9 either. They had two ways. They chose neither.
10 The State's already admitted that the texts that
11 were sent by Veronica on the 15th about D.N.'s
12 condition were never ever received by Robert Bailey
13 because he was under arrest and he never got his
14 phone back.

15 And they want to make a big deal about
16 Robert called her just before seven, but we heard
17 that they were steady and constant business
18 partners and that she texted or called him all the
19 time to get weed. I offer to you if in fact Pocket
20 was out of drugs the night of the 14th and he came
21 into some weed, maybe he called some of his
22 favorite clients. I got some now if you need it.
23 It's as good a theory as the State's, folks, and I
24 don't have to prove the case beyond any level of
25 doubt.

CLOSING ARGUMENT BY MR. LEIENDECKER

1 She also told me and she also told the
2 Solicitors when they talked with her that she never
3 thought Pocket had anything to do with it or at
4 least she never told anybody she thought Pocket had
5 anything to do with it. Which I find interesting
6 and will talk about when we get to D.N.'s
7 testimony. There is no capture of anything to
8 verify anything that Veronica Bryant told us. What
9 we do know is that there was a text about the
10 softball game where my client texts and says, hey,
11 Little Man's up at the softball game, did you know
12 that? I don't think there's anything malicious
13 about that, folks, unless you want to spin it that
14 way.

15 He had been talking with Veronica
16 Bryant. He knew this was her nephew. He dealt
17 with her regularly. They obviously had
18 conversations. He's a father himself. The fact
19 that he had questions or concerns, I don't find
20 unusual. I don't find unique. And there was
21 nothing, nothing threatening about that game by
22 D.N.'s testimony. He just acknowledged that
23 they were seen and didn't suggest that there was
24 anything that bothered or upset him. Nothing. I
25 can't help what his sister may or may not have felt

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1 or thought. We didn't hear from her we just heard
2 from the older sister.

3 Motive. Motive is a good thing because
4 if you have it, it shows why somebody did
5 something. Why would Robert Bailey do this? He
6 has his own drugs. He not only sells weed, but we
7 heard testimony from the witness stand that he
8 sells cocaine. We heard testimony that people went
9 to his house to buy cocaine. He has his own drugs.
10 He knows this family. Why would he go there to rob
11 this family? There's no sign, no sign whatsoever
12 right up to the night before -- the day before that
13 there was any kind of dispute, anger, or bad blood
14 between Robert Bailey and this family. None.

15 They were in communication with each
16 other. Chris Wright said maybe it had been a
17 while, but they were in communication with each
18 other. They exchanged texts with each other. They
19 did motorcycle deals. They swapped greetings.
20 There's no way that Robert Bailey gets sucked in on
21 the night in question to randomly go decide and rob
22 this guy and execute his family. It just doesn't
23 make sense.

24 And the timeline, ladies and gentlemen,
25 the timeline doesn't make sense. I do not know,

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1 I'll be honest, I've been troubled by this since
2 the phone expert was on the witness stand. I do
3 not know why if the defense called phone expert,
4 provided testimony that said his conclusion is that
5 the phone being used by Mr. Coleman was probably in
6 Summerton at 1:15 a.m. on the 15th, maybe at his
7 house across the lake at 1:15, why we had to
8 illicit that testimony from a defense retained
9 expert, when the State got up and proudly said, did
10 you review FBI Agent Matt Wilder's report? Yes, I
11 saw it. I looked at it. That was his answer.
12 Isn't your report essentially the same as FBI Agent
13 Matt Wilder's report? Yes, it's essentially the
14 same. Which to me suggests that FBI Agent Matt
15 Wilder's report didn't help the State and so
16 they're playing hide the ball.

17 Here's how the timeline has to work,
18 folks. The State's own case says that these events
19 at [REDACTED] Old State Road in Holly Hill began or took
20 place around 1:22 -- 1:00 in the morning on January
21 15, 2015. The phone records demonstrate that the
22 phone Mr. Coleman was using and made a call from
23 was in Summerton. Or at the worst, in Eutawville
24 at 1:15 a.m. That's seven minutes, I'm not great
25 at math, but I got it, that's seven minutes. For

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1 this timeline to work, in that seven minutes,
2 Derrick Coleman has to go to Mark Windham's house.
3 Has to hang out with Mark Windham, Antly Scott,
4 Joseph Smith, and other people, and try to get
5 high. Three has to plan a trip to the strip club
6 and abort that plan when Samantha won't let Mark
7 go. Four has to change his mind along with the
8 others and decide that, well, what we're going to
9 do is we'll just go out and do a drug run. Has to
10 go, were told to Mr. Bailey's house where Antly
11 Scott got out and was gone maybe four or five
12 minutes and came back and said, there's no drugs to
13 buy here, but I know somewhere to buy them. And
14 then go to the house at Holly Hill and get there by
15 1:22 a.m.

16 Now, ladies and gentlemen, for that to
17 work, they could not have been driving a dark red
18 Toyota Tacoma. They must have been driving a
19 stainless steal silver DeLorean with a flux
20 capacitor that allowed them to go back in time.
21 These are real facts. And I understand why you
22 want to hide that ball.

23 Just an aside, Mark Windham was at the
24 house that night too, but they brought you Samantha
25 Buxton. They want to suggest they brought you

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1 Samantha Buxton because Mark Windham is Joe Smith's
2 brother. Well, then why in opening statement did
3 the State tell you that one of the more important
4 people you're going to hear from is Mark Windham.
5 Well, guess who never showed up? Guess who they
6 never called? Mark Windham.

7 Let's talk about their key witness and
8 the miracle of this whole case, Mr. D.N. .
9 I had to split the difference between Mr. Johnson
10 and Ms. Zmroczek. Mr. Johnson is very old school.
11 Ms. Zmroczek is very high tech, so I had to have a
12 little tech, you've heard the old part and now I'm
13 going to show you just a few slides because I think
14 it helps you understand where I'm going. Okay.

15 When I talked with D.N. on the
16 witness stand, I talked with him about what he had
17 to say about that night. And I tried to go into
18 everything he had said in the interviews that he
19 had. Almost all of those interviews, I might add,
20 or at least the interviews I was talking about were
21 with the solicitor's office, not with law
22 enforcement and just a few of them were with the
23 forensic psychiatrist or psychologist who treated
24 him at MUSC, Dr. Allison Foster.

25 And let's take a look at these

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1 inconsistencies and then let me just give you a few
2 observations about them. D.N. testified at
3 trial that he was on the couch watching television
4 in the living room with Shamekia, Tamara, and
5 Krystal. When I asked him, do you remember that
6 that's not what you told the Solicitors in June
7 26th or in July 11, 2019, that you told them you
8 were in the bedroom watching TV, he said he didn't
9 remember that to be the case. But, in fact, and
10 you have defense exhibit which demonstrates the
11 inconsistencies from the interviews.

12 He did say on June 26th to the
13 Solicitor, we were all watching TV in the bedroom,
14 all of them in bed. And on July 11th, just a
15 couple of -- three weeks later, he remembers what
16 happened the night he was shot. He was in bed with
17 Tamara and Shamekia along with Krystal and they
18 were all watching TV. Bed. The Solicitor wants to
19 spin that that his bed -- he slept in the living
20 room, therefore, maybe he called the couch a bed.
21 No, he called the couch a couch when he testified.

22 In talking about being pulled out of
23 the closet, once we get to the second time he
24 interviews, he gets pretty focused on that it was
25 Mr. Bailey who pulled him out. But, here's the

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1 very interesting thing, the first time he sat down
2 with them on June 26, 2019, three years almost
3 after the arrest of Robert Bailey, he says, he
4 opens the closet door and he describes the person
5 who did that. He had short hair, a fade, and light
6 skin. When I clarified with him that he meant a
7 black -- a light skinned black man, I think he
8 confirmed that. That's how he describes the man
9 who pulled him out of the closet. That never ever
10 has described Robert Bailey.

11 On knowing Robert Bailey, D.N.
12 testified at trial that he knew Robert Bailey from
13 a baseball game and he denied other meetings.
14 That's an inaccuracy and I should have corrected
15 it. Because on June 26th, he did admit that he had
16 told them that he knew Bailey's children from
17 playing at Bailey's house on the trampoline. And
18 on July 11th, he actually told them that he had
19 been there five times or more to Bailey's house.

20 On why you didn't tell Dr. Foster who
21 shot him. The first time, on July 11, 2019, he
22 said, I didn't tell her because I forgot. On an
23 interview just ten days before trial. He was
24 asked, you talked to Dr. Foster twice, tell us why
25 you didn't tell her. I didn't tell the doctor who

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1 shot me because I was scared and my mom wouldn't
2 let me. His mom who was on the witness list that
3 the State never called, trust and verify.

4 On the ages of his sister and this is
5 important, folks, because these were questions he
6 was asked in February of 2016 when the State wants
7 you to believe that his memory has come back and he
8 remembers everything. D.N.'s testimony, he
9 denied telling investigators on December 20th that
10 he couldn't remember his sister's ages. Even in
11 December of '21 he's having trouble. D.N. had a
12 little bit of hard time recalling how old Tamara
13 and Shamekia were.

14 In the trial, he denied that -- when he
15 was pressed he told them that Tamara, the younger
16 sister was 18 and Shamekia the older sister was 16.
17 The testimony revealed in trial, not from D.N.,
18 was that Shamekia was 17 at the time and Tamara was
19 14.

20 About headlights in the driveway. In
21 his trial testimony, D.N. said that a vehicle
22 pulled into the driveway with the headlights on.
23 That's what he said. In December 20, he talked
24 about hearing a vehicle pull into the yard, but he
25 didn't see headlights. Also, on December 20, he

CLOSING ARGUMENT BY MR. LEIENDECKER

1 told them when he heard the banging at the door,
2 all three of them went to the closet prior to the
3 door being kicked in, they heard a car pull up
4 outside, but it didn't have its lights on and no
5 one else went outside the house. No one went
6 outside the house.

7 On that issue of going outside and
8 looking, D.N. testified at trial, at trial, just
9 a month and a half later, that, yeah, Krystal went
10 outside to look. That seems to fit the State's
11 theory better. But in June 26, 2019, no mention.
12 On July 11, 2019, no mention. As we've already
13 discussed in December, he mentioned it, but said no
14 one went outside. And on January 28th, a month
15 later, he doesn't mention it.

16 On the black man that came into the
17 room and took Krystal Hutto. He testified at trial
18 that a white guy took Krystal from the bedroom.
19 But at trial was the first time he ever said that.
20 It fits the State's case and the make up of the
21 Defendants in this case. In December 20th he told
22 them that a black male entered the room and
23 escorted Krystal out of the room and she was shot.
24 So he's saying he heard a shot. Which at trial he
25 never heard. And later in the same summary he said

CLOSING ARGUMENT BY MR. LEIENDECKER

1 the black man entered the room and took Krystal
2 away. On January 28th, just ten days before trial,
3 he called a black over to get Krystal and take her
4 out of the room. The black guy took Krystal out.

5 Why does he know Pocket so well?

6 According to his testimony, he had seen Pocket at
7 his dad's house 20 times or so. Pocket would visit
8 he told them in January, ten days before, not too
9 often, not every day, but often. He would come
10 over when he got some time. Around 20 times or so.
11 He goes on to say, every time that I went to my
12 dad's house for a weekend, I would see Pocket.
13 Trust and verify. No one else suggests that.
14 Other people suggests that Pocket was there.
15 Nobody suggests he's there all the time.

16 Everybody hiding in the closet? Well,
17 yes, except ten days before the trial. Krystal
18 told us to go to the back room and hide in the
19 closet in the girls' room. Krystal followed us in
20 the back room. Tamara hid under the bed.
21 Shamekia, Krystal, and I were in the closet. This
22 is ten days before trial, folks. Ten days before
23 trial. Maybe this is why the State switched their
24 whole theory of the case.

25 The burned up man was there. In trial,

CLOSING ARGUMENT BY MR. LEIENDECKER

1 D.N. denied he ever said anything to the
2 investigators about a burned up man being present.
3 But on December 20th, D.N. said he saw a white
4 girl, he saw Pocket, he saw the burned up guy, same
5 kind of words his daddy used and the State, and a
6 black male. The burned up guy was the white guy
7 that he had mentioned seeing earlier to the
8 prosecutors. But at trial he denied that.

9 January 28th, again in his second time
10 in that statement, he said the burned up man was
11 there. And also on the 28th, in a third question
12 about it, he said before I was shot, I had never
13 seen the burned up guy.

14 Aunt Veronica. Did Aunt Veronica ever
15 tell you that Pocket was bad? Reenforcing the idea
16 that Pocket is bad. In his trial testimony he
17 denied ever hearing that from his aunt. But just
18 ten days before the trial, ten days, didn't
19 Veronica tell you that Pocket was a bad man? Yeah.
20 Yes, she did. Yep.

21 I asked him about his interviews and
22 this is important because it shows him much closer
23 in time than the 14-year old we saw in the witness
24 stand. I asked him about his interviews with Dr.
25 Allison Foster. And I asked him, do you remember

CLOSING ARGUMENT BY MR. LEIENDECKER

1 having trouble telling Dr. Foster your age? And he
2 said, no, he didn't remember that.

3 (Playing the video)

4 MR. LEIENDECKER: He was unable when
5 asked by Dr. Allison at this time in February of
6 2016, he wasn't able to even identify his
7 relationship or who Shamekia was.

8 (Playing the video)

9 MR. LEIENDECKER: You said your dad
10 didn't have any other children? No, sir, I never
11 said that. Now this was back in February of 2016.

12 (Playing the video)

13 MR. LEIENDECKER: Do you remember
14 telling Dr. Foster you weren't worried about
15 talking about the shooting? No, I don't remember
16 ever saying that to her.

17 (Playing the video)

18 MR. LEIENDECKER: He was shown
19 pictures, we saw that that was coming and we talked
20 about that in his testimony. I asked him, do you
21 remember picking out the man who traded the dirt
22 bikes? I don't remember.

23 (Playing the video)

24 MR. LEIENDECKER: The picture
25 identified is an exhibit moved in by the Defense,

CLOSING ARGUMENT BY MR. LEIENDECKER

1 it's not Robert Bailey. It doesn't look to me
2 there be working under anyone's instructions not to
3 talk about what happened. At that time when they
4 say he's remembered, he hasn't remembered. I'm not
5 sure if the other picture got in, but the other guy
6 that looked like Martin, has a striking resemblance
7 to Martin Lawrence.

8 I am not, I will not, I cannot suggest
9 that D.N. was lying. At this point, five
10 years later, he has been around enough people, his
11 dad, his mom who didn't come to testify, his aunt,
12 and others that he's heard, he's heard what's going
13 on, he's heard who's accused of this, and it has
14 become his memory. But at that time, that little
15 boy, he doesn't remember that. That's given to him
16 later.

17 And I can only speculate, a lot like
18 the State's done, about the definition of the gun
19 that did the shooting as an old-timey gun, a cowboy
20 old-timey gun, a revolver kind of gun. But I know
21 in experience of watching interviews when police
22 are trying to get at what kind of gun was used,
23 that they'll show you lineups of guns. Of course,
24 we don't know if that happened in this case because
25 they never called the investigators who did the

CLOSING ARGUMENT BY MR. LEIENDECKER

1 work. Sometimes they'll show you the actual
2 revolver on their hip and say, was it a police gun?
3 Or was it an old-timey revolver, an old-timey
4 cowboy gun? An old-timey gun? And maybe, just
5 maybe, the shooting was done with a revolver.
6 Maybe not an old-timey one, but a revolver.

7 But what we're certain -- what we're
8 not certain is that it's the revolver that the
9 State has. We're definitely not certain of that.
10 Not beyond any form of reasonable doubt. And what
11 we heard from the State's own expert is, if you
12 narrow down the amount of guns that shoot that type
13 of ammunition that they suspect was used, you got
14 it down to a few million guns. Types of guns. Not
15 all of them revolvers, but a lot of them are
16 revolvers.

