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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Court of

The Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

Vincent Thomas Shivers,

APPELLANT.

APPELLATE CASE NO. 2022-000425

RECORD ON APPEAL – Volume IV

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1 then we will close and charge in the morning, okay?

2 All right. Let me ask the defense. Are you
3 prepared to go forward? Not that you have to.

4 MR. SWERLING: We are, Your Honor.

5 THE COURT: Okay. You may call your witness.

6 MR. SWERLING: We call Rex Dirks.

7 (Whereupon, Rex Dirks was duly sworn by the Clerk
8 of Court.)

9 THE CLERK: If you'll have a seat over there,
10 please. If you'll state your name and spell your last,
11 please, for the record.

12 THE WITNESS: Rex Dirks, D-I-R-K-S.

13 REX DIRKS,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SWERLING:

17 Q. Good afternoon, Mr. Dirks. I appreciate your waiting
18 around to the hay foot.

19 A. Yes, sir.

20 Q. We took a little bit longer than I think anybody
21 anticipated.

22 Would you introduce yourself to the jury.

23 A. My name is Rex Dirks.

24 Q. Okay. And where do you come from?

25 A. I live in Oklahoma City.

1 Q. And prior to that where were you working?

2 A. Prior to that, I live Bossier City, Louisiana --

3 Q. Okay.

4 A. -- working -- working for Camping World.

5 Q. I'm sorry?

6 A. Working for Camping World.

7 Q. Camping World. And are you working for Camping World
8 out in Oklahoma as well?

9 A. I am.

10 Q. Okay. What is your position with Camping World now
11 and what was it in Bossier City, Louisiana?

12 A. In Bossier City, I held a number of different
13 positions. I was a sales associate, I was a finance
14 manager and I was the GM of that store as well.

15 Q. General manager?

16 A. Later, yes.

17 Q. And did you have an occasion to work with Vincent
18 Shivers in Bossier City, Louisiana?

19 A. I did. We were finance managers together there.

20 Q. Both -- both of you were finance managers?

21 A. Yes, sir.

22 Q. Did you work together as a team?

23 A. We did.

24 Q. Okay. And as I understand it, your team -- your team,
25 you and Vincent, were a successful team?

1 A. We -- we were. Yes, sir.

2 Q. All right. At one time, at least one year, maybe
3 more, you and he were the top finance managers in the
4 county; is that correct?

5 A. That is correct.

6 Q. And commensurate with that is a -- is a pretty good
7 income with commissions and bonuses and things of that
8 nature; is that correct?

9 A. Yes, sir. Yes, sir.

10 Q. Now do you remember about when Vincent came to Bossier
11 City, Louisiana?

12 A. It was around September of 2017, I believe.

13 Q. Okay. And what was the kind of package you had --
14 financial package that -- and I'm not asking for the
15 numbers, I'm talking about was it based on a commission
16 percentage and what kind of percentage was it?

17 A. It was based on a commission percentage. 6 percent of
18 the total number of financed gross each month.

19 Q. Now were you also -- were you also in sales at that
20 point together or was it strictly finance?

21 A. It was finance, but, I mean, finance is a sales job.

22 Q. So as part -- it is part of the selling of Camping
23 World?

24 A. Back end products, yes, sir.

25 Q. Okay. And so he came -- did you say what year he came

1 down to Bossier City? I'm sorry.

2 A. 2017.

3 Q. 2017. And he worked until what time? What period?

4 A. I believe he left January, February 2019 time period.

5 Q. Now so let me ask you this. Your relationship
6 with Vincent was -- is it fair to say was a business
7 relationship and not an outside the business relationship?

8 A. Yes, sir. That is correct.

9 Q. And you worked fairly closely together during that
10 period of time?

11 A. Yes, sir.

12 Q. The package that you and he had and other finance
13 managers, at some point was that changed by Camping World?

14 A. Yes, sir.

15 Q. Okay. Now was there a downturn in business or just a
16 corporate decision to go ahead and adjust the bonus and
17 commission?

18 A. It would have been a corporate decision.

19 Q. Okay. And as a result of that corporate decision, did
20 that affect your income and Vincent's income?

21 A. It did.

22 Q. Now were y'all making about -- making the same?

23 A. Yes, sir.

24 Q. Okay. So you had a salary and commission and -- and
25 bonus?

1 A. It was -- at that time it was a strictly commission
2 deal. I mean, we got a -- we got a draw every two weeks
3 and -- but that came out of our commissions.

4 Q. Okay. And so at some point the corporation went ahead
5 and altered that particular package?

6 A. Yes, sir.

7 Q. And was that a substantial amount of money to you and
8 to him -- a substantial reduction in the amount of money as
9 a result of that act?

10 A. It would have been thousands of dollars.

11 Q. Okay. Now I assume you were not happy about that?

12 A. Of course not.

13 Q. No. And Vincent was not happy about it either?

14 A. Correct.

15 Q. His situation was also a little bit different than
16 yours because he also had health insurance with Camping
17 World; is that right?

18 A. Correct. They do offer health insurance, yes, sir.

19 Q. And because of a change in the policy with the
20 insurance, if you were not married to a person that person
21 could not be insured under your policy?

22 A. That is correct.

23 Q. All right. So that would cost somebody a significant
24 amount of money if the company was not picking up --

25 MS. MAYES: Object to leading.

1 THE COURT: It is.

2 BY MR. SWERLING:

3 Q. Would that cost somebody a substantial amount of money
4 if the insurance was not being paid for anymore?

5 A. Yes, sir.

6 Q. Okay. From your own experience?

7 A. Yes, sir.

8 Q. Okay. Now so you and he made up a good team and you
9 were a top team in the country and pretty much both of you
10 were happy under the arrangements that you had had with
11 Camping World?

12 A. Yes, sir.

13 Q. But when they changed that from your own observations
14 and your discussions with him, Vincent was no longer happy
15 with that situation because it had cost him some money,
16 correct?

17 A. Correct.

18 Q. And at that time, and I know you talked about like
19 February of 2019, did he make a decision to go ahead and
20 leave Camping World in Bossier City?

21 A. So, yes. He transferred with the company to South
22 Carolina, to one of the stores here.

23 Q. Okay. And were you familiar with the fact that his
24 wife had family here?

25 A. Yes. That was -- I believe that was one of the

1 reasons that he was coming back here, was that her grand
2 kids were here.

3 Q. Okay. And in addition to the fact that there was
4 family here -- and he had family, too, in Aiken, but in
5 addition to that, the Camping World worked out -- or let me
6 ask you this. Did Camping World work out the same package
7 with him here in South Carolina that he had in Bossier
8 City?

9 A. From my understanding, yes.

10 Q. So he did not get a reduction in income when he came
11 here?

12 A. Correct.

13 Q. And his -- his friend, Roselyn Cedenno, was -- she was
14 covered under the policy?

15 A. So --

16 Q. As far as you knew.

17 A. As far as the insurance, no, that would have been
18 company --

19 Q. I'm sorry. It was the -- it was the -- it was the
20 income. I apologize.

21 A. Correct.

22 Q. The insurance was countrywide --

23 A. Correct.

24 Q. -- and companywide?

25 A. Correct.

1 Q. Now did you stay in touch with Vincent after he left
2 Bossier City?

3 A. We -- we talked from time to time. Absolutely.

4 Q. And was it -- do you know about how often it was that
5 you spoke?

6 A. Maybe once a month, once every other month.

7 Q. Let me ask you, going back to when things changed at
8 Bossier City, did he seek that transfer pretty close in
9 time to when the package that you had had changed?

10 A. Yeah, the -- the pay plans changed right around the
11 first of the year.

12 Q. Okay. And let me -- when is the -- when's your busy
13 season as far as at Camping World?

14 A. Typically March through September.

15 Q. Okay. And so that would mean after September is the
16 slow season?

17 A. Yes, sir.

18 Q. Okay. And is there a big difference between the two
19 different seasons as far as sales and finance?

20 A. There absolutely can be.

21 Q. Now the position you're in now is what?

22 A. Now I'm a regional finance director.

23 Q. Okay. So you -- you have a group of stores that you
24 are in charge of; is that correct?

25 A. Yes, sir.

1 Q. When you -- you said you were a general manager for a
2 while. Did you hire -- were you able to hire people?

3 A. Uh-huh.

4 Q. And was -- was Vincent one of your hires or did -- you
5 were already working there when he came?

6 A. I was already working there when he came there.

7 Q. But you were not the one who hired him?

8 A. No, sir.

9 Q. He was hired and then you happened to work together
10 and it worked out pretty well for both of you?

11 A. Yes, sir.

12 Q. He did a good -- he did a good finance manager job?
13 He was performing well?

14 A. Absolutely.

15 Q. And so basically what you had here was an in-company
16 transfer as far as I understand it?

17 A. Yes, sir.

18 Q. He did not leave the company. He stayed within
19 Camping World and came here?

20 A. Correct.

21 Q. For the reasons we've already talked about, correct?

22 A. Yes, sir.

23 Q. And you and he got along pretty well?

24 A. Yes, sir. We did.

25 MR. SWERLING: Excuse me one moment, Your Honor.

1 THE COURT: Take your time.

2 MR. SWERLING: No further questions.

3 THE COURT: All right.

4 Ms. Mayes.

5 MS. MAYES: Yes, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. MAYES:

8 Q. Good afternoon, Mr. Dirks.

9 A. Good afternoon.

10 Q. And I believe you said you currently reside in what
11 state?

12 A. Oklahoma.

13 Q. And then prior to that you were in Louisiana?

14 A. Yes, ma'am.

15 Q. And that's how you knew the defendant in this case,
16 Vincent Shivers?

17 A. Yes, ma'am.

18 Q. Because y'all started out together down there at a
19 Camping World?

20 A. Yes, ma'am.

21 Q. Now I want to go back to 2019. In 2019, he left
22 Camping World in Louisiana?

23 A. Yes, ma'am.

24 Q. And went where?

25 A. To Columbia, South Carolina.

1 Q. Okay. Now do you remember him also working at some
2 point with Honda cars in Aiken?

3 A. That would have been before his time at Camping World,
4 I believe.

5 Q. Okay. So just to ge the timeline right, he would have
6 been in Aiken, Honda cars, then is associated with Camping
7 World?

8 A. Yes, ma'am.

9 Q. And first is in Louisiana where y'all worked together?

10 A. Yes, ma'am.

11 Q. And what was the name of that city again?

12 A. It's Bossier City.

13 Q. Bossier City. And then after that he gets a job in
14 Columbia at the Camping World there?

15 A. Yes, ma'am.

16 Q. I say Columbia, but right there on the border of
17 Columbia and Lexington county.

18 So this particular Camping World in Lexington county,
19 Columbia, you're not really familiar with that Camping
20 World at all, are you?

21 A. I have never been to that store, no, ma'am.

22 Q. Okay. And you don't know any of the coworkers that
23 he had there or anything like that?

24 A. No, ma'am.

25 Q. You mentioned salary, so I want to talk a little bit

1 about that. Did you ever visit the defendant here in
2 Lexington county?

3 A. No, ma'am.

4 Q. Did you ever visit his home in Aiken county?

5 A. No, ma'am.

6 Q. Looking here at 163, all right, so you haven't visited
7 that home. Did he ever talk with you about the cost of
8 that home, the cost that it was over \$400,000?

9 A. No, ma'am.

10 Q. So he was making a good salary?

11 A. Yes, ma'am, but it's -- but it's not salary, it's
12 commission.

13 Q. Bonus, commission --

14 A. Right.

15 Q. -- things like that based on sales or the other type
16 of work you do as financial managers?

17 A. Correct.

18 Q. So in this situation where there is a substantial
19 income, and I say substantial and I don't want to -- I
20 don't want to embarrass you or anything like that, but I
21 heard Mr. Swerling ask you about were y'all's salaries
22 pretty much in the same ball park, but Mr. Shivers was
23 making over \$200,000 a year. Does that sound accurate?

24 A. Yes, ma'am.

25 Q. And he was continuing to make that amount of money

1 even after he came here to South Carolina?

2 A. That wouldn't surprise me.

3 Q. Okay. And I know you said that y'all talked on -- on
4 somewhat of a regular basis. I think you said about once a
5 month or so?

6 A. Yes, ma'am.

7 Q. Now when y'all would normally talk, what kind of
8 format would you use? Call? Text?

9 A. Typically phone calls.

10 Q. Okay.

11 A. And it was always -- it was typically always geared
12 around a question about business as well.

13 Q. All right. So with the phone calls, ordinarily was
14 it you calling him or him calling you?

15 A. I think it was probably both.

16 Q. Okay. And when you would reach out to him by phone
17 or text, he would normally respond right back to talk with
18 you?

19 A. Yes, ma'am.

20 Q. That was his normal character?

21 A. Uh-huh.

22 Q. His normal practice?

23 A. Yes, ma'am.

24 Q. And I think he came here roughly spring of 2019 and
25 then he and Roselyn purchased this home here in July, right

1 about July. Did you ever talk with him after that about
2 his situation at Camping World?

3 A. About his situation at -- what do you mean?

4 Q. About Camping World. About his work there and about
5 the fact that he had purchased this home and that he had a
6 mortgage.

7 A. So, I mean, we never talked about his mortgage, we
8 never talked about his home.

9 Q. Okay. So as a finance manager, you're pretty much an
10 essential employee, aren't you?

11 A. Yes, ma'am.

12 Q. And there at Camping World, I know you said you were a
13 regional finance manager now, but even when you were just
14 in that local store there at Bossier City they needed you
15 on the premises if there were campers to sell?

16 A. Yes, ma'am.

17 Q. And that's because if a customer or client comes in
18 and wants to make a purchase and they need to be approved
19 for credit, you're the one who would make that call?

20 A. Yes, ma'am. The finance manager would submit it to
21 the bank, et cetera, sign paperwork with the customer.

22 Q. And that's the same role that Vincent Shivers had with
23 Camping World as well, right?

24 A. Yes, ma'am.

25 Q. So being an essential employee at Camping World, you

1 would pretty much have to arrange with the boss in advance
2 if you weren't gonna be there, right?

3 A. Yes, ma'am.

4 Q. If you needed leave for a vacation or anything along
5 those lines, you'd let your boss know in advance?

6 A. Yes, ma'am.

7 Q. Was that also the practice for Vincent Shivers when he
8 was at the Bossier City location?

9 A. Yes, ma'am.

10 Q. It was understood that y'all were essential employees?

11 A. Yes, ma'am.

12 Q. And I think you said that you don't know anyone at
13 Camping World in Columbia, correct?

14 A. I do not know any of the employees in that store, no,
15 ma'am.

16 Q. Steve Smith, the general manager, Chad Lively, the --
17 one of the other finance providers?

18 A. No, ma'am.

19 Q. But you certainly understand the expected rules for
20 Camping World, your corporation?

21 A. Yes, ma'am.

22 Q. And you had the various locations across the nation?

23 A. Yes, ma'am.

24 Q. Do you have any locations in London?

25 A. No, ma'am.

1 MS. MAYES: I beg the Court's indulgence.

2 Nothing further.

3 MR. SWERLING: Just one question.

4 REDIRECT EXAMINATION

5 BY MR. SWERLING:

6 Q. When you had -- when you did financing, these are
7 pretty large amounts of financing; are they not?

8 A. They are.

9 Q. Because of the equipment and what you're buying, those
10 are -- do they just come about during the course of a day
11 or are they scheduled for those kind of closings?

12 A. So typically they're scheduled.

13 Q. So you know when you have one of those closings; is
14 that correct?

15 A. Yes. Correct.

16 Q. And you can schedule around that if you have to?

17 A. Absolutely.

18 MR. SWERLING: Okay. Thank you.

19 THE COURT: Okay.

20 MR. SWERLING: Your Honor, I'd ask that he be
21 excused if the solicitor's done.

22 MS. MAYES: No objection, Your Honor. I understand
23 he needs to return to Oklahoma.

24 THE COURT: Mr. Dirks, thank you so much for coming.
25 Have a safe flight.

1 THE WITNESS: Thank you.

2 (Witness excused.)

3 THE COURT: All right. You may call your next
4 witness.

5 MR. SWERLING: Judge, at this point we rest.

6 THE COURT: Okay.

7 All right. Let me -- it's almost 5:30.

8 Mr. Foreman, I'm gonna send you home. The plan is
9 going to be if y'all will be in the jury room at 9:15 in
10 the morning, all that's left to do is closings and I'll
11 charge you on the law.

12 Remember, it's still not time to talk about this
13 case. Don't go home and research, none of that stuff,
14 tell anybody about this case because we're almost there,
15 okay?

16 With that, y'all have a good evening and I'll see
17 y'all in the morning.

18 (Whereupon, the jury was excused for the day at
19 5:25 PM.)

20 THE COURT: All right. Anything from the State?

21 MS. MAYES: Nothing from the State at this time,
22 Your Honor.

23 We do have one exhibit that was for ID only earlier
24 today, so we just need a chance to pull that and make
25 sure that that is removed.

1 THE COURT: Okay. Anything from the defense?

2 MR. SWERLING: No, Your Honor.

3 THE COURT: Other than renewing all your motions
4 and everything else?

5 MR. SWERLING: Yeah, and can I do those in the
6 morning?

7 THE COURT: You can do those in the morning. That
8 will be good.

9 Yeah, I worry about -- let me look at this thing
10 and let me see what I've got.

11 I've got Number 54 as demonstrative, which is the
12 map of purchases that the defendant made.

13 Is that going back?

14 I've got 81 was a phone extraction. Was it ever
15 moved in? I've got that as ID only.

16 I've got -- let me just finish going through these
17 so I can make sure.

18 I've got 119 ID only.

19 Ms. Mayes, 119 ID only?

20 And I've got 225 and 226 ID only.

21 MS. MAYES: Yes, Your Honor.

22 THE COURT: All right. And then I also have 235.
23 Obviously the mannequin that is demonstrative.

24 And then I've got 236 ID only and that's all I've
25 got.

1 MS. MAYES: Okay. That's correct, Your Honor.

2 THE COURT: I want to make sure.

3 Now let me just go through one other thing because
4 these don't have numbers. I don't have anything for 7
5 or 8. I don't have anything for 15 or 16.

6 I just want to make sure mine matches y'all's.

7 I don't have any 18 or 19 exhibits.

8 MS. MAYES: That's correct, Your Honor.

9 THE COURT: I don't have 22 and 23.

10 I do not have 34 or 36.

11 I do not have 41, 42 and 43.

12 I don't have anything for 50 and 51.

13 I don't have anything for 53.

14 I don't have anything for 55, 56 and 57.

15 MS. MAYES: Your Honor, we do have a 53.

16 THE COURT: All right. Then tell me what 53 is.

17 MS. MAYES: We have 40 -- I'm sorry, 53 as a video
18 of the defendant crossing the border, and that was
19 published as 53 on Wednesday.

20 THE COURT: Okay. I knew I missed the border one,
21 but I just didn't know what number it was. I figured
22 y'all would tell me.

23 All right. Number 70 I do not have anything.

24 77, 84, 94, 104, 109, 128 and 129.

25 Are y'all with me?

1 MS. McMENAMIN: If you could give us just two
2 seconds to catch up, Your Honor.

3 We're all caught up, Your Honor.

4 THE COURT: Okay. I don't have anything for 134,
5 135, 137, 139 and 140.

6 MS. MAYES: We have a 137, Your Honor, being a
7 photograph of the truck.

8 THE COURT: Okay.

9 MS. MAYES: I believe it was originally something
10 else and then re-entered after being a Court's exhibit.

11 THE COURT: All right. Are you good for 139 and
12 140 being blank?

13 MS. MAYES: Correct, Your Honor.

14 THE COURT: And then I've got next is 160, 161
15 and 162.

16 MS. MAYES: We also -- 151, Your Honor. We do not
17 have an exhibit for 151.

18 THE COURT: 151 I've got American Express records
19 of the defendant.

20 MS. MAYES: Okay.

21 THE COURT: 152 is a copy of the defendant's hotel
22 information. All that by stipulation.

23 MS. MAYES: Correct, Your Honor.

24 THE COURT: Okay. Then I don't -- the next one I
25 don't have is 160, 161 and 162.

1 And then 171 and 172 to 179 is blank.

2 And then I have 185 and 186.

3 MS. McMENAMIN: That's correct.

4 THE COURT: I've got 195 blank.

5 MS. McMENAMIN: Right.

6 THE COURT: 205 and 208.

7 All right. The next ones are 222 --

8 MS. MAYES: Okay.

9 THE COURT: Y'all got 208 blank?

10 MS. MAYES: That is correct, Your Honor.

11 THE COURT: Okay. Then I've got 222, 223 and 224.

12 Then 227, 228.

13 MS. MAYES: That's correct, Your Honor.

14 THE COURT: And that's the whole thing.

15 So at least everybody matches.

16 MR. SWERLING: Judge, if I could just mention
17 something. Obviously, Judge, I was getting tired and
18 that's why I asked if we could do the motions tomorrow,
19 but I actually also forgot we have three stipulations
20 that we agreed to, which I'd like to put in if the Court
21 would permit me.

22 THE COURT: Okay. Now on the defense exhibits,
23 I've got Exhibit Number 1.

24 Now what on the stipulation is it that you wanted
25 to put in?

1 MR. SWERLING: There are three of them. Separate
2 ones.

3 THE COURT: All right. What are they?

4 I've got a bunch of these that are stipulated in
5 here if the State's --

6 MR. SWERLING: I can give Your Honor a copy of it.
7 I think that would make it a little easier.

8 THE COURT: That means it's gonna be a defense
9 exhibit?

10 MR. SWERLING: You -- you don't have these, yeah.

11 THE COURT: Oh, I don't have these?

12 MR. SWERLING: No, you don't. The State and I
13 agreed to them.

14 THE COURT: Okay.

15 MR. SWERLING: But I'm sorry I didn't mention it
16 before.

17 THE COURT REPORTER: Have they already been marked?

18 THE COURT: Well, then I think I probably need to
19 read these to the jury, don't I?

20 MR. SWERLING: Yeah. Either that or I can. We --
21 I'll publish it or you can --

22 THE COURT: Well, do you want to publish it in the
23 morning?

24 MR. SWERLING: Yeah, that's fine.

25 I apologize. I should have -- I was getting a

1 little tired.

2 THE COURT: Either one. I'll read it or you can
3 read it.

4 MR. SWERLING: You can read it.

5 THE COURT: Okay. I'll read it and I'll do these
6 in -- these in the morning and I'm gonna mark these as
7 Exhibit Number 2, 3 and 4.

8 THE COURT REPORTER: And they're all defense
9 stipulations?

10 THE COURT: All defense stipulations.

11 Number 2 is that he waived extradition.

12 Number 3 is the money that he had available in his
13 accounts.

14 And Number 4 is he didn't oppose deportation.

15 All right. Let me stick me a note on this so I can
16 make sure I read these in the morning.

17 (Defendant's Exhibit Number 2 through 4 were marked
18 for identification.)

19 MS. McMENAMIN: Your Honor --

20 MS. MAYES: And, Your Honor, we also had exhibits
21 from 230 all the way through to 245. 245, being the
22 last exhibit.

23 THE COURT: Yes, ma'am. I got those.

24 MR. SWERLING: Judge, while we're at it, rather
25 than just wait until the morning, I'll just renew the

1 motion I made for directed verdict at the conclusion of
2 the State's case and I'll renew it here and now and ask
3 that you incorporate it herein.

4 THE COURT: And your motion's denied and all your
5 objections are noted for the record even if you did not
6 object to everything that we discussed yesterday for
7 there being so many exhibits in this case, 245, probably
8 would have been a little prejudicial to you with the
9 jury if they -- if you stood up and objected every time,
10 so.

11 MR. SWERLING: We appreciate that, Judge.

12 THE COURT: But those are noted for the record.

13 MR. SWERLING: Thank you.

14 THE COURT: All right. Now all I need y'all to do
15 is read the jury charges. If we're good, just go over
16 them one more time for me because I'm gonna be ready to
17 go on that.

18 I'll put these stipulations into the record. I
19 think we've got all our exhibits done and are they ready
20 to go?

21 MS. MAYES: We -- ordinarily, Your Honor, we leave
22 everything in until it's time to go back to the jury
23 and then when it goes back we would remove the ID only.
24 We are holding onto the ones that were demonstrative,
25 so that would be 49 and the mannequin, but everything

1 else that's ID only I believe would stay with the court
2 reporter --

3 THE COURT: Right.

4 MS. MAYES: -- but just not go back.

5 THE COURT: Y'all are gonna pull those in the
6 morning?

7 MS. MAYES: Or we can pull them now to be safe.

8 THE COURT: Okay. I just want to make sure that
9 I've got them all.

10 It's been a long trial and I sure would hate to
11 send something back if they didn't -- it wasn't supposed
12 to go back.

13 MS. MAYES: Right.

14 THE COURT: Okay. That sounds good.

15 Why don't I just double-check with you in the
16 morning, Ms. Mayes, and that way I can make sure they're
17 off my list for the ID only because there are several of
18 them, and we'll just double-check those in the morning.

19 MR. SWERLING: Your Honor, I notice that Suzanne
20 crossed out "fully" before cooperative and I guess what
21 I need to do is go ahead and rather than have that as a
22 stipulation in the record, I'd like to just retype that
23 and take out the word "fully" if that's all right?

24 THE COURT: Okay. Yeah, they crossed it out on
25 mine, too.

1 MR. SWERLING: Yeah. Okay.

2 THE COURT: Just e-mail us a new one, Jack.

3 MR. SWERLING: Yeah, we're just gonna take out
4 that one word.

5 THE COURT: I haven't marked them and I'm not
6 gonna mark them until I read them.

7 All right. Well, I hope everybody has a good
8 evening.

9 (Whereupon, the proceedings were concluded for
10 March 28, 2022, at 6:00 PM.)

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1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit
3
4 State of South Carolina,) Transcript of Record
5 vs.) 2020-GS-32-2419A
6 Vincent Thomas Shivers,) 2020-GS-32-2422A
7 Defendant.)

8

9

March 29, 2022

10

Lexington, South Carolina

11

12 B E F O R E:

13 The Honorable Debra R. McCaslin, Judge

14

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

16 L. Suzanne Mayes, Deputy Solicitor
17 LeAnna S. McMenamin, Assistant Solicitor

18 On behalf of the State of South Carolina

19 Jack B. Swerling, Esquire
20 Deborah B. Barbier, Esquire
21 Alissa L. Wilson, Esquire

22 On behalf of the Defendant

23

24 Reported by: Stacy S. Johnson,
25 Circuit Court Reporter

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1 MS. MAYES: That is correct, Your Honor, and then
2 we also would have the right to rebuttal.

3 MR. SWERLING: All right. Okay. I just want to
4 make sure --

5 THE COURT: The old school way is the way I do it.
6 That's the old school way.

7 MR. SWERLING: Yes.

8 THE COURT: You wouldn't believe what some of the
9 younger lawyers say the law is now. They do it the
10 other way. I just -- I can't do that. It's ingrained
11 in my brain.

12 Do you want me to do the stip -- I'll do the
13 stipulations before jury charges.

14 MR. SWERLING: That's fine.

15 THE COURT: Yes.

16 (Whereupon, the jury enter the courtroom at
17 9:56 AM.)

18 THE COURT: Okay. Mr. Foreman, is the jury ready?

19 FOREPERSON: We are.

20 THE COURT: Everybody have a good evening? No
21 problem with the news or social media, anything like
22 that? If so, raise your hand.

23 All right.

24 All right. I've got some stipulations, and I told
25 you earlier stipulations are between the State and the

1 defense and you are to treat these facts as true, okay?

2 The first stipulation is on December the 9th, 2019,
3 Vincent Shivers waived extra -- extradition in New York
4 state and consented to be returned to South Carolina.

5 The second stipulation is the following amount of
6 money was available to Vincent Shivers. On August
7 the 31st, 2019, Mr. Shivers had \$32,940.13 in his
8 account at Wells Fargo. Also on August the 31st, 2019,
9 Mr. Shivers had \$143,470.99 in his account at Capital
10 One. On September the 5th of 2019, Mr. Shivers had
11 \$16,508.01 at his Bank of America account.

12 The third stipulation is Vincent Shivers did not
13 seek release from immigration detention in Canada, nor
14 oppose his deportation to the United States, and was
15 cooperative with the authorities.

16 Okay. Those facts are to be treated as true, okay?

17 Anything else from the defense?

18 MR. SWERLING: No, Your Honor.

19 THE COURT: Anything else from the State?

20 MS. MAYES: Nothing from the State, Your Honor.

21 THE COURT: I'm gonna mark these as -- I said I was
22 gonna do these as defense exhibits. I'm gonna mark them
23 as 2, 3 and 4.

24 If I can get you to do those, Stacy, in the order I
25 laid them out.

1 (Defendant's Exhibit Number 2, 3 and 4,
2 stipulations, were marked and admitted into
3 evidence.)

4 THE COURT: All right. If the State's ready,
5 we'll be glad to hear from you.

6 MS. MAYES: Your Honor, may it please the Court?

7 THE COURT: Yes, ma'am.

8 MS. MAYES: It's been 938 days since Roselyn Ceden
9 was murdered in the master bedroom of her own home and
10 yet 938 days and all that time just cannot be measured
11 because justice isn't measured by time.

12 What brought him here was an act of fate. His
13 actions on that day in taking the life of Roselyn Ceden
14 that led to a series of events, a series of events that
15 culminated, once again, in fate. The fate that brought
16 Canadian authorities to that gate where he was waiting
17 to get on that plane to London. Fate has brought him
18 to justice.

19 Time will always reveal the truth. No matter what
20 actions he took to conceal it, to hide it, to flee the
21 United States, time will always reveal the truth.

22 And so here we are with an undeniable series of
23 events. Your Honor will charge you in a little while
24 on the two different types of evidence and I submit
25 to you that both, as she will charge, are equally

1 important under the law, and in this case both have
2 great significance and weight. Those two types of
3 evidence are direct evidence and circumstantial
4 evidence.