17 Reasonable doubt. They've got to prove
18 their case beyond a reasonable doubt. When the
19 investigation was going full-bore in July of 2015,
20 they were able to score a big coo when they came to
21 my client's house and found him with drugs and a
22 weapon and were able to arrest him and lock him up.
23 But we heard from the State's own investigator who
24 didn't act like he was actively involved that there
25 were a bunch of investigators there. And no one

CLOSING ARGUMENT BY MR. LEIENDECKER

1 ever thought to ask since they searched the car,
2 will you give us consent to search the house? They
3 never asked. They never went to a magistrate and
4 sought a warrant. They had evidence that this guy
5 was definitely a drug dealer, that he had proceeds
6 from a drug deal, that he had a weapon that he
7 claimed was his, but they never got a warrant to
8 search his house. That doesn't seem like a hard
9 thing to do.

10 What would they have found? What could
11 they have found? Let's join the State's
12 speculation. Inside, they could have found a
13 variety of shoes that they then could have tested
14 against those shoe prints. Wouldn't that be great.
15 It would be great for me if they found them and
16 none of them matched. It would just give more
17 credence to my case. It would be great for them if
18 they found it and one of them matched. But they
19 didn't do that.

20 Whoever had been in the house, had been
21 in the attic and come through the ceiling and
22 there's pink fiberglass insulation all over. Well,
23 guess what? They searched my guy's car, they took
24 it in, they thoroughly conducted a search of it,
25 and they found no evidence of fiberglass

CLOSING ARGUMENT BY MR. LEIENDECKER

1 insulation. What if you changed clothes if my guy
2 was the guy. And you got a search warrant and you
3 went in his house and in plain view you found some
4 clothes. It would be great for their case, but
5 they didn't do it.

6 Reasonable doubt is not a novel about a
7 German doctor who wants to give life and make life
8 in his laboratory. And he creates something that
9 ultimately is referred to and known as
10 Frankenstein's monster. He does that by taking a
11 piece from here, a piece from there, something from
12 this body, something from that body until he
13 creates that living being. That is not how it's
14 supposed to work in a criminal prosecution. You
15 are not supposed to pick, well, I like this one,
16 but I don't like the rest. I like this one, but I
17 don't like the rest. Well, I like that he said
18 Pocket, so I'm going to ignore all the other
19 inaccuracies. I like that Coleman said something
20 that includes Joseph Smith and Antly Scott, so I'm
21 going to pick that. I don't like, I throw that
22 out. I do like, I include it.

23 I'm asking you to give serious
24 consideration to this case. I'm asking you to
25 deliberate on this case. I'm not asking you to do

CLOSING ARGUMENT BY MR. LEIENDECKER

1 anything other than find a just verdict which I
2 believe is that the State has not proven its case
3 against Robert Bailey beyond a reasonable doubt,
4 and, therefore, the only appropriate verdict is not
5 guilty. Thank you.

6 THE COURT: Thank you, Mr. Leiendecker.
7 All right. We're going to take a short break,
8 ladies and gentlemen, and I'll get you back in here
9 and then we will finish up with closings is my
10 plan. So, I'll let y'all go back in the jury room.
11 Do not talk about anything yet and I'll get you
12 back out here very shortly.

13 (WHEREUPON, the jury left the courtroom
14 at 3:42 p.m.)

15 THE COURT: All right. Mr. Osborne, I
16 know you're anxious to get started back, but we're
17 going to take ten minutes. Okay. Thanks.

18 (There was a short break)

19 (WHEREUPON, the jury entered the
20 courtroom at 3:53 p.m.)

21 THE COURT: All right. Ladies and
22 gentlemen, the State now has an opportunity to
23 reply or rebut. Mr. Osborne.

24 MR. OSBORNE: Thank you, Your Honor.

25 THE COURT: The floor is yours. Yes,

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 sir.

2 REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE:

3 MR. OSBORNE: Ladies and gentlemen, I
4 also want to thank you. You've been incredibly
5 attentive. There's no doubt about that. And you
6 saw during jury quals, y'all could have got out of
7 this a number of different ways. Y'all saw a bunch
8 of people getting creative trying to get out of
9 this and y'all didn't do it. So I appreciate that.
10 We all do. Here's the good news. I'm only going
11 to be about 15 minutes. (Laughter)

12 Now, you know, I bet you've all heard
13 enough, okay, to be firmly convinced of these
14 Defendants' guilty, if not absolutely convinced.
15 But I'm going to take a minute here to address the
16 Defendants' assertions and quite frankly, false
17 claims.

18 All right. First, I'm going to kind of
19 work backwards. Okay. First we heard about
20 cherry-picking. Very interesting term. Notice how
21 there was no conversation or no questions about
22 D.N. describing the gun as being an old-timey
23 revolver in except during Dr. Foster's interview.
24 Who told you to keep it a secret? My mom. What
25 did she say to you about keeping a secret? Keep it

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 a secret.

2 MR. LEIENDECKER: Objection, Your
3 Honor.

4 MR. OSBORNE: Cherry-picking.

5 THE COURT: Okay.

6 MR. OSBORNE: All right. I'm done.

7 THE COURT: We've noted it --

8 MR. LEIENDECKER: Yes.

9 MR. OSBORNE: Here's what you do know
10 though. And D.N. testified to this. When he
11 told his mom and Amari what happened to him and who
12 did it, they told him to keep it quite. And that
13 would have been before he was interviewed by Dr.
14 Foster. Trust and verify.

15 Let me ask you something. If a man
16 puts a gun to your head, are you going to be that
17 concerned about all of the peripheral stuff that's
18 going on? Or are you going to be focused on the
19 gun and the man? Sure got those right.

20 Now, another thing that was mentioned
21 -- or I don't know, maybe it was, maybe it wasn't.
22 I was getting a little bit confused by all the
23 questions and compound questions. D.N. knew who
24 Pocket was. Dr. Foster asked him, do you know
25 Pocket? No. He had no problem identifying

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 everyone else he knew. People that were involved
2 in vehicle swaps and all that. Yeah, that looks
3 like so and so. Pocket he wouldn't even identify.
4 Why? Because he was told to keep it secret. And
5 --

6 MR. LEIENDECKER: Again, Your Honor,
7 I'm sorry. Note an objection.

8 THE COURT: I note your objection. I
9 got it. Okay.

10 MR. OSBORNE: Okay. And then the
11 question that we -- we saw that little clip of, are
12 you the last surviving child; is that right? Well,
13 he was. Hayden is not his sister. Hayden is
14 Krystal's daughter from another -- with another
15 man. The child that Christopher and Krystal would
16 have together, that happened long after that. And
17 just think about that for a second. If you were
18 asked to describe -- you were asked to describe
19 Shamekia. Who is Shamekia? She's my sister that
20 was just shot in the head and executed. That's
21 going to be difficult for anyone to say. Much less
22 a child that went through the trauma that he went
23 through. I think I'm done with that. If I see
24 something else, I reserve the right to come back.

25 All right. So I do want to cover this,

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 okay, because it's important. You know, Lieutenant
2 Shumpert has been accused of being a story teller;
3 right? And, you know, we have too. Well, I want
4 to point out, and these are just some, some of the
5 times that you all have been misled by the Defense.
6 In the beginning, you heard -- you heard in the
7 opening and remember this is so important in this
8 case, what you hear coming out of my mouth is not
9 evidence. Okay. Especially what they told you,
10 that's not evidence. Evidence is what came out of
11 that stand. Trust your own memory. Okay. But I'm
12 going to tell you some things that you were told
13 that was just not true. You're just being misled.

14 Krystal Hutto called Chris on the night
15 of the murder. She tried. Well, you now know that
16 was not a connected call. You heard that Tamara
17 spoke to Christopher. No, not correct. You heard
18 Jerome Butler had called Christopher at the time of
19 the murders. Not true. That was around 7 o'clock.
20 Not true. Intruders left drugs in the house. No,
21 never happened. Not true. These are all things
22 that they're telling you --

23 MS. ZMROCZEK: Your Honor, I just need
24 to note the objection for mischaracterization of
25 the Jerome Butler call.

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 THE COURT: Got it. Go ahead.

2 MR. OSBORNE: Ammunition. I'm bringing
3 this up because these are not true, misled
4 assertions. Asking Christopher Wright about, well,
5 did you have hollow points? Those are dangerous.
6 Hollow points. You got the ammunition back there.
7 It doesn't really matter hollow point, solid ball.
8 It's a solid ball. .40 caliber box. So we know
9 that Tamara was shot with a .40 and Jerome was shot
10 with a .40. We saw a .40 caliber box in the room,
11 well, I guess Christopher shot Jerome and his own
12 daughter. They knew when they were asking those
13 questions that that gun that was in that box was in
14 their evidence room. They knew it. And they went
15 ahead and tried to mislead you down that thought
16 pattern.

17 A cup of cocaine on the counter. I
18 didn't see what was being shown. That was that
19 Magic Mike stuff. That's not cocaine. That's cut.

20 The red afro man. Okay. I mean, you
21 heard briefly about this. And I think it came up.
22 A guy sees a two door -- no, a four door --

23 MR. LEIENDECKER: Objection, Your
24 Honor. And we do need to approach. I'm sorry.

25 (WHEREUPON, there was a bench

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 conference)

2 THE COURT: Go ahead Mr. Osborne.

3 MR. OSBORNE: Thank you, Judge. Red
4 afro. Red afro man. All right. This came out
5 kind of quick. We had some questions and
6 everything about that. Remember, the guy, he said
7 he saw a four door, I think it was a four door car.
8 You'll have the pictures back there, the burned up
9 car. Leaving the area. Not related to this case.
10 You don't need to go find a red afro man when
11 Chris's Mercedes is a two door car. I might have
12 that backwards, but either way, it's a different
13 car.

14 All right. I think I'm still working
15 backwards here. Mr. Johnson -- well, I should say
16 Mr. Scott. There's a bunch of other people. Well,
17 Christopher was a drug dealer. So, yeah, there's
18 going to be a bunch of people on his phone. I'd
19 submit to you this, if there had been any evidence
20 that anyone else other than these guys did it, you
21 would have heard about it. We're not required to
22 present that, but they certainly would have
23 insinuated it.

24 Todd Dukes. You heard Christopher
25 Wright testify, Todd Dukes is a pill head. He

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 comes to that house, he's there all the time buying
2 from Krystal. T'Carra Woods. More fingerprints
3 that are on the TV, the best possible surface to
4 leave fingerprints. T'Carra Woods is Christopher's
5 girlfriend. Alibi.

6 All right. We're going to take him off
7 the hook right now. All right. First of all, he's
8 been sitting right here. They don't have to call
9 him, but he's not hiding. He is an interviewer.
10 He is an interrogator. He is a detective. You
11 have heard a ton of objections. You just heard one
12 just now. All right. What are some of the things
13 that you've heard? Argumentative. Speculative.
14 Leading. Third party guilty. Hearsay. That man
15 cannot get on the stand and tell you what someone
16 else told him. That's hearsay. They know that.

17 MS. ZMROCZEK: Your Honor, I -- note my
18 objection. Because he certainly can tell what
19 Mr. Smith said.

20 THE COURT: Got it.

21 MR. OSBORNE: Okay. Why didn't you
22 talk to any of these guys? Well, I mean, would it
23 shock you that there were a lot of people
24 interviewed in this case. A lot of people. Well,
25 you can't ask him what somebody else told you, so I

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 can't ask him, did you establish an alibi for
2 somebody. For Killa. You can't. That's hearsay.

3 If you want to know if he's interviewed
4 though, where's he at? There he is back there.
5 Investigator Haupt told you that he reviewed the
6 entire case. He was on the stand. You can go
7 through that whole list if you want to. I think
8 you were up late reading everything making sure;
9 right?

10 (Investigator Haupt nodded)

11 All right. Derrick Coleman's phone
12 records. All right. So we didn't call FBI Agent
13 Wilde to the stand. No, we didn't. And the guy
14 they called told you why. Now, he threw that
15 together last night or the night before he
16 testified. Now, what he told you though that was
17 significant is that cell towers have varying
18 strengths. Okay. You can be standing in one place
19 and based on the geography, especially water,
20 because we know signals travel better over water.
21 You can be standing in one place and miss a tower
22 and go to the next tower. That happens.

23 So how do you -- how can you as an
24 expert find out what the strength was in a
25 particular time? Well, you can go and you can

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 drive test it. Now, he didn't get into a lot of
2 detail, and I didn't really ask him, he kind of
3 did. He said, you know, you'll get a box, you get
4 a cellphone, you literally drive around and you'll
5 map and you'll say, okay, when I'm here, I'm
6 hitting off this tower. When I'm here, I'm hitting
7 off that tower. Okay. That can happen. But you
8 can't do it now. They didn't even develop these
9 guys as suspects until 2016. These towers are
10 changing constantly. You've got to drive test it
11 at that time, otherwise, it is useless. And that's
12 what he said. Unless you got a time machine, you
13 really don't know.

14 No one is suggesting that Derrick
15 Coleman this timeline that they put up, we're not
16 suggesting that. That's not the evidence. What
17 we're saying is that Derrick Coleman could very
18 well have been in Eutawville. He was in
19 Eutawville. And you'll see the maps back there.
20 And here's the other thing. Asked him point blank,
21 did Derrick Coleman's phone records ping off that
22 tower in Summerton at other times? He even had to
23 concede that. It pinged a lot in Summerton. A
24 lot. Derrick Coleman said I never even heard of
25 the place. Never been.

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 If we were hiding the ball, we wouldn't
2 even have given it to them. Nobody's hiding the
3 ball. They had that report because we give it to
4 them. That report they put up, I think you can
5 tell from my reaction that was the first time I
6 ever saw it.

7 Oh, let me get to -- I'm going to run
8 through some things real quick, but I do want to
9 cover this. And I never said that -- and we don't
10 -- nobody believes, I think, that June ordered a
11 hit. No. No. I think June ordered a lick and it
12 got out of hand. And the reason why it got out of
13 hand, he told you, Luther told you. I'm not making
14 this up. Luther said they ran across an unexpected
15 man. That's when it went bad.

16 What I am suggesting, July 14th is a
17 significant day. Christopher's out. Pocket's in.
18 He's the new guy and he's got a new contact.

19 MR. LEIENDECKER: Note the objection,
20 Your Honor.

21 THE COURT: Okay.

22 MR. OSBORNE: And all this stuff about
23 like -- okay, so this is good. So you'll have
24 Christopher Wright's download back there for his
25 phone records, okay. You're going to see all kind

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 of communications between Krystal and Christopher.
2 Now, don't be mistaken now, he saved it as June.
3 Okay. But when you go back there and you look at
4 it, what are you going to see? You're going to see
5 -- just like they said, I agree, that Krystal,
6 June, is communicating with Christopher about one
7 dope deal after another. One dope deal after
8 another. That means that Christopher is not at the
9 house. Krystal is. There's dope in that house
10 when Krystal's not -- or Christopher's not there.
11 You'll see it. There's proof of it.

12 Okay. You heard plenty of testimony --
13 you heard plenty of testimony that Bailey was a
14 coke dealer. Trust your own memory. Okay. Maybe
15 I'm wrong. I only heard from one guy say that,
16 Derrick Coleman. And notice what Derrick said,
17 last resort guy. Ones or twice, last resort guy.
18 And I'm going to get to Derrick in a second.
19 Everybody else, that's a weed man.

20 All right. Just, you know, hitting
21 some things pretty quick here. He never confessed
22 to Frazier. Well, by the Defense's definition,
23 it's not a confession; right? He didn't admit to
24 killing anyone. He said he went for the dope.

25 Blood on the wall. Well, I mean,

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 you've already heard Captain Carter talk about,
2 he's done some blood spatter training. High
3 velocity impact. Blood goes up on the wall. The
4 sister's blood on the wall. [REDACTED] D.N. [REDACTED] was covered in
5 his sisters' blood. You think they walked him out?
6 They rushed him out. There's blood going
7 everywhere.

8 Oh, okay. So the Old English can
9 that's on the side of the road. And this is kind
10 of going into that whole like, we're going to blame
11 everyone else. So Jerome, I guess, he was some
12 sort of guard man now for Christopher, the biggest
13 dope dealer around. He's got this dangerous guard
14 man. I mean, you've heard [REDACTED] D.N. [REDACTED] testify that
15 there was a guy there that often worked in a tire
16 shop. You heard Christopher testify, Jerome worked
17 in a tire shop. Jerome wasn't guarding some big
18 dope thing. I mean, I don't think it's hard to
19 imagine what was going on. Jerome was drinking.
20 He went there. He's homeless. He was just waiting
21 for Christopher to come back and he called him, you
22 know. That's all that was. He's not guarding the
23 stash with a pocketknife. If that's what
24 Christopher's enterprise was all about, no wonder
25 he's getting hit over and over again.

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 Okay. You know, we're not knocking
2 Jerome, but he's the guard man. We're not knocking
3 D.N., but he's all over the place. We're not
4 knocking Krystal, but she's a prostitute who
5 contributed to the deaths, I guess, by calling over
6 people. We really just wanted to ask Derrick
7 Coleman and Christopher Wright some more questions.
8 Well, they were sitting right there. You can ask
9 him whatever you want. Nobody is stopping you.
10 Ask him.

11 No evidence of meth. Well, remember
12 Anna, the pastor, said that after the funeral she
13 met up with Christopher to go buy some more dope.
14 And then he pulled out the coke, but in that bag
15 she saw crystalline substance. If it was coke,
16 Anna would know about it. It was meth.

17 You can't believe D.N. and Derrick
18 at the same time. Well, of course, you can. When
19 their testimonies are absolutely consistent. So --
20 and D.N. is on the stand and there was so many
21 of that, but D.N. is on the stand and it's like,
22 okay, D.N., did you see a white guy? I didn't
23 get a good look at him. A good interviewer is
24 going to stop there. He didn't get a good look at
25 him. But he was asked over and over again, well,

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 tell us what he looked like. How tall was he? Not
2 tall. Not short. Thin. Black hair. Sometimes as
3 a defense attorney you can ask one too many
4 questions.

5 And then this whole thing about the
6 beard and stuff. That photograph that she was
7 showing of a thin guy with a full head of black
8 hair, that's a beard, but remember now, that was in
9 2016. The incident happened in 2015. You can grow
10 out a beard in a year, but ones again, D.N. is
11 focused on two things, the gun and the man holding
12 the gun.

13 Oh, got to kind of get on Investigator
14 Tisdale a little bit here. So run a background on
15 June, we did. Isaac Jenkins. Okay. Isaac
16 Jenkins. And then we did some backtracking and
17 everything and we found out back in Bailey's
18 lineage there's a Jenkins --

19 MR. LEIENDECKER: Objection, Your
20 Honor. And I move to stop this.

21 THE COURT: I'm sorry, what?

22 MR. LEIENDECKER: I move to stop this.

23 THE COURT: Okay. Ladies and gentlemen
24 -- stop it? (Laughter)

25 MR. LEIENDECKER: Yeah. I want my

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 objection heard before it proceeds is all I'm
2 saying.

3 THE COURT: Ladies and gentlemen --

4 MR. LEIENDECKER: Not stop it forever.

5 MR. OSBORNE: I hope not.

6 THE COURT: All right. I need for
7 y'all to go back in the jury room for a minute.
8 I'll get you back out as quickly as I can.

9 Remember, don't talk about anything you've heard so
10 far.

11 (WHEREUPON, the jury left the courtroom
12 at 4:16 p.m.)

13 THE COURT: Your motion to stop is a
14 motion to pause. Okay. Mr. Leiendecker?

15 MR. LEIENDECKER: Thank you, Your
16 Honor. I am speculating a bit to where the
17 Solicitor is going, but that's based on his cross
18 examination of Mr. Tisdale when he was on the
19 stand. And if he's going to try to go into -- we
20 did our own checking, we did some research which is
21 what he just said, he can't talk about that in
22 closing argument about work we did or research we
23 did. And he can't talk about we confirmed this
24 line or whatever because that's not what their
25 testimony was.

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 THE COURT: Hold on one second. You're
2 doing a great job, I don't mean to stop you, but
3 he's saying he's not going into that.

4 MR. OSBORNE: Huh-uh.

5 MR. LEIENDECKER: Where are you going?
6 I want to proffer.

7 MR. OSBORNE: Where I am going?

8 MR. LEIENDECKER: Don't want to kick
9 the jury out again because I'm wrong.

10 MR. OSBORNE: Correct me if I'm wrong,
11 but didn't your investigator say that Jenkins when
12 he did a lineage on him, he had a last name of
13 Jenkins?

14 MS. ZMROCZEK: His mom's last name.

15 MR. LEIENDECKER: He said his mother's
16 last name is Jenkins.

17 MR. OSBORNE: If he had been related to
18 him he would have just said so.

19 MR. LEIENDECKER: He couldn't testify
20 to hearsay.

21 MR. OSBORNE: Oh.

22 MR. LEIENDECKER: That's a
23 mischaracterization.

24 THE COURT: I remember something about
25 that, but, I mean --

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 MR. LEIENDECKER: Yes.

2 THE COURT: You're just going to
3 mention that?

4 MR. OSBORNE: Yeah. Through your
5 investigation, did you find a relationship between
6 Isaac and the Defendant? Yeah, I did. Cousins.
7 What's the objection?

8 MR. LEIENDECKER: He can't say that.

9 MR. OSBORNE: Okay. Well, you never
10 asked, so I never had an opportunity to object.
11 And that's the way I'm going to phrase it. You
12 could have simply asked.

13 MS. ZMROCZEK: I think that burden
14 shifts, Your Honor.

15 MR. OSBORNE: He was on the stand.

16 MR. LEIENDECKER: You could have asked.

17 MR. OSBORNE: Yeah. I could of.

18 MR. LEIENDECKER: You didn't.

19 MR. OSBORNE: Yeah, because I didn't
20 know the answer, but you did.

21 MR. LEIENDECKER: No, I didn't.

22 MR. OSBORNE: Well, he's your
23 investigator.

24 MR. LEIENDECKER: Well, you can't argue
25 that though --

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 THE COURT: Hey, hey, hey.

2 MR. LEIENDECKER: He can't argue what I
3 didn't know. Not only this make them look stupid,
4 but it's --

5 THE COURT: I don't know what you're
6 trying --

7 MR. LEIENDECKER: But it's not
8 appropriate.

9 THE COURT: -- get at with that.

10 MR. OSBORNE: Well, I'm trying to get
11 at that he's not related to him, he's a Jenkins.
12 It's a pretty common name. If he was, we would
13 have heard about him.

14 MR. LEIENDECKER: Assume facts not in
15 evidence.

16 MR. OSBORNE: Well, y'all have been
17 asking all sorts of things that we haven't heard
18 about and then assume the negative for us. Well,
19 I'm turning the table now.

20 MR. LEIENDECKER: Well, you didn't
21 object.

22 THE COURT: Yeah, you didn't. Okay.
23 Listen, I want this thing over with. Okay.

24 (Laughter) I don't know -- I don't know what
25 that's going to add to your argument at all. Okay.

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 MR. OSBORNE: All right. I got a good
2 segue out of that.

3 THE COURT: Okay. Are you ready?

4 MR. OSBORNE: I am.

5 THE COURT: Would y'all get the jury
6 back?

7 THE BAILIFF: Yes, Your Honor.

8 THE COURT: Let me just make sure y'all
9 understand. I'm not taking up any arguments about
10 the objection until I do this charge and give this
11 case to them.

12 MR. LEIENDECKER: Except that one.

13 THE COURT: Right. Y'all understand?

14 MS. ZMROCZEK: I have it written down.

15 THE COURT: Any questions?

16 MR. LEIENDECKER: Yes, sir. No, sir.

17 THE COURT: Okay. Good.

18 (WHEREUPON, the jury entered the
19 courtroom at 4:20 p.m.)

20 THE COURT: Got everybody?

21 THE BAILIFF: Yes, Your Honor.

22 THE COURT: Thank you. Mr. Osborne, go
23 ahead.

24 MR. OSBORNE: Thank you, Judge.

25 CONTINUED REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE:

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 MR. OSBORNE: There was a lot made
2 about, you know, I guess me and Derrick. All
3 right. And, you know, Derrick -- I guess Derrick
4 would sort of be helping Pocket maybe by not
5 implicating him. Well, make no mistake, Derrick is
6 not helping Pocket. Derrick is helping Derrick.
7 Derrick says Jackie Man gave him turn-by-turn
8 directions. Well, why would he have to? Derrick
9 just came from that house. This is why I'm asking
10 these questions. And I'm sure you are too.

11 Derrick knows point blank if he admits
12 that Pocket was there, then all of a sudden he's
13 not going on a drug run anymore, he's now admitting
14 that they were there to commit a robbery. And that
15 makes him guilty of murder, just like them. I bet
16 Derrick now knows about the hand of one, hand of
17 all. Probably didn't know about it back on except
18 of 2016 when that man was interviewing him. You
19 heard me ask him questions and we're going to
20 accept what he said. Did he ask you if you knew
21 you were going there for a robbery that night?
22 Didn't Lieutenant Shumpert asked you that back on
23 except 2016? Yeah. And didn't you tell him you
24 knew you were going for a robbery? No. Okay.
25 Didn't he tell you -- didn't he ask you -- didn't

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 Antly Scott -- did Antly Scott ask you to drive him
2 to go do a robbery and you said, yes? No. No.
3 Never said that. If we were trying to construct a
4 witness to lie, it would have looked a lot better
5 than him. His testimony would of anyway's.

6 All right. So this right here was
7 another one that you were just blatantly misled on.
8 So here is -- the Defense was insinuating that we
9 got two calls, you know, two calls from Krystal on
10 both of the phones calling Christopher. Well, here
11 they're right here. That's on Krystal. The phone
12 that was taken from the field, that's on her
13 download. Okay. You got to go to the next one.
14 That's Christopher Wright's call detail records and
15 on there you see Tamara tried to call him. Okay.
16 You got to look at both. They knew that.

17 All right. Derrick Stone. So I want
18 to talk to you real quick about him. Luther said
19 on the night of the murders they went for a
20 robbery. Yep. Unexpected man by the car. There
21 was some insinuation that this was on the news, if
22 that photograph had been on the news, well, first
23 of all, that's a problem. Second of all, you would
24 have heard about it. That wasn't on the news.
25 Luther knows because he was there. Then Luther

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 told Derrick that they had searched the house and
2 one of the guys fell through the attic. This is
3 not on the news. Okay. Luther knows that because
4 he was there. Derrick knows that because Luther
5 told him.

6 All right. So, you know, no
7 fingerprints putting these guys anywhere; right?
8 On the scene; right? Well, I want to go back to
9 this because this is -- when I said it was
10 significant, it is. Blood -- Krystal Hutto's blood
11 on the exterior door handle of that Camero right
12 there. Single source. Single source. Remember
13 what Paul Meeh said and what you heard? You can
14 transfer blood. Okay. But if you touch something,
15 you can leave contact DNA. You would expect that
16 there might be contact DNA from some unknown
17 individual on that door handle accompanying Krystal
18 Hutto's blood. Single source. No one else is
19 there. Do you know why? Because they were wearing
20 gloves.

21 Veronica Bryant. Oh, yeah, I bet back
22 in 2016 when she was interviewed, she did not want
23 to believe, she did not want to believe that she
24 was unwittingly feeding information to the very man
25 that put a bullet in her nephew's head. And that's

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 why when I asked her to describe [D.N.] and his
2 injuries, she started breaking down. Not only is
3 that [D.N.] is her nephew, but she is now facing
4 the man and it's coming to her now. The next
5 question can easily be, do you think he did it now?
6 I know what you thought back in 2015, but how about
7 now? When I said Veronica had half the story, she
8 didn't have the whole story, she didn't. If she
9 knew what Donsha and Amari knew, I guarantee that's
10 a different response.

11 Oh, I do just want to talk real quick
12 about [D.N.] for a second. Those questions --
13 okay. This is important. Oh, here we go. Okay.
14 So I do want to tell you what this is. Okay.
15 You're going to have this back there with you just
16 so there's no confusion. This is not a -- and
17 object if I'm wrong, this is not a representation
18 of what [D.N.] said during these dates.
19 Understand this. This is weird. This is not a
20 representation of what [D.N.] said during those
21 dates. What this is, is a representation of
22 comments, questions that [D.N.] was asked and he
23 did not admit to having said this. That's such
24 word -- it's hard for me to get it out.

25 So it goes like this. [D.N.], on June

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 26th of 2019 when you were interviewed by
2 solicitors, isn't it true that you said that you
3 were watching TV in your bedroom? How about your
4 bed? Yes, that was [D.N.]'s bed. Whenever he
5 sits there and he says, no, well, what's the
6 question for [D.N.]? [D.N.], were you on the
7 couch or were you on the bed or were you in the
8 living room? No, it's not that. It's what did you
9 say back on June 26th of 2019, that's weird.
10 That's what this represents, so take a look at it.
11 Remembers what happened that night he's shot. He's
12 in bed. To [D.N.] it is his bed. That's where he
13 sleeps. With Tamara and Shamekia along with
14 Krystal watching TV. [D.N.] said he had been --
15 [D.N.] said -- it's weird. [D.N.] said been more
16 than five times to Pocket house. True. Could be
17 20. Could be 30. Could be 40. It's more than
18 five.

19 Well, why didn't you tell Allison
20 during the forensic interview that Pocket did it?
21 Because I forgot. So, [D.N.], why didn't you tell
22 on July 11th of 2019 that you said that you forgot
23 when you were talking to the solicitor about an
24 interview that you had in 2016 with Dr. Allison
25 Foster. That is a compound question that got so

REBUTTAL CLOSING ARGUMENT BY MR. OSBORNE

1 confusing. I mean, it even confused
2 Mr. Leiendecker. Let me try to break it down.

3 Black male entered the room. I mean,
4 it's a different question. Okay. You'll have this
5 back there, but I want to make sure you understand.
6 There's a lot more that was said during those
7 interviews. And if you're asking D.N. questions
8 about what was said during those interviews and
9 what happened, you don't want to ask him all the
10 questions. You only want to pick the ones that are
11 insignificant. And like I told you, it is
12 significant who held the gun and that you know him
13 and the type of gun it was.

14 All right. I'll end with this. Ladies
15 and gentlemen, the dead have spoken to you for two
16 plus weeks now. And you've heard more than enough
17 evidence to convict these Defendants for their
18 murders. But more importantly, the living have
19 spoken to you. You've heard from that courageous
20 young boy, D.N., 14 years old. When Luther
21 Smith, Robert Bailey, and Antly Scott put that
22 bullet in D.N.'s head, they thought that they
23 got away with these murders. They thought there
24 would be no witnesses left. They thought they got
25 away with it all. They were wrong then and they

1 still think they're getting away with it now.

2 They're wrong now. Prove them wrong.

3 Ladies and gentlemen, I respectfully
4 ask you to find these Defendants guilty on all
5 charges. Thank you.

6 THE COURT: Thank you, Mr. Osborne.

7 JURY CHARGE BY THE COURT:

8 THE COURT: Mr. Foreman, ladies and
9 gentlemen of the jury, you've heard the evidence
10 and arguments of all the parties. I will now
11 explain the law which you are to apply in this
12 case.

13 You and I have specific duties to
14 perform. As the trial judge, it is my responsible
15 to preside over this trial. I also have the duty
16 to rule on the admissibility of the evidence
17 offered. You are to consider only the evidence
18 before you. If there was any testimony ordered
19 stricken from the record during this trial, and
20 there was, you must disregard that testimony. You
21 are to consider only the testimony presented from
22 the witness stand, any exhibits which have been
23 made a part of the record in this case, and any
24 stipulations of counsel.

25 I have the duty to charge the law

JURY CHARGE BY THE COURT

1 applicable in this case. As the presiding judge, I
2 am the sole judge of the law, and it is your duty
3 as jurors to accept and apply the law as I now
4 state it to you. If you already have any idea as
5 to what the law is or what the law ought to be and
6 it does not agree with what I now tell you the law
7 is, you must abandon your idea because you are
8 sworn to accept the law and apply the law exactly
9 as I state it to you.