5 Now direct evidence is something that someone sees
6 or hears or speaks and in this case the direct evidence
7 came from his own mouth in the form of that statement
8 that he made to Canadian authorities being Jesse Dean of
9 the Toronto police fugitive squad when he's caught there
10 at that gate, boarding that flight to London, attempting
11 to move all the way across the ocean to Europe when he's
12 caught.

13 In that moment of truth, that brief moment, he knows
14 it's up, and that's when he says first, spontaneously,
15 tells them where his truck is and then from there listen
16 carefully. There are two guns in the truck; one in the
17 middle console, it's loaded, and another in an old
18 briefcase in the backseat, also loaded, a Kimber 45, and
19 what the officer hears as an "XT-9". Again, the officer
20 -- officer's writing it down as he's hearing it. A
21 Canadian officer, not familiar with these weapons, he
22 spells Kimber with a "C" and then he hears the XD-9 as
23 an "XT", and that's how he writes it.

24 So what we know about this statement is that it was
25 absolutely accurate. Those Canadian authorities, they're

1 not the investigating agency. They're just preserving
2 that truck so that it can be picked up by Sergeant Burt
3 and other members of the Lexington County Sheriff's
4 Department so that it can be brought and searched here.
5 Canada is only securing that truck for United States law
6 enforcement officials. They're not the investigating
7 agency and they're not searching that truck.

8 As you heard from Detective Constable Fragone, as
9 well as from Detective Constable Jesse Dean, there was
10 no search. They secured the truck, they moved it to the
11 facility, and then once it's retrieved by the Lexington
12 County Sheriff's Department, sure enough, inside that
13 truck in the middle console is an XD-9. Also in an old
14 briefcase in the backseat, you saw the photos of it, the
15 Kimber 45. Exactly where he said it would be.

16 So along with that statement, as he tells them about
17 the gun, spoken, he says I was going to eat one in Niagara
18 Falls for what I'd done. Direct evidence. An admission
19 of guilty knowledge and guilty conscious. I was going to
20 eat one for what I'd done.

21 What crime did he commit that in his own mind would
22 require him to end it all? But it was just a fleeting
23 thought. Yeah, he makes it to Niagara Falls, but when he
24 makes it to Niagara Falls he decides it's time to keep on
25 riding.

1 The first thing he does is right there at the border
2 of New York he goes and takes \$3,500 out of Bank of
3 America so he can have cash to spend, cash that can't be
4 traced, and from there he goes to that Wal-Mart where he
5 buys boxers and socks and T-shirts. All the stuff he
6 didn't have time to pack when he fled that house after
7 he killed Roselyn. This is no planned vacation. That
8 is ludicrous.

9 See, the thing about being jurors is you get to rely
10 on that same common sense that you rely on every day in
11 your own lives, in your work, school, raising your
12 children. That same common sense, you get to take that
13 common sense in the jury room for your deliberations.
14 This was no planned vacation. He spends that cash on
15 T-shirts, socks and underwear, and once he's in Niagara
16 Falls he goes and buys the luggage. He's got a closet
17 full of luggage, but he didn't have time to pack it.

18 What he did have time to pack was that passport.
19 He takes that passport and he runs. When he gets to
20 that border, take a minute to look at that video. He's
21 travelled all night after he leaves that Circle K on
22 St. Andrews Road, all night, all day, makes it to
23 New York, takes out the money, buys the clothes, and
24 then he crosses the border. Whatever fleeting thoughts
25 he had of eating one were gone really quick because now

1 he knows he needs to run.

2 Have you ever seen anyone so happy to cross the
3 border? In his mind he thought he made it, and he almost
4 did. Then on September 4th after crossing that border,
5 he's now in Niagara. He gets that room at the Sheraton.
6 He gets that room for two nights, but he doesn't stay
7 both nights. He's now bought the clothes, he's bought
8 the luggage, but he does something else on September 4th
9 as well.

10 That phone's been off since he left the Circle K
11 right here in Lexington County. That phone's been off
12 for two days, but he cuts it back on just in time to
13 purchase a ticket to London. Ten minutes before we see
14 that Expedia purchase at 3:34 is when you heard Sergeant
15 Travis say he's cut the phone back on because now he
16 needs it.

17 So he buys that ticket to London, he ditches that
18 second night at the Sheraton and now he's moved on to
19 the Marriott with the airport right there, adjacent to
20 the airport.

21 That is the very definition of circumstantial
22 evidence. So when I spoke about direct evidence, the
23 other half, they are equally important under the law,
24 but the other half of the evidence for consideration
25 is circumstantial evidence.

1 So circumstantial evidence works like a chain,
2 links in a chain, pieces to the puzzle that fit together
3 and form solid and cohesive proof. Proof of guilt. And
4 so in this case there was a mountain of circumstantial
5 evidence. The obvious. The unexplained, unannounced
6 trip to Canada that his boss knew nothing about. And
7 you heard yesterday from a coworker, the defense witness.
8 The coworker from Camping World of Louisiana. You can't
9 be a finance manager and just disappear into the wind.
10 You're an essential employee. Your business needs you
11 in order to approve credit of anyone coming in to make a
12 purchase.

13 Vincent Shivers worked on Sunday. Everything was
14 normal that day. You heard from his coworkers. And that
15 he was expected to be there the next day and the day
16 after that, but he disappears. Circumstantial evidence.
17 Common sense. That trip to Canada was a flight. Fleeing
18 from authorities. Fleeing from justice.

19 But it doesn't just stop with this unannounced,
20 unplanned trip to Canada. Where he then does the 180
21 and buys the ticket to London so he can end up in Europe
22 and from there who knows?

23 There's the matching ammunition all over his
24 bedroom. The HPR 45 come in this box. A box in the
25 suitcase. One of many suitcases that he didn't pack.

1 That he didn't have time to pack. But you see these
2 HPR 45's sent to SLED directly from the crime scene. On
3 his dresser in that master bedroom, an unspent round.
4 That round we know matching ammunition. Again, the
5 HPR 45. And on the shelf, also in the master bedroom,
6 two more magazines. Two more magazines that can fit or
7 work in a Springfield XD 45. Also filled, each one, with
8 that same ammunition, the HPR 45 that killed Roselyn
9 Cedenno.

10 And now, again, a mountain of circumstantial
11 evidence. Every gun in that home is accounted for
12 except one. The gun box in his closet for the missing
13 Springfield XD 45, which just happens to be consistent
14 with the fatal rounds that killed Roselyn Cedenno.

15 And you heard from the SLED firearms examiner.
16 There may be multiple guns that can produce those rounds,
17 but in his house only one. Only one gun is a match to
18 those fired projectiles. And that's a science, that's
19 not speculation. That firearms examiner is able to give
20 you exact measurements and characteristics of those fired
21 projectiles that allows them to determine what guns are
22 capable of producing those same characteristics and those
23 same measurements after firing because of the unique
24 characteristics of the gun and the barrel and the final
25 fired projectile. This is a scientist with years and

1 years in this field of study regarding ballistics and in
2 this science one thing was clear. That gun, the missing
3 gun, is consistent with those fired projectiles laying
4 all over the floor right next to her.

5 When you look at a crime like this, in her home,
6 that's her bed -- his bedroom. You heard the testimony
7 from crime scene that her belongings were in a separate
8 bedroom across the hall. They've been together for
9 years.

10 And one thing I want to make clear is that under
11 the law the State is not required to prove motive. The
12 State is not required to prove why he did what he did,
13 what they were arguing about. None of that is required
14 under the law, but it is inherent I submit in any
15 relationship like this that's long-term there are issues
16 that others know nothing about.

17 Now you heard from his coworkers. None of them had
18 been to the house. None of them have seen Vincent and
19 Roselyn and how they interact. They only knew that
20 Roselyn was the emergency contact for Vincent, which is
21 why Steve Smith began calling her when he didn't show up
22 as he was supposed to.

23 So something happened on the night of September 1st
24 after he sends her that text that says I'm on the way.
25 Something happened that night into the early morning

1 hours of September 2nd that caused him to act in this
2 most extreme form of malice. And as I said, the State
3 is not required to prove motive. The requirement is
4 malice. Malice aforethought.

5 And Your Honor will charge you on exactly what
6 malice aforethought means, but under the law malice is
7 hatred, ill will or hostility. Looking at that photo,
8 is there any doubt whatsoever that Vincent Shivers
9 acted in malice? There can be no other conclusion
10 because malice doesn't have to be words spoken, it can
11 be inferred from the conduct and the circumstances of
12 the crime. And what we know is that Roselyn was shot
13 seven times. Seven times he pulled that trigger. Maybe
14 one shot is while she's standing. It's the shot that
15 ends up in that dresser drawer that you saw. But from
16 there when we talk about malice there can be no greater
17 manifestation than seven shots and she's down. And we
18 know that because of where those projectiles ended up.
19 Underneath her, between her body and the carpet, and
20 inside her clothing, that thin little camisole, barely
21 cotton. Projectiles caught beneath something that thin
22 cloth and the skin, the only explanation for that as you
23 heard from Dr. Beaver, the only explanation for that is
24 that she's down and the bullets can't make it out of the
25 clothing because the ground is the barrier; otherwise,

1 they would exit the body.

2 Seven times he pulls that trigger. With the first
3 shot is there malice? I submit there is. And from
4 there, another shot and another shot and another shot.
5 Is there malice yet? Another shot. Another shot. Is
6 there malice yet? And another shot. That's malice.
7 He shoots her as she's down. He shot her in the back.
8 Not once, but repeatedly. As she lay there defenseless,
9 he keeps pulling that trigger.

10 For Roselyn there was no way out. And nowhere left
11 to turn. Did she try to make it out that balcony door?
12 Because we saw her so close. She is just feet away. She
13 almost made it. But he had the gun. She had nothing.
14 And he wasn't gonna stop pulling the trigger until she
15 was dead. And then he puts that bullet through her
16 heart. That's the very definition of malice. His
17 crime is a clear and present evil. The circumstances
18 overwhelmingly demonstrate acts of malice and intent
19 under the law.

20 When we talk about the crime of murder, in this
21 case malice does not require any premeditated period
22 of time. So when you hear about malice aforethought,
23 it doesn't mean that he has to plan it when he's at
24 Camping World and then when he sends her that text saying
25 on the way that he already has it in his mind. No, that

1 is not the law. The law in this state is that malice
2 aforethought only need to be present just before and at
3 the time that the trigger is pulled. At the time of the
4 fatal act.

5 So in this case when he pulled that gun out, we
6 don't know, but when he got that gun, which I submit was
7 in his room and it's sure gone now and we're never gonna
8 find it, that gun is long gone, maybe in Niagara Falls,
9 maybe in some dumpster between here and New York, but
10 it's never gonna be found. He made sure of that. But
11 when he pulled that gun out, malice only needs to be
12 present just before and at the time he pulls the trigger.
13 It can be seconds. And he didn't just pull it once. He
14 pulled it seven times. That's how we know beyond a
15 reasonable doubt that malice is present.

16 So under the law in South Carolina, murder is the
17 killing of any person with malice aforethought, either
18 express or implied. And when we talk about implied,
19 another word for that is inferred and as the judge will
20 charge you, inferred by the circumstances of this case.

21 Looking there at the crime scene, you know, you
22 heard so much in this case for so long about all the
23 different theories. Was there some burglar? Was there
24 an intruder? All those things that the Lexington County
25 Sheriff's Department CSI shut down that very first day.

1 That very first day they were at the scene and they
2 checked all the doors and all the doors were locked and
3 all the windows were locked except one. Except one.
4 That one right there being the balcony door. Now that
5 balcony is at the back of the house and it's on the
6 upper deck and you heard from CSI that there was evidence
7 there on the back deck that's where the dogs come and go.
8 We know the white dog is right there in that master
9 bedroom. It would absolutely make sense that any --
10 anyone would have that balcony door open for the dog to
11 come and go and I submit that's why it's open. There's
12 no evidence of an intrusion. But what we do see evidence
13 of is that someone who lives there committed this crime.

14 So after she's shot with the gun that matches the
15 missing gun with the box in his bedroom closet, after
16 she's shot with the seven rounds of HPR 45 that matches
17 the ammo in his room on his dresser and in his closet and
18 inside that 45 that was found in his truck in Canada, he
19 pulls the bedspread and the sheet off that bed to cover
20 her up so he can't look at what he's done. No burglar's
21 gonna do that. He covers her up and leaves her there to
22 die.

23 Then what's he do next? We know that towel is
24 placed on that bed after the bedspread's been pulled off
25 and put on Roselyn's body. Well, we know he goes and

1 puts his pajamas and boxers in the sink because they're
2 all 3XL and you heard that the 3XL is the same size as
3 that white shirt that's down in the kitchen, and we'll
4 talk about that in a moment, but those black boxers and
5 those pajama pants, all 3XL just like that 3XL Camping
6 World shirt that's right next to Roselyn.

7 There's no planned trip. Gee, I think I'm gonna
8 move to Canada and if I don't like Canada, gee, I think
9 I'll just move to London. He pulled that Camping World
10 shirt off with his socks on the floor when he comes home
11 that night. It's just another ordinary day until he
12 pulls that gun. So there in the sink we see his clothing
13 and, there, that's placed on the bed after the murder.
14 After he yanks off that bedspread. There ain't no
15 burglar gonna take a shower and then throw the towel.

16 So as I said, the State is not required to prove
17 what the argument was about, what preceded the argument.
18 Only how it ended. In malice.

19 Looking here at the kitchen, a few more things we
20 know about this crime scene. There was broken glass from
21 a cake stand that CSI had said had been on the table and
22 that broken glass is found there around the floor. That
23 broken glass is also covered up by a fitted sheet.

24 Now remember that at the scene there's a bedspread
25 and a sheet on top of Roselyn. You see a mattress pad on

1 the bed, but where's the fitted sheet? We see a fitted
2 sheet and some other type blanket or tablecloth covering
3 up this glass that's on the floor. And then a dustpan.
4 Ain't no burglar gonna go get a dustpan and start to
5 clean up the glass. But instead of cleaning up that
6 glass, someone just gives up, throws a fitted sheet and
7 something else over the glass. Why? Probably so that
8 Doggo, the white dog, can't walk in that glass or be
9 hurt by that glass. Ain't no burglar gonna do that.

10 But there's something else we see around the broken
11 glass. Right here. That white undershirt. That white
12 undershirt that was collected by CSI because it turned
13 out to have a bloodstain on it. 3XL right there near
14 that broken glass. Whose blood turned out to be on that
15 undershirt? There's only two people in that house and
16 only one of them came out of there alive and he's sitting
17 in this courtroom.

18 Then one other article of clothing was found by
19 CSI to have blood. This blue furry onesie that hangs
20 in his closet and right there on the sleeve as one would
21 come by or come out of that closet, but what's in the
22 back of that closet? Whose blood did that turn out to
23 be? I submit he's cut himself at some point on that
24 glass. There's been an argument, but we know this. The
25 only DNA under Roselyn's nails were hers and his. There

1 was no foreign DNA. It was only the two of them.

2 We also know that Roselyn didn't even get a chance
3 to fight back. She didn't land a blow. She has no
4 injuries or abrasions to her hands. No lacerations to
5 her hands. And we know that she had no soot or stippling
6 on her body. She didn't get a chance to fight back
7 because he had the gun and he shoots her from feet away
8 and by the time she's down there's no fighting back.

9 Finally, I want to talk about the timeline in this
10 case and the timeline here is unmistakable. It starts
11 with that voicemail that you heard from his boss, Steve
12 Smith, looking for him. The voicemail where he had only
13 concern in his voice because he hasn't shown up and they
14 can't figure out what's going on at Camping World because
15 it's so unlike Vincent to not show up. It's so unlike
16 him to not pick up his phone, to not respond to texts,
17 but he's not. He's just completely disappeared and his
18 phone is off.

19 (Audio recording playing.)

20 So we know looking there at the bottom that text
21 from Vincent "on my way" that she read at 5:22, he makes
22 it home. From there at 5:36 she says to her son, to
23 Tommy, what about the hurricane? At 5:37 she reads his
24 response, Cat 5 currently. She says if you need to
25 evacuate, come to Columbia. You can have my bedroom.

1 He says I'm staying behind, but I'll relay that info
2 over to everyone. She reads it. She knows her daddy,
3 her mom, Tommy's wife and kids, her grandchildren, are
4 coming to stay with them because of this evacuation.
5 She says to him last time you didn't have power for nine
6 days. That's at 5:39. At 5:41 she tells him get plenty
7 of pizza. Fill every glass and cup in house with water.
8 Chain saw. Gas can. Fire extinguisher. That's at 5:42.
9 She sends that text to Tommy, then she reads that last
10 text from Tommy at 6:23 PM and we know that it's read.

11 From there she goes on to miss a series of calls.
12 By 9/2, that morning, we know she is not answering calls
13 or texts. 10:15. The call we saw from Vincent was the
14 day before earlier on the 1st when he was at Camping
15 World or on his way there that you heard from Sergeant
16 Brian Travis, but that next morning, on the morning of
17 the 2nd, not answered the call from her mom, who she has
18 as grandma, who she's expecting to be there or on the
19 way because of the evacuation. Her dad not answered at
20 10:30. Her son not answered at 11 AM. Her son not
21 answered at 11:19 AM.

22 The next day, again, not answered. Every one of
23 these calls and texts were accounted for by law
24 enforcement. And once she stopped answering the phone,
25 at 10:15 the next morning, from there it's just a series

1 of concerned family, coworkers of Vincent from Camping
2 World who want to know where he is, but the timeline is
3 clear. Roselyn is already dead.

4 6:23 on the night of the 1st is the last read text.
5 8:04 AM, the next morning, what's the next thing that
6 happens in this timeline of events that we saw throughout
7 this investigation? That's where Vincent Shivers is on
8 surveillance video at Circle K filling up and hitting
9 the Interstate on his way to New York, not on his way to
10 Camping World where he's supposed to be.

11 And you heard from Sergeant Travis there's
12 something else that happens right after he purchases
13 that gas at 8:04 AM on St. Andrews Road as he's heading
14 toward I-26 to New York. He cuts that phone off at 8:06.
15 So two minutes after he makes his purchase and heads out
16 the parking lot that phone is off. It's off so he can't
17 be traced.

18 You heard Captain Laintz when he testified one of
19 the first things they did in this investigation was they
20 reached out to Verizon with an urgent request, when you
21 have someone who is missing, and at that point in time
22 they didn't know if Vincent Shivers might have been
23 abducted. Maybe he's being held hostage. Where he is?
24 He's completely disappeared off the face of the Earth.
25 So they reached out to Verizon to request an urgent ping

1 of his phone in hopes that could lead them to where he
2 is to determine if he's safe. Verizon couldn't even get
3 a ping off it because that phone is off.

4 The next thing, we start seeing those messages from
5 Steve Smith. You okay, buddy? And later, unlike your
6 phone to be off. We know Roselyn's missing all of her
7 phone calls and all of her texts.

8 By the next morning he's at Wal-Mart after taking
9 out that \$3,500 from Bank of America buying those boxers
10 and the shirts and the socks that he knows he's gonna
11 need. Shortly thereafter, Deputy Hale arrives.

12 You know, I spoke in the very beginning about fate
13 and that it's fate that brought him here to justice,
14 it's fate that brought Deputy Hale to that residence at
15 exactly that time, at 11:31 AM, on the 3rd that led to
16 the discovery of Roselyn's body within thirty minutes
17 because if he doesn't find her right then right where he
18 does, he would have made that plane to London. He would
19 have been halfway across the world.

20 We know that same day just shortly after Roselyn's
21 body is found he's crossing that border to Canada. From
22 there, buying luggage at Samsonite, buying that ticket
23 to London, switching hotels, and then finally on the 5th
24 he's arrested at the airport, and in that one moment,
25 that one moment of truth, he says what he said. I was

1 gonna eat one in Niagara Falls for what I done. But he
2 didn't. He kept going because he thought he could
3 outsmart everyone. He thought he could outsmart his
4 boss, thought he could outsmart the police. He thought
5 that ticket to London would be the answer.

6 From there, each one of these events, as I said in
7 the outset, creates that chain of circumstantial evidence,
8 and in this case that evidence is overwhelming. The past
9 can't be undone. We all know that. It's too late for
10 Roselyn, it's too late for her story to be told, and it's
11 too late for her life to be lived. He made sure of that.
12 But it's not too late for justice. It's never too late.

13 In a humane world, a crime of this nature cannot be
14 tolerated. Will not be tolerated. His crime, his
15 actions, demand justice. He walked away as Roselyn lay
16 dying there on the floor of his room. Bullets fired
17 through her lungs, through her heart. He walked away on
18 that day, but as fate would have it, he couldn't escape
19 justice. Justice is at hand. The correct verdict in
20 this case is guilty of murder, guilty of possession of a
21 weapon during a violent crime.

22 Thank you.

23 THE COURT: Thank you, Ms. Mayes.

24 Mr. Swerling.

25 MR. SWERLING: Please the Court?

1 THE COURT: Yes, sir.

2 MR. SWERLING: Good morning. I hope everybody had
3 a good evening and I hope that this experience in your
4 court here in general sessions has been an educational
5 and satisfactory experience for you to see how our
6 system runs. I think a lot of people really have no
7 idea what goes on in this courthouse and courthouses
8 all around this country every single day unless you
9 actually get to sit and participate in a case and you
10 have gotten to sit and participate in a very interesting
11 case that I'm going to discuss right now from our
12 perspective and things that we are gonna ask you to
13 consider just like the State is asking you to consider.

14 I think I said at the beginning of the case the
15 bedrock of our system of justice is two principles.
16 Well, three. The right to a jury trial by a fair and
17 impartial jury, which you are. We are all satisfied
18 with that and we were satisfied with that over a week
19 ago when we selected you and we have remained satisfied
20 with that throughout the trial because as we -- we watch
21 you just like you watch us and you have been paying
22 attention, and we appreciate that.

23 When you pay attention in a courtroom, then things
24 don't get by you, you absorb those things and then you
25 take it collectively, go in the jury room and you discuss

1 them, you discuss the judge's application of the law and
2 you come up and render a verdict. Nobody teaches you how
3 to come up with a verdict. You know, it is just human
4 nature to go back there. Every one of you should be
5 heard if you want to be heard. Everybody has an opinion
6 about the evidence in the case and collectively you
7 will come back with a verdict and the verdict has to be
8 unanimous. That's our system.

9 The other bed -- part of the bedrock of our system
10 of justice is the presumption of innocence. We talked
11 about that briefly at the beginning of the case. We
12 are unique around the world. We have a presumption of
13 innocence and right now, as I told you at the beginning
14 of the case, you are still to presume Vincent Shivers is
15 innocent. That is the law that we follow in this country.
16 That presumption of innocence stays with him until you
17 go in the jury room and you deliberate and you exchange
18 your views and ideas and come to the conclusion that the
19 State has proven guilt beyond a reasonable doubt.

20 And what does that mean? Well, if you're not
21 convinced beyond a reasonable doubt, then you must vote
22 not guilty. That's the oath that you took. You took a
23 very sacred oath that jurors have been taking for
24 hundreds of years in this county and counties all
25 across the United States, but it is an oath that if

1 you're not convinced beyond a reasonable doubt, then
2 you must find someone not guilty. Speculation is not
3 enough, conjecture is not enough, suspicions is not
4 enough. You must be convinced beyond a reasonable doubt,
5 and if you're not, you have to come back -- you must
6 come back under the oath you took of a verdict of not
7 guilty, which means not guilty beyond a reasonable doubt,
8 not proven guilty beyond a reasonable doubt.

9 So if you hesitate, if there's something bothering
10 you, something gnawing at you that the State hasn't
11 answered or the evidence that the State has presented
12 doesn't make sense or the lack of evidence doesn't make
13 sense and doesn't fill the picture, then that doubt has
14 to be resolved in favor of the person who's accused of
15 the crime no matter what the crime. It doesn't matter
16 whether it's shoplifting, driving under the influence or
17 a charge of murder in this case, and that is what we are
18 faced with in this case.

19 The judge will give you a full instruction on the
20 law of what murder is. And I agree with the State. It
21 is malice aforethought. The killing of another human
22 being with malice aforethought. Ladies and gentlemen,
23 they have not proven the slightest iota that Vincent
24 Shivers had any malice in his heart or in his mind
25 toward Roselyn Cedenno. None. There is no evidence in

1 this record that he had malice, and I'm gonna review it
2 with you briefly and go over it, and you go back and you
3 deliberate together, express your views and see what --
4 if, in fact, any of you can come up with proof beyond a
5 reasonable doubt that the State has proven malice in
6 this case.

7 You know, I like -- I like to read, I like to watch
8 movies. I'm a big movie watcher. Saturday afternoons
9 you're gonna find me in front of a TV set, but I like --
10 I like books and movies that answer questions at the end,
11 that you don't have to go away and wonder what happened.
12 I like nonfiction, all right, historical nonfiction,
13 biographies. There is a conclusion at the end that you
14 can feel, you can reach, you can see, you can think about.

15 Fiction in many cases leaves you with questions in
16 your mind as to what happened. What happened to that
17 couple? What happened to that man? What happened to
18 that woman? Did they get together? These are the kinds
19 of things that I just don't enjoy watching or reading
20 about.

21 The same thing with movies. I think the most
22 frustrating thing in the world is going to a movie and
23 you sit there and listen for two hours watching a movie
24 and then when the movie ends you say what happened?
25 What's going to happen? That is not -- that's not

1 something enjoyable to me. It may be to you, but it's
2 not enjoyable to me.

3 But in a court of law we can't have fiction. We
4 can't have movies ending with a question as to what is
5 going to happen or what happened and that's why we
6 impose that burden on the State to prove guilt beyond a
7 reasonable doubt. They've got to answer that question.
8 What happened? Who? What? Where? When? And why?
9 That is their job. They brought the charge. They
10 brought it in front of the grand jury and they came back
11 with a charge of murder and they have an obligation to
12 prove to you not by suspicion, not by conjecture, not by
13 just a whim, they have a burden to prove to you what
14 happened in this case and who did it and not leave it
15 open to speculation or conjecture. If they do, if
16 there's not -- all the questions are not answered by the
17 State in a case, either by the evidence or the lack of
18 evidence, then you must come back with a verdict of not
19 guilty, which means that the State has not proven their
20 case beyond a reasonable doubt.

21 Let's talk a little bit and then I'm gonna get right
22 into the facts of the case. I'm gonna try not to belabor
23 and go over anything and be redundant and repeat myself,
24 but I do -- there are some things that I would like to
25 point out to you that I would ask you to consider when

1 you go back in the jury room.

2 Remember this. At the end of this case me and my
3 group of people who helped me defend this case, we're
4 gonna go home and we're gonna move on into other cases
5 and other ventures, and so is the State and so is the
6 law enforcement officers. We're all gonna be able to
7 leave and go onto our lives and go into other things.
8 Maybe I might be here next week or two weeks from now
9 trying another case. I was here a couple of weeks ago
10 trying a case. This is what I enjoy. This is the life
11 I've chosen, and I'm still doing it, all right, even
12 after a lot of other lawyers my age have retired, but I
13 love what I do and I love appearing in front of juries
14 and I love pursuing justice, and that's what we're
15 pursuing here in this case.

16 The judge and the court personnel, they're gonna
17 go onto other matters because this case is just one of
18 the cases that we have to deal with, but the defendant
19 in this case, he lives with the verdict for the rest of
20 his life. Whatever the verdict is, he's gonna be living
21 with that, and so it doesn't move on for him. This is
22 the moment for him. This is when the State has to come
23 forward and prove guilt beyond a reasonable doubt or he
24 is entitled to, under the law of our state and our
25 country, to a verdict of not guilty.

1 Let's talk a little bit about his -- his job at
2 Camping World. We brought up one of his coworkers, Rex,
3 yesterday and he came in from Oklahoma. It was very
4 generous of him to do that because he wanted to tell
5 you a little bit about -- and there's not a whole lot
6 he could go into, but he wanted to tell you a little bit
7 about his relationship with Vincent Shivers. Together
8 -- remember. They were very successful and a very
9 successful business. Together the two of them were the
10 number one financing team in the country. What does
11 that tell you? That Vincent Shivers is a dedicated,
12 hardworking individual who enjoyed his job, wanted to
13 do better for himself and his girlfriend, and he made
14 several moves to go ahead and improve his situation as
15 the years went on.

16 We also had Eric Wier come in who was a witness in
17 the case and said that Vincent Shivers did his job very,
18 very well. Steve Smith came in, the manager over there,
19 and obviously he's calling Vincent Shivers. He valued
20 him as an employee. He trusted him as an employee. He
21 came -- came here into court and he told you how he was
22 trying to get in touch with Vincent because Vincent was a
23 hardworking, dedicated, good finance manager. Excellent
24 finance manager. So he was worried about him, where he
25 was. Well, did -- was there ever a conversation between

1 the two of them as to whether or not Vincent wanted to
2 take off? It's not that unusual that people would want
3 to take off and take a break from the daily routine and
4 I would suggest to you that that is something that you
5 need to consider, whether or not that is a possibility.
6 Whether or not it's a possibility that a husband and --
7 well, not a wife here, but a husband and a long-term
8 girlfriend want to have a break from each other, too.
9 I submit to you that is not unusual either, to take a
10 small break, a short break so that the two of you can
11 get your heads together. You can get your head together
12 from your business, you can get your head together from
13 other people in the business, but no one knows really
14 what discussions took place between Vincent Shivers and
15 Steven Smith before September 1st or September 2nd. We
16 do know that Steven Smith said that he did not know and
17 you can consider that. You can consider that to see
18 whether or not that is something that you want to rely
19 on or can rely on or should be rely on. That's only one
20 part of the case. That's only one part of the story.