10 Your duty is to determine the facts.
11 In every case, the jury is the sole and exclusive
12 judge of the facts. A trial judge cannot suggest,
13 state, comment on, or make any statement to a trial
14 jury about the facts in a case. Since you, the
15 jury, are the sole judges of the facts, you're not
16 to infer from what I've said during the progress of
17 this trial on ruling upon the admissibility of
18 evidence, or otherwise, or anything that I say now
19 during the course of this instruction to you, that
20 I have an opinion about the facts. The law does
21 not allow me to have an opinion about the facts.
22 This is a matter solely for you, the jury, to
23 determine. As jurors, it is your duty to determine
24 the effect, value, and weight of the evidence that
25 has been presented during this trial.

JURY CHARGE BY THE COURT

1 You were allowed to take notes during
2 this trial. However, please remember that some
3 people are better note takers than others. Jurors'
4 notes should not be given any greater weight than
5 the recollection of other jurors. The
6 recollections of individual jurors should be
7 considered as reliable as notes taken by any other
8 jurors.

9 The indictments charge Robert Bailey,
10 Antly Scott, and Luther Smith each one with
11 burglary in the first degree, four counts of
12 murder, and attempted murder. Each indictment
13 charges a separate and distinct offense. You must
14 decide each indictment separately on the evidence
15 and the law applicable to it uninfluenced by your
16 decision as to any other indictment.

17 The fact that the Defendants were
18 arrested, charged, and indicted is not evidence and
19 cannot be considered by you as evidence of guilt.
20 Nor does it create any presumption or inference of
21 guilt. These indictments are simply the formal
22 written instruments containing the charges made
23 against these Defendants. They are the formal
24 documents by which this case is brought into court.
25 You will be asked to write a separate verdict of

JURY CHARGE BY THE COURT

1 guilty or not guilty for each indictment.

2 The case of each Defendant and the
3 evidence and the law concerning that Defendant must
4 be considered separately and individually. The
5 Defendants have been tried together but you must
6 determine each Defendant's guilt or innocence
7 separately as to each charge. Your verdict does
8 not have to be the same for all Defendants. The
9 fact that you may find one Defendant guilty or not
10 guilty should not control your verdict as to the
11 other Defendants. Where more than one person is
12 charged with a crime, if the evidence warrants it,
13 you may convict one and acquit the others, or you
14 may acquit all, or you may convict all. It will
15 depend upon your view of the testimony and
16 evidence. You must take each Defendant and
17 consider the evidence as to that Defendant and my
18 instructions to you on the law. You will then
19 write a separate verdict of guilty or not guilty
20 for each individual Defendant as to each charge.

21 Every one of the Defendants has pled
22 not guilty to these indictments, and that puts the
23 burden on the State to prove that each one of the
24 Defendants -- prove each one of the Defendants
25 guilty beyond a reasonable doubt. A person charged

JURY CHARGE BY THE COURT

1 with committing a criminal offense in South
2 Carolina is never required to prove himself
3 innocent.

4 I charge you that it is a guiding rule
5 of law that the Defendant in a criminal trial, no
6 matter how serious the charge, is always presumed
7 innocent of the crime for which the indictments
8 were issued unless guilt is proven by evidence
9 satisfying you the jury of that guilt beyond a
10 reasonable doubt. This presumption of innocence
11 does not end when you begin your deliberations, but
12 it accompanies the Defendants throughout the trial
13 until you reach a verdict of guilt based on
14 evidence satisfying you of that guilt beyond a
15 reasonable doubt.

16 The presumption of innocence is like a
17 robe of righteousness placed upon -- about the
18 shoulders of each Defendant which remains with the
19 Defendant until it has been stripped from the
20 Defendant by evidence satisfying you of that
21 Defendant's guilty beyond a reasonable doubt.

22 The presumption of innocence is not
23 mere -- a mere legal theory. It is not just a
24 legal phrase. It is a real and substantial right
25 to which every Defendant is entitled unless you,

JURY CHARGE BY THE COURT

1 the jury, are satisfied from the evidence of the
2 Defendants' guilt beyond a reasonable doubt.

3 What is reasonable doubt in the law? A
4 reasonable doubt is the kind of doubt that would
5 cause a reasonable person to hesitate to act.

6 The State has the burden of
7 establishing every fact necessary to prove the
8 Defendant guilty beyond a reasonable doubt. The
9 law presumes every person charged with a crime to
10 be innocent and the burden of establishing guilt is
11 placed solely on the State. Some of you may have
12 served as jurors in civil cases, where you were
13 told that it is only necessary to prove that a fact
14 is more likely true than not true, such as by the
15 greater weight or preponderance of the evidence.
16 Other civil cases use the clear and convincing
17 evidence standard. In those cases, it is necessary
18 to prove that a fact is highly probable. But this
19 is a criminal case, and the State's proof must also
20 be more powerful than those burdens of proof. In
21 criminal cases, the State's proof must be beyond a
22 reasonable doubt.

23 Proof beyond a reasonable doubt is
24 proof that leaves you firmly convinced of the
25 Defendant's guilt. There are very few things in

JURY CHARGE BY THE COURT

1 the world that we know with absolute certainty, and
2 in criminal cases the law does not require proof
3 that overcomes every possible doubt. If, based on
4 your consideration of the evidence, you are firmly
5 convinced that the Defendant is guilty of the crime
6 charged, you must find the Defendant guilty. The
7 Defendant is not required to prove his innocence.
8 On the other hand, if you think there is a real
9 possibility that the Defendant is not guilty, you
10 must give the Defendant the benefit of every
11 reasonable doubt and find him not guilty.

12 You have heard testimony concerning the
13 penalty a person can serve for the crimes alleged
14 in these indictments. In determining the guilt or
15 innocence of each of the Defendants, you cannot
16 consider any possible penalty for any particular
17 crime. The punishment for the crimes is a matter
18 for me as the judge to determine and should never
19 be considered by you in anyway whatsoever in
20 arriving at an impartial verdict as to the guilt or
21 innocence of each of the Defendants.

22 Necessarily, you must determine the
23 credibility of the witnesses who have testified.
24 Credibility simply means believability. It is your
25 duty as jurors to analyze and evaluate the evidence

JURY CHARGE BY THE COURT

1 and determine which evidence convinces you of its
2 truth.

3 In determining the believability of
4 witnesses who have testified, you may believe one
5 witness over several witnesses or several witnesses
6 over one witness. You may believe a part of the
7 testimony of a witness and reject the remaining
8 part of the testimony of that same witness. You
9 may believe the testimony of a witness in its
10 entirety or reject the testimony of a witness in
11 its entirety. You may consider whether any witness
12 has exhibited to you any interest, bias, prejudice
13 or other motive in this case. You may also
14 consider the appearance and manner of a witness
15 while on the witness stand.

16 The rules of evidence ordinarily do not
17 permit witnesses to testify to opinions or
18 conclusions. An exception to this rule exists for
19 witnesses we call "expert witnesses." A witness
20 who, by education and experience, has become an
21 expert in some art, science, profession, or calling
22 may state an opinion about a relevant and material
23 matter, in which the witness claims to be an
24 expert, and may also state the reasons for the
25 opinion.

JURY CHARGE BY THE COURT

1 You should consider any expert opinion
2 received in evidence like any other evidence, and
3 give it the weight you think it deserves. If you
4 decide that the opinion of an expert witness is not
5 based on sufficient education and experience, or if
6 you conclude that the reasons given in support of
7 the opinion are not sound, or that the opinion is
8 outweighed by other evidence, you may disregard the
9 opinion entirely.

10 An expert witness' testimony is to be
11 given no greater weight than that of other
12 witnesses simply because the witness is an expert.
13 Further, you are not required to accept an expert's
14 opinion, even though it is not contradicted.

15 A person who has a past criminal record
16 is competent to testify during a trial. A past
17 record does not affect the ability of that witness
18 to testify. The past record may only be considered
19 by you, if at all, in determining the witness'
20 believability.

21 Remember, you are the sole judges of
22 the facts and of the believability of any and all
23 of the witnesses.

24 I instruct you and emphasize to you
25 that the fact that the Defendants did not testify

JURY CHARGE BY THE COURT

1 is not a factor to be considered by you in any way
2 in your deliberation and in your consideration of
3 the question of the guilt or innocence of each of
4 the Defendants. It must not be considered by you
5 in any manner whatsoever. A Defendant has the
6 Constitutional right to remain silent, and the
7 assertion of this right must not be considered by
8 you in your deliberations. I repeat, under your
9 oath, you are to draw no conclusion whatsoever from
10 the fact that the Defendants in this case did not
11 testify. The fact that these Defendants did not
12 testify should not even be discussed in the jury
13 room. The burden of proof, as I have stated to
14 you, is on the State. The Defendant is not
15 required to prove his innocence. The burden of
16 proof remains on the State to prove guilt beyond a
17 reasonable doubt as to each Defendant and as to
18 each charge.

19 In order to establish criminal
20 liability, criminal intent is required. For
21 example, the mental state required to be proven by
22 the State for a particular crime might be purpose,
23 intent, knowledge, recklessness, or criminal
24 negligence. Criminal intent must be proven by the
25 State beyond a reasonable doubt. Criminal intent

JURY CHARGE BY THE COURT

1 is always a matter that must be determined by the
2 jury from the circumstances surrounding the
3 situation at that time. There is no way to prove
4 intent to a mathematical certainty. There is no
5 way medical science can dissect a person's brain
6 and determine what the person had in mind, so the
7 law says that criminal intent may be inferred from
8 the circumstances shown to have existed at that
9 time. This is how you make a determination of
10 whether or not the element requiring intent was
11 present. It is not necessary to establish intent
12 by direct and positive evidence, but intent may be
13 established by inference in the same way as any
14 other fact by taking into consideration the acts of
15 the parties and all the facts and circumstances of
16 the case.

17 Criminal intent is a mere state of
18 conscious wrongdoing -- criminal intent is a mental
19 state of conscious wrongdoing. I don't know what I
20 said the first time, so I apologize for that. Bear
21 with me. It can arise from action or a failure to
22 act. It must -- you must determine what the
23 Defendant intended to do based on the circumstances
24 existing at that time.

25 There are two types of evidence which

JURY CHARGE BY THE COURT

1 are generally presented during a trial - direct
2 evidence and circumstantial evidence. Direct
3 evidence directly proves the evidence of a fact and
4 does not require deduction. Circumstantial
5 evidence is proof of a chain of facts and
6 circumstances indicating the existence of a fact.

7 Crimes may be proven by circumstantial
8 evidence. The law makes no distinction between the
9 weight or value to be given to either direct or
10 circumstantial evidence, however, to the extent the
11 State relies on circumstantial evidence, the
12 circumstances must be consistent with each other,
13 and when taken together, point conclusively to the
14 guilt of the accused beyond a reasonable doubt. If
15 these circumstances merely portray the Defendant's
16 behavior as suspicious, the proof has failed.

17 The State has the burden of proving the
18 Defendant guilty beyond a reasonable doubt. This
19 burden rests with the State regardless of whether
20 the State relies on direct evidence, circumstantial
21 evidence, or some combination of the two.

22 An issue in this case is the
23 identification of the Defendant as the person who
24 committed the crime charged. Once again, I
25 instruct you the burden of proof on the State

JURY CHARGE BY THE COURT

1 extends to every element of the crime charged, and
2 this specifically includes the burden of proving
3 beyond a reasonable doubt the identity of the
4 person who committed the offense. If, after
5 examining the testimony, you have a reasonable
6 doubt as to the accuracy of the identification, you
7 must find the Defendant not guilty.

8 If a crime is committed by two or more
9 people who are acting together in committing a
10 crime, the act of one is the act of all. A person
11 who joins with another to commit an unlawful act is
12 criminally responsible for everything done by the
13 other person which happens as a probable or natural
14 consequence of the acts done in carrying out the
15 common plan and purpose. If two or more people are
16 together, acting together, assisting each other in
17 committing the offense, the act of one is the act
18 of all, or as it is sometimes said, "the hand of
19 one is the hand of all."

20 When two or more people join together
21 to commit a crime, and during the commission of
22 that crime one of the two commits another crime,
23 both may be criminally liable for the unplanned
24 crime if it was a natural and probable consequence
25 of their common plan to commit the initial crime.

JURY CHARGE BY THE COURT

1 Prior knowledge that a crime is going
2 to be committed, without more, is not sufficient to
3 make a person guilty of that crime. Mere knowledge
4 that another person is going to commit a crime,
5 even if the Defendant is present when the crime is
6 committed, is not sufficient to convict the
7 Defendant as a principal. Guilt as a principal is
8 shown by actual or constructive presence at the
9 scene as a result of prior arrangement. Therefore,
10 a finding of a prior arranged plan or common scheme
11 is necessary for a finding of guilt as a principal.
12 The State must prove beyond a reasonable doubt by
13 competent evidence the theory of the hand of one is
14 the hand of all.

15 Mere association with one who committed
16 the crime and mere presence at the scene does not
17 make a Defendant an accomplice or co-conspirator.
18 Although mere presence and prior knowledge that a
19 crime is going to be committed, without more, is
20 insufficient to constitute guilt, presence at the
21 scene of a crime by prearrangement to aid,
22 encourage, or abet in the perpetration of the crime
23 constitutes guilt as a principal. A principal in a
24 crime is one who either actually commits the crime
25 or who is present aiding, abetting, or assisting in

JURY CHARGE BY THE COURT

1 committing the crime. When a person does an act in
2 the presence of and with the assistance of another,
3 the act is done by both. Where two or more, acting
4 with a common plan or intent, are present at the
5 commission of a crime, it does not matter who
6 actually commits the crime. All are guilty. The
7 hand of one is the hand of all. Present at the
8 commission of a crime means to be sufficiently near
9 to aid, abet, and assist in the commission of that
10 crime. However, mere presence at the scene of a
11 crime is not sufficient to convict one as a
12 principal on the theory of aiding and abetting.
13 Intent is also a necessary element. There must
14 have been a common design or intent to commit the
15 crime and the crime must have been committed
16 pursuant thereto with the person aiding and
17 abetting by some overt act. Intent means intending
18 the result which actually occurs; not accidentally
19 or involuntarily. Intent may be shown by acts and
20 conduct of the Defendant and other circumstances
21 from which you may naturally and reasonably infer
22 intent. The State must prove these elements beyond
23 a reasonable doubt.

24 Mere presence at the scene is not
25 sufficient to prove someone guilty of a crime. A

JURY CHARGE BY THE COURT

1 Defendant's presence where a crime is being
2 committed or mere association with a person who
3 commits a crime does not make a Defendant an
4 accomplice or an aider and abettor of the person
5 committing that crime.

6 The burden is on the State to prove
7 every element of the crime charged. If you find,
8 after reviewing all of the evidence, that the State
9 has proven that the Defendant was only present at
10 the scene of a crime, and that they have not
11 proved, beyond a reasonable doubt, any other
12 participation in the crime, then you must find the
13 Defendant not guilty. The law is that proof of
14 presence at the scene of a crime is not sufficient
15 to find someone guilty.

16 Each of the Defendants is charged with
17 first degree burglary. The State must prove beyond
18 a reasonable doubt that the Defendant entered a
19 dwelling without consent.

20 A dwelling is any building or portion
21 of a building in which a person ordinarily sleeps.
22 A building -- a building constructed as a dwelling
23 that has never been occupied cannot be considered a
24 dwelling for purposes of burglary. But, a building
25 is a dwelling even if the residents are temporarily

JURY CHARGE BY THE COURT

1 absent from the building.

2 In order to prove that the Defendant
3 entered the dwelling, the State does not have to
4 show that the Defendant's entire body entered the
5 dwelling. The smallest entry is sufficient. It
6 may be any part of the body, such as a hand or
7 foot, or even an instrument, such as a hook or
8 other instrument. In addition, the State does not
9 have to prove that force was used to gain entry.

10 If a person enters a building by using
11 deception, artifice, trick, or misrepresentation to
12 get consent to enter, this is an entry without
13 consent.

14 Next, the State must prove beyond a
15 reasonable doubt that the Defendant intended to
16 commit a crime. Either a felony or a misdemeanor,
17 at the time of the entry. The mere entry into a
18 dwelling without consent is not burglary. If the
19 intent to commit a crime is formed after the entry,
20 it is not burglary. On the other hand, if the
21 Defendant intended to commit a crime at the time of
22 entry, it is a burglary even if the intent was
23 abandoned after the entry. It does not matter that
24 the intended crime was not committed.

25 Intent may be shown by acts and conduct

JURY CHARGE BY THE COURT

1 of the Defendant and other circumstances from which
2 you may naturally and reasonably infer intent.

3 Finally, the State must prove beyond a
4 reasonable doubt that:

5 (1) The Defendant entered or remained
6 in the dwelling in the nighttime. Nighttime is the
7 period between sunset and sunrise during which
8 there is not enough daylight to recognize a
9 person's face, except by artificial light or
10 moonlight; or

11 (2) The State must prove beyond a
12 reasonable doubt that when entering, while in the
13 dwelling, or when fleeing, the Defendants or an
14 accomplice were armed with a deadly weapon or
15 explosive. A deadly weapon is any article,
16 instrument, or substance which is likely to cause
17 death or great bodily harm. Whether an instrument
18 has been used as a deadly weapon depends on the
19 facts and circumstances in each case.

20 The following are examples of
21 instruments which may be deadly weapons: A
22 shotgun, a rifle, a dirk, a dagger, a knife, a
23 slingshot, metal knuckles, a razor, gasoline, a
24 firebomb, a Molotov cocktail, and lighter fluid. A
25 gun may be a deadly weapon even if it is not

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1 operating.

2 Each of the Defendants are also charged
3 with four counts of murder. The State must prove
4 beyond a reasonable doubt that the Defendant killed
5 another person with malice aforethought.

6 Malice is hatred, ill-will, or
7 hostility towards another person. It is the
8 intentional doing of a wrongful act without just
9 cause or excuse and with an intent to inflict an
10 injury or under circumstances that the law will
11 infer an evil intent.

12 Malice aforethought does not require
13 that malice exists for any particular time before
14 the act is committed, but malice must exist in the
15 mind of the Defendant just before and at the time
16 of the act is committed. Therefore, there must be
17 a combination of the previous evil intent and act.

18 Malice aforethought may be expressed or
19 inferred. These terms, "express" and "inferred" do
20 not mean different kinds of malice, but merely the
21 manner in which malice may be shown to exist. This
22 is either by direct evidence or by inference from
23 the facts and circumstances which are proved.
24 Express malice is shown when a person speaks words
25 which express hatred or ill-will for another or

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1 when the person prepared beforehand to do the act
2 which was later accomplished; for example, lying in
3 wait for a person or any other acts of preparation
4 going to show that the deed was within the
5 Defendant's mind would be express malice.

6 Malice may be inferred from conduct
7 showing a total disregard for human life.

8 If facts are proven beyond a reasonable
9 doubt sufficient to raise an inference of malice to
10 your satisfaction, this inference would be simply a
11 evidentiary fact to be considered by you along with
12 the other evidence in the case. You may give it
13 the weight you decide it should receive.

14 Finally, the Defendants are charged
15 with attempted murder. In order to prove this
16 crime, the State must prove the Defendants, with
17 the specific intent to kill, attempted to kill
18 another person with malice aforethought, either
19 express or implied.

20 Malice is hatred, ill-will, or
21 hostility towards another person. It is the
22 intentional doing of a wrongful act without just
23 cause or excuse and with an intent to inflict an
24 injury or under circumstances from which the law
25 will infer an evil intent.

JURY CHARGE BY THE COURT

1 Malice aforethought does not require
2 that malice exists for any particular time before
3 the act is committed, but malice must exist in the
4 mind of the Defendant before and at the time of the
5 -- at the time the act is committed. Therefore,
6 there must be a combination of the previous evil
7 intent and the act.

8 Malice aforethought may be expressed or
9 inferred. These terms "express" and "inferred" do
10 not mean different kinds of malice but merely the
11 manner in which malice may be shown to exist. That
12 is either by direct evidence or by inference from
13 the facts and circumstances which are proved.
14 Express malice is shown when a person speaks words
15 which express hatred or ill-will for another or
16 when the person prepared beforehand to do the act
17 which was later accomplished; for example, lying in
18 wait for a person or any other acts of preparation
19 going to show that the deed was within the
20 Defendant's mind would be express malice.

21 Malice may be inferred from conduct
22 showing a total disregard for human life. If facts
23 are proved beyond a reasonable doubt sufficient to
24 raise an inference of malice to your satisfaction,
25 this inference would be simply and evidentiary fact

JURY CHARGE BY THE COURT

1 to be considered by you, the jury, along with the
2 other evidence in the case, and you may give it to
3 weight you decide it should receive.

4 A specific intent to kill is an element
5 of intent -- of attempted murder. Intent means
6 intending the result which actually occurs, not
7 accidentally or involuntarily. Intent may be shown
8 by acts and conduct of the Defendant and other
9 circumstances from which you may naturally and
10 reasonably infer intent. Evidence of the character
11 of the act, the character of the instrument used,
12 the manner in which it was used, the purpose to be
13 accomplished, the resulting wounds or injuries may
14 be considered in determining the intent with which
15 the act was committed. Intent may also be inferred
16 when it is demonstrated that the Defendant
17 voluntarily and willfully commits an act, the
18 natural tendency of which is to destroy another's
19 life.

20 I have declared the law to you through
21 these instructions to help guide you to your
22 verdict. Whether some of these instructions apply
23 depends upon what you find to be the facts. The
24 fact that I have instructed you on various subjects
25 in this case, should not be taken an indication --

JURY CHARGE BY THE COURT

1 as indicating an opinion of this Court as to what
2 you should find to be the facts or as to what your
3 verdict should be.

4 Your verdict must represent the
5 considered judgement of each juror. In order to
6 return a verdict, it is necessary that each juror
7 agree. Your verdict must be unanimous. All twelve
8 of you must agree on the verdict. Your verdict
9 cannot be based on sympathy, passion, prejudice,
10 emotion, or any other consideration not in evidence
11 in this case.

12 Remember at all times, you are not
13 partisans favoring one party over another. You are
14 the judges of the facts. Your sole interest is to
15 determine whether the State has proven each
16 individual's guilt to each of their charges beyond
17 a reasonable doubt from the evidence presented to
18 you in this case.

19 All right. Now, Mr. Foreman, I'm going
20 to come down there and go over how you need to
21 complete these indictments. As I have told y'all,
22 we have -- each Defendant has four murder charges,
23 one burglary first charge, and one attempted murder
24 charge and we have indictments for each one of
25 them. Okay.

JURY CHARGE BY THE COURT

1 Now, as the foreman, I'm just going to
2 pick one. This is -- the indictment just tells you
3 where we are, State of South Carolina, County of
4 Orangeburg. This is the Indictment number,
5 2017-GS-38-0171. And this is the Indictment for
6 burglary in the first degree and it says that one
7 of the Defendant's, Luther Joseph Smith, did
8 unlawfully enter the dwelling belonging to Krystal
9 Hutto without consent to commit a crime therein and
10 he did it at night and while armed. You
11 understand?

12 MR. FOREMAN: (Nodded)

13 THE COURT: On the back, this just
14 shows you that it was true billed by the grand
15 jury. Now, remember what I told you, the fact that
16 the Indictment was presented to the grand jury and
17 they true billed it is not evidence. Okay. That's
18 just like this is how we got here. He is charged
19 -- Defendant Luther Joseph Smith is charged with
20 burglary in the first degree. Y'all have to decide
21 whether or not he is guilty of this. And you got
22 to decide it whether he's guilty beyond a
23 reasonable doubt.

24 Once you -- once y'all unanimously come
25 to a verdict, you will write underneath verdict

1 here, you will write either guilty or not guilty.

2 Okay. Then on this line, you will sign your name

3 and then underneath that you will put the date.

4 Okay.

5 Now, on each one of these -- I'm not

6 giving you these now, but just so you will know.

7 On each one of the defendants there is the burglary

8 in the first degree charge, there's an attempted

9 murder charge, and there are four counts of murder.

10 One for Krystal Hutto, one for Shamekia Sanders,

11 one for Jerome Butler, and one for Tamara Perry.

12 Okay.

13 Now, the same charges for Antly Scott.

14 And the same charges -- same six charges for Robert

15 Bailey. And you have to decide the guilt or

16 innocence of each one of these Defendants on each

17 one of these charges separately. Okay. I charged

18 you with that. I've been telling y'all since the

19 beginning. Y'all have to discuss each one of them

20 separately. Do you understand that?

21 MR. FOREMAN: (Nodded)

22 THE COURT: Okay. Now, let me also

23 tell you just so you -- I'm not giving you this

24 right now. Okay. Now, there are a couple of

25 reasons. You can't start to begin -- you can't

1 start now to begin your discussions and start
2 talking about this case. One reason and the final
3 reason is this, these attorneys have been listening
4 to my charge on the jury. Okay. And as you can
5 tell that was an exciting thing to do, you know.
6 You have -- you got a mini course in law in those,
7 I believe, 32 pages I had to read to you. And I
8 had to read it to you because I've got to give you
9 the exact statement of the law or that's a problem.
10 Okay.

11 Now, these attorneys are listening and
12 they want to find me making a mistake. Because
13 then they can point it out to me. And then I got
14 to bring you back out here to correct it. Okay.
15 I'm hoping I didn't do that. But in all that
16 reading I could have misspoken. Okay. If I
17 didn't, okay, then all of the evidence that has
18 been put into the record and these Indictments will
19 be sent back to you in the jury room and y'all will
20 be told to begin your deliberations. Okay. But
21 you can't talk about it until then. Y'all
22 understand that?

23 THE JURY: (Nodded)

24 THE COURT: All right. If y'all will
25 just bear with me for a second. I'm going to find

1 out how I passed, whether I passed or not. Okay.
2 If I did, this will be back -- now, you can see
3 there's a bunch of stuff up there, so you got to
4 wait until everybody gets in.

5 Mr. Foreman, let me remind you, it is
6 your duty to make sure everybody in the jury room
7 talks about what they think about this case. Okay.
8 You control that and make sure everybody talks.
9 Okay.

10 MR. FOREMAN: (Nodded)

11 THE COURT: If you have any questions,
12 you are the one that will fill out the questions
13 and send them back. Okay.

14 MR. FOREMAN: Okay.

15 THE COURT: And as I told you, you're
16 the one who fills this out. Okay. All right.
17 Y'all go on back in the jury room. I will get
18 y'all started on this as soon as I can. Thank you.

19 (WHEREUPON, the jury left the courtroom
20 at 5:06 p.m.)

21 THE COURT: Any issues from the State
22 regarding the charge to the jury?

23 MR. OSBORNE: No, Your Honor.

24 THE COURT: Mr. Leiendecker, any issues
25 regarding --

1 MR. LEIENDECKER: I believe it was
2 correct, but I thought we had actually switched out
3 the intent and you went back to the cumbersome old
4 charge.

5 MS. THOMPSON: It was the same one you
6 sent plus one sentence.

7 THE COURT: You wanted to change that
8 last sentence to the sentence that was read.

9 MR. LEIENDECKER: I just wanted to
10 change the whole thing to that short -- but that's
11 fine.

12 MS. THOMPSON: I used the intent you
13 sent.

14 THE COURT: All right. Ms. Zmroczek --

15 MR. LEIENDECKER: I have no objection.

16 THE COURT: Okay. Thank you, sir. Ms.
17 Zmroczek?

18 MS. ZMROCZEK: Your Honor, I have two
19 objections. And one deals with the closing, but I
20 think it needs to be dealt with. Mr. Osborne said
21 that Mr. Shumpert is not allowed to testify to what
22 other people said. That is a misstatement of the
23 law. He could testify as to what --

24 THE COURT: We'll take up the
25 objections to what he was doing. Tell me about --

1 MS. ZMROCZEK: So this last one, Your
2 Honor, I sent a -- I sent a memo to your law clerk.

3 THE COURT: Yeah, jury instruction
4 request --

5 MS. ZMROCZEK: I did it quickly. But
6 based on the opening/closing statement of
7 Mr. Osborne where he said that Coleman was a liar
8 and that everything he said was a lie and that he
9 drove and, baa, baa, baa. So, Your Honor, I --
10 just so I can preserve the issue about -- I know
11 that the State doesn't have any charges regarding
12 its in-advised witnesses. And I know that there
13 are three cases under Rule 3.3, *State V. Bamberg*,
14 *State V. Bagwell*, and *State V. Bennett* which is a
15 1977, 1942, and 1894 case regarding -- regarding
16 incident advised witness testimony. But, Your
17 Honor, I'd just like to preserve that argument to
18 argue against precedent especially because the
19 State got up and said that their witness Derrick
20 Coleman was a liar. So -- and I just need to
21 preserve all that.

22 THE COURT: Okay. Well, then that is
23 preserved. As to my actual charge, do you have any
24 objection?

25 MS. ZMROCZEK: So I would just ask to

1 add that one on. But other than that, I believe
2 that the charges that you read were what we agreed
3 to yesterday.

4 THE COURT: Okay. And your argument is
5 to --

6 MS. ZMROCZEK: Is to charge that in
7 addition to what we already charged.

8 THE COURT: Okay. All right. Okay.

9 MS. ZMROCZEK: And I apologize for the
10 late thing.

11 THE COURT: That's okay. We got it on
12 the record now. Okay. And, Mr. Johnson?

13 MR. JOHNSON: No objection to the
14 charge, Your Honor.

15 THE COURT: Thank you. All right.
16 Would y'all mind -- I'm not going to charge those,
17 I'm going to preserve your objections so you can
18 argue.

19 MS. ZMROCZEK: And you'll make a ruling
20 later?

21 THE COURT: Yeah. Let's go ahead and
22 get that stuff to them so they can start doing and
23 then we can come out and argue about anything else
24 that we need to argue about. Okay. But if y'all
25 will just make sure we got everything straight,

1 that would be great.

2 (WHEREUPON, everything was sent back to
3 the jury to begin their deliberations at 5:12 p.m.)

4 THE COURT: All right. I've got put
5 some more stuff on the record. Okay.

6 MR. LEIENDECKER: You asked me about
7 the objections and I'm going to have a hard time
8 because I just stood up and sat -- I probably need
9 to be reminded at what point I objected.

10 THE COURT: From what I can --

11 MR. LEIENDECKER: I'm going to drive
12 Katherine crazy.

13 THE COURT: I know the last objection
14 had something to do with Pocket, but I don't know
15 what it was. The first one, you know, y'all are
16 going to have to give me some hints.

17 (Off the record)

18 THE COURT: Here's what I'm going to
19 let y'all do. Okay. I'm going to let y'all go
20 over your notes and y'all tell me what the
21 objections are. Okay. And then we'll come back
22 out here and we'll put them on the record. Okay.
23 Y'all just get it straight. We're down for a
24 minute, you know, while they confer on the -- any
25 objections they want to go over.

1 (Off the record)

2 THE COURT: Would you bring the jury in
3 please.

4 (WHEREUPON, the jury entered the
5 courtroom at 7:10 p.m.)

6 THE COURT: All right. Ladies and
7 gentlemen, I've got your question. If the
8 Defendant is at the scene during the commission of
9 a crime, does that make him guilty of all charges?
10 The way I've got to answer that is I'm going to
11 read just a few pages, not the whole thing. Relax.
12 Okay. Not the whole thing. Okay. Just to remind
13 you a part of the charge. Okay.

14 Each Defendant's guilt or innocence --
15 you must determine each Defendant's guilt or
16 innocence separately as to each charge. Your
17 verdict does not have to be the same for all
18 Defendants. The fact that you may find one
19 Defendant guilty or not guilty should not control
20 your verdict as to the other defendants. Where
21 more than one person is charged with a crime, if
22 the evidence warrants it, you may convict one and
23 acquit the others, or you may acquit all, or you
24 may convict all. It will depend upon your view of
25 the testimony and the evidence. You must take each

1 Defendant and consider the evidence as to that
2 Defendant and my instructions to you on the law.
3 You will then write a separate verdict of guilty or
4 not guilty for each individual Defendant as to each
5 charge.

6 That's why y'all have those 18
7 different Indictments. Y'all treat each one as an
8 individual question that you have to answer. Okay.

9 Now, the other thing I'm going to go
10 over with because y'all are asking about, being
11 present at the scene. Is -- I've got two things.