21 We know that Vincent left Louisiana when he was
22 working there with Rex Dirks where they were the number
23 one team in the country. He was not happy. He left
24 Louisiana because he was not happy. Why was he not
25 happy? Because -- because of a change in company policy

1 there was substantial reduction in his income. Not only
2 that, there was a reduction -- a real reduction because
3 the company was no longer covering people who were not
4 married to the employee. And those of you who have to
5 go ahead and buy your own insurance, you know what
6 insurance today can cost. It's a fortune. And it goes
7 up 15, 20, 25 percent a year. It outrageous.

8 So he decides that he's gonna come to Columbia and
9 when he comes to Columbia, first of all -- or Lexington.
10 When he comes here, first of all, he's got family in
11 Aiken, he's got family in Beaufort, so it's not an
12 unusual move to come here, and they go ahead and give
13 him the same compensation package here in Lexington and
14 Columbia that he had in Bossier, Louisiana except for
15 the insurance. So as far as income is concerned, when he
16 came here he was receiving the same income he had when he
17 left Louisiana.

18 You heard from Tommy Cedeno that Vincent with Camping
19 World had been to Oklahoma, had been to Louisiana, had
20 been -- and had come here, and all of that was to advance
21 his career and the career or the welfare, let me put it
22 -- I'm trying -- to benefit his spouse. Well, he's not
23 -- I'm sorry, his girlfriend. I keep calling -- I keep
24 calling her his spouse, but she's not. Let's say
25 boyfriend and girlfriend. So he's doing that to benefit

1 her as well, not just himself. So we have a hard worker,
2 we have a valued employee, and that is undisputed.
3 Undisputed by anybody who came here from Camping World,
4 including the gentleman who flew in from Oklahoma who
5 had worked with Vincent in Louisiana.

6 So we have an individual who has a very, very
7 successful job and you heard, I think, Ms. Mayes asked
8 about the kind of income that they made and he said when
9 the cut came when they were in Louisiana it involved
10 thousands dollars, but that was restored to Vincent when
11 he came here. Not restored was the insurance.

12 About his history with Roselyn -- can I get a glass
13 of water? I'm getting dry. I'm sorry.

14 He and Roselyn had been together for eight to ten
15 years. That's a long-term relationship. That is not
16 something short-term. And obviously when you spend eight
17 to ten years with somebody and you're not even married
18 but you are together, you're staying together, you're
19 living together, there's something special going on there
20 in that relationship. That's not just a relationship that
21 people can dismiss. It is a strong relationship and you
22 heard that. When Tommy Cedeno got up here, he told you
23 that they had a good relationship from everything he could
24 see. He would visit them when they lived in Aiken when
25 he first came -- when he came to South Carolina the first

1 time when his mother lived in Aiken and they moved into
2 her house after she passed away, then he bought another
3 house on the lake. He was working, I think, at Honda at
4 the time, but he enjoyed South Carolina, he liked South
5 Carolina, and he was trying to better himself at that
6 particular point in time, but who was with him during
7 that entire time? Roselyn Cedenó. They never ever --
8 there's no indication that they ever separated. There's
9 no indication that they were not a unit all the way up
10 until the end.

11 He was always working hard to seek improvement and
12 to better their finances. In every place that he ever
13 moved he bought a home, a nice home, for he and Roselyn.
14 The home that they had here, and you've seen picture of,
15 it's a lovely home and I think -- I heard somewhere
16 somebody mentioned something about a four to \$500,000
17 home. That's a significant price for a home. And it is
18 -- it may have not be as neat as you like, there may
19 have been a polo shirt laying around or a T-shirt laying
20 around or something else laying around, but it was a
21 beautiful home and this is something that Vincent worked
22 for. Not just for himself, but also for Roselyn.

23 Roselyn didn't have to work. Vincent made sure
24 that he made enough money and he worked hard enough that
25 she did not have to work and she could be a homemaker

1 and she could stay home. She could take care of her dogs
2 that both of them enjoyed and she did not have to worry
3 about earning any income. They lived well. He provided
4 well. There is no information in this record, none,
5 after a couple of years of investigation, other than a
6 loving relationship between the two of them.

7 Tommy said that he was always trying to improve his
8 situation and their situation and he visited them often
9 when they lived in Aiken. As a matter of fact, in this
10 particular situation on the weekend before this all took
11 place, he was sending his family, his children and his
12 wife, to go stay with Vincent and Roselyn when the
13 hurricane hit Beaufort. Now he was -- he had made plans
14 not to come, but he was sending his family and his wife.

15 Now, ladies and gentlemen, if you have a -- if you
16 think that there's a problem between your mom and her
17 boyfriend, you're not gonna go ahead and send your
18 family to that house and have them stay there during a
19 hurricane. That doesn't even make sense. So they were
20 going, sending his children there, and he had visited
21 them often in Aiken. He, unfortunately, had not visited
22 them here in Columbia yet.

23 Tommy did not report one negative aspect of their
24 relationship. Ladies and gentlemen, search the record.
25 Is there any instance that the State has brought forward

1 of violence between Roselyn and Vincent Shivers? None.
2 Any history of serious disagreements between the two of
3 them that would lead to a fight that would eventually
4 lead to what the State is suggesting in this case?
5 None. There's no domestic violence calls to the
6 Lexington County Sheriff's Department, the Aiken County
7 Sheriff's Department or the Louisiana or Oklahoma or
8 any other place that they stayed. None. No 9-1-1 calls
9 to any of those departments that she was in some sort
10 of trouble or some sort of danger. None. No police
11 involvement at all until September 3rd of 2019. None
12 at all.

13 But yet the State what wants to come forward and
14 have you believe that all of a sudden on September --
15 somewhere in the first part of September, and we'll
16 get to that in a moment, sometime at that point all
17 of a sudden out of the clear blue with no history, no
18 history of police involvement, domestic violence, 9-1-1,
19 any kind of serious arguments, all of a sudden Vincent
20 Shivers shoots Roselyn Ceden and kills her. These folks
21 lived a really good middle to upper middle income life.

22 On September 1st at 5:22, Vincent sends her a text
23 that probably every husband, every wife, everybody who
24 has a significant other has sent their other person,
25 husband, wife or a significant other person, a message.

1 I'm on the way. I'm coming home. Now just think about
2 that for a minute. That is really what we all do. What
3 people do. And that was a normal thing for Vincent to
4 send to her. That afternoon at 5:22 a message that I'm
5 on the way. Does that sound like he's angry? Does that
6 sound like there's something that's going to happen?
7 Does that sound like something that's gonna culminate in
8 some kind of argument? I'm on my way. How many times
9 have y'all done that? That is a statement to let that
10 person that you care about know that you're coming home.
11 You're ready to come home. People do that all the time.
12 Especially people who really care about each other.

13 And also remember on that particular evening
14 Vincent Shivers believed that Roselyn's family was
15 coming to spend time with them while the hurricane was
16 hitting Beaufort. So the State would have you believe
17 that knowing that her family is coming up there on
18 September 1st or September 2nd he shoots her and leaves
19 her body in the master bedroom knowing that her family
20 is coming. That doesn't make sense. That is reasonable
21 doubt. That's what reasonable doubt is all about.
22 Things that don't make sense. Things that cause you to
23 hesitate to act. Things that bother you that don't make
24 sense.

25 But on that -- at that time he believed that her

1 family was coming and it's very -- I would submit to
2 you it's very unlikely that he would have gone ahead --
3 first, the mood he was in, I'm on the way, doesn't sound
4 like any negative mood. It doesn't sound like he or
5 anybody would go ahead and get into an argument which
6 obviously there was nothing in this record, nothing has
7 been said to indicate that they got into an argument
8 and knowing her family was coming, he would go ahead and
9 shoot his wife. That doesn't make sense. Because who's
10 going to find -- who's gonna find Roselyn? They're gonna
11 find Roselyn.

12 Let's talk about the scene itself. There are two
13 -- based upon the crime scene investigation in this case,
14 there are two possible entrances to that house on that
15 day, on September 3rd. Well, when the police get there,
16 number one, whoever came in that house had to come through
17 the gate because according to the CSI team all the doors
18 were locked except the door into the master bedroom, but
19 the gate is a six-foot fence. You've seen the pictures.
20 Whoever went into that house that evening or that day or
21 whenever it was had to come through that gate and, lo and
22 behold, what is one of the things that is never tested
23 by the CSI team? They never looked at the gate and they
24 never tried to get any touch DNA.

25 That's touch DNA. That's how easy is it to get touch

1 DNA. Touch something. That's what it means. You touch
2 something and you're leaving DNA there. If somebody
3 opened the gate, there would be DNA on that gate, on that
4 handle. The other possibility is the room upstairs
5 going into the master bedroom. Now I find it very
6 interesting, and I'm asking you to consider because this
7 is what I'm talking about, about reasonable doubt, that
8 they did not examine the door to the gate, they did not
9 test it, they did not fingerprint it, they did not do
10 any DNA, and lo and behold, ladies and gentlemen, whoever
11 came into that house that day or that evening or whenever
12 it was, touched that gate and their fingerprints and their
13 DNA were on that gate -- on that handle to that gate, and
14 that's lost forever. We will never know who entered that
15 gate because, ladies and gentlemen, that was the only
16 access to the house, to the property, according to CSI.

17 So once someone got through that gate, then they
18 could go upstairs onto that deck and go into the master
19 bedroom. Now there's no question that the master bedroom
20 door was unlocked because when Mr. Hale got there it was
21 unlocked, so that was the access to the house itself.

22 Now they spent an awful lot of time at the front
23 door of taking swabs and examining it, panels and windows
24 and the floor and this and that. Where did they spend
25 almost little or no time? The door that entered into the

1 master bedroom. One of the problems was that Mr. Hale
2 didn't have any gloves on and I, for the life of me,
3 cannot imagine a police officer going into a home on a
4 welfare check or a crime scene investigation or whatever
5 it may be, seeing a body on the floor, and not having
6 gloves on and touching the open door into that residence.
7 That just doesn't make sense. That just does not make
8 sense. And because of that they explained well, we
9 really -- we had to make the decision whether to try and
10 get fingerprints off the handle to the door, the knob
11 to the door, or we had to try and determine whether or
12 not we were gonna try and get touch DNA. So what they
13 did is they tried to go ahead and get fingerprints off
14 the door.

15 Now here's what I find strange and I suggest to you
16 is strange and creates maybe some reasonable doubt in
17 this case, is they didn't even get Mr. Hale's fingerprints
18 off of that doorknob. Certainly he agreed that he went
19 ahead and turned the doorknob and went in there and he
20 turned doorknobs all throughout the house. We don't even
21 have his fingerprints. They didn't even eliminate him
22 as a possibility in the case of touching those different
23 doors, not that he did anything, but touching the doors,
24 he touched the windows. By his own admission he touched
25 windows. But because he did not have any gloves on they

1 were not able to make a determination as to whether or
2 not to try to do the fingerprints or do the touch DNA.
3 And guess what? That's lost forever as well. You can't
4 go back and get that.

5 So I would suggest to you that somewhere there is
6 someone who entered that gate and entered the door to the
7 master bedroom, and we may never know who that was, and
8 it was not Vincent Shivers, and I will further explain to
9 you why I submit that.

10 When they -- so they come in the house and he goes
11 throughout the house. Now he has time to turn on the
12 phone, he has time to video things. And I can't remember
13 exactly. I know I saw him turning the phone on, he was
14 talking to some people on the phone, but he had no time
15 to go ahead and put on gloves.

16 And when the CSI team comes, they -- I would say
17 there's maybe some shortcomings there as well. As far as
18 I can recall, and your memory is what counts, not mine,
19 as far as what I can recall there in the entire house
20 they only took two swabs for DNA, and that was the front
21 door, and, of course, they knew the front door was locked,
22 but they didn't spend any time anywhere else examining
23 the items in the house like they did the front door, even
24 though the front door was locked.

25 Fingerprints. You know, they didn't fingerprint the

1 drawers, they didn't fingerprint the closets, they didn't
2 fingerprint the countertops, they didn't fingerprint the
3 furniture. They didn't try to do DNA on any of those
4 items either. They were -- you know, you say, well, you
5 know, how can they do all of that? Well, that's their
6 job to do all of that. And, ladies and gentlemen, we're
7 not talking about a couple of hours that they were there
8 at the scene. They were there for eight days. They --
9 they went ahead and did three searches on the third,
10 fourth and the eighth day, so they had plenty of time in
11 looking at their notes, first search, second search,
12 third search.

13 Now wouldn't you think that if they had done
14 everything that they could do between fingerprint
15 analysis, DNA, touch DNA, whatever other tools they had
16 available, luminol, any of these other items that CSI
17 people have, wouldn't you think that they would come up
18 with some evidence in this case besides a T-shirt that
19 may have had some blood on it from Vincent Shivers? Not
20 Roselyn Cedenno, but Vincent Shivers. What does that
21 prove? That he cut himself? Or on his onesie? I think
22 that's what it's called. He had cut himself somewhere.
23 So what? It's not her blood, it's his blood, and it's
24 not that much blood, but it has nothing to do with this
25 case. They want to make it part of the case, but it has

1 nothing to do with the case and I ask you to consider and
2 ask them when you go back to the jury room because you
3 can't ask them directly, what does that have to do with
4 this case? Why are you throwing out red herrings that
5 you want me to follow? That's what they're doing.
6 They're suggesting every single possibility and they're
7 not connecting it up. They're not connecting it up.

8 Mr. Hale said his job was to preserve and protect
9 the scene; yet he wore no gloves. He did have time to
10 call, use the video. It took only moments to put the
11 gloves on when you saw him pitting the gloves on. There
12 was no sign of forced entry in that house. The gate and
13 the door -- as I said, just to unfortunately be a little
14 repetitive, the gate and the door from the porch into the
15 master bedroom were the only possibilities, and they were
16 not examined thoroughly. As I said, they didn't even
17 process the gate and there were no DNA or prints taken
18 from the doorknob.

19 They also did not -- you know, if somebody went into
20 the master bedroom, they had to go up those stairs. They
21 had to climb up those stairs. They had to I'm sure touch
22 the railings as they went upstairs. They were not
23 processed for DNA, touch DNA, or prints either. The
24 person just didn't just miraculously jump onto the porch
25 and then go into the master bedroom. He had to go up

1 those stairs and he had to touch the items to go there.
2 If I recall correctly, there was no real processing
3 done on the porch. So you need to consider that in
4 determining whether or not there's reasonable doubt in
5 this case, whether or not the State completed their
6 story or not that they're telling.

7 The blanket. The blanket was placed on top of
8 Roselyn Cedenno. They didn't even test that. The
9 blanket was on top of her. The person who may have
10 touched that blanket, the person who put the blanket on
11 her, the person who took it off the bed, the person who
12 put -- I think there was a pillow that somebody had put
13 back on the bed, they didn't process any of that. Who
14 knows what kind of evidence they left there on that
15 scene without going ahead and processing it. It's not
16 my job, it's not your job to go ahead and do that, it's
17 their job.

18 I would submit to you based upon what I've just
19 said there was inadequate forensic processing of the
20 crime scene, especially when you consider that there
21 were three different searches with a number of law
22 enforcement officers over a period of eight days.

23 They said there's nothing missing. How do they
24 know that? There's no way that they would know whether
25 or not there was something missing from that residence

1 or not. They're assuming that nothing was missing
2 because there was some jewelry left, but there's no
3 evidence of that. I'm curious about this. Eric Wier
4 rode by the night before and said that he didn't see
5 any lights, but yet when you look at that video, and
6 you looked at it the other day, there seemed to be --
7 and, again, it's your recollection, you can look at
8 that a video again, the recollection is that there
9 were lights on in almost every room as Mr. Hale went
10 through and did a protective sweep throughout the house.
11 I don't know. That's up to you. I can't -- I mean,
12 I'm not -- I don't know the evidence in the case. I
13 did not process the scene, but was there lights on the
14 night before? Were there lights on the next day? You
15 go to your recollection of that, not mine.

16 There were some footprints. I believe that they
17 established there were footprints at the front door that
18 matched Roselyn Cedeno's slippers. Well, does that
19 indicate that maybe she let somebody in? That she was
20 at the front door and she made that imprint with her
21 slippers at the front door and someone was let in? It's
22 possible and that's something that I ask you to consider
23 in the case.

24 There was no signs of a struggle or a fight and we
25 know that from not only the physical evidence in the case

1 that everybody saw, but we know that from the coroner and
2 we know it from the pathologist. No signs of a struggle
3 whatsoever. No signs of a fight whatsoever. Does it
4 make sense that all of a sudden the man who sent his
5 girlfriend a text saying "I'm on the way" would just
6 walk in the house on September 1st, get into some kind
7 of argument that exacerbated into him shooting her seven
8 times doesn't make sense. And you don't leave your
9 common sense outside the courthouse when you come in
10 here to weigh the evidence in the case. There were no
11 defensive wounds, which means that at no time was Roselyn
12 Cedeno in a position or even tried to fight back.

13 They talk about the Springfield 45. Well, let me
14 talk to you a bit about that. The State places a lot
15 of reliance on the Springfield 45. Well, ladies and
16 gentlemen, this is another one of those red herrings
17 they're throwing out for you to look at and see if it
18 can catch your attention and take it away from the main
19 issues in the case.

20 The Springfield 45 is not -- was not in the
21 house, but what was in the house was the box for the
22 Springfield 45 and two magazines, and I believe these
23 are the magazines that were on the shelf. Do you
24 remember the picture of the shelf? And here is the box
25 for the Springfield 45. Do you remember when -- I think

1 it was Investigator Burt might have been on the stand,
2 and I'm not really sure, I don't remember that, but I
3 said there's only space here for two magazines, isn't
4 it, and he said well, you could put two in that little
5 -- that little spot there, and I submit to you that just
6 doesn't make a whole lot of sense and I'll submit to you
7 that -- I don't even know if I can open this thing. I
8 did before. Okay. Do you remember he pointed here and
9 there's one in the gun when you just buy a gun, when you
10 buy a pistol, there's one in the pistol, and then there
11 should be one in this over here? Now what did the
12 detective say? Well, you know, you can fit two over
13 here. That doesn't -- that's not very logical, is it,
14 that you would put two in here and have one in the gun?
15 It doesn't seem to fit real well, but you look at it
16 because those -- these two were on the shelf when they
17 took the picture of the Springfield box.

18 Now the State has come up with this miraculous
19 theory yesterday that well, you can buy a third magazine
20 somewhere at a game show -- I mean, at a gun show or in
21 a store. Yeah, I guess that's true, but there's no --
22 the only reason they've come up with that theory is
23 because it doesn't seem practical that there would have
24 been three magazines in there, but they have to give you
25 some way that they can bring the Springfield 45 back in

1 the case. Well, even if they have the Springfield 45,
2 which they don't, and they didn't even put it into the
3 NCIC as missing until April of 2020, which is well-after
4 the case. The case was back in September of 19 -- 2019
5 and they don't put a NCIC as a missing weapon until
6 April of 2020.

7 In addition, there are -- according to the firearms
8 expert, there are thirty-three pistols that are
9 manufactured that would be capable of shooting the
10 ammunition they found in the residence. Thirty-three
11 pistols. Now if that doesn't create a reasonable doubt
12 about whether or not this Springfield 45, which they
13 never put into NCIC until April of 2020 and where --
14 and that third magazine that may or may not exist that
15 they've suggested exists, it just seems like that is
16 reasonable doubt when you have thirty-three pistols
17 that's possible that could match and shoot any of that
18 ammunition that was found.

19 Now, remember, the 45 ammunition is not that
20 uncommon. 45's -- if there are thirty-three pistols in
21 the United States that are capable of firing a 45 round,
22 that means an awful lot of people have 45's, and I think
23 the expert agreed to that, that there were a lot. And
24 there are a lot of people in South Carolina who probably
25 carry 45's and there's a lot of 45 ammunition throughout

1 South Carolina. And let's face it, folks, you can buy
2 it on the Internet, you can buy it at different stores.
3 It may not be the most popular caliber of bullet as the
4 expert said; however, it is not unpopular and it is used
5 all the time. 45-caliber ammunition and thirty-three
6 possible pistols that could have been used in this case.
7 I ask you to consider that reasonable doubt in this case
8 as well. Just because there were 45-caliber casings in
9 the house does not in any way point conclusively beyond
10 a reasonable doubt to the fact that Vincent Shivers shot
11 Roselyn Cedenno.

12 Now let's talk a little bit about -- and y'all
13 heard the evidence and the testimony about the scene of
14 the crime and all the different casings and different
15 projectiles. I think that -- I submit to you that none
16 of that proves -- none of it proves that Vincent Shivers
17 in any way used a 45-caliber pistol to kill Roselyn
18 Cedenno because all of the other evidence -- none of the
19 other evidence, nothing, points to him whatsoever as
20 having pulled the trigger seven times on Roselyn Cedenno
21 and does not make sense.

22 According to the State, Shivers left South Carolina
23 on September 2nd and he was at the gas station at 8:04.
24 8:04 AM on the 2nd of September he was at the Circle K
25 and then from there he left and went onto his trip to

1 New York and then eventually Canada. What's important
2 about that? Well, the pathologist and the deputy coroner
3 said the death -- the date of death was September 2nd
4 and the time of death was 10:00 AM. If, in fact,
5 Vincent Shivers was at that gas station at 8:04 and
6 went on his trip north, that's two hours before she was
7 killed.

8 Mr. Hale got there at about 11:00 and Mr. Shivers
9 was at the gas station at 8:04. There's no way that if
10 she died on the 2nd of September at 10:00 that Vincent
11 Shivers would have even been in South Carolina at the
12 time that she was killed.

13 So what's happened here? Well, you know, that was
14 what's in the doctor's report, the pathologist's report.
15 10:00 AM, September 2, 2019. That's what's in the
16 coroner's report. On the front page of his report,
17 September 2nd at 10:00 AM, but yet they get on the
18 stand and somewhere in the last year or so -- not at the
19 beginning, but somewhere in the last year or so they
20 have discussions with law enforcement and possibly the
21 solicitor's office and realized that the times just
22 don't work. Vincent Shivers could not have been the
23 shooter if he was on the road at 8:00 in the morning
24 and the time of death was at 10:00 that morning.

25 So what happens? You have a doctor who gets on

1 the witness stand shockingly and says well, you know, I
2 didn't see that time, that time is wrong, it could have
3 been as much as -- it could have been on September 1st.

4 Ladies and gentlemen, when you write a report and
5 you're a physician or you're in a responsible position
6 where you have to create records, what you write down
7 is what it is in that situation. You don't make
8 mistakes like that. Bankers, lawyers, people who
9 are professionals, people who are in manufacturing,
10 management, whatever it may be, when you write something
11 down, that is what's written, that is the record in the
12 case. And Dr. Beaver is now saying well, I didn't read
13 it, but it could have been as early as September 1st when
14 she died.

15 Ladies and gentlemen, that's poppycock. He's coming
16 up with an explanation to try and explain how Vincent
17 Shivers could have been the one that did the shooting
18 when his first inclination was to say it was 10:00 on
19 September 2nd, but now he knows that Vincent Shivers
20 was gone at 10:00 on September 2nd.

21 And the deputy coroner knows that too and he came
22 in and said well, it was just a presumed time. This is
23 an official record in the case. The coroner's report is
24 official. So is that report by pathologist. These are
25 documents that people look at years later and there's no

1 reason for them to believe that they were presumptions
2 or that they were wrong. When it says September 2nd at
3 10:00 AM, it is September 2nd at 10:00 AM, but they've
4 changed it now and you determine how honest they were
5 about going ahead and changing the time and the timeframe
6 when Roselyn Cedenro was shot and decide what their motive
7 is. Decide whether or not they're trying to conform their
8 testimony and their reports to what the facts are in the
9 case and the facts are Vincent Shivers was out of here at
10 10:00 on September 2nd.

11 He hits New York at 7 -- somewhere around 7:15 he
12 gets gasoline up in New York on the 3rd, goes to Wal-Mart
13 on the 3rd, goes to the ATM machine on the 3rd, crosses
14 the Rainbow Bridge at 1:14 on the 3rd, goes to the Four
15 Seasons and checks into the Four Seasons on the 3rd.
16 On the 4th he books a flight to London. Not a one-way
17 ticket, a roundtrip ticket, coming back on the 15th.
18 Does this sound like somebody who went ahead and killed,
19 they're going to London and they're coming back on the
20 15th, they're checking out of the room on the same date
21 in London, coming back on the 15th? Not very likely.
22 Not very believable. Reasonable doubt. He stays at the
23 Marriott on the 4th and he's arrested on the 5th.

24 Now, folks, what I'd ask you to take away from this,
25 again, reasonable doubt and whether or not reasonable

1 doubt exists in this case is that whether or not Vincent
2 Shivers was hiding, was trying to conceal his identity.
3 He wasn't. He went to an ATM machine, which we all know
4 photographs you. He booked a flight to London on his
5 credit card. He bought some items at the Wal-Mart,
6 bought some items at -- there were one or two other
7 purchases that he made, I guess I just didn't write
8 them down, but he went shopping, he ate at restaurants,
9 he checked into hotels, all under his own credit card.

10 Now this guy is a pretty sharp guy as far as he was
11 the number one finance guy in the company and the number
12 one finance guy in the country. Do you think that he
13 was -- if he was trying to hide himself and conceal his
14 identity he would be using his credit card all over the
15 place? To check into hotels, to go in restaurants, to
16 shop and to buy things? No, not very likely. Not very
17 likely.

18 When this fellow crossed the Rainbow Bridge, yes,
19 he did have a smile on his face. He knew he was being
20 photographed. Ladies and gentlemen, that's reasonable
21 doubt as to whether or not he did what the State alleges
22 that he did. He is not trying to conceal his identity
23 and if he had killed Roselyn Cedeno he would not have
24 been travelling so openly as Vincent Shivers using his
25 credit card, going into hotel lobbies, going into

1 restaurants and shopping.

2 And the State wants to say, you know, he's shopping
3 for new clothes, he went head and bought luggage. We
4 don't have any idea what he left or when he left what
5 he took with him or didn't have with him and I suggest
6 to you it's just not unheard of for people to go ahead
7 and get some new clothes when they're shopping and going
8 on a trip, but the State wants you to turn that into
9 something that indicates he's guilty.

10 We also have no idea what conversations that he and
11 Roselyn Cedenno had about his going. We have no idea what
12 he told -- what they discussed together.

13 He's arrested September 5th and this -- boy, this
14 is where it really takes a turn into fiction. He's not
15 told what he's arrested for. There are four or five
16 police officers as I recall walking him down the -- in
17 the terminal. They're not talking to each other.
18 Nobody's talking to Vincent Shivers. He's not talking
19 to anybody. They just happen to be walking. He doesn't
20 even know what he's being arrested for. And according
21 to Mr. Dean, when he gets him in the truck and the only
22 person around who can hear what Vincent Shivers supposedly
23 said is Mr. Dean, and he writes down in the note that he
24 sent to the investigator in this case, Mr. Burr, that I
25 was gonna eat one at Niagara Falls for what he's done.

1 Now let me -- let's analyze that for one second.
2 He's asking for a lawyer, he's talking to a lawyer,
3 but yet the State would have you believe that Mr. Dean
4 got this statement out of him that amounts to an
5 incriminating statement. Mr. Dean had been contacted
6 by the United States marshals. He knew who to contact.
7 If something had happened, if something had been said,
8 you know as a law enforcement -- or you believe as a law
9 enforcement officer he would have communicated that to
10 the chief investigating officer in this case or at least
11 the person that contacted him, and that was United States
12 Marshal Bill Bolden. But nobody else is around.
13 Mr. Dean doesn't tell anybody what Mr. Shivers said.
14 He's talking to him about possibly having committed
15 suicide, but he does not tell anybody at the jail that
16 this is a possible suicidal individual, so nobody at the
17 jail knows about it.

18 And what's most interesting in this particular
19 situation is that Mr. Dean, who's a law enforcement
20 officer, does not communicate the statement that he
21 attributes to Mr. Shivers until April -- I mean, March
22 the 29th of 2021. Now does that make sense to you that
23 some year and six or seven months or eight months, and
24 you calculate it, he waited that long to communicate to
25 the marshal or to the chief investigating officer in

1 this case what Vincent Shivers had said? That makes no
2 sense. That's why I said it's pure fiction. Nobody
3 else heard it. Nobody else was around. He doesn't tell
4 anybody else about it. He does not communicate it to
5 the marshal and he does not communicate it to the chief
6 investigating officer.

7 But there's another problem for Mr. Dean and for
8 the State in this particular situation with this statement
9 that Mr. Shivers supposedly made, which always makes
10 the case better for the State to have a statement, an
11 incriminating statement, it always makes it better, in
12 the full note that Mr. Dean wrote that you saw the other
13 day and heard the other day, the only thing he has
14 written is that Mr. Shivers said he was gonna shoot
15 himself. It doesn't say anything about because of what
16 he had done in South Carolina. The other part that
17 Ms. Mayes just showed you, which says that I was going
18 to eat one for what I had done, that's not in the main
19 body of the notes. That's written at 6:29, if I recall
20 correctly, on the last page of the notes totally out of
21 chronological order.

22 Now not telling law enforcement about it, the people
23 who are looking for Mr. Shivers, not telling the marshal
24 who contacted you, not telling your fellow officers,
25 not having anybody else hear it, not in the full note

1 that you wrote "because of what I had done" and also
2 after having asserted he wanted to speak with a lawyer
3 he writes down at the end of the notes totally out of
4 chronological order "I was going to eat one for what I'd
5 done". That's -- that's nonsense. That is out of some
6 sort of a novel, a fiction novel. That did not happen.
7 No law enforcement officer would wait a year and a half
8 to advise the other law enforcement agency that he's been
9 working with to tell them what Mr. Shivers had said, it
10 just wouldn't happen, and that's why I ask you to totally
11 discredit what he said. It just did not happen. He
12 thought he could come down here to little old South
13 Carolina and convince us and convince you that Mr. Shivers
14 made that statement. Well, South Carolina juries are
15 smarter than that.