12 Mere presence at the scene is not
13 sufficient to prove someone guilty of a crime. A
14 Defendant's presence where a crime is being
15 committed or mere association with a person who
16 commits a crime does not make a Defendant an
17 accomplice or an aider and abettor of the person
18 committing the crime.

19 The burden is on the State to prove
20 every element of the crime charged. If you find,
21 after reviewing all the evidence, that the State
22 has proved that the Defendant was only present at
23 the scene of the crime, and that they have not
24 proved, beyond a reasonable doubt, any other
25 participation in the crime, then you must find the

1 Defendant not guilty. The law is that proof of
2 presence at a scene is not a crime -- the law is
3 that proof of presence at the scene of the crime is
4 not sufficient to find someone guilty. Okay.

5 But now I've also since there are more
6 than -- allegedly, there are three defendants, so
7 I'm going to read y'all again the section about
8 hand of one, hand of all. Okay. And then that
9 will be all we're doing.

10 If a crime is committed by two or more
11 people who are acting together in committing a
12 crime, the act of one is the act of all. A person
13 who joins with another to commit an unlawful act is
14 criminally responsible for everything done by the
15 other person which happens as a probable or natural
16 consequence of the acts done in carrying out the
17 common plan and purpose. If two or more people are
18 together, acting together, assisting each other in
19 committing the offense, the act of one is the act
20 of all, or as it is sometimes said, "the hand of
21 one is the hand of all."

22 When two or more people join together
23 to commit a crime, and during the commission of
24 that crime one of the two commits another crime,
25 both may be criminally liable for the unplanned

1 crime if it was a natural and probable consequence
2 of their common plan to commit the initial crime.

3 Prior knowledge that a crime is going
4 to be committed, without more, is not sufficient to
5 make a person guilty of that crime. Mere knowledge
6 that another person is going to commit a crime,
7 even if the Defendant is present when the crime is
8 committed, is not sufficient to convict the
9 Defendant as a principal. Guilt as a principal is
10 shown by actual or constructive presence at the
11 scene as a result of prior arrangement. Therefore,
12 a finding of a prior arranged plan or common scheme
13 is necessary for a finding of guilt as a principal.
14 The State must prove beyond a reasonable doubt by
15 competent evidence the theory of the hand of one is
16 the hand of all.

17 Mere association with one who committed
18 the crime and mere presence at the scene does not
19 make a Defendant an accomplice or a co-conspirator.
20 Although mere presence and a prior knowledge that a
21 crime is going to be committed, without more, is
22 insufficient to constitute guilt, presence at the
23 scene of a crime by prearrangement to aid,
24 encourage, or abet in preparation of the crime
25 constitutes guilt as a principal. A principal in a

1 crime is one who either actually commits the crime
2 or who is present aiding, abetting, or assisting in
3 committing the crime. When a person doesn't act in
4 the presence of and with the assistance of another,
5 the act is done by both. Where two or more, acting
6 with a common plan or intent, are present at the
7 commission of a crime, it does not matter who
8 actually commits the crime. All are guilty. The
9 hand of one is the hand of all. Present at the
10 commission of a crime means to be sufficiently near
11 to aid and abet and assist in the commission of the
12 crime. However, mere presence at the scene of a
13 crime is not sufficient to convict one as a
14 principal on the theory of aiding and abetting.
15 Intent is also a necessary element. There must
16 have been a common design or -- a common design or
17 intent to commit the crime and the crime must have
18 been committed pursuant thereto with the person
19 aiding and abetting by some overt act. Intent
20 means intending the result which actually occurs;
21 not accidentally or involuntarily. Intent may be
22 shown by acts and conduct of the Defendant and
23 other circumstances from which you may naturally
24 and reasonably infer intent. The State must prove
25 these elements beyond a reasonable doubt.

1 I hope that gave y'all some additional
2 guidance. I will allow y'all to go on back and
3 continue with your deliberations. Thank y'all very
4 much.

5 (WHEREUPON, the jury left courtroom at
6 7:15 p.m.)

7 (WHEREUPON, Court's Exhibit Number 13
8 was marked and entered)

9 THE COURT: Y'all figured out what we
10 were talking about?

11 MS. ZMROCZEK: Yeah. So, Your Honor,
12 the objections that I needed to put on the record.
13 Specifically, in the rebuttal, Assistant Solicitor
14 Osborne said that -- well, first, I objected to the
15 mischaracterization of the Jerome Butler call. I
16 understand that after talking to him it was
17 probably a word or two of semantics. So I don't
18 know that that necessarily -- I'm going to abandon
19 that argument.

20 But the other objection I am not going
21 to argue or I'm not going to abandon and that is,
22 so what Mr. Osborne told the jury was that
23 Lieutenant Shumpert cannot testify as to what
24 somebody else said and that was an inaccurate
25 statement of the law. Because he can testify as to

1 what a party opponent said and so -- and I do feel
2 strongly that that needed to be corrected. Your
3 Honor, because it was just a blatant misstatement
4 of the law. And so that was -- those were my two
5 objections for the rebuttal.

6 THE COURT: Okay. Let me ask you
7 something just out of curiosity. How would you
8 suggest it be cured?

9 MS. ZMROCZEK: Well, Your Honor, I
10 mean, now that they've been deliberating, I don't
11 know. But that's why I was trying to put it on
12 before we sent it out. Because I feel like that
13 the jury needed to know that -- because basically
14 what they were saying was, well, we didn't call
15 Shumpert because he can't say was other people
16 said. But that was about Ola's people and the
17 people who are not party opponents.

18 And so, Your Honor, at this point, I
19 don't know what the cure would be, but I do feel
20 like it was significant enough because it was a
21 blatant misstatement of the law.

22 THE COURT: Okay. Well, I'm going to
23 note that, you know. Are you requesting -- you
24 want to join that and make that a mistrial motion?

25 MS. ZMROCZEK: Yes.

1 THE COURT: Okay. All right.

2 MR. JOHNSON: Your Honor, can I join in
3 that as well?

4 THE COURT: You may. Mr. Leiendecker,
5 you want to join in too?

6 MR. LEIENDECKER: Sure.

7 THE COURT: Okay. Thank you.

8 MR. LEIENDECKER: I have two motions
9 also.

10 THE COURT: Oh, you have a separate
11 one? Okay. As part of a mistrial motion?

12 MR. LEIENDECKER: As part of objections
13 to the rebuttal of the Solicitor.

14 THE COURT: Okay. Go ahead.

15 MR. LEIENDECKER: The second one which
16 I think is a matter of semantics as well, but
17 certainly the Solicitor stood up and said that when
18 the clip of Dr. Foster and D.N. was played about
19 his siblings, it was characterized as he didn't
20 remember that he had siblings. And the Solicitor
21 got up vehemently to correct that and said that she
22 asked about surviving, does your dad have any
23 surviving children. And it isn't really what she
24 said. In fact, I think Solicitor Osborne and I
25 talked about it, so what did you say, David?

1 MR. OSBORNE: So I think it was -- I
2 think the doctor was saying, can I -- and this
3 really just kind of goes to how confusing it was.
4 I think the doctor was saying, do you have any
5 siblings? And then [D.N.] says, no, well -- well,
6 I think the doctor is asking do you have any
7 surviving siblings. Not asking to -- [D.N.] to
8 recount all the deceased siblings.

9 MR. LEIENDECKER: And my problem was
10 that's clearly what David thinks, but that's
11 absolutely not what she said. She said, do you
12 have any siblings? And she didn't say surviving,
13 at least not to him.

14 MR. OSBORNE: And I guess my point was
15 this -- [D.N.] was answering the question in that
16 way. So I think it is sort of semantics.

17 THE COURT: Okay. And your other
18 objection.

19 MR. LEIENDECKER: My other objection is
20 earlier than that, he was objecting to an answer
21 that the child gave to Dr. Foster. And he said it
22 was an incomplete answer. And he went on in his
23 rebuttal to explain to the jury what was said, not
24 in the clip, but beyond the clip and other things.
25 And that -- my objection there is that is providing

1 -- that's outside the scope of the evidence. That
2 the clips, the interviews were never moved into
3 evidence. The only thing that was ever presented
4 to the jury during the testimony were the
5 individual clips that I replayed. And so the
6 Solicitor was arguing something that's not in
7 evidence.

8 THE COURT: Not in evidence. Okay.

9 MR. OSBORNE: And the only thing I
10 would say to that was and Mark told me and I might
11 have missed it and then I think y'all did, but Mark
12 had told me that he had said that --

13 MR. LEIENDECKER: Oh, the slide had an
14 issue too.

15 MR. OSBORNE: The slide had an issue
16 and I didn't catch that. I thought he was trying
17 to and I told Mark outside, kind of joking with
18 him, I said, well, you were perpetrating a fraud to
19 the jury. You were telling them that the mom never
20 said to keep a secret. But D.N. did say in that
21 interview, Dr. Foster asked him, who told you --
22 did anyone tell you to keep a secret? And he said,
23 yeah, my mom did. And then he said, well, no, I
24 corrected myself. I guess I missed the correction.
25 I thought that he had told the jury something that

1 wasn't true and I was correcting that.

2 MR. LEIENDECKER: Right. The slide did
3 say, and I said, oh, in this one he actually did
4 say to the doctor that. Yeah.

5 THE COURT: Well, I'm going to note
6 your objections to all three objections that y'all
7 have noted. And --

8 MR. LEIENDECKER: Do you think I should
9 make that a mistrial motion?

10 THE COURT: Yeah. I mean, that's what
11 you're making it is a mistrial motion.

12 MR. LEIENDECKER: Yes. Sure. Yeah.
13 Absolutely. I didn't know if you were ready for
14 that.

15 THE COURT: There's a loaded question.
16 No. You know, my take on it is, I don't -- I think
17 y'all have made some valid points, but I don't
18 think any of these -- if the jury would come back
19 and ask me a question about it or something like
20 that, I would get concerned. Right now, I don't
21 think it's going to have any affect on them. So
22 I'm not going to grant y'all's mistrial requests on
23 these, but I'm going to preserve your objection --
24 another objection to my ruling so that will be
25 protected. Okay.

VERDICT

1 MR. LEIENDECKER: Great. Thanks.

2 THE COURT: Appreciate it.

3 (Off the record while we're waiting on
4 the verdict)

5 THE COURT: My understanding is we have
6 a verdict. I told them to bring everybody back in.

7 (WHEREUPON, the jury entered the
8 courtroom at 8:06 p.m.)

9 THE COURT: All right. Mr. Foreman, I
10 have been told that the jury has reached a verdict
11 -- verdicts, I should say in the plural; is that
12 correct?

13 MR. FOREMAN: Yes, sir.

14 THE COURT: Is each one of these
15 verdicts a unanimous decision?

16 MR. FOREMAN: Yes, sir.

17 THE COURT: All right. Would you mind
18 giving all those forms to the bailiff?

19 THE BAILIFF: Your Honor, may I
20 approach?

21 THE COURT: Yes, ma'am, you may. Thank
22 you, ma'am.

23 THE BAILIFF: You're welcome.

24 THE COURT: All right. Ladies and
25 gentlemen, I do have the true billed Indictments

VERDICT

1 and the decision of the jury.

2 As to Indictment 2018-285, this is the
3 murder of Shamekia Sanders by Robert Bailey. The
4 verdict of the jury is guilty. It is signed by the
5 foreman of the jury today.

6 Indictment 2018-1286, is a murder
7 indictment for Krystal Hutto by Mr. Robert Bailey.
8 The verdict -- the decision of the jury is guilty.
9 It is signed by the foreman, Mr. Bookard.

10 Indictment 2018-1287, this the
11 indictment for murder of Tamara Perry by Robert
12 Bailey. And the verdict of the jury is guilty.
13 Signed and dated by the foreman of the jury.

14 Indictment 2018-1288 is a murder
15 indictment of Jerome Bailey -- Jerome Butler by
16 Robert Bailey. The verdict of the jury is guilty.
17 Signed and dated by the foreman of the jury.

18 Indictment 2018-1292 is the attempted
19 murder indictment of D.N. by Robert
20 Bailey. The verdict of the jury is guilty. Signed
21 by the foreman of the jury and dated today.

22 And Indictment 2018-1289, burglary in
23 the first degree of the dwelling owned by Krystal
24 Hutto by Mr. Bailey and the verdict of the jury is
25 guilty and signed by the foreman of the jury.

VERDICT

1 Beginning with Indictment 2017-0166,
2 this is a murder indictment for Tamara Perry by
3 Luther Joseph Smith. The verdict of the jury is
4 guilty. Signed by the foreman of the jury and
5 dated today.

6 Indictment 2017-0167, murder indictment
7 for the murder of Jerome Butler by Luther Joseph
8 Smith. The verdict of the jury is guilty. Signed
9 and dated by the foreman of the jury.

10 Indictment 017-0168, this is for the
11 murder of Shamekia Sanders by Luther Joseph Smith.
12 Verdict of the jury is guilty. Signed and dated by
13 the foreman of the jury.

14 Indictment 2017-0169 is the murder
15 indictment for the murder of Krystal Hutto by
16 Luther Joseph Smith. The verdict of the jury is
17 guilty. Signed and dated by the foreman of the
18 jury.

19 Indictment 2017-0170, the attempted
20 murder indictment for the attempted murder of
21 D.N. by Luther Joseph Smith. The verdict
22 of the jury is guilty. Signed and dated by the
23 foreman of the jury.

24 Indictment 2017-0171 is the burglary
25 first degree indictment for the burglary of the

VERDICT

1 dwelling of Krystal Hutto by Luther Joseph Smith.

2 The verdict of the jury is guilty. It's signed and
3 dated by the foreman of the jury.

4 Indictment 2018-1301, murder indictment
5 for the murder of Krystal Hutto by Antly Jermaine
6 Scott. The verdict of the jury is guilty. Signed
7 and dated by the foreman of the jury.

8 Indictment 018-1302, the murder
9 indictment for the murder of Tamara Perry by Antly
10 Jermaine Scott. The verdict of the jury is guilty
11 and it's signed and dated by the foreman of the
12 jury.

13 Indictment 2018-1303, it's a murder
14 indictment for the murder of Jerome Butler by Antly
15 Jermaine Scott. The verdict of the jury is guilty.
16 Signed and dated by the foreman of the jury.

17 Indictment 2018-1304 is the murder
18 indictment of the murder of Shamekia Sanders by
19 Antly Jermaine Scott. The verdict of the jury is
20 guilty. Signed and dated by the foreman of the
21 jury.

22 Indictment 2018-1305, this is the
23 attempted murder indictment for the attempted
24 murder of D.N. by Antly Jermaine Scott.
25 The verdict of the jury is guilty. Signed and

VERDICT

1 dated by the foreman of the jury.

2 And a final Indictment is 2018-1306,
3 burglary first degree indictment for the burglary
4 into the dwelling of Krystal Hutto by Antly
5 Jermaine Scott. The verdict of the jury is guilty
6 and it's signed and dated by the foreman of the
7 jury.

8 Mr. Foreman, again, this is the jury's
9 unanimous verdict.

10 MR. FOREMAN: Yes, sir.

11 THE COURT: Thank you, sir.

12 MS. ZMROCZEK: Your Honor, we would ask
13 that you poll the jury.

14 THE COURT: To poll the jury?

15 MS. ZMROCZEK: Uh-huh.

16 THE COURT: Okay. Let me get my jury
17 list. When I call your jury number -- do y'all
18 still remember your jury numbers? Okay. I'll have
19 to call your names then. Okay. I apologize.

20 Mr. Bookard, would you mind standing,
21 please, sir? Mr. Bookard, the verdicts -- the 18
22 verdicts that I just read, was that your verdict?

23 MR. BOOKARD: Yes, sir.

24 THE COURT: Is it still your verdict?

25 MR. BOOKARD: Yes, sir.

1 THE COURT: Okay. Thank you, sir.

2 Juror number 15, Robert Benjamin. Mr. Benjamin,
3 the 18 verdicts that I just read, was that your
4 verdicts?

5 MR. BENJAMIN: Yes, sir.

6 THE COURT: Are they still your
7 verdicts?

8 MR. BENJAMIN: Yes, sir.

9 THE COURT: Thank you, sir. Juror
10 number 119, Donald Harley. Mr. Harley, those 18
11 verdicts that I just read, were they your verdicts?