16 We brought out and touched on some of the other
17 phone calls that Roselyn Cedenno had, some of the searches
18 she did on the Internet, not to try to destroy her
19 character or to raise issues concerning her character,
20 but to let you know that there were some other people
21 that she was in communication with, people who may have
22 come from these dating sites or porno sites or someone
23 dealing with marijuana or something like that who may
24 have had a motive to come to that house. That's the only
25 reason that was offered. Not to hurt her, not to destroy

1 her character, but she was in communication with some
2 pretty unsavory people and you are entitled to consider
3 that in this case.

4 Folks, the State did not answer who, what, where
5 or why in this case. There is not only insufficient
6 evidence of Vincent Shivers's guilt, but there's a lack
7 of evidence of his guilt. There's not only insufficient
8 evidence of malice, there's a lack of evidence of malice.
9 The time of death should disturb you and what's been
10 testified to in this courtroom over the last couple of
11 days I'm embarrassed as a lawyer. The weapon that he had
12 in Canada has been excluded as the weapon in this case.
13 Remember that.

14 Ms. Mayes also said this. And I've known her a
15 long time. These are good lawyers, folks. Good lawyers.
16 She said the State does not have to prove motive. Well,
17 that's true. There's no requirement in the law that the
18 State prove motive for a killing, for murder, but don't
19 you want to know why? Wouldn't you like to have an
20 answer when there's no ill relationship or ill will
21 between the two people and the one that's accused of
22 killing the other one? Wouldn't you like to know why?
23 What happened? When they have a peaceful harmonious
24 relationship, there's no involvement by police, there's
25 no 9-1-1 calls, no domestic violence calls, there's

1 nothing between them, there's no fights, there's nothing
2 like that. Everybody who testified, including her son,
3 said that they had a good relationship. Wouldn't you
4 want to know why, what the motive was? Because according
5 to the State at 5:22 on September 1st he sends a message
6 to his beloved, I'm on my way, like every other husband
7 or any other wife would do or significant others. I'm
8 on my way. It sounds to me like, and I would suggest to
9 you, it sounds to me like he was in a pretty good mood
10 that night, I'm on the way, and there was no reason for
11 anything to happen between them. No suggestion that
12 anything happened between them except what the State
13 wants to go ahead and put together through some of these
14 issues that they've raised in this case.

15 I appreciate you listening to me. I went on a
16 little bit longer than I wanted to, but there's a lot to
17 cover and there's a lot that I'm asking you to consider,
18 but what I'm going to ask you to consider is go back in
19 the jury room after you've hear the judge's instruction
20 on the law and apply the evidence or lack of evidence in
21 this case to the law that the judge gives you and do
22 justice.

23 You know, we don't -- this is not a game or a
24 contest where one side has to win and one side has to
25 lose. We love games and contests. We love basketball,

1 we love football, we love baseball. We want winners.
2 Well, in a courtroom everybody wins when justice is done.
3 There are no losers when justice is done. And all I ask
4 you for on behalf of Vincent Shivers is to return a
5 verdict that speaks the truth, that is justice, and that
6 is a not guilty verdict in this case. That the State did
7 not prove his guilt beyond a reasonable doubt.

8 Thank you for your attention.

9 THE COURT: Thank you, Mr. Swerling.

10 Ms. Mayes.

11 MS. MAYES: Yes, Your Honor.

12 And in rebuttal, Mr. Swerling just said when
13 justice is done. When justice is done. One of the
14 oldest definitions of justice is to give every man his
15 due. Give every person what they are due. What is
16 Vincent Shivers due? The justice that he so richly
17 deserves? He took her life and to be in this courtroom
18 and disregard the days of testimony from people with
19 knowledge, people who were at that scene, people who
20 put the pieces of this chain together, is something that
21 cannot be overlooked.

22 So on behalf of the State we ask you don't disregard,
23 don't overlook, and don't allow that testimony and that
24 evidence to be misrepresented or mischaracterized. And a
25 key example of that right now is when Mr. Swerling just

1 spoke to you about the time of death. To say well, the
2 time of death was 10:00 on a Tuesday because that was on
3 somebody's report, you heard from the coroner who made
4 the report himself. You heard from Deputy Coroner Gray
5 Gain. He told you that was an error. He explained it
6 fully. That it was always a timeframe. You heard from
7 Dr. Beaver. It is medically impossible to look at a
8 body and say this body died four days ago at 6:05 PM.
9 You just can't put a time on a body like that, but what
10 he can do, what his trained science allows him to do,
11 through years of experience in this field, is to evaluate
12 the condition of the body, the rigor mortis, the livor
13 mortis, and for Roselyn, the skin slippage. Skin slippage
14 is decomposition. So as she lay there on that bedroom
15 floor her body is already decomposing. And, no, you
16 didn't see pictures of that. There are pictures that we
17 can't necessarily present in this courtroom, but we
18 don't need to. You don't need to see the skin slippage
19 yourself. You heard the forensic pathologist describe
20 it to you and with that skin slippage it thirty-six
21 hours and greater, thirty-six hours to days for that
22 skin slippage to appear and he saw it in the crime
23 scene photos already from September 3rd.

24 See, here's the thing. She was dead when he left
25 that morning at Circle K and there's a lot of reasons

1 that we know that and there's a lot of reasons that
2 that's been proven. And you heard witness and after
3 witness establish those links in the chain. But here's
4 one reason. That phone that she -- that phone that was
5 right there in her makeup room, that same phone she was
6 using to talk to Tommy that night about plans for the
7 evacuation and the hurricane, that's an Apple and it
8 records steps. You know, when I walked in the courtroom
9 today and my phone's in my hand and as I walked through
10 that door and set it down it's gonna record those five
11 to six steps that I'm taking just to walk over there.
12 That phone has no steps for Roselyn on September 2nd.
13 She never picked up that phone or used that phone on
14 September 2nd. That's why she had missed all those calls
15 on that morning as he hits I-26 and he's headed out.

16 We know that in the kitchen Roselyn was meticulous
17 about dates. Changing the filter and the heartworm meds.
18 Each one of those calendar days is marked off. She was
19 already looking ahead to September. She knew when the
20 heartworm meds needed to be refilled. She knew when the
21 AC filter need to be changed. But you know what she
22 never got a chance to do? Mark off the night of
23 September 1st.

24 So at 5:22 he tells her I'm on my way home and
25 he makes it home and, you know -- you heard counsel say

1 well, you know, on the outside didn't it look great?
2 They had a \$400,000 house. They lived in a great
3 neighborhood. Didn't it look great from the outside?
4 The outside doesn't matter. No one knows what was going
5 on inside that home. There's only the two of them.
6 There's only the two of them.

7 What Tommy said in his testimony was that they were
8 private people. They didn't have parties, they didn't
9 have houseguests and let me go ahead and address right
10 now that whole ridiculous story about because there was
11 something on her phone in August that that somehow means
12 she's in communication with unsavory people. There's no
13 evidence of that. No evidence of that whatsoever. What
14 we heard about that day in August is that she had gotten
15 a text from him as he's leaving work just like all these
16 other days where he says "on my way". What we heard is
17 that she had gotten a text from him way back in August,
18 August 3rd was the day, he says I'm on my way home.
19 It's a Saturday night and three or four hours after he's
20 home there were some pornography on that phone. Again,
21 whatever they do in their own house back in August is
22 something nobody else is privy to and nobody else can
23 see. But that ad that they spoke of was a duration of
24 one second. Clearly a popup ad as the digital evidence
25 expert explained. So that is absurd to suggest that

1 whatever they did on that phone back in August has
2 anything at all to do with this case. We have accounted
3 -- the State has accounted, the law enforcement
4 investigators, have accounted for every text and every
5 call on that phone. And, no, there's nobody from Save
6 the Dragons or Candy Crush or Farmville or any other
7 computer game that made their way over to 216 Carriage
8 Hill. There's only one person that made it over there
9 on the night of September 1st and it's the person that
10 texted he was on his way home.

11 So on this particular night, September 1st, we know
12 he makes it there and we know that she is at least alive
13 until 6:23 because she's still in communication with
14 Tommy, and then it all goes dark. And we know he's in
15 that house all night long and through the morning
16 because that Circle K is real close by as Captain Laintz
17 explained. It's just up the way on Lake Murray Boulevard.
18 It probably doesn't even take him ten minutes to get
19 there and he's there at 8:04. So we know he's at home
20 all the way through to 7:45 AM. Tommy said she didn't
21 work, she had left her life in Beaufort to be with him.
22 We know that she is socially active. We know that they
23 are private people. We know that nobody from Camping
24 World had even been there or to that home. No one knows
25 what goes on inside those walls except the two of them.

1 So on the night of September 1st as her phone lay
2 there, the phone she never got a chance to answer a
3 call from her mom or from Tommy or to respond back to
4 any texts. We know that something brings her up --
5 upstairs.

6 And Mr. Swerling spoke about red herrings. This
7 isn't a red herring. This is fresh evidence from the
8 scene, fresh evidence of glass on the floor, fresh
9 evidence that somebody in that house went and got their
10 dustpan and was gonna clean it up. Fresh evidence that
11 there's a shirt just feet away on that counter with his
12 bloodstain on it and a fitted sheet also from that bed
13 ends up on top of that glass and another sheet and the
14 bedspread ends up on top of Roselyn. That is fresh
15 evidence from the scene.

16 And we can talk all day about getting DNA off of a
17 gate. What in the world would that prove? You can't
18 age DNA as you heard from CSC Officer Tom Smith. He was
19 looking for latent prints and he's only got one chance
20 to potentially get evidence because if he goes for the
21 DNA, if he attempts to get DNA, it's gonna mess up --
22 it's gonna contaminate any evidence of a latent print,
23 and so he has to make that decision and his decision is
24 to go for latent prints, latent prints being the best
25 option, and that's a decision made by a trained and

1 experienced CSI officer, and he tried to do that out of
2 an abundance of caution even though he knows he's at a
3 scene where there are no signs of forced entry, no signs
4 of a burglary.

5 You heard him explain the firearms in plain view.
6 It's not just that one -- it's not just that one group
7 of magazines. There's ammunition throughout that closet.
8 There's ammunition throughout that bedroom. There are
9 guns in plain view throughout that bedroom. Are we to
10 believe that a burglar comes in and only wants one thing,
11 a Springfield XD 45 out of a box in his closet and
12 everything else is gonna be left behind? No other
13 firearms taken, no other ammunition taken. There's
14 jewelry, there's digital -- computers, a laptop,
15 her phone, her iPad, a flat screen TV. You heard all
16 this other testimony about things of value. There's
17 not anything in that house that's rummaged.

18 So let's go back to that phone. Remember the
19 testimony that you heard from Sergeant Travis about all
20 the communications he'd seen between the two of them?
21 Put into evidence of all the prior calls and all of the
22 prior texts and every single day that there was evidence
23 recovered from Verizon leading up to September 1st,
24 every single one of those days there had been a call or
25 a text or both between Roselyn or Vincent. But you know

1 what doesn't happen after September 1st? And you know
2 how we know beyond a reasonable doubt that she's already
3 dead by the time he hit Circle K and then the Interstate?
4 It's because what do we never ever, ever see again after
5 that morning of September 1st? Not a single call or
6 text from Vincent to Roselyn. You know why? Because he
7 knows she's dead. He knows she's not gonna pick up her
8 phone. He makes it all the way to New York and never
9 texts her hey, I'm here. Makes it all the way across
10 the border. Hey, you know what? I'm in Canada now.
11 Buys a ticket to London and never says hey, you know
12 what? I just bought a ticket to London. I'm about to
13 get on a plane. Nothing. Nothing at all from Vincent
14 to Roselyn after September 1st. He knows exactly where
15 he left her.

16 Finally, I want to talk briefly about reasonable
17 doubt. And Your Honor will charge you in a moment on
18 the law for reasonable doubt, and Mr. Swerling spoke of
19 it, but the State is not required to prove a case beyond
20 all doubt. The State is not required to prove every
21 single aspect of a case, every thought or idea in his
22 mind because we'll never know every thought and idea in
23 his mind. No one can. The State is not required to
24 prove the reason; only that he did it.

25 Proof beyond a reasonable doubt is proof that leaves

1 you firmly convinced. That's the law. Firmly convinced
2 of his guilt. The law does not require proof that
3 overcomes every possible doubt. Only proof that leaves
4 you firmly convinced. Mr. Swerling said there is no
5 evidence of malice because we can't look inside their
6 home and we can't see what they were arguing about, but
7 that's not the law either and Your Honor's gonna charge
8 you on exactly what malice is.

9 Malice, hatred, ill will or hostility, which can be
10 inferred from the facts and the circumstances which are
11 proven. Malice may be inferred from conduct showing a
12 complete disregard for human life. A complete disregard
13 for human life.

14 How is a total disregard for human life proven?
15 How may it be inferred? By the conduct of the killer.
16 It doesn't have to come down to anything that he said.
17 He does haven't to plan it in advance. Malice is
18 inferred from the conduct. This is how he leaves her.
19 Seven shots fired. Shot after shot after shot after shot
20 while she's down. Shot after shot in the back. A total
21 disregard for human life. The very essence of malice.

22 Sometime between that night on September 1st and
23 the early morning hours of September 2nd, Roselyn Cedeno
24 was shot and killed by that man. The man she lived with,
25 the man that she trusted and the man who took her life.

1 That kind of malice, what does it take? Look at the
2 evidence, look at the circumstances in which he left her,
3 look at how she died. That is proof of malice beyond a
4 reasonable doubt.

5 Thank you.

6 THE COURT: Thank you.

7 All right. Mr. Foreman, ladies and gentlemen of
8 the jury, you've been sitting for quite a while. I'm
9 gonna give you a 15-minute break. I'm gonna ask you to
10 come back, I'm gonna charge you on the law. I've also
11 had the clerk order lunch for y'all.

12 So let's -- it's not time to deliberate yet, so
13 no talking amongst yourselves about this case. Let's
14 take fifteen minutes and I'll bring you back in.

15 (Whereupon, the jury retires to the jury room at
16 12:10 PM.)

17 THE COURT: All right. She's giving y'all a copy.
18 This is the final jury charge. You've got fifteen
19 minutes to look over it.

20 Also, the verdict sheet, I'd like for y'all to look
21 at.

22 And is there anything that we need to put on the
23 record from the State?

24 MS. MAYES: Nothing from the State, Your Honor.

25 THE COURT: Anything from the defense --

1 MR. SWERLING: No, Your Honor.

2 THE COURT: -- other than all your noted objections
3 and everything else? I think we covered all that
4 yesterday.

5 MR. SWERLING: Yes. Yes, ma'am.

6 THE COURT: All right. Fifteen minutes.

7 (Recess taken at 12:11 PM.)

8 (Back on the record at 12:24 PM.)

9 BAILIFF: All rise. Court's back in session. Stay
10 seated.

11 (Discussion off the record.)

12 THE COURT: The only thing that's been changed is
13 page 3 and page 25 and 26.

14 (Court's Exhibit Number 7 was marked for
15 identification.)

16 THE COURT: I'm gonna tell y'all right now when I
17 read this I'm probably gonna read the multiple charge
18 right after the charge just because it makes more sense
19 to me, so. Not that it matters to -- I always just
20 always like it to tell a story.

21 I'm gonna make one quick change on this, if y'all
22 don't mind. I just think it makes it easier for me to
23 read. I'm gonna start after the charge "I will now
24 charge you on the law", then I'm gonna put -- read the
25 multiple charges and then go to "I remind you the fact

1 that he was arrested, charged and indicted" -- it just
2 flows better. No need to say it twice.

3 All right. Everybody in agreement? I can bring
4 the jury in?

5 MS. MAYES: The State is, Your Honor.

6 MR. SWERLING: Yes, Your Honor.

7 THE COURT: Okay. Let's bring them in.

8 (Whereupon, the jury return to the courtroom at
9 12:47 PM.)

10 THE COURT: Mr. Foreman, I'll be with you in just
11 a second.

12 (Proceedings held at the bench; not reported.)

13 THE COURT: All right. Mr. Foreman, ladies and
14 gentlemen of the jury, can everybody hear me?

15 I am now gonna charge you on the law applicable to
16 this case. You must consider the charge as a whole and
17 not focus on some portions to the exclusion of others.

18 The indictments in this case allege two different
19 offenses against the defendant. The charges are murder
20 and possession of a weapon during the commission of a
21 violent crime. Each indictment charges a separate
22 offense.

23 I remind you that the fact that the defendant was
24 arrested, charged and indicted in this case is not
25 evidence in this case and not -- and cannot be considered

1 by you as evidence of guilt in this case. Nor does it
2 create any presumption or inference of guilt. These
3 documents are simply the formal written instruments which
4 contain the charges made against the defendant. These
5 are the formal documents by which this case is brought
6 into this court.

7 The defendant has pled not guilty to these
8 indictments and that plea puts the burden on the State
9 to prove him guilty. A person charged with committing
10 a criminal offense in South Carolina is never required
11 to prove them self innocent.

12 I charge you that it is an important rule of the
13 law that the defendant in a criminal trial, no matter
14 what the seriousness of the charge may be, will always
15 be presumed to be innocent of the crime for which the
16 indictment was issued unless guilt has been proven by
17 evidence satisfying you of that guilt beyond a reasonable
18 doubt.

19 This presumption of innocence does not end when you
20 begin your deliberations, but it accompanies the defendant
21 throughout the trial unless you reach a verdict of guilt
22 based on evidence satisfying you of that guilt beyond a
23 reasonable doubt.

24 The presumption of innocence is like a robe of
25 righteousness placed about the shoulders of the defendant,

1 which remains with the defendant unless it has been
2 stripped from the defendant by evidence satisfying you
3 of the defendant's guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere legal
5 theory. It is not just a legal phrase. It is a
6 substantial right to which every defendant is entitled
7 to unless you, the jury, are satisfied from the evidence
8 of the defendant's guilt beyond a reasonable doubt.

9 The State has the burden of proving the defendant
10 guilty beyond a reasonable doubt. Some of you may have
11 served as jurors in civil cases where you were told that
12 it is only necessary to prove that a fact is more likely
13 true than not true, such as by the greater weight or what
14 we call the preponderance of the evidence. In criminal
15 cases, and this is a criminal case, the State's proof
16 must be more powerful than that. It must be beyond a
17 reasonable doubt.

18 Proof beyond a reasonable doubt is proof that
19 leaves you firmly convinced of the defendant's guilt.
20 There are very few things in this world that we know
21 with absolute certainty and in criminal cases the law
22 does not require proof that overcomes every possible
23 doubt. If, based on your consideration of the evidence,
24 you are firmly convinced that the defendant is guilty of
25 the crime charged, you must find him guilty. If, on the

1 other hand, you think there is a real possibility that
2 the defendant is not guilty, you must give the defendant
3 the benefit of the doubt and find him not guilty.

4 I remind you that during this trial you and I have
5 certain duties to perform. As the trial judge, it is my
6 responsibility to preside over the trial of this case,
7 and I also have the duty to rule on the admissibility
8 of the evidence offered during the trial. You are to
9 consider only the competent evidence before you.

10 If there was any testimony ordered stricken from
11 the record in this case, you must disregard that
12 testimony. And it's my recollection that I did strike,
13 I think, maybe twice from the record. You are to
14 consider only the testimony which has been presented
15 from this witness stand, any exhibits which have been
16 made a part of the record in this case, and any
17 stipulations of counsel, and we did have stipulations,
18 I read those to you, and you are to consider those as
19 true facts.

20 I have the additional duty to charge you the law
21 of this case. As the presiding judge, I am the sole
22 judge of the law of the case and it is your duty as
23 jurors to accept and apply the law as I now state it to
24 you. If you already have an idea as to what the law is
25 or what the law ought to be and it does not agree with

1 what I now tell you the law is, you must abandon this
2 idea because you are sworn to accept the law and apply
3 the law exactly as I state it to you.

4 In every case tried in this court before a jury,
5 the jury becomes the sole and exclusive judge of the
6 facts in a case. A trial judge cannot state, comment
7 on or make any statement to a trial jury about the facts
8 in a case. Since you, the jury, are the sole judge of
9 the facts of the case, you are not to infer from what I
10 have said during the progress of this trial in ruling
11 upon the admissibility of evidence or otherwise or
12 anything that I say now during the course of this
13 instruction to you, that I have any opinion about the
14 facts in this case. The law does not allow me to have
15 an opinion about any fact in this case. This is a matter
16 solely for you, the jury, to determine. As jurors, it
17 is your duty to determine the effect, value and weight
18 of the evidence presented during this trial.

19 The following are not evidence and you must not
20 consider them as evidence in deciding the facts of
21 this case. Statements and arguments of the attorneys,
22 questions and objections of the attorneys, and testimony
23 that I instruct you to disregard.

24 Now there are two types of evidence which are
25 generally presented during a trial. Direct evidence

1 and circumstantial evidence. Direct evidence directly
2 proves the existence of a fact and does not require
3 deduction. Circumstantial evidence is proof of a chain
4 of facts and circumstances indicating the existence of
5 a fact.

6 Crimes may be proven by circumstantial evidence.
7 The law makes no distinction between the weight or
8 value to be given to either direct or circumstantial
9 evidence. However, to the extent that the State
10 relies on circumstantial evidence, the circumstances
11 must be consistent with each other and when taken
12 together point conclusively to the guilt of the accused
13 beyond a reasonable doubt. If these circumstances
14 merely portray the defendant's behavior as suspicious,
15 the proof has failed.

16 The State has the burden of proving the defendant
17 guilty beyond a reasonable doubt. This burden rests
18 with the State regardless of whether the State relies
19 on direct evidence, circumstantial evidence or some
20 combination of the two.

21 You must determine the credibility of witnesses
22 who have testified in this case and the evidence
23 presented. Credibility simply means believability. It
24 becomes your duty as jurors to analyze and evaluate the
25 witnesses and the evidence and determine the credibility

1 of the witnesses and the evidence.

2 In determining the credibility of witnesses who
3 have testified in this case, you may believe one witness
4 over several witnesses or several witnesses over one
5 witness. You may believe a part of the testimony of a
6 witness and reject the remaining part of the testimony
7 of that same witness. You may believe the testimony of
8 a witness in its entirety or reject the testimony of a
9 witness in its entirety. You may consider whether any
10 witness has exhibited to you any interest, bias,
11 prejudice or other motive in the case. You may also
12 consider the appearance and manner of a witness while
13 on the witness stand.

14 A statement alleged to have been made by the
15 defendant has been admitted into evidence in this case.
16 While the Court has determined that the statement is
17 admissible, I instruct you that you make the ultimate
18 decision of whether or not the defendant made the
19 statement. If the defendant did make the statement,
20 you must determine whether the statement was made by
21 the defendant voluntarily and of his own free will.
22 This means that the statement was not caused by pressure,
23 force, fear, threats, coercion or intimidation or by
24 hope of a promise of leniency or a reward of any kind.

25 In determining whether the statement was voluntary,

1 you should consider both the characteristics of the
2 defendant and the details of the questioning. Some of
3 the factors that you must consider are the age of the
4 defendant, the defendant's education or lack of
5 education, the defendant's mental ability or capacity,
6 the defendant's IQ or intelligence, the defendant's
7 background and environment, the place and length of the
8 detention, the nature of the questioning, and the advice
9 or lack thereof to the defendant of his rights, including
10 but not limited, to the right to remain silent, that
11 any statement could be used against him in a court of
12 law, the right to have a lawyer present, that if he
13 could not afford a lawyer, a lawyer would be appointed
14 to represent him without any cost, and that he could
15 stop making a statement at any time. You must carefully
16 consider all of the surrounding circumstances before you
17 give any weight to an alleged statement.

18 The State has the burden of proving beyond a
19 reasonable doubt that the alleged statement was voluntary.
20 If you determine it was, you may give the statement
21 any further consideration that you deem proper. You
22 must decide what weight, if any, should be given to
23 the alleged statement. If you determine the alleged
24 statement was not the free and voluntary statement of
25 the defendant, you should not consider the statement

1 at all.

2 The rules of evidence ordinarily do not permit
3 witnesses to testify to opinions or conclusions. An
4 exception to this rule exists for witnesses we call
5 expert witnesses, and we had several in this case. A
6 witness who by education and experience has become an
7 expert in some art, science, profession or calling may
8 state an opinion as to relevant and material matter in
9 which the witness claims to be an expert and may also
10 state the reasons for this opinion. You should consider
11 any expert opinion received in evidence in this case
12 and like any other evidence give it the weight you
13 think it deserves. If you decide that the opinion of
14 an expert witness is not based on sufficient education
15 and experience or if you conclude that the reasons given
16 in support of the opinion are not sound or that the
17 opinion is outweighed by other evidence, you may
18 disregard the opinion entirely. An expert witness's
19 testimony is to be given no greater weight than that
20 of any other witness simply because the witness is an
21 expert. Further, you are not required to accept an
22 expert's opinion even though it is not contradicted.

23 I remind you that the fact that the defendant
24 elected not to testify is not a factor to be considered
25 by you in any way in your deliberations and in your

1 consideration on the question of whether the defendant
2 is guilty or not guilty. It must not be considered in
3 any manner whatsoever against him.

4 Someone accused of a crime can choose whether to
5 testify or not. That decision cannot be considered by
6 you in your deliberations. Under your oath, you are to
7 reach no inference and draw no conclusion whatsoever
8 from the fact that the defendant elected not to testify.
9 His decision not to testify should not even be discussed
10 in the jury room. It is not to enter your minds in
11 making your decisions. The State has the entire burden
12 of proof and the accused has no burden to prove anything
13 at all.

14 Criminal intent is a state of mind which operates
15 jointly with an act or omission in the commission of a
16 crime. Criminal intent is a mental state of conscious
17 wrongdoing. Criminal intent includes those consequences
18 which represent the very purpose for which an act is
19 done or are known to be substantially certain to the
20 result regardless of one's desire. Intent may be
21 shown by acts and conduct of the defendant and other
22 circumstances from which you may naturally and reasonably
23 infer intent. Criminal intent must be proven by the
24 State beyond a reasonable doubt.

25 The defendant is charged with murder. The State

1 must prove beyond a reasonable doubt that the defendant
2 killed another person with malice aforethought. Malice
3 is hatred, ill will or hostility towards another person.
4 It is the intentional doing of a wrongful act without
5 just cause or excuse and with an intent to inflict an
6 injury or under circumstances that the law will infer an
7 evil intent. Malice aforethought does not require that
8 malice exist for any particular time before the act is
9 committed, but malice must exist in the mind of the
10 defendant just before and at the time that the act is
11 committed. Therefore, there must be a combination of
12 the previous evil intent and the act.

13 Malice aforethought may be express or inferred.
14 These terms "express" and "inferred" do not mean
15 different kinds of malice, but merely the manner in
16 which malice may be shown to exist; that is, either by
17 direct evidence or by inference from the facts and
18 circumstances which are proved.

19 Express malice is shown when a person speaks words
20 which express hatred or ill will for another or when
21 the person prepared beforehand to do the act which was
22 later accomplished. Malice may be inferred from conduct
23 showing a total disregard for human life.

24 If facts are proved beyond a reasonable doubt
25 sufficient to raise an inference of malice to your

1 satisfaction, this inference would be simply an
2 evidentiary fact to be considered by you, the jury,
3 along with all the other evidence in the case and you
4 may give it the weight you decide it should receive.

5 The defendant is also charged with possession of a
6 weapon during the commission of or attempt to commit a
7 violent crime. The State must prove beyond a reasonable
8 doubt that the defendant was in possession of a firearm
9 or vis -- visibly displayed what appeared to be a firearm
10 during the commission of a violent crime.

11 A firearm means any machine gun, automatic rifle,
12 revolver, pistol or any weapon which will, is designed
13 to or may be readily converted to expel a projectile.

14 In order to find the defendant guilty of possession
15 of a weapon during the commission of a violent crime,
16 you must first find the defendant guilty of either
17 committing a violent crime or attempting to commit a
18 violent crime. Murder is a violent crime. The State
19 must prove beyond a reasonable doubt that the weapon
20 furthered, advanced or helped in the commission of the
21 crime.

22 A verdict in this case cannot be based on sympathy,
23 passion, prejudice or emotion or some other consideration
24 not found in the evidence.

25 Let me say something about your deliberations.

1 Deliberation is defined as a careful consideration,
2 weighing up with a view to decision. The genius of
3 our jury system is that it allows twelve good men and
4 women from twelve different backgrounds, life experiences
5 and perspectives to consider the evidence, talk about it
6 and ultimately reach a verdict.

7 We call them deliberations for a reason. You are
8 to consider the evidence in the case carefully and
9 deliberately and discuss it in a calm, thorough and
10 courteous manner. Listen to the views of all your
11 fellow jurors, consider other people's points and points
12 of view and talk through and discuss the evidence and,
13 remember, if you are doing something deliberately you
14 are not in a big hurry and you should not be in a hurry
15 here. This case is very important to both sides and this
16 is their only day in court.

17 When you retire to the jury room, you should discuss
18 the case with your fellow jurors to reach an agreement,
19 if you can do so. Your verdict must be unanimous. Each
20 of you must decide the case for yourself, but you should
21 do so only after you have impartially considered all of
22 the evidence, discussed it fully with the other jurors
23 and listened to the views of your fellow jurors. Do
24 not be afraid to change your opinion if the discussions
25 persuade you that you should, but do not come to a

1 decision simply because other jurors think it is right.

2 It is important that you attempt to reach a
3 unanimous verdict, but, of course, only if each of you
4 can do so after having made your own decision. Do not
5 change an honest belief about the weight and effect
6 of the evidence simply to reach a verdict. In other
7 words, do not change your opinion solely for the sake of
8 reaching a unanimous verdict.

9 There are two possible verdicts for each charge
10 which you may find in this case. There is no
11 significance whatsoever in the order in which I state
12 these possible verdicts. It's simply that one must be
13 stated first.

14 If you find the defendant guilty of the charge of
15 murder, you may then consider whether or not he is
16 guilty of the crime of possession of a weapon during the
17 commission of a violent crime. However, if you find the
18 defendant not guilty on the charge of murder, then you
19 must find the defendant also not guilty on the charge of
20 possession of a weapon during the commission of a violent
21 crime.

22 You will be asked to sign a separate verdict form
23 of guilty or not guilty for each indictment.

24 Again, ladies and gentlemen, your verdict must be a
25 unanimous one as to each charge.

1 Mr. Foreman, when the jury agrees on the verdict,
2 you will initial on the line next to the verdict on
3 the verdict form for the charges and sign your name
4 as foreperson, then inform the bailiff that you have
5 reached a verdict, and at that time we will receive
6 you back into the courtroom.

7 I'm gonna ask that you now return to your jury
8 room, but do not begin deliberations unless you are told
9 by the clerk or the bailiff to do so. There are some
10 matters which must be discussed with the lawyers before
11 you begin your deliberations.

12 In the event, Mr. Foreman, that there is a split
13 in the vote, the Court does not at any time want to be
14 informed of the actual split by number in the vote if
15 one exists.

16 I will also tell you, Mr. Foreman, that when you
17 go to deliberate all twelve jurors must be in the room.
18 So if one excuses them self to go to the facilities,
19 you must wait for that person to come back. You are
20 not allowed to use your cell phones while you're
21 deliberating.

22 Now we have to gather up all this evidence. We
23 will bring it back to you and the bailiff will let you
24 know when you can start deliberating. Hopefully your
25 lunch is there, so I'm gonna let you go to your jury

1 room.

2 Remember it is not time to talk about this case
3 amongst yourselves yet until the bailiff tells you to
4 do so, okay?

5 Thank you.

6 (Whereupon, the jury retires to the jury room at
7 1:17 PM.)

8 THE COURT: All right. Any objection to jury
9 charges from the State?

10 MS. MAYES: None from the State, Your Honor.

11 THE COURT: Any from the defense?

12 MR. SWERLING: No, Your Honor.

13 THE COURT: Okay. Anything else that we need to
14 put on the record?

15 MS. MAYES: Only the matter with the alternate,
16 Your Honor.

17 THE COURT: Okay. Are you gonna -- yeah, will you
18 bring him out.

19 Let me ask you, Ms. Mayes, is there any evidence
20 that we need the computer to go back to the jury room?

21 MS. MAYES: Your Honor, there may be. I believe
22 there are just some -- some surveillance videos, things
23 of that nature. We can do it either way. We can leave
24 it out there and if they need it, they can request it
25 or we can send it back. We just need to take a moment

1 with our IT person to make sure that it is cleared.

2 MS. WILSON: There's a body cam video also.

3 THE COURT: Yeah, there's a body cam video.

4 MS. MAYES: If we could have our IT person confirm
5 that this is the cleaned and cleared courtroom computer.

6 THE COURT: Yeah, I know we keep one.

7 Yeah, this is the other thing.

8 I'm -- I'm starting a trial at 2:00. I've got
9 thirty minutes that I need to get this evidence back.

10 MS. MAYES: Okay. Well, we can send everything
11 back and then we should have an answer on the laptop
12 in just a moment or two.

13 THE COURT: Okay. That will be good.

14 (Whereupon, the evidence and the verdict form was
15 submitted to the jury at 1:25 PM.)

16 (Whereupon, a recess was taken at 1:25 PM.)

17 (Back on the record at 4:01 PM.)

18 THE COURT: All right. Are you ready to switch
19 gears, Stacy?

20 THE COURT REPORTER: I think so.

21 THE COURT: All right. Let me get all the lawyers
22 in here first.

23 I guess I don't have any family members here?

24 MS. MAYES: They're on the way, Judge.

25 (Pause in proceedings.)

1 THE COURT: All right. Let me get everyone in
2 here.

3 Just -- I know this has been an emotional case
4 and I've got the victim's parents and brother in here.
5 No outbursts on the reading of the verdict, okay? I'll
6 give you an opportunity to speak later on.

7 Thank you.

8 All right. You can bring them in.

9 (Whereupon, the jury return to the courtroom at
10 4:03 PM.)

11 THE COURT: All right. Mr. Foreman, do you have a
12 verdict?

13 FOREPERSON: We do.

14 THE COURT: Is it unanimous?

15 FOREPERSON: The verdict is unanimous.

16 THE COURT: All right. Can you hand it to the
17 bailiff, please?

18 FOREPERSON: (Handing.)

19 THE COURT: I'm gonna get the clerk to publish it.
20 If you'd stand.

21 THE CLERK: 2020-GS-32-2422A and 2020-GS-32-2419A,
22 in the matter of Vincent Thomas Shivers, has the State
23 of South Carolina proven beyond a reasonable doubt that
24 Vincent Thomas Shivers committed the act of murder?

25 We, the jury, unanimously find the defendant guilty,

1 and it is so signed and dated March 29, 2022.

2 We, the jury, unanimously find the defendant guilty
3 of possession of a weapon during a violent crime. It is
4 so signed by the foreperson and dated March 29, 2022.

5 Ladies and gentlemen of the jury, if these were
6 your verdicts and if they're still verdicts, please
7 indicate by raising your right hands.

8 (All hands were raised.)

9 THE COURT: All right. Let me ask the defense,
10 would you like them individually polled?

11 MR. SWERLING: Yes, Your Honor.

12 THE CLERK: Okay. When I call your juror number,
13 I will ask you the same question; if these were your
14 verdicts and are they still your verdicts, and if you'll
15 just raise your hand and answer the question, please.

16 Juror Number 12. Were these your verdicts and are
17 they still your verdicts?

18 JUROR NUMBER 12: Yes.

19 THE COURT: Juror Number 98. Were these your
20 verdicts and are they still your verdicts?

21 JUROR NUMBER 98: Yes.

22 THE CLERK: Juror Number 136. Were these your
23 verdicts and are they still your verdicts?

24 JUROR NUMBER 136: Yes.

25 THE CLERK: Juror Number 193. Were these your

1 verdicts and are they still your verdicts?

2 JUROR NUMBER 193: Yes.

3 THE CLERK: Juror Number 44. Were these your
4 verdicts and are they still your verdicts?

5 JUROR NUMBER 44: Yes.

6 THE CLERK: Juror Number 220. Were these your
7 verdicts and are they still your verdicts?

8 JUROR NUMBER 220: Yes.

9 THE CLERK: Juror Number 223. Were these your
10 verdicts and are they still your verdicts?

11 JUROR NUMBER 223: Yes.

12 THE CLERK: Juror Number 59. Were these your
13 verdicts and are they still your verdicts?

14 JUROR NUMBER 59: Yes.

15 THE CLERK: Juror Number 120. Were these your
16 verdicts and are they still your verdicts?

17 JUROR NUMBER 120: Yes.

18 THE CLERK: 127. Were these your verdicts and are
19 they still your verdicts?

20 JUROR NUMBER 127: Yes.

21 THE CLERK: All jurors polled, Your Honor.

22 THE COURT: Okay. Anything else from the State?

23 MS. MAYES: Nothing from the State, Your Honor.

24 THE COURT: Anything from the defense?

25 MR. SWERLING: No, Your Honor.

1 THE COURT: I want to give you a few minutes. I
2 gonna let the jury -- listen, I want to say thank you
3 very much. I think you've done a fantastic job. You've
4 been patient. It was a long trial. I'm gonna let you
5 return to your jury room and I'll be back in just a
6 minute to dismiss you, okay?

7 Thank you.

8 (Whereupon, the jury retires to the jury room at
9 4:06 PM.)

10 THE COURT: All right. I'm gonna go back, I'm
11 gonna dismiss the jury. I always let them come in. I
12 always do. They've -- they've been here for a week and
13 a half. I will invite them. I don't know if they'll
14 want to come, but I'm going to allow them to do that
15 and dismiss them. They've been here for over a week.

16 So let's take a -- just a short break, fifteen
17 minutes, and we'll come back and do sentencing, okay?

18 (Recess taken at 4:07 PM.)

19 (Back on the record at 4:26 PM.)

20 BAILIFF: All rise. Court is back in session.
21 Please stay seated.

22 THE COURT: Please be seated.

23 All right. Is the State ready?

24 MS. MAYES: The State is ready, Your Honor.

25 THE COURT: And, Mr. Swerling, are y'all ready?

1 MR. SWERLING: Yes, Your Honor.

2 THE COURT: And I'm gonna let the State present
3 whatever else they want to tell me and also I'd like to
4 know what his record is.

5 MR. SWERLING: Judge, before we do that, if I could
6 just go ahead and make a motion for --

7 THE COURT: Sure.

8 MR. SWERLING: -- a new trial and I'm asking the
9 Court to consider and include and incorporate all of the
10 objections that were made and all the motions that were
11 made during the course of the trial and incorporate them
12 herein without having to state them verbatim.

13 THE COURT: Absolutely. That's granted. I'd be
14 more than happy to renew all of your objections for the
15 record. I think I've said it, Mr. Swerling, about ten
16 times, but it is noted for the record.

17 And thank you.

18 MR. SWERLING: Thank you.

19 THE COURT: And the motion for the new trial's
20 denied. I'm sorry.

21 MS. MAYES: Your Honor, we would like to begin
22 by -- by passing up to the Court a notebook. This
23 notebook contains photographs of Roselyn Cedeno, date
24 of birth September 29, 1973, forty-five years of age.

25 In addition to the photographs of Roselyn Cedeno,

1 Your Honor, is an autopsy report detailing her multiple
2 gunshot wounds. Where these gunshot wounds are detailed,
3 it is noted that she had at least seven gunshot wounds,
4 plus at least one reentry wound and two graze wounds,
5 Your Honor, that we believe are defensive in nature to
6 her wrist and to her forearm as she is shielding herself.

7 Dr. Beaver was conclusive in his opinion to us that
8 at least four of these shots were while she was down,
9 she's on the ground. We know at least two enter her
10 back, but he was very firm that the shooter is standing
11 over her when these shots are delivered.

12 And, finally, Your Honor, it does contain the
13 NCIC criminal history of Vincent Shivers, which we will
14 address more momentarily.

15 I'm also passing up sentencing sheets.

16 THE COURT: Okay. Thank you.

17 MR. SWERLING: May I see that before --

18 MS. MAYES: Yes.

19 MR. SWERLING: I haven't seen that.

20 MS. MAYES: And all items contained are from
21 discovery.

22 THE COURT: Thank you.

23 All right. Go ahead.

24 MS. MAYES: Your Honor, may it please the Court?

25 THE COURT: Yes, ma'am.

1 MS. MAYES: In this county, we've seen an increase
2 in violence in so many ways over the course of the last
3 decade. Gang-related violence, drug-related violence,
4 but what remains incomprehensible is to see acts of
5 domestic violence manifest in such a brutal and callus
6 outcome.

7 Domestic violence has been the focus of much
8 education, efforts towards rehabilitation and public
9 awareness. Yet as we've seen in this courtroom this
10 week, domestic violence doesn't discriminate. It remains
11 a pervasive and ongoing threat to women and families in
12 our community. It is our greatest hope that our office,
13 our staff, our prosecutors can stem the tide before it's
14 too late. For Roselyn Ceden, it was too late. Our work
15 towards community safety and public awareness includes a
16 responsibility to prosecute murder cases such as this to
17 the fullest extent of the law. We must send a message to
18 the community and to offenders that such crimes will not
19 be tolerated in Lexington county and we exhaust -- we
20 will exhaust every resource to bring them to justice.

21 With that said, and recognizing the outstanding work
22 and advocacy this week by defense counsel, we must hold
23 Vincent Shivers accountable for one of the most brutal
24 and malicious crimes of violence that we have witnessed.

25 As in the recent case of the State versus Sean

1 Peters for the murder of his wife Rachel Peters; State
2 versus Jason Lee for the murder of his wife Lindsey Lee,
3 and State versus Tirrell Means for the murder of Yumonica
4 Means, we ask that he receive the same sentence those
5 domestic violence murderers received, what is just, a
6 sentence of life in prison.

7 Your Honor, we also note with his record he would
8 have been prohibited from possessing any firearms or
9 ammunition, yet he had an arsenal of guns, and he killed
10 her with one.

11 His record, Your Honor, includes what would have
12 been in Texas a domestic assault. The original charge,
13 I believe, was felony assault of a family member. He
14 pled guilty apparently in 2006 to possession of
15 controlled substance and assault causing a bodily
16 injury. That case was transferred to Aiken county when
17 he moved here and as of 2007 he was on probation out
18 of Aiken county for the corresponding charges of
19 possession of crack cocaine and assault and battery
20 of a high and aggravated nature, and that was how they
21 received those charges and would have equated to those
22 original charges in Texas.

23 One of the first things that Captain Laintz did
24 was he reached out to Odelia Shivers, who is the ex-wife
25 of Vincent Shivers, because he came across her name in

1 the early stages of this investigation and she spoke to
2 him that she also was a victim of violence and threats
3 and our understanding is that she is the victim in that
4 2006 case in Texas.

5 Your Honor, he also has a conviction for criminal
6 trespass, most recently out of Georgia, in Richmond
7 county. There were multiple arrests associated with
8 that that ultimately ended in the criminal trespass
9 conviction. And then in 2011, a conviction for
10 unlawfully carrying a weapon.

11 Present in the courtroom throughout this week,
12 Your Honor, is Roselyn's father. He is Ruben Cedeno.
13 He is one of the most decorated surviving combat veterans
14 of the Vietnam war. He has four purple hearts. He is
15 greatly regarded by his comrades and his community. He
16 works part-time as a referee in youth league sports, but
17 he is Roselyn's father and he has been here all week.

18 THE COURT: I've noticed that he's been here all
19 week --

20 MS. MAYES: I know that --

21 THE COURT: -- and the brother.

22 MS. MAYES: -- Ms. Clamp does wish to read a
23 statement on behalf. In -- in talking, he -- he does
24 not think he can do that at this point in time.

25 Her son, Tommy, as you know, Your Honor, has

1 also been here throughout the week. He is her only
2 child. He is the father of her grandchildren. They
3 have lost their daughter, their mother, their sister,
4 and a grandmother, and her loss to them is beyond
5 comprehension, especially under these circumstances.

6 Ms. Clamp.

7 Mr. Ceden0 is a United States Marine.

8 MS. CLAMP: Good afternoon.

9 THE COURT: Thank you.

10 MS. CLAMP: Heather Clamp, victim advocate.

11 THE COURT: Yes, ma'am.

12 MS. CLAMP: I am going to speak on behalf of Ruben
13 Ceden0, father of Roselyn Ceden0.

14 As a Marine combat vet who served multiple terms in
15 Vietnam, I have seen the worst and felt physical pain of
16 being shot four times. I can tell you as a father there
17 is nothing more painful or helpless feeling than not
18 being able to protect your daughter. Losing Roselyn has
19 been my greatest loss. A father isn't meant to outlive
20 their children. I didn't lose her to an accident, nor
21 sickness, but at the hands of Vincent Shivers.

22 She was my first daughter born of six children.
23 She was daddy's girl. She was born with one kidney due
24 to a birth defect, yet she was tough and resilient. I
25 want everyone to remember my daughter for who she really

1 was. A mom, a grandmother, a giver and an animal lover.
2 She loved all animals and gave the care and attention to
3 the ones who needed it the most.

4 Her mother and I miss her every day. We ask the
5 Court to give Vincent the rest of his life in prison
6 for the life that he took of my daughter.

7 Tommy Ceden0, he is going to read his statement.

8 THE COURT: Okay.

9 TOMMY CEDENO: My name is Tommy Ceden0. I am
10 Roselyn's son, her only child. Today is for my mother,
11 Roselyn Wendy Ceden0. Today justice is for her. You've
12 had the last 938 days to think about what you've done.
13 We have the rest of our lives without her because of
14 your actions. You've had the last seven days in this
15 courtroom. You've tried to stare me down, relay words,
16 and you've been unsuccessful just as you tried to board
17 that plane and leave the country. As Deputy Mayes has
18 put it, fate is what led you in this courtroom answering
19 to these charges.

20 My request to the Court is that your fate will be
21 behind the walls of SCDC for the remainder of your life.

22 In September 2019, our lives changed forever. We
23 went from preparing for a hurricane and the fury of
24 dealing with the devastation of losing my mother,
25 grandmother of my children, sibling to all my aunts and

1 uncles, daughter to my grandmother and grandfather, and
2 friend to countless others.

3 My mother was very loved by all lives -- all -- my
4 mother was very loved by all whose lives she entered.
5 She was a kind, sweet, caring woman. She always wanted
6 to help those closest to her in any way she could. She
7 was selfless. She literally would give up her own bed
8 without a second thought. She would donate to various
9 charities every holiday season. She would adopt stray
10 dogs who were on their last legs and show them
11 unconditional love. The world is truly a little colder
12 now without her and our lives much more empty.

13 Nothing anyone says or does will ever bring my
14 mother back to us. Today justice is finally served. I,
15 once again, ask this Court for life behind the walls of
16 SCDC. We will love and miss my mother for the rest of
17 our lives. She is forever forty-five years old. She
18 will never see her forty-sixth birthday now. She will
19 never see her grandchildren grow up, hold them, love
20 them, care for them as she had for I. We will forever
21 hold her in our hearts.

22 Thank you, ladies and gentlemen of this jury, the
23 State of South Carolina, the prosecutors, and Your Honor.
24 Thank you for all your time today and the last sixty
25 hours of this Court.

1 Thank you.

2 THE COURT: Let me tell both of y'all I'm so sorry
3 for your loss and I know that you've been here all week
4 and it's hard to sit here and listen to all this all
5 week, but I thank you for coming.

6 MS. MAYES: And, Your Honor, her mother, Marie
7 Cedenio, is living. She spoke with us and was not able --
8 she knew that she could not attend and -- and hear the
9 evidence that's been presented this week.

10 THE COURT: Well, it certainly is hard to sit here
11 and listen to that about a daughter, a son. There's no
12 doubt about it.

13 MS. MAYES: And, Your Honor, Sergeant Nick Burt on
14 behalf of the Lexington County Sheriff's Department.

15 SERGEANT BURT: Your Honor, first, thank you for
16 presiding over the case for the past week and a couple
17 of days. As a current sergeant on the domestic violence
18 team, it's my belief that we need to send a clear message
19 that domestic violence is not gonna be tolerated in
20 Lexington county. In recent years, the sheriff's
21 department's been affected by it. We've had several
22 officer-involved shootings responding to calls for
23 service. They can be some of the most dangerous calls
24 for service in law enforcement and oftentimes victims
25 aren't able to get the chance to get out before it's too

1 late as we saw in this case where the level of violence
2 that was demonstrated that can occur between two people
3 that are in a relationship together.

4 So on behalf of the sheriff's department and
5 the victim's family, I would also request that Vincent
6 Shivers receive the maximum sentence of life imprisonment.

7 THE COURT: Thank you.

8 MS. MAYES: Thank you, Your Honor.

9 THE COURT: All right. Mr. Swerling, I'll be glad
10 to hear from you and Mr. Shivers.

11 MR. SWERLING: First of all, Your Honor, as far as
12 -- I didn't want to interrupt the State's presentation,
13 but I would move to strike any reference to any domestic
14 violence with his ex-wife. There is no clear and
15 convincing evidence that's been presented for Your Honor
16 to consider that, and I believe that is the standard.
17 And just to go ahead and say it and bring it up, without
18 any clear and convincing evidence I believe it should
19 be struck from the record and not considered by the
20 Court.

21 THE COURT: All right.

22 Ms. Mayes.

23 MS. MAYES: Yes, Your Honor.

24 Our understanding is that the conviction out of
25 Texas for assault on the -- assault with bodily injury,

1 that was transferred to Aiken county as an ABHAN.

2 THE COURT: As an ABHAN, assault and battery of a
3 high and aggravated nature?

4 MS. MAYES: Yes, Your Honor.

5 THE COURT: She was the victim?

6 THE DEFENDANT: She was not.

7 MS. MAYES: That was our understanding, but, Your
8 Honor, with that -- with that stated, if there's any
9 issue as to who the victim was we know that that is his
10 record and he was on probation that was transferred from
11 Texas to Aiken for that charge.

12 MR. SWERLING: Judge, he tells me it did not involve
13 her, it involved another party. And in addition to that,
14 it was not a possession of crack cocaine charge, it was
15 a possession of cocaine charge, which he does admit he
16 was convicted of.

17 THE COURT: Okay.

18 MR. SWERLING: But there's no clear and convincing
19 evidence that he had any violence with Ophelia -- Odelia.

20 THE COURT: Okay. Well, I'm not gonna take it
21 into consideration that if she was not -- if somebody
22 can't tell me that the ex-wife was the victim. I just
23 won't take that into consideration.

24 THE DEFENDANT: Okay.

25 MR. SWERLING: Your Honor, of course, this has been

1 a long trial and we appreciate everything Your Honor has
2 done and everybody else in the courtroom here who has
3 been with us for the last eight days.

4 We'd like to tell you that Vincent is fifty-two
5 years of age. He grew up in Long Island, New York. He
6 attended the Fishburne Military School and graduated in
7 1987. From there he went into the National Guard and
8 did -- and received an honorable discharge from the
9 Guard.

10 He moved around some and attended the University of
11 New Mexico for two years, but did not finish, but he did
12 have -- did pursue some advanced education.

13 After that, Your Honor, he went ahead and established
14 some retail clothing establishments in Albuquerque and at
15 one time had three different stores that he was running
16 for a number of years, he and, I guess, a friend of his.

17 THE DEFENDANT: It was my mother.

18 MR. SWERLING: His mother. Okay. Well, that's
19 -- that's a good friend. But he had -- there were
20 three stores and so I just ask you to take into
21 consideration that he's always been -- and you've heard
22 the presentation from Mr. Steven Smith and Mr. Dirk --
23 Dirks that he was a hardworking individual, he was
24 industrious, he was motivated, he was intelligent. At
25 one point he and Mr. Dirks were the number one finance

1 team for the company, Camping World, in the entirety of
2 the United States, and I believe Mr. Wier even said or
3 testified that he was number one in finance here as
4 well.

5 So obviously he did his job very well. At one
6 point he was making a substantial income off of
7 commission. Things changed in the company and because
8 of the insurance issue he came here to South Carolina
9 where Roselyn's parents were, plus he had connections
10 to Aiken where his mother had lived at one point, and
11 so he wanted to come here. He never got his insurance
12 back, but he did gain his income, and obviously the sales
13 were not quite as good as they had been in Louisiana.

14 Judge, he -- one of the reasons the insurance was
15 so important to him is that he is -- they are both
16 HIV positive and that was obviously going to cost a
17 substantial amount of money to go ahead and take care
18 of them for that period of time, so the insurance was
19 extremely important.

20 He was married at one time. You've heard her name
21 and she had two children. He was married in 1997. He
22 was married through 2007. She had two sons and Vincent
23 went ahead and raised those children for ten years while
24 they were married, gave them everything he could possibly
25 give even his own sons, spent time with them, went to

1 ball games with them and raised them the best -- helped
2 raise them the best that he could, but he's always
3 provided for people he's been with, Roselyn and his
4 ex-wife, and has always provided for them homes and a
5 good income and a good living condition.

6 As you know, he went into some dealerships and
7 worked in some dealerships in finance and one of them
8 obviously was Camping World where he worked in a couple
9 of different places and the other one was the Honda
10 dealership that you heard about during the course of the
11 testimony. It seems to me that he was quite talented in
12 that area and it's most unfortunate he finds himself
13 where he is right now.

14 The -- as I said -- well, I think I've already
15 told Your Honor that the crack that is being referred
16 to was not crack and the domestic violence charge he
17 tells me was not a domestic violence charge, it involved
18 a man, not a woman, so I don't know that for a fact.

19 Is that correct?

20 THE DEFENDANT: The charge was against a police
21 officer. It was resisting arrest.

22 MR. SWERLING: It was basically a resisting arrest
23 charge, Your Honor. That's what he tells me that the
24 background is, but it had nothing to do with attacking
25 a female.

1 Judge, I think he would like to address the court
2 and I would just admonish him that there's a record
3 being made and he needs to know that and he needs to
4 handle himself accordingly --

5 THE COURT: Thank you, Mr. Swerling.

6 MR. SWERLING: -- but he'd like to address the
7 Court.

8 THE COURT: I'd like to hear from you, Mr. Shivers.

9 THE DEFENDANT: First and -- first and foremost,
10 I'd -- I'd like the Cedenos to know that --

11 THE COURT: Can you give him the microphone? It's
12 hard for me to hear him.

13 And you don't have to lean into it. It will pick
14 you up.

15 THE DEFENDANT: Okay. Sorry.

16 THE COURT: That's okay.

17 THE DEFENDANT: First and foremost, I'd like to let
18 the Cedenos know I understand their -- their pain and --
19 and I wish that there wasn't pain for them or anyone and
20 wish that Roselyn were still here, but I'd like to start
21 with that.

22 I'd also like to let you know that -- that I have
23 critical health issues, not that that matters to a
24 certain extent in any way, shape or form, but that was
25 an important part of our medical insurance and why it

1 was so important to us. I had over \$2 million in medical
2 expenses in the last ten years based on -- based on
3 heart issues and HIV. I didn't get it because I used
4 drugs, I didn't get it because I had weird sex, I just
5 got it because I don't wear condoms and I passed it
6 onto Roselyn, and I'm so sorry that I ever -- that I had
7 done that to her. She had nothing to do with it. She
8 just got it because of me.

9 So that's the only thing I've ever done that hurt
10 Roselyn. I've never said a bad word to her or anything
11 else and -- and what y'all find is -- is what y'all
12 find. I don't know if it's the Lord's will, but I've
13 got somebody to talk to in prison for something -- for
14 some odd way, I don't know. I don't -- but I know that
15 I -- I didn't -- I didn't hurt Roselyn with words or
16 anything else. I loved Roselyn and I miss her every day
17 and I understand the pain that people are going through.
18 I don't understand the pain of losing a child, I can't
19 have children, but if I could I can only imagine it's
20 at least half as I feel every day.

21 I don't know why this happened or what. I don't
22 really care what y'all do to me because I've been dead
23 since September 5th when I found out that she was dead.
24 That's all I've got to say. And do what you will with me,
25 do what you want, but it don't matter to me.

1 Thank you.

2 I'm so sorry for the family. They were my family,
3 too. They may not know it that way, but that's how I
4 looked at it.

5 MR. SWERLING: Judge, just one other thing I'd like
6 to mention, I see it in my notes, but Vincent was very
7 involved for a number of years on LinkedIn and he's a
8 LinkedIn mentor, which meant that he had connections to
9 people all over the world who would come to him on
10 LinkedIn for advice in business community -- in the
11 business community as to certain questions they might
12 have and he told me at one time he had like some 30,000
13 people who were connected to him on LinkedIn for that
14 particular purpose, so obviously he was held in high
15 regard by the business community.

16 THE COURT: Okay. Anything else?

17 MR. SWERLING: No, ma'am.

18 THE COURT: Anything else from the State?

19 MS. MAYES: Nothing from the State, Your Honor.

20 THE COURT: All right. Mr. Shivers, I've got to
21 tell you whatever I sentence you to on this murder
22 charge is a day for day service.

23 You understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And I believe, and correct me if I'm

1 wrong, but I think the possession of a weapon during a
2 violent crime is 85 percent after the murder and it's
3 five consecutive; is it not?

4 MS. MAYES: It is not, Your Honor.

5 THE COURT: It's not consecutive?

6 MS. MAYES: It's not consecutive.

7 THE COURT: But it's zero to five?

8 MS. MAYES: It is.

9 THE COURT: Is it 85 percent? It doesn't matter.
10 The murder will take care of that.

11 MS. MAYES: We believe that's day for day as well.

12 THE COURT: How much time has he been in?

13 MR. SWERLING: Since he was brought back, I believe,
14 on December -- well, I'm sorry. He was in custody in
15 Canada and in New York since September 5th.

16 THE COURT: Of '19?

17 MR. SWERLING: Of '19. So we'd ask that he get
18 credit for whatever time he's been in custody, whether
19 it's Canada, New York or here.

20 THE COURT: I've got 936 days that I'll give him
21 credit for.

22 All right. Mr. Shivers, I'm gonna tell you this is
23 really a violent crime. I mean, she was shot two times
24 in the back and no doubt somebody stood over and shot
25 her. The jury found you guilty.

1 The sentence of the Court is that you be committed
2 to the State Department of Corrections for seventy-five
3 years.

4 On the gun charge is gonna be five years. I'll
5 run it concurrent.

6 That is a life sentence, Mr. Cedenó. Again, I'm
7 sorry for your loss.

8 Good luck to you.

9 MS. MAYES: Thank you, Your Honor.

10 MR. SWERLING: Thank you, Your Honor.

11 THE COURT: Let me tell the lawyers, I think all
12 our jurors stayed.

13 Thank y'all again for your service. I'm gonna let
14 them out. I told them they could talk now, so if they
15 want to talk to the lawyers, you're more than welcome
16 to.

17 Thank you again for your service.

18 Mr. Swerling, are you gonna tell him about his
19 right to appeal?

20 MR. SWERLING: I'll take care of that. Thank you.

21 (Whereupon, the proceedings were concluded at
22 4:58 PM.)

23

24

25

COUNTY OF LEXINGTON

CLERK OF COURT

Banker
Box

IN THE COMMON PLEAS / GENERAL SESSIONS / FAMILY COURT

CASE NO. 2020-GS-32-02419 2020-GS-32-02422JUDGE Debra McCaslinCT. REP. Tara T. ScottDATE Monday - March 28
2022

CLOCK - IN AREA

(NOTES)

(1) _____

(2) _____

(3) _____

PLAINTIFF

VS.