12 MR. HARLEY: Yes, sir.

13 THE COURT: Are they still your
14 verdict?

15 MR. HARLEY: Yes, sir.

16 THE COURT: Thank you, sir. Juror
17 number 71, Leroy Edwards. The 18 verdicts that I
18 just read, were they your verdicts?

19 MR. EDWARDS: Yes, sir.

20 THE COURT: Are they still your
21 verdicts?

22 MR. EDWARDS: Yes, sir.

23 THE COURT: Okay. Thank you, sir.

24 Juror number 263, Joan Thomas. Ms. Thomas, were
25 those 18 verdicts that I just read, were they your

1 verdicts?

2 MS. THOMAS: Yes, sir.

3 THE COURT: Are they still your
4 verdicts?

5 MS. THOMAS: Yes, sir.

6 THE COURT: Thank you, ma'am. Juror
7 number 151, Jacqueline Jones. Ms. Jones, those 18
8 verdicts that I just read, were they your verdicts?

9 MS. JONES: Yes, sir.

10 THE COURT: Are they still your
11 verdicts?

12 MS. JONES: Yes, sir.

13 THE COURT: Thank you, ma'am. Juror
14 number 38, Atari Butler. Mr. Butler, those 18
15 verdicts that I read, were they your verdicts?

16 MR. BUTLER: Yes, Your Honor.

17 THE COURT: Are they still your
18 verdicts?

19 MR. BUTLER: Yes, Your Honor.

20 THE COURT: Thank you, sir. Juror
21 number 74, Ruth Ann Elliott. Ms. Elliot, those 18
22 verdicts that I read, were they your verdict?

23 MS. ELLIOTT: Yes, sir.

24 THE COURT: Are they still your
25 verdict?

1 MS. ELLIOTT: Yes, sir.

2 THE COURT: Thank you, ma'am. Juror
3 number 197, Tracey Oliver. Ms. Oliver, those 18
4 verdicts that I read, were they your verdicts?

5 MS. OLIVER: Yes, sir.

6 THE COURT: Are they still your
7 verdicts?

8 MS. OLIVER: Yes, sir.

9 THE COURT: Thank you, ma'am. Juror
10 number 46, Hunter Carter. Mr. Carter, those 18
11 verdicts that I read, were they your verdicts?

12 MR. CARTER: Yes, sir.

13 THE COURT: Are they still your
14 verdicts?

15 MR. CARTER: Yes, sir.

16 THE COURT: Thank you, sir. Juror
17 number 87, Cynthia Garrick. Ms. Garrick, the 18
18 verdicts that I read, were they your verdicts?

19 MS. GARRICK: Yes, sir.

20 THE COURT: Are they still your
21 verdicts?

22 MS. GARRICK: Yes, sir.

23 THE COURT: Thank you, ma'am. And
24 juror number 30, Christina Brown. Ms. Brown, those
25 18 verdicts I read, were they your verdicts?

1 MS. BROWN: Yes, sir.

2 THE COURT: Are they still your
3 verdicts?

4 MS. BROWN: Yes, sir.

5 THE COURT: Thank you, ma'am. Anything
6 else from any of the Defendants?

7 MS. ZMROCZEK: Nothing further.

8 THE COURT: Mr. Leiendecker?

9 MR. LEIENDECKER: Nothing.

10 THE COURT: Mr. Johnson?

11 MR. JOHNSON: Nothing, Your Honor.

12 THE COURT: All right. Ladies and
13 gentlemen, listen, one of the things I commented on
14 to y'all during the whole time was I appreciated,
15 number one, y'all's attention. Y'all paid
16 attention during the entire trial. The other thing
17 is I appreciate that y'all were on time and here
18 and ready to go and this was nearly a three week
19 trial. So I do appreciate your service. You have
20 -- and y'all are now free to go. So thank you
21 again for your service. I really do appreciate it.
22 Okay. Y'all have a good evening. Thank you.

23 (WHEREUPON, the jury left the courtroom
24 at 8:21 p.m.)

25 THE COURT: All right.

1 Mr. Leiendecker, Ms. Zmroczek, Mr. Johnson, do
2 y'all want to present anything as far as mitigation
3 or anything you would like to say? Or do y'all
4 need a little bit of time to think about it? Or
5 tell me what you want to do.

6 MS. ZMROCZEK: Your Honor, at this
7 time, I would I have to make all my motions, but
8 also move to set aside --

9 THE COURT: Renew all your motions and
10 objections -- yes, ma'am.

11 MS. ZMROCZEK: Sorry. Move to set
12 aside the verdict, Your Honor, just based on the
13 fact that it was a three week trial, they didn't
14 even, you know, ask to look at the phone records
15 which were the crux of our argument.

16 And more importantly, Your Honor, I
17 will -- because I need to get a copy of the
18 closing. The first closing, not the rebuttal, but
19 probably both actually because I do need to write a
20 formal motion. I have been doing some research on
21 Rules 3.4, 3.8, and other rules about putting
22 witnesses up that you know are not telling the
23 truth. But I need to develop that in a written
24 motion. And so I know I have ten days to do that.
25 But I may need a little -- I'm just going to talk

1 with the court reporter just so I can get --
2 because I don't want to misquote.

3 THE COURT: No. No. I mean, that's
4 fine. You know -- you know, you've got ten days to
5 make any formal motions you want to make. If you
6 need any -- so, you know, you can do that.

7 MS. ZMROCZEK: Okay. Then of course
8 renew all of our previous motions.

9 THE COURT: Yes, ma'am. And I'm going
10 to note your renewed all your objections and your
11 earlier motions and like that. And I am renewing
12 my decisions on each one, but they are preserved.
13 The intent is they're all preserved on the record,
14 so you shouldn't need them. And you'll have your
15 ten days to file whatever motions you deem
16 appropriate. Same for you, Mr. Leiendecker and
17 Mr. Johnson.

18 MR. LEIENDECKER: Thank you, Your
19 Honor. I would renew all of those motions. Also,
20 I would make a motion to set aside the verdict and
21 for a new trial based on the cumulative nature of
22 all those motions and the issues and problems
23 contained therein.

24 THE COURT: Okay.

25 MR. LEIENDECKER: I would also join in

1 the fact that, you know, six years of work, three
2 weeks of trial, and a jury takes two hours and
3 never looks at any of the evidence. I find myself
4 disappointed.

5 THE COURT: Yes, sir. And,
6 Mr. Leiendecker, again, you know, I note your
7 motions, you know, obviously, I'm going to deny
8 them. But if you have anything other or wish to
9 formalize that in any way, you're welcome to do
10 that and you'll have ten days to do that.

11 MR. LEIENDECKER: Thank you.

12 THE COURT: Okay. Thank you, sir.
13 And, Mr. Johnson, I'm assuming the same thing?

14 MR. JOHNSON: Yes, sir. Renewing all
15 motions and objections, and I make the motion to
16 set aside the verdict, motion for new trial.
17 Certainly based on the amount of evidence and some
18 of the inconsistencies with the State's evidence
19 and based on previous motions and objections, Your
20 Honor.

21 THE COURT: Okay. And as I mentioned
22 to everybody else, I am denying those requests,
23 those motions and like that. And I will -- but I
24 will allow y'all if you need to file a more formal
25 document to capture everything that you want to

1 say, I will be glad to entertain that and revisit
2 it. Okay.

3 MR. LEIENDECKER: I believe, Your
4 Honor, based on the totality of the circumstances
5 and the crimes for which my client has been
6 convicted we're ready to stand in front of the
7 Court for sentencing.

8 THE COURT: Okay. All right.

9 MR. JOHNSON: Your Honor, can I ask
10 about -- I have for mitigation, I have a family
11 member that I was trying to get in --

12 THE COURT: Oh, yeah. Listen, I'll
13 give y'all a second to get organized. Okay.

14 THE COURT: Mr. Leiendecker, I will be
15 glad to hear any mitigation or anything you want to
16 put in the record.

17 MR. LEIENDECKER: Thank you, Your
18 Honor. I've been working with Robert Bailey since
19 2016. He's a dad. He has four kids. His wife
20 continues to struggle and work hard to take care of
21 the family. She works at and has worked forever at
22 the Dollar General. His mother also lives in the
23 area and at the time was living with the family.
24 It's her home and the wife and children are still
25 in the home. His mom is living just down the road

1 from them now.

2 Robert -- Robert in this entire time I
3 will say has demonstrated nothing in my
4 conversation or observation or anything else that
5 would have ever suggested to me with 30 years of
6 practice and experience that he in fact was
7 responsible for or even capable of the things that
8 were charged here.

9 He's just 42 years old. And other than
10 that, I just place him on the mercy of the Court
11 concerning sentencing in these matters.

12 THE COURT: All right. Thank you, sir.
13 Y'all can sit for a minute, I've got to go through
14 all of these. It will take me just a second, so if
15 y'all want to sit down for a second, that's fine.

16 All right. Mr. Bailey, the jury here
17 in Orangeburg having heard the testimony for nearly
18 a week in this case has found you guilty of four
19 charges of murder, one charge of burglary in the
20 first degree, and one charge of attempted murder,
21 you know.

22 As a result of those verdicts, it's the
23 sentence of this Court in each one of the murder
24 cases and in the burglary in the first degree
25 charge that you're sentenced to the Department of

1 Corrections for a term of life in prison.

2 On the attempted murder, you're
3 sentenced to the Department of Corrections for a
4 period of 30 years. These sentences are concurrent
5 and I will give you credit for the time you've
6 served. Thank you, sir. Appreciate it.

7 MR. LEIENDECKER: Thank you, Your
8 Honor.

9 THE COURT: Are you ready to tell me
10 what you want to tell me?

11 MS. ZMROCZEK: I'm ready.

12 THE COURT: Yes, ma'am.

13 MS. ZMROCZEK: Thank you. Your Honor,
14 as you know, I was appointed to this case close to
15 the end of last year to help Mr. Lackey.
16 Mr. Lackey probably has a better working
17 relationship with Mr. Smith. Although, I have
18 spent quite a bit of time with him and his mom and
19 his family. And, Your Honor, one thing that's
20 incredibly obviously frustrating for me is things
21 that we'll -- you know, I put in the motion, but
22 just getting to know Mr. Smith and especially like
23 his brother being in jail for the last two weeks
24 just because he didn't show up on Monday two weeks
25 ago to testify. And, Your Honor, he -- I was able

1 to speak with his mom on the phone. She was in
2 tears and a mess and has a broken foot and is
3 having trouble understanding the verdict.

4 Your Honor, my client as you heard
5 referenced to and had we put up a case, we would
6 have included medical records, Your Honor, that
7 deal with the various not only health problems that
8 my client has which include the normal things of
9 high blood pressure, anxiety, but he also has been
10 diagnosed with bipolar disorder and did have an IEP
11 when he was in school, Your Honor. I think that
12 that is evident in some of the behaviors that you
13 have seen and heard about from my client.

14 He has never been -- he doesn't have
15 any violent charges in his past, Your Honor. He --
16 I think the State's theory as I understand it
17 because it did seem to change much, but that he was
18 merely present and maybe as an aider and abettor, I
19 guess by driving away or, you know, maybe there was
20 some talk of a plan of a robbery. Obviously, those
21 are all factual issues, but, I mean, I don't think
22 the State would disagree that he didn't -- that he
23 didn't pull the trigger. And I know you got to see
24 and hear some of it in the arguments, pretrial,
25 but, you know, I question a lot of the tactics used

1 to get the information that they consider
2 confessions.

3 Your Honor, he knows that
4 unfortunately, you know, saying things -- just
5 saying things in general has really put him in this
6 place. He is genuinely sad. He knew Krystal
7 Hutto. He knew that she was -- I mean, he didn't
8 know her very well, but he did know who she was
9 which is why he was like he would never even
10 entertain doing these kinds of behaviors.

11 Your Honor, as you heard I think
12 referenced in the past he is somebody who was
13 leading a normal life, has children. He -- his
14 life really started to fall apart in 2014 and I
15 think that if this trial has taught us anything is
16 what the damage that drugs can do to somebody.
17 And, Your Honor, I think that that is where we are.
18 Obviously, you know, he understands the gravity of
19 the situation and I will now turn it over to
20 Mr. Lackey.

21 THE COURT: Mr. Lackey, I will be glad
22 to hear from you.

23 MR. LACKEY: Thank you, Your Honor. I
24 would just echo what Ms. Zmroczek said. You know,
25 I was appointed to Mr. Smith in October 2017. It's

1 been a long road. Every time I've met with him,
2 he's been extremely forthcoming, polite, and
3 welcomed Ms. Zmroczek to the team as well.

4 And I think we've seen the drugs what
5 went through this case throughout. I would echo,
6 but for drugs, drug usage, none of us would be
7 standing here today. And that's just the fact of
8 the matter and the sad part about this. But that's
9 all I would have for you, Your Honor.

10 THE COURT: Okay. All right. Y'all
11 can sit down for a minute. I've got six of these
12 things I've got to go through.

13 All right. Mr. Smith, you know the
14 jury's heard all the testimony for over nearly
15 three weeks. And the sentence of this Court on
16 each one of the murder charges and on the burglary
17 first degree charge is that you're sentenced to the
18 State Department of Corrections for a period of --
19 for the remainder of your life.

20 On the attempted murder, it's a 30 year
21 sentence. The sentences are concurrent and I will
22 give you credit for the time served.

23 Ms. Zmroczek, you indicated that you
24 didn't have medical information or things like that
25 that you would like to provide in mitigation. If

1 you're able to get those and wish to submit to me
2 for some consideration, I will review them. Okay.

3 MS. ZMROCZEK: Thank you, Your Honor.

4 THE COURT: Okay. Thank you. Are you
5 ready? Okay. Thank you, sir. Mr. Johnson, I will
6 be glad to hear from you.

7 MR. JOHNSON: Thank you, Judge. It's
8 obviously a very emotional time. My client is here
9 with his mother. She's been in constant
10 communication with me over the past year. I will
11 say that, you know, she seems like an amazing
12 person and she's very proud of her son every time
13 she talks to me. She obviously loves her son. And
14 when I talk to my client, Mr. Scott, somebody that
15 when I met him, Judge, I thought, you know, you
16 never know what someone is going to act like or if
17 there's a stressful situation and I would say
18 Mr. Scott has always been very polite towards me.
19 He's always treated me with respect. And he's
20 never been rude. Not a single conversation, never
21 raised his voice and just been somebody that seems
22 like a very peaceful individual. Very respectful
23 and certainly cares for his mother and I wanted to
24 tell the Court a little bit about him.

25 My client is 40 years old. Grew up in

1 Eutawville. Went to Holly Hill and then got his
2 GED. Went to OC Tech for his welding certification
3 or became a welder and then he got certified. He's
4 not somebody that comes up here with a violent past
5 or a bunch of convictions. He's somebody that's
6 been working as a welder.

7 I would point that out to the Court and
8 he was employed I think at Clemens (phonetic) and
9 there was a contractor where he was working. He
10 had a girlfriend for, I believe, I'm not sure how
11 many years. Many years until she passed away. But
12 I believe at least 12 years was my conversation
13 with my client. So she had a son that my client
14 basically raised as his son. So it's not his
15 biological child. He doesn't have any biological
16 children, but he raised that boy as his child and
17 he is grown now. So I just want to point that out.

18 And I just have never had a moment
19 where I felt like my client was somebody capable of
20 violence or was really in any way even rude or
21 disrespectful. He was just, you know, going down
22 to the jail and you're talking to clients, it is,
23 you know, kind of strange -- sometimes it's a
24 strange thing when you talk to somebody who's so
25 nice to you. And my client has always been that

1 way. And I would just point that out. And his
2 personality and the lack of -- the lack of criminal
3 convictions, the lack of a rap sheet out there.
4 And I would ask the Court to have as much mercy as
5 possible on my client. And certainly I would ask
6 the Court to listen to his mother if she would like
7 to address the Court at this time.