DEFENDANT

State of SCVincent ShiversAtty. S. MayesAtty. J. Swerling

NO.	ID.	EV.	DESCRIPTION	NO.	ID.	EV.	DESCRIPTION
S 235	✓		Mannequin	S 157		✓	map
S 239		✓	Photo	S 158		✓	map
S 240		✓	Photo	S 132		✓	Photo
S 241		✓	Photo	D 2		✓	Stip
S 242		✓	Photo	D 3		✓	Stip
S 243		✓	Photo	D 4		✓	Stip
S 244		✓	Photo				
S 238		✓	Text messages				
S 9		✓	VW Records				
S 26		✓	VW log				
S 237		✓	VW log				
S 245		✓	log of TR records				

CT. REP. Tara T. Scott

REC. BY _____

TITLE _____

VERIFIED _____

TITLE _____

WHITE: COURT RECORDS * YELLOW: EVIDENCE VAULT * PINK: FILE

EXHIBIT LIST

Case Name: State v. Vincent Shivers

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

CIN Possession of?

~~is original possession of~~

+ - Needs attention

STATE EXHIBITS

	Description	Objection	Admitted	Comments
CP	SEVEN BULLET CASINGS	subject previous obj. NO	✓	
[2]	Projectiles 7		✓	
-3]	PHOTO BACK OF HOUSE	ND	✓	
[4]	BACK OF HOUSE W/ FENCE - RIGHT SIDE	ND	✓	
[5]	FRONT OF HOUSE	ND	✓	
[6]	Springfield ^{GUN} box		✓	
7				
8				
[9]	VW Records	No	✓	
10				
[11]	2 mag 45 loaded		✓	
[12]	cartridge case - dresser		✓	
[13]	Polo shirt		✓	
[14]	PSS / shirt		✓	
15				
16				
[17]	VERIZON CALL TO V BY DEL. HAILE	ND	✓	
18				
19				

• *no exhibit •

(2)

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
[20]	VERIZON phone calls			STIPULATED
21	" " "			STIPULATED
*22				
23				
[24]	VW - Phone ^{D to V} records	ND	✓	STIPULATED
25	VW Phone records	ND	✓	STIPULATED
[26]	VW log		✓	
[27]	TEXT MESSAGES FROM V to SON 9/1/22	ND	✓	Replaced to Full message
[28]	TEXT MESSAGES FROM V to SON	ND	✓	Replaced to Full message
[29]	BODY CAM OF DFC. HAILE	ND	✓	
[30]	Photo still shot bodycam window/body	ND	✓	
[31]	Photo - still shot bodycam	ND	✓	
[32]	Photo - still shot Body Cam - blanket	ND	✓	
[33]	Photo - bodycam still shot - blanket	ND	✓	
34				
[35]	Photo - make up room	ND	✓	
36				
[37]	Photo - CRIME SCENE photograph	ND	✓	
[38]	Photo - sketch of interior of HOME	ND	✓	

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
(39)	Photo-sketch of master bedroom Crime Scene		✓	
(40)	Photo-sketch of MASTER Bedroom	ND	✓	
41				
42				
43				
(44)	Circle K Video D	ND	✓	STIPULATED
(45)	"	ND	✓	"
46	Photo Circle K parking lot taking R	ND	✓	"
(47)	Photo AERIAL VIEW OF Circle K	ND	✓	"
(48)	"	ND	✓	"
(49)	Photo OF AERIAL VIEW OF Circle K + neighborhood	ND	✓	"
50				
51				
(52)	Video tape of D at Rainbow Bridge / Canada	ND	✓	STIPULATION
* 53	Video of Def Grossing			
54	MAP OF PURCHASES by D.			DEMONSTRATIVE
55				
56				
57				

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
158	PHOTO - crime scene	ND	✓	
159	PHOTO - " "	"	✓	
160	PHOTO - bullet casing	"	✓	
161	PHOTO - bullet casing	"	✓	
162	PHOTO - " "	"	✓	
163	PHOTO - " "	"	✓	
164	PHOTO - " "	"	✓	
165	PHOTO - " "	"	✓	
166	PHOTO - " "	"	✓	
167	PHOTO - " "	"	✓	
168	PHOTO -	ND	✓	
169	PHOTO	ND	✓	
70				
71	1 PAT		✓	
72	Photo of projectile 9/8 ✓		✓	
73	Photo OF SCREEN ITSELF OF CALLS		✓	
74	PHOTO + RAY W/ CARTRIDGE unfired round	ND	✓	
75	PHOTO	ND	✓	
76	PHOTO laptop	ND	✓	

(5)

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

WITH
NO further obj.

STATE EXHIBITS

	Description	Objection	Admitted	Comments
• [77]				
[78]	Photo - suitcase		✓	
[79]	Photo - guest bedroom		✓	
[80]	Photo suitcase where Ex 90 found		✓	
[81]	PHOTO - phone extraction on my way drawers in bedroom		ID ONLY	
[82]	PHOTO - crime scene bathroom		✓	
[83]	Photo " "		✓	
• 84				
[85]	Photo - master		✓	
[86]	Photo - bkfst room - shirt		✓	
[87]	Photo	no further	✓	4th Amend
[88]	empty box for gun Photo - master		✓	
[89]	empty box - closeup, Springfield Photo - master		✓	
[90]	Photo 11 box hpr ammo		✓	
[91]	Photo 11 MAGAZINES 44		✓	
[92]	Photo 11 MAGAZINES		✓	
✓ [93]	womens bedroom shoe	ND	✓	
• 94				
[95]	Photo		✓	

(6)

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
96	Photo		✓	
97	Photo		✓	
98	Photo - 1 PAD / 1 Phone		✓	
99	Photo - widgets		✓	
100	Photo		✓	
101	Photo - 1 PAD		✓	
102	Photo		✓	
103	V- screenshot of messages photo	NO	✓	✓
104				
105	Photo - exterior front door	NO	✓	
106	Photo - Foyer	NO	✓	
107	Photo of window wind curtain	NO	✓	
108	Photo of front house windows - locked	NO	✓	
109				
110	foot prints - photo		✓	
111	" " "		✓	
112	" " "		✓	
113	Photo - OFC'S BOOT stepping on blanket	NO	✓	
114	Photo - OFC'S FOOTPRINT ON blanket	NO	✓	

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
7/5	PHOTO: FOOTPRINT ON BLANKET	Subj. to prev. objection...	✓	... 4th Amd issue, overruled
7/7	PHOTO- PICTURE OF DEPUTY HALE'S BOOT	NO	✓	
7/7	PHOTO: CALENDAR FROM KITCHEN, SEPTEMBER	NO	✓	
7/7	PHOTO: CALENDAR FROM KITCHEN, AUGUST	NO	✓	
119	CD CONTAINING DATA FROM CELLPHONE EXTRACT.			ID ONLY
7/20	USER ACCOUNTS FROM CELLPHONE EXTRACTION	NO	✓	
7/21	FROM APPLE: APPLE ID FOR V	NO	✓	
7/22	HEALTH APP INFO: STEPS AND DISTANCE	NO	✓	
7/23	Phone call logs from V's phone	NO	✓	
7/24	PHOTO OF RECEIPT FROM V	NO	✓	
7/25	SMS TEXTS FROM V'S PHONE	NO	✓	
7/26	INFO FROM PHONE EXTRACTION (DATA)	NO	✓	Previously ID only
7/27	PHOTO: V'S PHONE W/ INCOMING CALL	Subj. to prev. obj...	✓	... 4th Amd issue, overruled
128				
129				
7/30	PHOTO: DAMAGED TRUCK, DIFF. VIEW	Previous obj. noted from motion	✓	Ct.'s Exhibit 30
7/31	PHOTO: Δ'S TRUCK W/ SEALS	Previous obj. noted from motion	✓	Ct.'s Exhibit 28
7/32			✓	
7/33	PHOTO: Δ @ TERMINAL 1	NO	✓	STIPULATION

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
134				
135				
136	PHOTO: DAMAGED SEAL ON REAR OF Δ'S TRUCK	Subj. to previous Obj.	✓	...Motions overruled
* 137	Photo of truck	Re-entered as a new exh.		
138	PHOTO: CLOSE-UP OF SEAL ON Δ'S TRUCK	Subj. to prev. Obj...	✓	...Motions overruled
139				
140				
141	Δ'S CAR REGISTRATION	NO	✓	
142	VIDEO: Δ AT TELLER WITHDRAWING CASH	NO	✓	STIPULATION
143	PHOTO: STILL SHOT OF Δ WITHDRAWING \$100	NO	✓	STIPULATION
144	VIDEO: Δ AT ATM IN CIRCLE K IN NY	NO	✓	STIPULATED
145	PHOTO: STILL SHOT OF Δ IN CTR. K IN NY	NO	✓	STIPULATED
146	PHOTO: STILL SHOT OF Δ AT ATM IN CTR. K NY	NO	✓	STIPULATED
147	PHOTO: MARRIOTT FOOTAGE	NO	✓	STIPULATION
148	PHOTO: Δ	NO	✓	STIPULATION
149	PHOTO: Δ CHECKING INTO HOTEL	NO	✓	STIPULATION
150	CD AUDIO: VOICEMAIL TO Δ	NO	✓	In Camera laying of foundation w/o jur
151	AMERICAN EXPRESS RECORDS OF Δ	NO	✓	STIPULATION
152	COPY OF Δ'S HOTEL INFO (ARRIVAL, RECEIPT)	NO	✓	STIPULATION

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
153	AIRLINE TICKET TO LOUNDA	NO	✓	STIPULATION
154	REPORT FROM Δ CROSSING TO CANADA	NO	✓	STIPULATION
155	TRAVELER PASSAGE REPORT	NO	✓	STIPULATION
156				
157	Map	No	✓	
158	Map	No	✓	
159	2019 Calendar	NO	✓	
160				
161				
162				
163	Picture of D HOUSE	NO	✓	PREVIOUSLY CT EXB 18
164	Photo of V blue sedan	NO	✓	CT. EXB 19
165	FACEBOOK MESSAGE TO D.	NO	✓	CT EXB 16
166	Gel lift of footwear impression from house	SUBJECT TO PREVIOUS OBJ.	✓	... 4th Amd. issue, OVERRULED
167	Gel lift of footwear impression from house	" "	✓	" "
168	DNA Swabs from Δ's house door handle	" "	✓	" "
169	IPHONE	" "	✓	" "
* 170	WHITE UNDER SHIRT	SUBJ. TO PREVIOUS OBJ.	✓	... 4th Amd. issue, OVERRULED
171				

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

COURT EXHIBITS

Exhibit Number	Description	Objection	Admitted	Comments
172				
173				
174				
175				
176				
177				
178				
179				
* 180	BLUE ONESTE FROM MASTER BEDROOM	Subj. to previous obj...	✓	... 4th Amx. Issue, Overruled
181	BANK OF AMER. STATEMENT	NO	✓	Stipulation
182	DMV RECORDS OF Δ	NO	✓	Stipulated to
183	DRIVER'S LICENSE OF Δ	NO	✓	Stipulated to
184	PHOTO: Δ'S CENTER CONSOLE, SPR	NO	✓	
185				
186				
187	PHOTO: BRIEFCASE IN Δ'S CAR	NO	✓	
188	AMMO: HEADSTAMP	NO	✓	
189	RECEIPTS COLLECTED FROM Δ'S VEHICLE	NO	✓	WAL-MART ITEMS
190	RECEIPTS COLLECTED FROM Δ'S VEHICLE	NO	✓	SAMSONITE LUGGAGE

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE'S EXHIBITS

Exhibit Number	Description	Objection	Admitted	Comments
191	DNA OF V: FINGERNAIL SWABS	NO	✓	
192	BOX OF AMMO (HPR Brand) from A home	Subj. to prev. Objection	✓	... 4th Amd. issue, overruled
193		NO	✓	ID ONLY
194	DNA FROM V: BUCCAL	NO	✓	
195				
196	DNA SWAB FROM Δ 3/23/21	NO	✓	ID ONLY
197	HEAT SEALED POUCH CONTAINING WHITE UNDERWEAR	NO	✓	... SHIRT SAMPLES
198	BUCCAL SWAB FROM Δ			ID ONLY
199	SCREENSHOT OF Δ AT BORDER	NO	✓	Stipulated to
200	CIRCLE K RECEIPT FROM AMER. EXPRESS	NO	✓	STIPULATION
201	HOUSE WITH CRIME SCENE TAPE	NO	✓	
202	TEXT MESSAGE FROM MR. SMITH TO Δ	NO OBJECTION	✓	PREVIOUSLY CT. EXB 13
203	PHONE CALLS MADE TO Δ FROM SMITH	NO OBJECTION	✓	PREVIOUSLY CT. EXB 14
204	PHOTO FROM BODY CAM - SHOWS MAKEUP VARIETY	NO	✓	
205				
206	CREDIT CARD STATEMENT OF Δ (AMER. EXPRESS)	NO	✓	STIPULATION
207		SUBJECT TO PREVIOUS OBJ.	✓	... 4th Amd. issue, still coming in
208				
209	PHOTO (B;W): BLOOD	SUBJ. TO PREVIOUS OBJ.	✓	... 4th Amd. issue, still coming in

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

STATE EXHIBITS

	Description	Objection	Admitted	Comments
210	WOMAN'S SHOES PICTURE	Subj. to previous objection	✓	... 4th Amd. issue, overruled
211	9/3 TEXT MSG TO V BY SMITH	NO OBJECTION	✓	PREVIOUSLY CT. EXB 11
212	9/3 CALL ... TO V BY SMITH	NO OBJECTION	✓	PREVIOUSLY CT. EXB 12
213	VOICEMAIL LEFT ON V'S PHONE FROM SMITH	NO OBJECTION	✓	PREVIOUSLY CT. EXB 13
214	PHOTO OF BLUE ONEPIE	Subj. to prev. objection	✓	... 4th Amd. issue, overruled
215	WHITE UNDER SHIRT PHOTO	" "	✓	" "
216	FRONT DOOR BODY CAM	" "	✓	" "
217	FRONT DOOR BODY CAM W/ GLOVE	" "	✓	" "
218	PHOTO: GLASS DOOR WITH CIGARETTE SMOKE EVID	" "	✓	" "
219	PHOTO: EXTERIOR OF BACK OF Δ'S HOUSE	" "	✓	" "
220	DATA ASSOCIATED W/ PHOTO TAKEN ON 9/3...	NO	✓	... BY WEYANDT OF HOUSE
221	9/4/19 PHOTO OF CRIME SCENE OF HOUSE OF Δ	NO	✓	... BY WEYANDT
222				
223				
224	Photo:			ID ONLY
225	PHOTO: TEXT FROM Δ TO V "ON MY WAY" 9/3			ID ONLY
226	PHOTO: ADULT CONTENT WEBSITE FROM REPORT			ID ONLY
227				
228				

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

DEFENSE EXHIBITS

Exhibit Number	Description	Objection	Admitted	Comments
229	VERIZON RECORDS FOR Δ (call from Det. Burke)	NO	✓	STIPULATION
230	PHOTO: BRIEFCASE IN Δ'S CAR	NO	✓	
231	PHOTO: V'S SHIRT W/ BULLET HOLES	Subj. to prev. obj. ...	✓	... 4th Amd. overruled
232	PHOTO: V'S SHIRT W/ BULLET HOLES	Subj. to prev. obj. ...	✓	... 4th Amd. issue, overruled
233	DUTTINGS FROM BLUE ONESTIE	*NO	✓	
234	DNA EXTRACTS	*NO	✓	
235	Mannequin (demon. purpose)	not in evidence	ID only	Mannequin for demonstr. purpose shows projectiles
236	Photo		ID only	
237	log of calls		✓	
238	Text messages	No	✓	Witness - Brian Travis
239	Photo	No	✓	Introduced during
240	Photo	No	✓	testimony of
241	Photo	No	✓	Brian Aderson
242	Photo	No	✓	"
243	Photo	No	✓	"
244	Photo	No	✓	"
245	TDR log	No	✓	
246				
247				

EXHIBIT LIST

DEFENSE EXHIBITS

[illegible]

Case Name: State v. Vincent Shivers

EXHIBIT LIST

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

COURT EXHIBITS

Exhibit Number	Description	Objection	Admitted	Comments
[1]	RIGHT SIDE OF HOUSE	NO		Defendant introduced
[2]	* FENCE GARAGE OF HOUSE	NO		D introduced
[3]	JUROR NOTE - POSSIBLE RELATIONSHIP			By court
[4]	CASE SUPP. MEMO LEDC - BUT			
[5]	SEARCH WARRANT - LEX			
[6]	JUROR NOTE 30 minutes lunch			
7				
8				
9				
10				
11	913 TEXT MESSAGE TO V BY WORKER	NO	✓	EXHIBIT 211
12	913 PHONE CALLS TO V		✓	EXHIBIT 212
13	TEXT MESSAGE FROM MR. SMITH to D	NO	✓	EXHIBIT 202
14	Phone calls made to D FROM SMITH	NO	✓	EXHIBIT 203
[15]	Body Cam FOOTAGE FROM DFC			
16	FACEBOOK - Message FROM CO-WORKER to D		✓	EXHIBIT 165
17	VM left on V phone FROM SMITH		✓	EXHIBIT 213
18	PHOTO OF D HSE		✓	EXHIBIT 163
19	PHOTO OF V Blue Sedan		✓	EXHIBIT 164

Case Number(s): 2020-GS-32-02419 & 2020-GS-32-02422

[illegible]

CASE NO. 2020-GS-32-02419 ; 02422

CT. REP. Stacy Johnson DATE 3/29/22

(3) _____

State

Vincent Shivers

Atty. Suzanne Hayes

Atty. Jack Swerling

CT. REP Charles Johnson

REC. BY W. H. C. C.

VERIFIED

TITLE _____

TITLE _____

LCF 661 (8/18)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL
COUNTY OF LEXINGTON	)	SESSIONS
	)	
IN THE MATTER OF:	)	2020GS3202422A
	)	2020GS3202419A
	)	
VINCENT THOMAS SHIVERS,	)	
	)	
	)	VERDICT SHEET
	)	
DEFENDANT	)	

1. HAS THE STATE OF SOUTH CAROLINA PROVEN BEYOND A REASONABLE DOUBT THAT VINCENT THOMAS SHIVERS, COMMITTED THE ACT OF MURDER?

WE, THE JURY, UNANIMOUSLY FIND [FOREPERSON SHALL INITIAL ONE]:

☐ NOT GUILTY

☒ GUILTY

[Signature] 3/29/2022

(IF "NOT GUILTY," STOP HERE. IF "GUILTY," GO ON TO NEXT QUESTION)

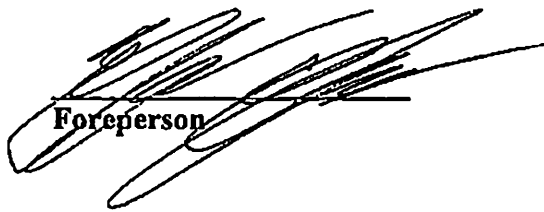
2. HAS THE STATE OF SOUTH CAROLINA PROVEN BEYOND A REASONABLE DOUBT THAT VINCENT THOMAS SHIVERS COMMITTED THE ACT OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME [to wit: murder]?

WE, THE JURY, UNANIMOUSLY FIND [FOREPERSON SHALL INITIAL ONE]:

[] NOT GUILTY

☒ GUILTY  3/29/2022

March 29, 2022
Lexington County


Foreperson

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

Vincent Thomas Shivers

AKA:

Race: White Sex: M Age: 52DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]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 ☐ PLEADSTO: Murder / MurderIn violation of § 16-03-0010 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:

Solicitor

SC Bar # 64191

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 75 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2020 GS 32-02422
☐ 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.
936 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#: 2020 - GS - 32 - 02419A/W#: 2019A3210201727Date of Offense: 9/3/2019S.C. Code §: 16-03-0010CDR Code #: 0116

SENTENCE SHEET

Apr 15 2022

SC Court of Appeals

A TRUE COPY

Lex. Co. G.C.C.P., G.S. & F.O.

STATE VS. Vincent Thomas Shivers INDICTMENT/CASE#: 2020 - GS - 32 - 02419

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$_____ plus 20% fee: _____ \$_____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$_____ Beginning _____	\$_____
§14-1-206 (Assessments 107.5%)	\$_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
§14-1-212 (Law Enforce. Funding)	\$25
§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
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD
TOTAL	\$_____

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Presiding Judge: Debra McCash
Judge Code: 2769
Sentence Date: 3/29/22

SCCA/217 (07/2021)

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A TRUE COPY

Lex. Op. C.C.C.P., O.S. & T.J.

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

Vincent Thomas Shivers

AKA:

Race: WhiteSex: MAge: 52DOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL# [REDACTED]SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 32 - 02422A/W#: 2019A3210201764Date of Offense: 9/3/2019S.C. Code §: 16-23-0490CDR Code #: 0549**RECEIVED****Apr 15 2022**

SENTENCE SHEET

SC Court of Appeals*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives
 Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

J. S. Mayes

64191

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2020GS.32-02419☐ 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.93 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.

A TRUE COPY[Signature]
Lex. Co. C.O.C.P., G.S. & F.J.

STATE VS. Vincent Thomas Shivers INDICTMENT/CASE#: 2020 - GS - 32 - 02422

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§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	\$

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL

\$

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Presiding Judge: Debra McCasli
Judge Code: 2769
Sentence Date: 3/29/22

A TRUE COPY

Debra McCasli

Lex. Cl. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

#2020-GS-32-2419A; 2020-GS-32-2422A

Plaintiff,

v.

**MOTION TO SUPPRESS
SEARCH OF HOME
AND VEHICLE**

VINCENT SHIVERS,

Defendant.

Defendant Vincent Shivers, by and through his undersigned attorneys, respectfully move the Court for an Order suppressing evidence obtained from the search of 216 Carriage Hill Court, Lexington, South Carolina and the blue Honda Accord, LA license plate number 790BSU.

Background

Lexington County Sheriff's deputies were dispatched to 216 Carriage Hill Court in reference to a welfare check on September 3, 2019 requested by Mr. Shiver's employer, Steve Smith at Camping World in Columbia, SC. Mr. Shivers had last worked on September 1, 2019 and left work around 5 pm. He did not report to work on Monday, although Shivers had mentioned to Smith that he believed he should have the day off since he worked on Sunday, and Monday was the Labor Day holiday. When Smith was unable to contact Shivers by telephone, he sent Eric Weir, another Camping World

employee, to drive by Shivers' home around 6:30 pm. Weir noted there were no cars in the driveway and that the lights were off.

On September 3rd, Shivers failed to report to work again. At 9:45 am, at Smith's request Weir again drove out to the home and walked part of the property. He knocked on the door, heard dogs barking, noted a blue Honda in the driveway, and left after five minutes. Smith called Lexington County Sheriff's Department to request a welfare check at 11:04 am.

Deputy Hale arrived at the home shortly thereafter and noticed the blue Honda. He made several attempts to knock at the front door and ring the doorbell with no answer. He could hear dogs barking inside. Deputy Hale walked to the side of the house and looked into the garage. He then walked to the back of the residence, which was fenced in, and noticed two levels with a deck separating the two. The lights were on downstairs and he saw dogs. He walked up the stairs to the second level and looked through the windows into a bedroom which is when he observed ankles exposed from sheets and blankets on the floor.

Deputy Hale made entry into the home through an unlocked back door. He lifted up the sheets and noticed blood and bruising on a female subject. He conducted a protective sweep of the residence. Shortly after 12 pm, EMS, Lexington County Fire service, and M.D. Pollard then arrived on scene.

A search warrant was signed by Judge B. Melton on September 3, 2019 at 1:34 pm. Detective B. Marthers was the affiant to the search warrant and provided the Judge with the probable cause for the search warrant. The warrant provided police with the

authority to search the residence at 216 Carriage Hill Court for items including but not limited to any and all clothing, blood, blood spatter, biological saliva, serological, trace evidence, fibers, latent prints, paper effects, any and all weapons, firearms, ammunition, shell casings, primers, powders, projectiles, electronic devices, as well as vehicles and outbuildings on the property. A written inventory of all property seized was to be provided to Judge Melton within ten days from the date of the warrant.

Sergeant Anderson advised Deputy Thomas that the Search Warrant had been signed at 1:34 pm on September 3, 2019. Deputy Thomas began to process the scene in "good faith."

Officers started outside the residence taking photographs and attempting to collect touch DNA and latent prints from various areas around the door, thumb latch, pull handle, etc. Black magnetic print powder was placed on the floor inside the front door and two footwear impressions were developed.

Around 2:15 pm, Investigator Marthers provided the Search Warrant to Deputy Thomas. Around 2:45 pm, Deputy Thomas conducted the initial search of the residence.

The deceased was photographed and labeled, as well as the expended cartridge cases on the floor beside her. Other items in the master bedroom were photographed and labeled.

At 4:11 pm, a secondary search of the master bedroom was conducted and the room was measured and diagramed. Projectiles on the floor were photographed and labeled. Evidence around the deceased was collected. The deceased was transported at

the crime scene after Smith departed on September 4th. The crime scene tape was still in place, and MD Baum had possession of the Search Warrant and the key to the residence.

At approximately 9:55 am, a third search of the residence was conducted. BlueStar was used in the master bedroom and a search of the garage was conducted. A third search of the walkout basement was conducted.

While on scene, Deputy Smith was notified that the autopsy was complete and one projectile was missing. Another search of the master bedroom was conducted to attempt to find the projectile, which was ultimately located in the carpet padding. The scene was released at 12:35 pm on September 8, 2019.

The return to the Search Warrant listing the inventory of property seized from the house was sworn to before Judge Melton on October 14, 2019; 36 days after the residence was released from police control.

Exceptions to Warrant Requirement

Applicable Law:

The community caretaking doctrine to the warrant requirement can, under limited circumstances, justify a search when there is no reasonable basis to believe criminal activity is underway. *Cady v. Dombrowski*, 413 U.S. 433, 93 S. Ct. 2523 (1973). Although the community caretaking doctrine commonly includes activities such as impounding a vehicle impeding traffic, entry into a car after an accident to assess medical conditions, etc., the Fourth Circuit has held that the doctrine also extends to activities “protecting the safety of persons or property.” *Clark v. Coleman*, 448 F. Supp. 3d 559,

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 USA I.L. COLEMAN
 CLERK OF COURT
 LEXINGTON, KY

571 (W.D. Va. 2020), quoting *Unites States v. Gillespie*, 332 F. Supp. 2d 923, 929 (W.D. Va. 2004). However, there are two limitations to this doctrine. First, it only applies to police activities “totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.” *Id.*, quoting *United States v. Ramage*, No. 1:09CR61, 2009 U.S. Dist. LEXIS 111639, at *6 (N.D. W. Va, July 13, 2009) (citing *Cady*, 413 U.S. at 441). Second, there cannot be anything on the record to suggest assertion of this exception is pretextual or in bad faith. *United States v. Gwinn*, 219 F. 3d 326, 335 (4th Cir. 2000).

In addition to the community caretaking exception, the Supreme Court has held that more general emergencies which show a sufficient level of urgency may also justify a warrantless entry and search. *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403, 126 S. Ct. 1943 (2006). Under this emergency doctrine, the officer “must have had an objectively reasonable belief that an emergency existed that required immediate entry to render assistance or prevent harm to persons or property within.” *United States v. Moss*, 963 F. 2d 673, 678 (4th Cir. 1992).

Although the community caretaker doctrine and the emergency doctrine are similar, there is a notable difference between the two. Both doctrines arise out of law enforcement’s duty to protect persons and property. *Id.*

However, the community caretaker doctrine requires a court to look at the function performed by an officer, while the emergency doctrine requires an analysis of the circumstances surrounding whether or not an emergency requiring immediate action existed. *Hunsburger v. Wood*, 570 F. 3d 546, 554 (4th Cir. 2009).

Discussion:

It is well settled that general emergencies and protecting the safety of persons are exceptions to the warrant requirement of the Fourth Amendment. The Supreme Court has never applied the community caretaking doctrine to justify warrantless entry into a home, and in *Caniglia v. Strom*, decided in May 2021, the Court stressed the “unmistakable distinction between vehicles and homes” in reference to the community caretaking doctrine and “declined to expand the scope of exceptions to the warrant requirement to permit warrantless entry into the home.” 141 S. Ct. 1596, at 1599-1600 (2021), *see Cady v. Dombrowski*, 413 U.S. 433 (1973), *Collins v. Virginia*, 138 S. Ct. 1663 (2018).

Therefore, the only exception to the warrantless entry of the home that could apply is the emergency exception. To invoke the “emergency doctrine,” the officer must have an objectively reasonable belief that an emergency existed that required immediate entry to render assistance or prevent harm to persons or property within. *United States v. Moss*, 963 F. 2d 673 (4th Cir. 1992).

Defendant submits that the officer went beyond the scope of the welfare check by entering the fence surrounding the back deck and yard. Police were called to check on Vincent Shivers, an approximately 50 year old male, who had not shown up to work for approximately 26 hours and was unable to be reached by telephone.

On Tuesday, when Shivers did not come to work, Smith sent co-worker Weir to Shivers house to check on him at 9:45 am, less than an hour after the store had opened for the day. Weir saw a blue Honda in the driveway, which was not the vehicle Shivers drove, knocked on the door and heard dogs barking inside. No one answered the door,

Weir returned to work, and at 11:04 am Smith called the police to conduct a welfare check.

Shivers had been "missing" for a little over 24 hours when his employer called the police. Although they had knowledge of his past heart issues, Shivers vehicle was not at the residence, which would tend to show that he was not home and not in need of emergency services. Additionally, entering the backyard through a closed fence is beyond the scope of a welfare check.

An action is "reasonable" under the Fourth Amendment, regardless of the individual officer's state of mind, "as long as the circumstances, viewed objectively, justify [the] action." *Scott v. United States*, 436 U.S. 128, 138, 98 S. Ct. 1717 (1978).

Here, the officer acted reasonably by going to the residence to check on Shivers as requested by his employer. Once at the residence, it was reasonable to knock on the front door, and check around the house for any signs of distress. The officer's actions became unreasonable when it was determined that the vehicle Shivers drove was not in the driveway and not in the garage - which would lead one to believe he was not at home. Further, by entering a closed fence into defendant's backyard, Deputy Hale exceeded the scope of the welfare check as 1) it was highly likely defendant was not home as his car was not present, 2) defendant had only been "missing" for approximately 26 hours, and 3) Deputy Hale entered an area of the property that was closed off to private citizens.

Duration of Search

Applicable Law:

The police officer's actions while executing the search warrant must be considered in context, and the Court must determine whether the police exceeded the scope of the warrant by conducting a 6 day search of defendant's residence. *United States v. Squillacote*, 221 F. 3d 542 (2000).

The magnitude of a search, by itself, is insufficient to establish a constitutional violation. The relevant inquiry is whether the search and seizure was reasonable under the circumstances. *Id.*, at 557; See *United States v. Wuagneux*, 683 F. 2d 1343, 1352 (11th Cir. 1982). A search may be as extensive as reasonably required to locate the items described in the warrant. *Walter v. United States*, 447 U.S. 649, 656, 100 S. Ct. 2395, 2401 (1980).

Discussion:

During a search, the police conducting the search and seizure are responsible for preserving the evidence, and guaranteeing that nothing is tampered with nor destroyed. *United States v. Squillacote*, 221 F. 3d 542, 556 (2000).

In *Squillacote*, the FBI searched the Appellants' home for six consecutive days to search for evidence related to espionage-related activities after conducting 550 days of undercover surveillance on the Appellants. Each night, an FBI agent would remain in the home to ensure that none of the evidence was tampered with or destroyed. 221 F. 3d 542, at 552, 556-7.

In addition to the extreme thoroughness required in a search for evidence of espionage, the search in *Squillacote* was complicated by the condition of the Appellants' house which was very cluttered, and in disarray. Additionally, the house was undergoing renovations and the basement, which contained many items of interest, contained an

immense amount of dust and the odor of cat urine which caused the agents to be unable to search for long periods of time. *Id.*, at 557.

Defendant's home was also searched for six days, although not consecutively. On September 3rd and 4th, extensive searches were performed in and around the residence. It appears from officer's reports and logs, that no searches were conducted on the 5th, 6th, or 7th. BlueStar testing was performed on the morning of the 8th in the master bedroom. While present at the residence, officers received word the autopsy had been completed, and removed additional carpet to find a missing projectile. Shortly thereafter, the search was completed.

Defendant's home was not extremely cluttered, was not in the middle of renovations, and did not contain dust or strong odors to deter long periods of search. Police were not searching for evidence of espionage - they were search for evidence of a murder, a fairly routine crime for which they have extensive experience in investigating. Extensive searches were conducted on the 3rd and 4th, and there is nothing in any reports to suggest further searches could not have been completely on the 5th, 6th or 7th.

Reasonableness is the touchstone of analysis under the Fourth Amendment. Reasonableness is determined by weighing the public interest against the individual's right to personal security free from the arbitrary interference by law enforcement. *United States v. Squillacote*, 221 F.3d 543, 559 (4th Cir. 2000), *see United States v. Sakyi*, 160 F.3d 164, 167 (4th Cir. 1998).

It is unreasonable for the police to seize the defendant's residence for 6 days in this manner. No searches were conducted for three entire days - yet the residence remained

under the control of law enforcement from September 3rd until September 8th. Waiting for autopsy results is not a valid reason to hold open a search warrant indefinitely - the reasonable approach would be to get an additional search warrant if it was later determined there was additional evidence to be collected.

Conclusion

As a general rule, if the scope of a search warrant is exceeded, only the improperly-seized evidence will be suppressed. *United States v. Squillacote*, 221 F.3d 543, 556 (4th Cir. 2000), *see United States v. Jones*, 31 F. 3d 1304, 1314 (4th Cir. 1994).

Defendant submits that all of the evidence was improperly seized and should be suppressed. Initially, Deputy Hale exceeded the scope of the welfare check by entering the fenced in backyard even though the person of interest (Shivers) had only been "missing" for approximately 26 hours and his car was not at the residence. Thus, the information used in the affidavit for the Search Warrant signed by Judge Melton should be considered the fruit of the poisonous tree and any evidence obtained from the warrant should be suppressed.

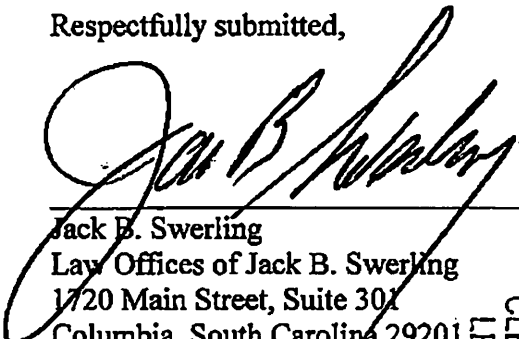
Additionally, once the officers stopped searching on September 4th the search of the residence was concluded. Seizing the residence for four additional days, with not one search occurring on the 5th, 6th, or 7th, is unreasonable on its face whether or not the autopsy had been completed. If evidence was discovered to be missing, and the officers have probable cause, an additional search warrant can be obtained.

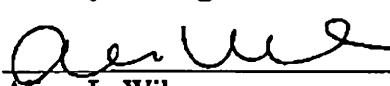
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CLERK OF COURT
BIRMINGHAM, AL

Defendant submits that this "pause" in search essentially transformed the warrant into an impermissible general search, thus blanket suppression of all of the evidence seized is warranted.

Finally, the return was not sworn to until October 14, 2019, thirty six days after the residence was released. Although, this error is routinely considered a ministerial violation. In light of the various constitutional errors committed regarding this search, defendant submits that the totality of the circumstance requires blanket suppression of the evidence.

Respectfully submitted,


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 1720 Main Street, Suite 301
 Columbia, South Carolina 29201
 (803) 765-2626
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 Alissa L. Wilson
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Attorneys for Defendant

March 16, 2022
 Columbia, South Carolina

LISA M. COOPER
 CLERK OF COURT
 LEXINGTON, SC

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FILED

State v. Vincent Shivers

March 18, 2020 Page 220 of 293

STATE OF SOUTH CAROLINA

County of Lexington
Case Number: 19-017162

SEARCH WARRANT

Date: September 3, 2019 / 1334 / 1300
Detective: B. Marthers

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CLERK OF COURT
LEXINGTON SC

SCCA
(3-1978)

F20-00047

513

Additional Discovery: CSI Notes/SLED Reports



STATE OF SOUTH CAROLINA**COUNTY OF LEXINGTON****SEARCH WARRANT**SC Attorney General
Section 19-13-160
March 15, 1978TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF LEXINGTON:

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

**DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED**

The residence to be searched is located at 216 Carriage Hill Ct in the Lexington area of Lexington County, South Carolina and is described as being a multistory brick residence with a gray front door facing the roadway, with tan trim around it. There are (6) windows on the front of the residence, facing the roadway, also with tan trim around them. There is a (2) car garage on the left side of the residence that is below the main floor. The mailbox is roadside and encased in a brick column with "216" in gold in color numbers on the front of the column. Also to be searched is a Blue Honda Accord, bearing LA License Plate: 790BSU in the driveway.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Sought in the search is evidence that includes but is not limited to any and all clothing, blood, blood spatter, biological saliva, serological, trace evidence, fibers, latent prints, paper effects and any and all weapons, firearms, ammunition, shell casings, primers, powders, and projectiles. Also sought are any and all electronic devices to include cell phones, tablets and any and all audio, video, and/or digital recording devices or papers. Law enforcement is seeking any and all evidence that could help establish the cause, manner and mode of injury to the female victim. This search is to also include any vehicles on the property and any outbuildings.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to Judge B. Melton within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington, South Carolina


Signature of Judge
Dated: September 3, 2019SCCA
(3-1978)

513

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

AFFIDAVIT

Personally appeared before me, one Det. B. Marthers, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of S.C. Code Ann. § 17-13-140, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Sought in the search is evidence that includes but is not limited to any and all clothing, blood, blood spatter, biological saliva, serological, trace evidence, fibers, latent prints, paper effects and any and all weapons, firearms, ammunition, shell casings, primers, powders, and projectiles. Also sought are any and all electronic devices to include cell phones, tablets and any and all audio, video, and/or digital recording devices or papers. Law enforcement is seeking any and all evidence that could help establish the cause, manner and mode of injury to the female victim. This search is to also include any vehicles on the property and any outbuildings.

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

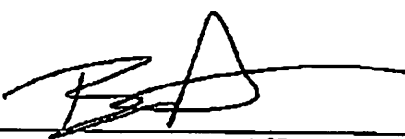
The residence to be searched is located at 216 Carriage Hill Ct in the Lexington area of Lexington County, South Carolina and is described as being a multistory brick residence with a gray front door facing the roadway, with tan trim around it. There are (6) windows on the front of the residence, facing the roadway, also with tan trim around them. There is a (2) car garage on the left side of the residence that is below the main floor. The mailbox is roadside and encased in a brick column with "216" in gold in color numbers on the front of the column. Also to be searched is a Blue Honda Accord, bearing LA License Plate: 790BSU in the driveway.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

LCSD deputies were dispatched to the listed address in reference to a welfare check on 9/3/2019. Deputies were advised by complainant Steve Smith that his manager, Vincent Shivers, had not been at work in (2) days. Upon arrival, the responding deputy observed what appeared to be a deceased person laying in the floor of one of the bedrooms covered in bedding. The deputy made entry into the residence and observed multiple handgun cartridge casings in the same bedroom. Upon lifting the bedding from the female, he observed bruising and blood on her body. The deputy conducted a protective sweep inside the residence and found no other occupants. LCFS and LCEMS responded to the scene and determined that the female was deceased. Neither Vincent nor his personal vehicle, a 2017 Ford F150 pickup truck, were located at the residence. A search warrant is being sought for the residence in order to further the investigation into the death and identity of the female.

Sworn to and Subscribed before me
3rd day of September 2019.


Signature of Judge


Affiant

Address: 521 Gibson Rd., Lexington, SC 29072
Phone: 803.785.8230

RETURN

I received the attached Search Warrant 09/08/19, 20 19 and have executed it as follows:
 On 09/08/19 20 19 at 1235 hrs o'clock 9 M, I searched
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Kitchen Counter Top
 Name of person searched or "at the place of search" with.
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

SWAGS, 4
6d Lf's, 2
exp ch cases, 7, 45 ACP
shotgun, Remington 870 express, with Ammo
Blue shirt
Projectiles, 7
Cartridge, 45ACP
Pressure Washer
Blue Adult Furry onesie
Black Patama Pants & Black Shorts
Dell Laptop Computer, N7110, Dell Inspiron
Various shot shells
Rifle, Remington, 700, Bolt Action, with Ammo
Rifle, Bushmaster, AR-15, XM15-E25
Rifle, Ruger, mini-14, with Ammo

2022 MAR 18 PM 3:54
 J. M. COLE
 CLERK OF COURT
 LEONISTON, NC

This inventory was made in the presence of CSF Cady Weyandt

AND

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14

day of Oct 20 19

Q

Signature of Judge

(L. S.)

Th. Smith, 343
 (Signature of Officer Executing Warrant)

RETURN

I received the attached Search Warrant 09/03, 20 19, and have executed it as follows:

On 09/03rd 20 19 at 1235 hr o'clock Pm M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Kyle Counter Top

Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

Continued From page 1...

Pistol, Intra-Loc, Tac-DC9, With Ammo

Pistol, CZ, Scorpion BVD, With Ammo

various notebooks and paper

green plant material

white paper with green plant material

gun box, Springfield Armory

1 PRR, Apple, A1701

1 PHONE, Apple, NFI

Ammo box, HPX .45 ACP

VARIOUS gun magazines with Ammo

2 Springfield Armory magazines with Ammo

VARIOUS Ammo in Calibers, manufacture, and marks

gun bag, Kimber

white undershirt

This inventory was made in the presence of CSI Lady Weyant

AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14

day of Oct 20 19

7 _____ (L. S.)
Signature of Judge

T. Smith, 343
(Signature of Officer Executing Warrant)

FILED
2020 MAR 18 PM 3:54
CLERK OF COURT
JENNIFER SC

RETURN

I received the attached Search Warrant 09/03/, 20 19, and have executed it as follows:

On 09/08 20 19 at 1235 hrs o'clock PM M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Kitchen Counter Top
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

Continue From Page 2

candles, female, white

1 PAA Apple, A13955

white t-shirt (undershirt)

Drug paraphernalia, 2

111 LAST Item 111

2019 SEP 28 PM 3:54
JSA L. CONER
CLERK OF COURT
LEXINGTON SC

This inventory was made in the presence of CSI Cody Weyant

AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this, 14

day of Oct 20 19

[Signature]

Signature of Judge

(L. S.)

T. Smith, 343
(Signature of Officer Executing Warrant)

363

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

#2020-GS-32-2419A; 2020-GS-32-2422A

Plaintiff,

v.

MOTION TO SUPPRESS STATEMENTS

VINCENT SHIVERS,

Defendant.

Pursuant to Rule , Defendant Vincent Shivers, by and through their undersigned attorneys, respectfully move the Court for an order suppressing statements allegedly made by Defendant.

Background

Mr. Shivers was arrested on September 5, 2019, at the Lester B. Pearson International Airport in Ontario, Canada. The details of his arrest were documented in the handwritten notes of Detective Constable Jesse Dean, a police officer employed by the Toronto Police Service assigned to the Fugitive Squad, dated September 5, 2019. Detective Dean states that, at 1608, he received a call from Bill Bouldon of the United States Marshal's Service ("USMS"), advising him that a suspect wanted for murdering his wife in South Carolina had recently used his credit card at the Airport Marriott Hotel in Toronto. Detective Dean noted that Bouldon "requests immediate assistance on locating this suspect." Detective Dean states that he advised Bouldon "that we will assist

2020 APR 20 PM 3:54
LESTER B. PEARSON
CLERK OF COURT
LEXINGTON, SC

and to email all available info.” (Exhibit 1). A CBSA was issued for Mr Shivers “for danger to public. Mr. Shivers is located in the airport and arrested without incident.

Detective Dean states that, at 1829, he assisted with putting Shivers into the transport vehicle and that Shivers told him that there are guns in his truck and “states he was going to shoot himself.” Almost an hour later, at 1925, Detective Deans states that he is “detailed to . . . speak to SHIVERS about [the] murder of his wife.” At 2142, Detective Dean states that he speaks to Mr. Shivers in the interview room, but that Mr. Shivers declines to answer any questions about the murder of his wife, and, at 2156, Mr. Shivers is transported to a holding facility. Thereafter, Detective Dean reports he is off duty at 0000. At 629, twelve hours after Mr. Shivers’ arrest, Detective Dean writes that when he assisted Mr. Shivers stated there were guns in the truck and, “I was going to eat one in Niagara Falls for what I done.”

On March 29, 2021, Detective Dean issued a supplemental report to the Lexington County Sheriff’s Department that “deals with utterances made by SHIVERS.” (Exhibit 2). In this report, given over 18 months after the arrest, Detective Dean offers additional particulars that were not included in his original handwritten notes. Detective Dean states that he believed Mr. Shivers’ statement meant that Mr. Shivers intended to commit suicide “for murdering his wife.” He further states that when he stepped out of the transport vehicle, he “wrote down what Mr. Shovers said on a piece of paper to ensure it was accurate” – despite his handwritten notes showing that he made the notation twelve hours later at 629.

An Inland Enforcement Officer at the Canada Border Service Agency, Christopher Collier, declared that after Mr. Shivers was arrested, with a warrant, he was advised of his rights under the Canadian Charter of Rights and Freedoms and the Vienna Convention on Consular Relations. (Exhibit 3).

Applicable Law

The Fifth Amendment to the United States Constitution provides that no person "shall be compelled in any criminal case to be a witness against himself." U.S. Const. amend. V. A suspect in custody must be advised of his constitutional rights under the Fifth Amendment prior to any interrogation. *Miranda v. Arizona*, 384 U.S. 436 (1966). "And so, for an accused's own words to be used against him at trial, the prosecutor must first show that those admissions were preceded by an advice of rights to the accused, followed by a valid waiver of those rights." *United States v. Bin Laden*, 132 F. Supp. 2d 168, 186 (S.D.N.Y. 2001). The government bears the burden of proving by a preponderance of the evidence that a defendant knowingly, intelligently, and voluntarily waived his Miranda rights. See *Missouri v. Seibert*, 542 U.S. 600, 608 (2004) (providing that the government bears the burden of proving both a valid Miranda waiver and voluntariness).

In the United States, if a law enforcement officer fails to give a defendant the appropriate *Miranda* warnings during a custodial interrogation, the admissibility of any statements made by that defendant may be challenged and suppressed. However, courts have held that statements obtained by foreign police on foreign soil in the absence of a

Miranda warnings are admissible if made voluntarily. See, e.g., *United States v. Yousef*, 327 F.3d 56, 145' (2d Cir. 2003); *United States v. Chavarria*, 443 F.2d 904, 905 (9th Cir.1971) (holding that statements given to police officers of foreign country are not excludable because *Miranda* warnings are not given). See also *United States v. Martindale*, 790 F.2d 1129, 1131-32 (4th Cir. 1986) (holding that defendant's statement to British officers at Scotland Yard was admissible despite the officers' failure to provide *Miranda* warnings).¹ However, there are two exceptions to this general rule of admissibility. *United States v. Marzook*, 435 F. Supp. 2d 708, 743-44 (N.D. Ill. 2006).

First, if the United States engaged in a "joint venture," statements elicited during overseas interrogation by foreign police in the absence of *Miranda* warnings must be suppressed. *Id.* (citing *United States v. Yousef*, 327 F.3d 145, 145-46 (2d Cir. 2003)). See also *Bin Laden*, 132 F. Supp. 2d at 187 (citing line of cases recognizing that a lack of *Miranda* warnings provided by foreign officials "will still lead to suppression if U.S. law enforcement themselves actively participated in the questioning"). There is a joint venture when "the conduct of foreign law enforcement officials renders them agents, or virtual agents, of United States officials." *United States v. Karake*, 281 F. Supp. 2d 302, 308 (D.D.C. 2003) (citing *United States v. Maturo*, 982 F.2d 57, 60-61 (2d Cir.1992)). There is not, however, a consensus on the level of cooperation necessary to support a finding of

¹"[B]ecause any violation of the privilege against self-incrimination occurs, not at the moment law enforcement officials coerce statements through custodial interrogation, but when a defendant's involuntary statements are actually used against him at an American criminal proceeding." *Bin Laden*, 132 F. Supp. 2d at 182 (citing *United States v. Verdugo-Urquidez*, 494 U.S. 259, 264 (1990) ("Although conduct by law enforcement officials prior to trial may ultimately impair [the privilege against self-incrimination], a constitutional violation occurs only at trial.") (citing *Kastigar v. United States*, 406 U.S. 441, 453 (1972))).

a "joint venture." *See Yousef*, 327 F.3d at 146. Courts must closely scrutinize the attendant facts to determine whether a joint venture between foreign and United States officials exists. *United States v. Rose*, 570 F.2d 1358, 1362 (9th Cir. 1978). There must be "coordination and direction of an investigation or interrogation." *United States v. Abu Ali*, 528 F.3d 210, 229 (4th Cir. 2008).

Second, even where a defendant voluntarily makes a statement, due process is violated where "the foreign officers' conduct is so egregious that it 'shocks the conscience' of the American court." *Marzook*, 435 F. Supp. 2d at 744 (citing *United States v. Angulo-Hurtado*, 165 F.Supp.2d 1363, 1370 (N.D. Ga. 2001)). *See also Abu Ali*, 395 F.Supp.2d at 380.

Discussion

Because the law enforcement officers from United States and Canada were engaged in a joint venture, and Mr. Shivers was not informed of his Miranda rights, the statement he allegedly made post-arrest must be suppressed. The constitutional safeguards of *Miranda* should not be circumvented merely because the arrest was conducted by foreign officials in a foreign county.

As noted above, the facts in each case must be examined to determine whether the American officials so substantially participated in the search and seizure as to convert it into a joint venture between the United States and the foreign officials, thereby triggering application of the Fourth Amendment. *Rose*, 570 F.2d at 1362; *See also United States v. Hensel*, 509 F. Supp. 1364 (D. Me. 1981).

Here, the evidence shows that the arrest of Mr. Shivers resulted from a collaboration or joint venture of the American and Canadian law enforcement agencies. In his handwritten notes, Detective Dean states that he received a call from Bill Bouldon with the USMS advising that a suspect was wanted for murder and had recently use his credit card at the Marriott Hotel near the airport. Bouldon requested immediate assistance, and Detective Dean advised they would assist in locating the suspect. Further, the case summary dated April 24, 2020, specifically states that, "On September 5, 2019, the defendant was located by collaborative effort between the US Marshals Service and the Toronto Police Fugitive Squad in the Toronto Pearson International Airport . . ."

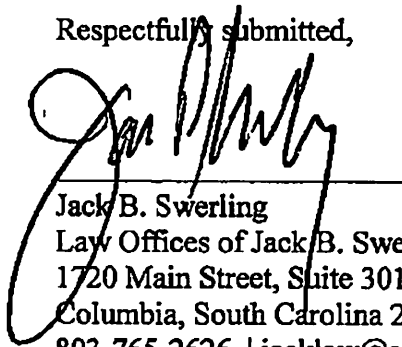
In *United States v. Karake*, 281 F. Supp. 2d at 309, the court held that evidence of a joint venture includes "information that defendants were held at U.S. officials' request," and that defendants were entitled to discover any evidence that might reveal an agency relationship between the United States and the foreign country where the defendants were arrested.

In *United States v. Emery*, 591 F.2d 1266, 1268 (9th Cir.1978), the court found that there was a joint venture between United States and Mexican authorities based on the United States' substantial involvement in the investigation. The DEA agents had alerted the Mexican police of possible illegal activity, coordinated the surveillance, and signaled for an arrest after it was determined that a suspect possessed illegal substances. *Id.* Likewise, here, there is evidence that United States law enforcement alerted the Canadian police and directed their activities.

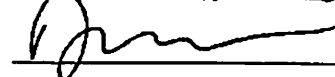
Conclusion

Based on the foregoing, Defendant respectfully requests that the Court suppress the statement Defendant made following his arrest.

Respectfully submitted,



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Deborah B. Barbier, S.C. Bar No. 6920
DEBORAH B. BARBIER, LLC
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Columbia, South Carolina 29201
803-445-1032 | dbb@deborahbarbier.com

March 18, 2022
Columbia, South Carolina

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

2022 MAR 28 PM 3:53

FILED

2019-09-05 (Thur)

0600 Report on duty

in area of 396 Glenashford Dr.
Jaxville.

T: Traian B16

* ARRESTABLE as a previous
arrestee *

Vehicles in driveway

- J37 RSS, Qm, 2012 Civic
Afik Mohammad

- p30 PAX Qm

2003 Honda Odyssey
Mustafa Yousefi

Big scentily changed his
DL address to
Apt. #2

LISA M. JOMER
CLERK OF COURT
LENNINGTON, NC

2022 MAR 20 PM 3:53

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845 EIR to area

945 d/s area of

standing in area

F20-00047

Additional Discovery: Supplementals



1400 Report at duty
I am

1608 Receive call from USMS
Bill Boulden

Adv. a suspect wanted for
murdering his wife in South
Carolina recently used his
credit card at the Airport
Marriot Hotel in Toronto

Boulden requests immediate assistance
in locating this suspect

I adv. Boulden we will assist
+ to Email all available info

I adv. DIC Smith, she adv. to
organize the team and head to
the Hotel.

DIC Frigon, DIC Douglas, officer Callier
+ I will attend

F20-00047

Additional Discovery: Supplementals

2022 MAR 28 PM 3:53
LISA M. CONNER
CLERK OF COURT
LEWISTON, SC

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6/4 Email received from Bolden in
info on p.o.i.
Vincent SHIVERS

mlw. 5'0, 241
picture provided

Suspect of Fatal shooting of
his wife on Sept 2, 2019

He crossed into Canada via
the Rainbow Bridge in Niagara Falls
on Sept 3, @ 1314

pol was driving a blk Ford F150
pickup truck in Lic KDD 528

1640 EIR to Airport Marriott Hotel

1650 IIR from DC SMITH CBSA issued
a warrant for Shivers for
Danger to public today.

1734 IIR from DC SMITH Shivers

bought a \$1400 airline ticket
for a Air Canada flight.

F20-00047

Additional Discovery: Supplementals

LISA M. COWEN
CLERK OF COURT
LEWISTON, SC

2022 MAR 28 PM 3:53

5:30

'IR from DC Frigon the per
has already checked out
+ V. not als

EIR to Pearson Airport

als airport.

1802 'IR from officer Hernandez
Shivers is on flight departing
to London England leaving
from T1 gate E76

EIR to Gate in DC Frigon,
DC Douglas, officer caller. + J

1809 als in area of gate E76
people are lined up at the
gate, large crowd waiting to
board

DC Douglas adv. he sees the
per - shivers in the crowd, I
also get a visual + confirm
its shivers he is standing in the
crowd in a carry on suit case

F20-0004Z

Additional Discovery: Supplementals

2022 MAR 28 PM 8:53

JSA M. POMER
CLERK OF COURT
LEXIPOL SC

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1810 approach in Team officer Collier
 arrests shivers in last incident
 & adv. reason for arrest &
 R to C.

Shivers will be transported to
 GTEG to be processed on
 CBSA warrant

E/R out of Airport to trans-
 port vehicle in convo
 in Team about trying to locate
 V - blk Ford F150 Lic: KDD 528

Shivers says "The truck is
 parked on level 6
 poll I29"

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 2021 MAR 28 PM 3:05
 JESSICA L. COMPTON
 CLERK OF COURT
 DISTRICT OF COLUMBIA

1829 Assist shivers into the back
 seat of DC Douglas blk Ven
 Shivers volunteers info that 2
 guns are in the Ford F150 truck
 and further states he was
 going to shoot himself

Shivers to GTEC.

Mr Frison + I will try to locate
V1 - black F150

1925 in parking garage, + locate
V1 - blk Ford F150, checked
South Carolina Lic. KDD 528
on level 6 near post 129.
The truck is parked against the
wall. Debris in back.
Standby in Mr Frison. I
notify FIS + order a TRS
tow.

I am Detained to attend GTEC
and speak to SHIVERS about
murder of his wife.

2105
~~105~~ 100 als at GTEC

Mr Shivers has tried to make
several calls to his lawyer
+ Family members

2120 call put through to Duty
Counsel by CASH

F20-00047

Additional Discovery: Supplementals

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MAR 28 2021
U.S. M. COURT
CLERK OF COURT
LEWISTON, ME

2142 DUMY counsel calls back to
speak to SHIVERS.

I speak to Shivers in
Interview Room.

He declines to answer any
questions about the murder
of his wife

A.I.O.

2156

~~956~~ Transport to Rexdale holding
facility.

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CLERK OF COURT
JANINGTON SC

2206 o/s. Rexdale holding center
Shivers dropped off.

2215 EIR 41 Div. to DC Douglas
who is dealing in seized
property.

A.I.O.

0000 Report off DUMY

✓ Dean DIC 9246

629 listen be careful
 there 2 guns in the
 truck one in the middle
 console its loaded and
 mother ~~was~~ in a old
 brief case in the back
 seat also loaded, ones a
 a chamber 45 and one
 a XT 9

I was going to eat ~~on~~
 in Niagara Falls for what
 I ~~don't~~.

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 LISA M. CONNOR
 CLERK OF COURT
 LEXINGTON, SC

CORRESPONDENCE

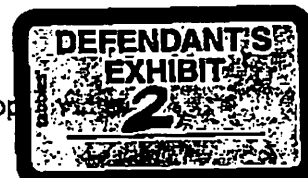
TO: Sergeant Nick Burt FROM: D/C Jesse DEAN #9246
Major Crimes Unit TPS – Fugitive Squad
Lexington County Sheriff's Department DATE: 2021/03/29
 RE: Vincent SHIVERS investigation

Supplemental report of Detective Constable Jesse DEAN #9246
 Toronto Police Service
 Fugitive Squad

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 LISA M. CONNER
 CLERK OF COURT
 LEXINGTON SC

I, D/C Jesse DEAN # 9246, I am a police officer employed by the Toronto Police Service and have been so employed since January 2005. I currently hold the rank of Detective Constable and am presently assigned to the Fugitive Squad, Toronto Police Service. I perform my duties in a plain clothes capacity. The mandate of the Fugitive Squad is to investigate criminal offences committed under the Criminal Code of Canada and immigration enforcement matters under the Immigration and Refugee Protection Act.

This supplemental report deals with utterances made by SHIVERS after he was arrested at Lester B. Pearson International airport on Thursday September 5th, 2019. SHIVERS had been located, arrested and handcuffed in the area of gate E76 in terminal #1. SHIVERS was being walked out of the airport by myself and other members of the Fugitive Squad. I was in conversation with other members of our team about making efforts to locate the Ford F150 pickup truck SHIVERS was driving. SHIVERS, who was within hearing distance of this conversation advised that the truck was parked on level 6 near poll 129. I assisted SHIVERS into the back seating area of our transport vehicle, a Dodge caravan, and sat SHIVERS in the rear seat and was placing the seatbelt on him when he said to be careful when entering the truck because there were two loaded guns in the truck, one in the middle console and another one in the back seat in an old brief case. SHIVERS indicated that one gun was a Kimber .45 and the other gun was an XT 9. SHIVERS then said "I was going to eat one in Niagara Falls for what I done". I believed that to mean SHIVERS was going to eat a bullet and intended to commit suicide when he was in Niagara Falls by shooting himself for murdering his wife.