8 THE COURT: Ma'am, I know it's a
9 difficult time and anything you'd like to say, it
10 will be fine or not. Your actions have spoken
11 pretty eloquently as it was.

12 MS. SCOTT: Yes, sir. Your Honor, yes.
13 This is my son, Antly Jermaine Scott.

14 THE COURT: I hate to ask you to pull
15 your mask down. Yes, ma'am. Thank you, ma'am.

16 MS. SCOTT: My name is Jacqueline Scott
17 and I'm his mother and I do love my son. And I
18 don't understand, I really don't understand the
19 situation, but, you know, I'm sorry about the whole
20 situation. But I don't understand because I don't
21 uphold no wrongness, but my son is not a murderer.
22 He is not a murderer. You can ask anybody in
23 Orangeburg County in business, household, he's not
24 -- his name is not a household name. Not Antly,
25 not Jermaine, not Jackie Man.

1 Jackie Man came from my name, Jackie,
2 because a old lady could not pronounce Jackie
3 Jermaine. So she was saying Jackie Man. Even when
4 he was younger and it grew on him and everybody
5 just keep calling him Jackie Man.

6 THE COURT: Yes, ma'am.

7 MS. SCOTT: But in his 40 years, nobody
8 can tell you he tried to rob anything. Yes, I
9 never went hungry. He never went hungry. I done
10 had -- I didn't went without money. He didn't went
11 without money. But he never went stealing. None
12 of the stores, no businesses in Eutawville,
13 Orangeburg County or Charleston, Dorchester County,
14 Clarendon, nobody. Not even household they say
15 that he's a threat. If they don't know him they
16 will say something kind about him.

17 I was a foster parent for many years
18 and he was there to help me with some of the
19 children. He encouraged them. He played
20 basketball with them. Even my grands, his nieces
21 and nephews. He's never -- he's a family person.
22 I really don't understand how he's in this
23 situation. He's not a threat. He don't go --
24 nobody can say he provoke any fight. Nobody
25 provoked him or anything. He's a family person.

1 He love children. He love people.

2 THE COURT: Yes, ma'am.

3 MS. SCOTT: I really don't understand.

4 THE COURT: And, ma'am, I'm sorry. I
5 am. But I appreciate you. I know he appreciates
6 you being here for him. Okay. All right. It's
7 going to take a minute.

8 MR. JOHNSON: Yes, sir.

9 THE COURT: All right. Thank you.

10 Mr. Scott, you know, the jury has, you know, heard
11 this evidence over three weeks and they have
12 convicted you of four counts of murder, one count
13 of burglary in the first degree, and one count of
14 attempted murder.

15 The sentence of this Court as to the
16 each one of the murder charges and the burglary
17 first degree charge, the sentence of this Court is
18 you're committed to the State Department of
19 Corrections for a period of life.

20 On the attempted murder, sentence is
21 you're committed to the State Department of
22 Corrections for 30 years. These sentences are
23 concurrent and I will give you credit for the time
24 you've served. Thank you, sir. Good luck to you.

25 All right. We are in recess. Thank

1 you.

2 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

I, KATHERINE A. SPIRES, Registered Professional Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Orangeburg County, South Carolina, on the 7th through 23rd of February, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 11, 2022

s/Katherine A. Spires

Katherine A. Spires

Registered Professional Reporter

WITNESSES

Riley Godwin

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2016A3810700656

Arrested: October 3, 2016

ACTION OF GRAND JURY

TRUE BILL

AUG 01 2018

Foreperson of Grand Jury

Date: August 1, 2018

VERDICT

Guilty

Charles B Bookard

Foreperson of Petit Jury

Date: 2/23/22

DOCKET NO. 2018GS38-1301

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

August 6, 2018 TERM

THE STATE
vs.

Antly Jermaine Scott

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 FOR RECORD
WINNIE B. CLARK
AUG 11 AM 11:55
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-1301

At a Court of General Sessions, convened on August 1, 2018 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about July 15, 2015, with malice aforethought, the defendant, Antly Jermaine Scott, did kill one Krystal Hutto by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



David M. Pascoe, Solicitor

WITNESSES

Everett A Culpepper

Orangeburg County Sheriff

2015-5600

ARREST WARRANT NUMBER
2016A3810100079

Arrested: October 3, 2016

ACTION OF GRAND JURY

TRUE BILL

AUG 01 2018

Foreperson of Grand Jury

Date: August 1, 2018

VERDICT

Guilty

Charles B Bookard

Foreperson of Petit Jury

Date: 2/23/22

DOCKET NO. 2018GS38-1302

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

August 6, 2018 TERM

THE STATE
vs.

Antly Jermaine Scott

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 FOR RECORD
WINNIE B. CLARK
2018 AUG -1 AM 11:55
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-1302

At a Court of General Sessions, convened on August 1, 2018 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about July 15, 2015, with malice aforethought, the defendant, Antly Jermaine Scott, did kill one Tamara Perry by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



David M. Pascoe, Solicitor

WITNESSES

Everett A Culpepper

Orangeburg County Sheriff

2015-5600

ARREST WARRANT NUMBER

2016A3810100078

Arrested: October 3, 2016

ACTION OF GRAND JURY

TRUE BILL

Date AUG 01 2018

Foreperson of Grand Jury

Date: August 1, 2018

VERDICT

Guilty

Charles B. Bookard

Foreperson of Petit Jury

Date: 2/23/22

DOCKET NO. 2018GS38-1303

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

August 6, 2018 TERM

THE STATE

vs.

Antly Jermaine Scott

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 FOR RECORD
WINNIE B. CLARK
2018 AUG -1 AM 11:55
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-1303

At a Court of General Sessions, convened on August 1, 2018 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about July 15, 2015, with malice aforethought, the defendant, Antly Jermaine Scott, did kill one Jerome Butler by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



David M. Pascoe, Solicitor

WITNESSES

Everett A Culpepper

Orangeburg County Sheriff

2015-5600

ARREST WARRANT NUMBER
2016A3810100080

Arrested: October 3, 2016

ACTION OF GRAND JURY

TRUE BILL

AUG 01 2018

Date

Foreperson of Grand Jury

Date: August 1, 2018

VERDICT

Guilty

Charles B. Bookard

Foreperson of Petit Jury

Date: 2/23/22

DOCKET NO. 2018GS38-1304

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

August 6, 2018 TERM

THE STATE
vs.

Antly Jermaine Scott

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.

COURT OF COURT
ORANGEBURG, SC

2018 AUG -1 AM 11:55

FILED FOR RECORD
WINNIE B. CLARK

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-1304

At a Court of General Sessions, convened on August 1, 2018 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about July 15, 2015, with malice aforethought, the defendant, Antly Jermaine Scott, did kill one Shamekia Sanders by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



David M. Pascoe, Solicitor

WITNESSES

Everett A Culpepper

Orangeburg County Sheriff

2015-5600

ARREST WARRANT NUMBER

2016A3810100081

Arrested: October 3, 2016

ACTION OF GRAND JURY

TRUE BILL

AUG 01 2018

Foreperson of Grand Jury

Date: August 1, 2018

VERDICT

Guilty

Charles B. Bookard

Foreperson of Petit Jury

Date: 2/23/22

DOCKET NO. 2018GS38-1305

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

August 6, 2018 TERM

THE STATE

vs.

Antly Jermaine Scott

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-29

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 FOR RECORD
WINNIEFA B. CLARK
2018 AUG -1 AM 11:55
COURT OF COURTS
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-1305

At a Court of General Sessions, convened on August 1, 2018 the Grand Jurors of Orangeburg County present upon their oath:

ATTEMPTED MURDER

That in Orangeburg County, South Carolina, on or about July 15, 2015, the defendant Antly Jermaine Scott, did with the intent to kill, attempt to kill one D.N. with malice aforethought by shooting the victim. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



David M. Pascoe, Solicitor

WITNESSES

Everett A Culpepper

Orangeburg County Sheriff

2015-5600

ARREST WARRANT NUMBER
2016A3810100082

Arrested: October 3, 2016

ACTION OF GRAND JURY

TRUE BILL

[Signature]
AUG 01 2018
Foreperson of Grand Jury
Date: August 1, 2018

VERDICT

Guilty

Charles B. Bookard
Foreperson of Petit Jury
Date: 2/23/22

DOCKET NO. 2018GS38-1306

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

August 6, 2018 TERM

THE STATE
vs.

Antly Jermaine Scott

Indictment for
BURGLARY - FIRST DEGREE

SC Code: 16-11-311

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 FOR RECORD
WINNIFA B. CLARK
CLERK OF COURT
ORANGEBURG, SC
AUG -1 AM 11:55

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-1306

At a Court of General Sessions, convened on August 1, 2018 the Grand Jurors of Orangeburg County present upon their oath:

BURGLARY - FIRST DEGREE

That in Orangeburg County, South Carolina, on or about July 15, 2015, the Defendant, Antly Jermaine Scott, did willfully and unlawfully enter the dwelling of Krystal Hutto, without consent and with the intent to commit a crime therein and the defendant did enter during the night time hours while armed with a deadly weapon. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



David M. Pascoe, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF 2416 Orangeburg

STATE

VS.

Antly Jermaine Scott

AKA:

Race: BLACK Sex: M Age: 40

DOB: [REDACTED] SS#: [REDACTED]

Address: Barkley St

City, State, Zip: Eutawville, SC 29048-9408

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Osborne, David L

101325

SC Bar#

Defendant

Johnson, Ola A.
Attorney for Defendant

SCB68563

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/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/22

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS38-1301

A/W#: 2016A3810700656

Date of Offense: 7/15/2015 - 1/1/1753

S.C. Code § : 16-3-10

CDR Code #: 0116

FILED 2022 Feb 23 9:20 pm SENTENCE SHEET

[Signature]
Clerk of Court
Orangeburg County SC

1/2
[Signature]

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning : _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$	_____
§14-1-206 (Assessments 107.5 %)	\$	_____
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114(BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk: L. Beulah

Court Reporter: K. SPIRES

Presiding Judge: [Signature]

Judge Code: 2153

Sentence Date: 2/23/22

STATE

VS.

INDICTMENT/CASE#: 2018GS38-1302

Antly Jermaine Scott

AW#: 2016A3810100079

Date of Offense: 7/15/2015 - 1/1/1753

AKA:

S.C. Code § : 16-3-10

Race: BLACK Sex: M Age: 40

CDR Code #: 0116

DOB: SS#

FILED 2022 FEB 23 9:10 PM

Address: Barkley St

City, State, Zip: Eutawville, SC 29048-9408

DL#: SID#

SENTENCE SHEET

Clerk of Court
Orangeburg County SC*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

101325

SCB68563

Osborne, David L

SC Bar#

Defendant

Johnson, Ola A.
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/Time Served ☐ Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ — provided that upon the service of — days/months/years/Time Served and or payment of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/22☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

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bo

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling	☐ Completion of GED	☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp	☐ No Contact with Victim	☐ Domestic Violence Intervention Program
☐ Mental Health Counseling	☐ May serve W/E beginning : _____	
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430	☐ Public Service Employment 0 _____ days/hours	
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.		
☐ Other: _____		

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$	
§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
	TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: Y. BeersCourt Reporter: K. SpiresPresiding Judge: [Signature]Judge Code: 2153Sentence Date: 2/23/22

STATE

VS.

FILED

2022

FEB

23

9

AM

CLERK OF COURT

ORANGEBURG COUNTY

S.C.

INDICTMENT/CASE#:

2018GS38-1303

Antly Jermaine Scott

AKA:

Race: BLACK Sex: M Age: 40

DOB: [REDACTED] SS# [REDACTED]

Address: [REDACTED] Barkley St

City, State, Zip: Eutawville, SC 29048-9408

DL#: [REDACTED] SID#: [REDACTED]

2016A3810100078

Date of Offense: 7/15/2015 - 1/1/1753

S.C. Code § : 16-3-10

CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

101325

SCB68563

Osborne, David L.

SC Bar#

Defendant

Johnson, Ola A.
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/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/22☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

1/2

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling	☐ Completion of GED	☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp	☐ No Contact with Victim	☐ Domestic Violence Intervention Program
☐ Mental Health Counseling	☐ May serve W/E beginning : _____	
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430	☐ Public Service Employment 0 _____ days/hours	
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.		
☐ Other: _____		

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$	
§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk: (Signature) K. Spires

Court Reporter: _____

Presiding Judge: (Signature)

Judge Code: 2153

Sentence Date: 2/23/22

FILED

2022 FEB 23 9:20pm

3/2/22
Jug

STATE

VS.

Antly Jermaine Scott

AKA:

Race: BLACK Sex: M Age: 40

DOB: SS#

Address: Barkley St

City, State, Zip: Eutawville, SC 29048-9408

DL#: SID#

INDICTMENT/CASE#: 2018GS38-1304

AW#: 2016A3810100080

Date of Offense: 7/15/2015 - 1/1/1753

S.C. Code § : 16-3-10

CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was IT CONVICTED OF or ☐ PLEADS

TO: Murder

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

101325

SCB68563

Osborne, David L

SC Bar#

Defendant

Johnson, Ola A.
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/Time Served ☐ Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ — provided that upon the service of — days/months/years/Time Served and or payment of \$ — ; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/22☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. — days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

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Jug

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning : _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$	_____
§14-1-206 (Assessments 107.5 %)	\$	_____
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114(BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
	TOTAL	\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk: D. Beall

Court Reporter: K. Spires

Presiding Judge: [Signature]

Judge Code: 2153

Sentence Date: 2/23/22

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg

STATE

VS.

Antly Jermaine Scott

AKA:

Race: BLACK Sex: M Age: 40

DOB: [REDACTED] SS#: [REDACTED]

Address: Barkley St

City, State, Zip: Eutawville, SC 29048-9408

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Attempted Murder

in violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

101325

SCB68563

Osborne, David L

SC Bar#

Defendant

Johnson, Ola A.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 30 years days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/22

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

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IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS38-1305

A/W#: 2016A3810100081

Date of Offense: 7/15/2015 - 1/1/1753

S.C. Code § : 16-3-29

CDR Code #: 3410

FILED 2022 FEB 23 9:20 pm

SENTENCE SHEET

William G. Clark, Jr.
Clerk of Court
Orangeburg County SC

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling	☐ Completion of GED	☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp	☐ No Contact with Victim	☐ Domestic Violence Intervention Program
☐ Mental Health Counseling	☐ May serve W/E beginning : _____	

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☐ Other: _____

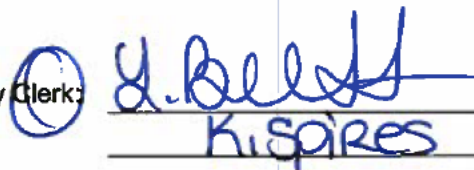
☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
	TOTAL	\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk: 

Court Reporter: K. SPIRES

Presiding Judge: 

Judge Code: 2153

Sentence Date: 2/23/22

STATE OF SOUTH CAROLINA

COUNTY OF

2426

Orangeburg

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

Antly Jermaine Scott

AKA:

Race: BLACK Sex: M Age: 40

DOB: SS#:

Address: Barkley St

City, State, Zip: Eutawville, SC 29048-9408

DL#: SID#:

INDICTMENT/CASE#: 2018GS38-1306

AW#: 2016A3810100082

Date of Offense: 7/15/2015 - 1/1/1753

S.C. Code § : 16-11-311

CDR Code #: 0079

FILED 2022 FEB 23 9:10 PM SENTENCE SHEET

Wanda Clark / Jry
Clerk of Court
Orangeburg County SC*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Burglary - First Degree

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

101325

SCB68563

Osborne, David L

SC Bar#

Defendant

Johnson, Ola A.
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/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

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Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

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SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling	☐ Completion of GED	☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp	☐ No Contact with Victim	☐ Domestic Violence Intervention Program
☐ Mental Health Counseling	☐ May serve W/E beginning : _____	
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430	☐ Public Service Employment 0 _____ days/hours	
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.		
☐ Other: _____		

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$	
§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
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§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
	TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: Y. BeattyCourt Reporter: K. SparesPresiding Judge: [Signature]Judge Code: 2153Sentence Date: 2/23/22

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED
Jul 20 2023
SC Court of Appeals

Respectfully Submitted,


Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of July, 2023.