After SHIVERS was secured I stepped out of the transport vehicle and wrote down what SHIVERS said on a piece of paper to ensure it was accurate.

Respectfully,

Detective Constable Jesse DEAN # 9246
OCE – Fugitive Squad



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2022 MAR 28 PM 3:53

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

State v. Vincent Shivers

April 2, 2021 Page 5 of 20

Canada Border
Services AgencyAgence des services
frontaliers du Canada

File #: 1122912606

PROVINCE OF ONTARIO
at Greater Toronto Enforcement Centre
6900 Airport Road, Entrance 93,
Mississauga, Ontario

IN THE MATTER OF:
SHIVERS, Vincent Thomas
and the Immigration and Refugee
Protection Act and Regulations

STATUTORY DECLARATION

I, Christopher COLLIER, currently employed in the Road Investigation Unit of the Greater Toronto Enforcement Centre (GTEC), Canada Border Services Agency, 6900 Airport Road, Entrance 93, Mississauga, Ontario, solemnly declare that:

1. I am employed as an Inland Enforcement Officer at the Canada Border Services Agency.
2. On 05SEP2019 I identified myself to SHIVERS, Vincent Thomas as an officer of the Canada Border Services Agency.
3. I arrested SHIVERS, Vincent Thomas, with warrant, under the Immigration and Refugee Protection Act, section 55(1).
4. At the time of arrest, he was advised of his rights under the *Canadian Charter of Rights and Freedoms*, subsection 10(a) and (b), which says everyone has the right on arrest or detention to (a) be informed promptly of the reasons therefor; (b) to retain and instruct counsel without delay and to be informed of that right.
5. He was advised of his rights under Section 36 of the *Vienna Convention on Consular Relations*, in that an officer will inform the nearest representative of their government that they have been arrested or detained. Any communication addressed by the subject to the nearest representative of their government will be forwarded by an officer without delay. The government representative will not be contacted at that time if the subject does not request it.

Declared before me at 6900 Airport Road,
Mississauga, in the Province of Ontario
this 1st day of April, 2021.

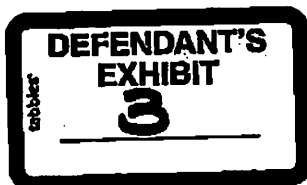

Inland Enforcement Officer

 #12551
Declarant

2022 MAR 28 P11 3:53
LISA M. COMER
CLERK OF COURT
LEXINGTON SC

FILED

F20-00047



Additional Discovery: Supplemental
Canada

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

STATE OF SOUTH CAROLINA) #2020-GS-32-2419A; 2020-GS-32-2422A
)

vs.)

) STATE'S MEMORANDUM IN OPPOSITION
) TO DEFENDANT'S MOTION
) TO SUPPRESS STATEMENTS
)

VINCENT SHIVERS,
DEFENDANT

The State of South Carolina, by and through the office of the Solicitor, Eleventh Judicial Circuit, files this memorandum in opposition to the Defendant's Motion to Suppress Statements made by the Defendant, Vincent Shivers. The State respectfully moves this court to deny the Defendant's motion in full. The State asserts that the statements made by the Defendant were voluntarily made and not the result of interrogation, and therefore admissible as spontaneous statements made by a party opponent.

On September 3, 2019, Deputy Joshua Hale of the Lexington County Sheriff's Department had gone to the home the Defendant at 216 Carriage Hills Ct., Lexington, South Carolina. The Defendant's co-workers reported that he had not been to work the day before or that day as scheduled. As the Defendant had not shown for work and was not responding to calls or texts, his coworkers were very concerned. As Hale was conducting the welfare check for the Defendant, he found the Victim laying lifeless on the bedroom floor. It was ultimately determined that the Victim was dead and had been shot numerous times with a .45 caliber gun. The Defendant at this time was no where to be found.

Through an investigation by the United States Marshal's Service and Lexington County Sheriff's Department, the Defendant was tracked to Toronto, Canada. It was ultimately determined that he had spent multiple nights in Canada, and had a ticket to fly to London from

Toronto on September 5, 2019. With the help of officers with the Toronto Police Service, including Jesse Dean and Robert Frigon, and an agent with the Canada Border Services Agency, Chris Collier, the Defendant was apprehended on September 5, 2019, at 6:10 pm, at the Pearson International Airport. After being arrested by Agent Collier, the Defendant was escorted out of the airport by members of the Toronto Police Service.

As law enforcement officers, including Detective Constable Dean and Detective Constable Frigon, were in conversation with each other regarding the whereabouts of the Defendant's black F150 truck, the Defendant advised Dean without prompt that the truck was parked on level 6 near poll I29. Dean and Frigon both heard the Defendant's spontaneous statement regarding the whereabouts of the truck and documented this statement in their handwritten notes. Then, at 6:29 pm, as Dean placed the Defendant in the backseat of a transport vehicle, and assisted him with the seatbelt, the Defendant stated without prompt that he had guns in his truck and had planned to commit suicide in Niagara Falls. Dean documented these statements in his notebook using the words of the defendant by writing "Listen be careful there's 2 guns in the truck one in the middle console it's loaded and another in an old brief case in the back seat also loaded, ones a Cimber .45 and ones a XT 9," and writing just below that "I was going to eat one in Niagara Falls for what I done." Dean documented the time of these statements on that same page as "629." Dean made these notes just after the statements were made to ensure their accuracy. Dean further made note of these statements by adding them to his chronological notes in a summarized format. He again noted the time the statements were made by writing "1829" next to the summary. It should be noted that he consistently uses military time to document his investigation throughout his chronological notes. It should be further noted, that

the conversion of 1829 Military Time to Eastern Daylight Time on September 5, 2019, would be 6:29 pm.

The State maintains that these statements made by the Defendant to Dean are admissible as they were spontaneously made, and not the result of interrogation. It is well established that "the Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent." *Rhode Island v. Innis*, 446 U.S. 291, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980). The State concedes the Defendant was in custody at the time he made the above statements. The State also concedes that while CBSA Agent Collier had advised the Defendant upon arrest of his rights under the Canadian Charter of Rights and Freedoms, subsection 10(a) and (b), as well as under Section 36 of the Vienna Convention on Consular Relations, that these rights do not include his right to remain silent, which he would be entitled to under Miranda. However, it is ultimately irrelevant whether or not the Defendant was properly advised of his rights as the Defendant's statements are spontaneous and do not require a Miranda warning.

There is no evidence to show that the Defendant was interrogated by any law enforcement officials involved in his apprehension on the evening of September 5, 2019. Neither Collier, Dean, nor Frigon, expressly questioned the Defendant. Nor did any of these officers witness another member of law enforcement expressly questioning the Defendant. Rather, Dean and Frigon were both witnesses only to the Defendant providing statements of his own accord.

Further, there is no evidence to show that the Defendant was prompted to make these statements as a result of the functional equivalent of interrogation. It is well established "the term 'interrogation' under *Miranda* refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that

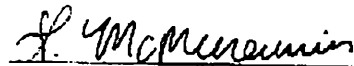
the police should know are reasonably likely to elicit an incriminating response from the suspect.” *Rhode Island v. Innis*, 446 U.S. 291, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980). Additionally, a statement will not be excluded where police did not have reason to know that the Defendant was “peculiarly susceptible to an appeal to his conscience” concerning the matter for which he is under arrest. *Id.* at 302-03, 100 S. Ct. 1682. In *Innis*, the Defendant made incriminating statements in response to a conversation between two officers regarding a firearm used in the commission of the crime and the potential a child could come into possession of the gun. The Court found the conversation of the officers was not “reasonably likely to elicit an incriminating response from the respondent” who interjected and ultimately lead them to the weapon. *Id.* Similarly, the Defendant began making spontaneous statements to Dean when he was discussing the whereabouts of the Defendant’s truck with other officers. However, unlike in the case of *Innis*, the conversation between TPS officers was logistical and unemotional. This type of conversation would not reasonably prompt an incriminating response. Additionally, the Defendant did not appear to be in distress or even emotional when apprehended. Further, when the Defendant shared with Dean that he had firearms in his truck and that he had planned to commit suicide in Niagara, these statement were not prompted by any communications at all, much less interrogation. Therefore, the Defendant’s spontaneous statements to Dean are admissible.

Additionally, the fact that CBSA and TPS were working in conjunction with the United State’s Marshal’s Service and the Lexington County Sheriff’s Department is irrelevant in the analysis of the admissibility of the Defendant’s statements. This factor would only be relevant if Miranda warnings were applicable, but they are not. Further, when Dean later sought to interview the Defendant at the Greater Toronto Enforcement Center, the Defendant declined the

interview and did not make any further statements. Again, making the advisement of Miranda irrelevant.

For the aforementioned reasons, the State maintains that such statements made by the Defendant are admissible as spontaneous statements of a party opponent, not resulting from interrogation.

Respectfully submitted:



LeAnna S. McMenamin
Eleventh Circuit Solicitor's Office
Lexington, South Carolina
Phone: (803) 785-8352
Fax: (803) 785-8431
lmcmenamin@lex-co.com

March 19, 2022

FILED
2020 SEP 10 11:25 AM
CLERK OF COURT
LEXINGTON COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

STATE OF SOUTH CAROLINA)
)
) #2020-GS-32-2419A; 2020-GS-32-2422A
)
vs.)
)
)
VINCENT SHIVERS,) **State's Memorandum in Support of**
DEFENDANT) **Exigent Entry and Subsequent Search Warrant**

Vincent Shivers is charged with Murder and Possession of a Weapon during Commission of a Violent Crime for the killing of his domestic partner, Roselynn Cedeno (Victim) on, about, or between September 1st through September 3rd, 2019. The couple lived together at their home, located at 216 Carriage Hill Court in Lexington County.

The State alleges that Shivers left work at Camping World, located at 3634 Fernadina Road in Lexington County, at approximately 5:15 pm on Sunday, September 1st, 2019. Shivers then sent a text message to Roselynn Cedeno at 5:22 pm on September 1st, 2019, which stated, "On my way." The State alleges that Shivers murdered Cedeno at their home and then fled the scene on or about September 2nd, 2019. The investigation determined that Shivers purchased gasoline at a Circle K location in Lexington County at 8:04 am on Monday, September 2nd, 2019 and then traveled to New York in his Ford F150 vehicle. Evidence will show that Shivers withdrew \$3,500.00 cash from a Bank of America location in Williamsville, New York at approximately 11:49 am on Tuesday, September 3rd, 2019. At 1:14 pm on September 3rd, Shivers crossed the border from the United States into Canada at the Rainbow Bridge location. On Thursday,

September 5, 2019, Shivers was arrested by Canadian law enforcement officials at the Toronto International Airport while waiting to board a flight to London, England.

Factual Background of Welfare Check

On Tuesday, September 3rd, 2019, at approximately 11:04 am, Camping World General Manager Steve Smith contacted the Lexington County Sheriff's Department (LCSD) to conduct a welfare check on Shivers. Steve Smith reported that Shivers had not appeared at work on Monday, September 2nd, or Tuesday, September 3rd. In addition, Steve Smith reported that he made numerous attempts to reach Shivers by telephone and text message, which went unanswered. Smith also attempted to reach Shivers' girlfriend, Roselynn Cedeno, with no response. Steve Smith spoke directly with Deputy Joshua Hale regarding his concern for the welfare of Vincent Shivers. Smith reported that Shivers' failure to appear at work, and the unanswered phone calls and texts, were "very unusual."

In addition, another co-worker at Camping World, Eric Weir, had knocked on the door of the residence at 216 Carriage Hill Court on the morning of September 3rd at the request of Steve Smith. There was no response to the knock on the door.

I. Existence of Exigent Circumstances

Deputy Joshua Hale arrived at the residence of Vincent Shivers and Roselynn Cedeno at approximately 11:30 am on Tuesday, September 3rd for the welfare check. Hale's report notes

that he made several attempts to knock on the front door and ring the doorbell, with no response. Deputy Hale could hear dogs barking inside. Upon getting no response at the front door, Hale walked to the back area of the residence. At 11:59 am, Hale walked up the balcony steps and could observe, in plain view, "what appeared to be a deceased person wrapped up in bedding on the floor." Hale noted in his report that "only the ankles were exposed." Hale walked through the unlocked balcony door of the master bedroom and tapped downwards towards the victim, to gauge a response. Hale lifted the sheet and observed blood on "what appeared to be a female subject." Hale observed multiple shell casings on the floor near the victim.

Hale exited the master bedroom, briefly, and called for law enforcement backup at 12:00 pm and for EMS at 12:02 pm. Hale then re-entered the residence in order to conduct a protective sweep. With gun drawn, and while announcing "Sheriff's Department!", Hale walked through the master bedroom, the bathroom, checked closets, spare bedrooms, and other areas of the home. These actions are captured by the body worn camera (BWC) of Deputy Hale. During the protective sweep, Hale checked numerous areas of the home in order to locate or render aid to any additional victims, potentially including Vincent Shivers, the original subject of the welfare check. In addition, Hale's weapon was drawn in order to subdue any suspect(s) who may still pose a danger inside the residence. Pursuant to training, Hale cleared the residence for the arrival and entry of EMS first responders. At 12:06, pm Hale opened the front door of the residence to allow EMS to enter.

Throughout the protective sweep, Hale's actions are solely to secure the residence and locate any remaining persons inside. Deputy Hale did not collect any items of evidence.

Law Regarding Exigent Entry

The warrantless intrusion and search of the crime scene was fully justified under the Fourth Amendment based on the officer's observations outside of the home, where he was legally permitted to be, because the officer reasonably believed at least one person in the home was in need of medical assistance.

In *State v. Abdullah*, 357 S.C. 344, 351, 592 S.E.2d 344, 348 (Ct. App. 2004), the Court reiterated that a warrantless search is justified under the exigent circumstances doctrine to prevent a suspect from fleeing or where there is a risk of danger to police or others inside or outside a dwelling. *Minnesota v. Olson*, 495 U.S. 91, 100, 110 S.Ct. 1684, 109 L.Ed.2d 85 (1990). In such circumstances, a protective sweep of the premises may be permitted. See *Maryland v. Buie*, 494 U.S. 325, 337, 110 S.Ct. 1093, 108 L.Ed.2d 276 (1990) (allowing a protective sweep of a house during an arrest where the officers have a reasonable belief based on specific and articulable facts that the area to be swept harbors an individual posing a danger to those on the arrest scene); see also *Brown*, 289 S.C. at 587, 347 S.E.2d at 886 (agreeing that police may be justified in conducting a protective sweep of a crime scene where the potential for danger exists). Additionally, the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid. *Mincey v. Arizona*, 437 U.S. 385, 392, 98 S.Ct. 2408, 57 L.Ed.2d 290 (1978).

In *Abdullah*, law enforcement officers responded to a burglary call with a "shots fired" report. When they arrived on scene, the officers observed the door to the Defendant's apartment, and he was standing inside. The Defendant claimed to be the victim of a robbery, but was being noncompliant with the commands of officers to exit the residence. After subduing Abdullah, officers conducted a protective sweep of the apartment to search for victims, suspects, and to preserve the crime scene. During the sweep, officers observed money, drug paraphernalia, and large amounts of drugs for which Abdullah was ultimately charged.

In considering whether the "protective sweep" of Abdullah's apartment was an unconstitutional search, the Court held that officers had "highly reasonable grounds from an objective standard for searching the premises with the dual goals of securing the scene against perpetrators and facilitating assistance to possible victims. Moreover, the immediate need to secure the premises and assist potential victims provided no time for the officers to obtain a warrant before conducting their sweep of the crime scene. Thus, we find the State met its burden of proof in demonstrating that exigent circumstances existed to permit the State's warrantless search of the premises where Abdullah and the drugs were lawfully found."

Courts have consistently held that officers are permitted to make warrantless searches of locations when they believe victims or suspects may be inside. In *Sallie v. State of N.C.*, 587 F.2d 636, 641 (4th Cir. 1978), the 4th Circuit affirmed the search of a mobile home in connection with a dead child who arrived at a hospital when the officer knew she had a sibling, and both lived in the home. The 4th Circuit cited *Mincey v. Arizona*, 437 U.S. 385, 392, 98 S.Ct. 2408, 2414, 57 L.Ed.2d 290 (1978), stating "the Fourth Amendment does not bar police officers from

making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid . . . when the police come upon the scene of a homicide they may make a prompt warrantless search of the area to see if there are other victims or if a killer is still on the premises.” *Sallie v. State of N.C.*, 587 F.2d 636, 641 (4th Cir. 1978).

II. The Community Caretaker Doctrine

Law enforcement exists for a variety of purposes beyond the investigation of criminal activity. Each day, law enforcement officers conduct a myriad of commonplace and usually benign tasks completely unrelated to the investigation of any criminal activity. These tasks, including welfare calls, are important public services which function solely to protect and promote the proper function and safety of the general public. With this understanding, numerous courts have held that the “community caretaker” doctrine justifies the warrantless search of property otherwise protected by the 4th Amendment’s warrant requirement when officers are serving as “community caretakers” protecting the safety of persons or property, to make warrantless searches. *United States v. Gillespie*, 332 F. Supp. 2d 923, 929 (W.D. Va. 2004).

In this case, Deputy Hale’s response to the Residence to conduct a welfare check was based on the Defendant’s employer calling Lexington County Sheriff’s Office after the Defendant failed to report for work on September 2nd and September 3rd, 2019, did not answer numerous calls from his employer, and did not respond when a coworker went to his residence and knocked at the door.

Welfare checks have been found to fall within the category of those law enforcement functions outside the investigation of criminal activity that the community caretaker function applies to. *United States v. Marshall*, 747 F. App'x 139, 144 (4th Cir. 2018). "When police officers are engaged in community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute," the officers may conduct a search or a seizure without probable cause or a warrant *Cady v. Dombrowski*, 413 U.S. 433, 441, 93 S.Ct. 2523, 37 L.Ed.2d 706 (1973); *United States v. Johnson*, 410 F.3d 137, 143-44 (4th Cir. 2005).

Deputy Hale's conduct in checking the backyard and deck of the Residence was justified under the community caretaker doctrine, precisely because he was not functioning to investigate any crime. Deputy Hale, after exhausting other options, attempted to function in his capacity as a community caretaker in traveling into the backyard of the Residence and proceeding to the deck area. When Deputy Hale observed the Victim's body in the Residence while he was still outside on deck area, Deputy Hale's subsequent entry into the Residence was justified under the exigency exception to the 4th Amendment's warrant requirement.

Application of the Community Caretaker and Exigency Doctrines

It is unquestionable that private residences are places in which an individual generally expects privacy free of governmental intrusion not authorized by a warrant. *State v. Herring*, 387 S.C. 201, 209, 692 S.E.2d 490, 494 (2009). However, because the ultimate touchstone of the Fourth Amendment is "reasonableness," both State and Federal courts have consistently held that the

warrant requirement is subject to certain exceptions. *Katz v. United States*, 389 U.S. 347, 357, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967). The United States Supreme Court has recognized that one clear exception to the warrantless searches of homes by law enforcement exists when there are exigent circumstances, in which there is an objective need to protect or preserve life or avoid serious injury occur. *Brigham City, Utah v. Stuart*, 547 U.S. 398, 126 S.Ct. 1943, 164 L.Ed.2d 650 (2006). An action is “reasonable” under the Fourth Amendment, regardless of the individual officer's state of mind, “as long as the circumstances, viewed objectively, justify [the] action.” *Scott v. United States*, 436 U.S. 128, 138, 98 S.Ct. 1717, 56 L.Ed.2d 168 (1978).

In this case, two separate exceptions are applicable during Deputy Hale's response at the residence: the Community Caretaking Doctrine and the Exigency exception. The facts of this case clearly demonstrate that both doctrines apply, in unique and distinguishable ways. Deputy Hale's action in conducting the welfare check and venturing into the curtilage of the Residence was fundamentally reasonable conduct as a community caretaker. Once Deputy Hale observed the victim lying motionless, in plain view through the balcony glass door, Deputy Hale's entry into the Residence was fully justified by the exigency exception. Deputy Hale's conduct in entering the home to conduct a protective sweep, and render aid after observing the victim, was clearly justified and reasonable under the circumstances, and therefore proper under the exigency doctrine. A proper application of both the Community Caretaker and Exigency Doctrines demonstrates that no violation of the 4th Amendment occurred. The warrantless entry into the Residence was objectively reasonable and justified under the circumstances.

III. Factual Background of Search Warrant and Duration

Following the protective sweep, multiple members of the Lexington County Sheriff's Department arrived to assist with securing the scene. Officers secured the perimeter and maintained the scene as they waited for a search warrant to be obtained. At 1:34 pm on September 3rd, the search warrant for the residence was signed. This information was relayed to CSI Detective Tom Smith at the scene. At 1:34 pm, CSI Smith began execution of the search warrant.

The residence is a multi-story structure with numerous bedrooms, a spacious living area, and an extended basement area. The search conducted by CSI Smith and CSI Cody Weyandt was exhaustive. Numerous animals were secured and removed from the scene. The search included photo-documentation of the victim at the scene, surrounding evidence, and removal of the victim's body. Numerous items of physical evidence were marked, photographed, and collected from the residence, including cartridge casings and projectiles. Specifically, seven (7) spent casings were located on the floor of the Master Bedroom near the victim, each bearing the headstamp "HPR .45 Auto".

Forensic evidence collection was also conducted, which included latent print dusting, gel lifts, and DNA swabs. Numerous doors and windows were examined for any signs of forced entry. Measurements were taken throughout the residence. At approximately 11:30 pm, the scene was secured for the night by law enforcement.

The following morning, at 9:31 am on September 4th, CSI Smith returned to the residence to continue the search, along with CSI Weyandt for photo-documentation. The closet of the master bedroom contained numerous firearms and ammunition. A Springfield Armory gun box had been located in the closet for a .45 caliber handgun, however, the handgun was missing. Two magazines were located in the closet containing HPR .45 Auto rounds. In addition, there were other magazines located in the closet along with ammunition of different calibers. These items were marked, photographed, and collected. The search also extended to the study, the kitchen, and the porch. Laser trajectory was conducted, scaled, and photographed. A search of an additional bedroom was conducted, along with the yard area, and the blue Honda Accord outside of the garage. At the end of the day, the scene was secured and held by law enforcement, pending the results of the Victim's autopsy.

In this case, autopsy results were extremely relevant and probative to the investigation. It was noted that the victim sustained multiple gunshot wounds. Seven (7) spent casings had been located in the master bedroom. However, only six (6) projectiles had been observed at the scene; being three projectiles located in the master bedroom and three additional projectiles observed to be intertwined in the victim's clothing as her body was collected for autopsy. Therefore, CSI officers were aware that at least one projectile was missing. In furtherance of the investigation, law enforcement awaited the results of the autopsy to determine if an additional projectile may be located in the body of the victim. Law enforcement sought collection of all ballistics evidence in an effort to potentially identify the weapon(s) used and to gather additional information regarding the circumstances of the crime.

The autopsy was conducted at the Medical University of South Carolina on September 8th, 2019 at 9:00 am. There were no additional projectiles recovered from the victim's body. The crime scene at 216 Carriage Hill Court had been maintained and secured by members of I.CSD since the outset of the search warrant. CSI officers returned to the scene to complete the search, which included a thorough scene investigation and collection of additional evidentiary items. CSI officers lifted carpeted areas from the master bedroom in an attempt to locate additional projectile(s). As a result, one (1) additional fired projectile was located and collected from the carpet padding.

Subsequently, all recovered projectiles and spent casings were submitted to the S.C. Law Enforcement Division (SLED) for firearms analysis.

Duration of Search Does Not Exceed Scope

The Defendant argues that the search of his home between September 3rd and 8th, 2019, through a properly executed search warrant, exceeded the permissible duration of the search warrant. In reliance, the Defendant cites *United States v. Squillacote*, in which law enforcement, acting with a warrant, searched the Appellant's home for six consecutive days in an espionage investigation. *United States v. Squillacote*, 221 F.3d 542, 555 (4th Cir. 2000). Importantly, the 4th Circuit Court of Appeals upheld the 6-day search of the residence in *Squillacote*, holding "the government did not exceed the scope of the warrant... (and) even if the government did exceed the scope of the warrant, blanket suppression of all evidence seized would not be required." *Squillacote*, 221 F.3d at 555. Unlike *Squillacote*, this case involves a search of a violent crime

scene, and forensic evidence collection, which must be considered in determining the reasonableness of the extent of the search.

Specifically, the Court in *Squillacote* determined that law enforcement was not required to seek new search warrants over the course of the extended search. “To require the government to obtain a new search warrant for each continued day of searching would impose an undue burden on the government's efforts to investigate complex crimes, a burden that would be unjustifiable under the circumstances of this case.” *Squillacote*, 221 F.3d at 558. In the present case, the scene was secured and held by law enforcement in order to preserve all evidence, over the course of the extensive crime scene investigation.

Finally, the Defendant argues that the failure to submit the sworn search warrant return until October 14, 2019 requires blanket suppression. The act of submitting a search warrant return is a ministerial function, and not a statutory right. Failure to comply with inconsequential ministerial requirements of the statute does not require suppression in the absence of prejudice to the defendant. *State v. Mollison*, 319 S.C. 41 (1995); *State v. Weaver*, 374 S.C. 313, 649 S.E.2d 479 (2007). In this case, no prejudice exists from a 30-day delay in submitting the return.

IV. Conclusion

Based upon the law and evidence in this case, the State maintains that the initial entry onto the premises and curtilage of the Residence was lawful. Deputy Hale's actions in conducting a welfare check of the Residence was objectively reasonable given the totality of the circumstances. Further, the subsequent entry into the Residence by Deputy Hale was proper and

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

2020-GS-32-2419A; 2020-GS-32-2422A

vs.

STATE'S MEMORANDUM IN OPPOSITION
TO DEFENDANT'S MOTION
TO SUPPRESS STATEMENTS

VINCENT SHIVERS,
DEFENDANT

The State of South Carolina, by and through the office of the Solicitor, Eleventh Judicial Circuit, files this memorandum in opposition to the Defendant's Motion to Suppress Statements made by the Defendant, Vincent Shivers. The State respectfully moves this court to deny the Defendant's motion in full. The State asserts that the statements made by the Defendant were voluntarily made and not the result of interrogation, and therefore admissible as spontaneous statements made by a party opponent.

On September 3, 2019, Deputy Joshua Hale of the Lexington County Sheriff's Department had gone to the home the Defendant at 216 Carriage Hills Ct., Lexington, South Carolina. The Defendant's co-workers reported that he had not been to work the day before or that day as scheduled. As the Defendant had not shown for work and was not responding to calls or texts, his coworkers were very concerned. As Hale was conducting the welfare check for the Defendant, he found the Victim laying lifeless on the bedroom floor. It was ultimately determined that the Victim was dead and had been shot numerous times with a .45 caliber gun. The Defendant at this time was no where to be found.

Through an investigation by the United States Marshal's Service and Lexington County Sheriff's Department, the Defendant was tracked to Toronto, Canada. It was ultimately determined that he had spent multiple nights in Canada, and had a ticket to fly to London from

Toronto on September 5, 2019. With the help of officers with the Toronto Police Service, including Jesse Dean and Robert Frigon, and an agent with the Canada Border Services Agency, Chris Collier, the Defendant was apprehended on September 5, 2019, at 6:10 pm, at the Pearson International Airport. After being arrested by Agent Collier, the Defendant was escorted out of the airport by members of the Toronto Police Service.

As law enforcement officers, including Detective Constable Dean and Detective Constable Frigon, were in conversation with each other regarding the whereabouts of the Defendant's black F150 truck, the Defendant advised Dean without prompt that the truck was parked on level 6 near poll I29. Dean and Frigon both heard the Defendant's spontaneous statement regarding the whereabouts of the truck and documented this statement in their handwritten notes. Then, at 6:29 pm, as Dean placed the Defendant in the backseat of a transport vehicle, and assisted him with the seatbelt, the Defendant stated without prompt that he had guns in his truck and had planned to commit suicide in Niagara Falls. Dean documented these statements in his notebook using the words of the defendant by writing "Listen be careful there's 2 guns in the truck one in the middle console it's loaded and another in an old brief case in the back seat also loaded, ones a Cimber .45 and ones a XT 9," and writing just below that "I was going to eat one in Niagara Falls for what I done." Dean documented the time of these statements on that same page as "629." Dean made these notes just after the statements were made to ensure their accuracy. Dean further made note of these statements by adding them to his chronological notes in a summarized format. He again noted the time the statements were made by writing "1829" next to the summary. It should be noted that he consistently uses military time to document his investigation throughout his chronological notes. It should be further noted, that

the conversion of 1829 Military Time to Eastern Daylight Time on September 5, 2019, would be 6:29 pm.

The State maintains that these statements made by the Defendant to Dean are admissible as they were spontaneously made, and not the result of interrogation. It is well established that “the Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent.” *Rhode Island v. Innis*, 446 U.S. 291, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980). The State concedes the Defendant was in custody at the time he made the above statements. The State also concedes that while CBSA Agent Collier had advised the Defendant upon arrest of his rights under the Canadian Charter of Rights and Freedoms, subsection 10(a) and (b), as well as under Section 36 of the Vienna Convention on Consular Relations, that these rights do not include his right to remain silent, which he would be entitled to under Miranda. However, it is ultimately irrelevant whether or not the Defendant was properly advised of his rights as the Defendant’s statements are spontaneous and do not require a Miranda warning.

There is no evidence to show that the Defendant was interrogated by any law enforcement officials involved in his apprehension on the evening of September 5, 2019. Neither Collier, Dean, nor Frigon, expressly questioned the Defendant. Nor did any of these officers witness another member of law enforcement expressly questioning the Defendant. Rather, Dean and Frigon were both witnesses only to the Defendant providing statements of his own accord.

Further, there is no evidence to show that the Defendant was prompted to make these statements as a result of the functional equivalent of interrogation. It is well established “the term ‘interrogation’ under *Miranda* refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that

the police should know are reasonably likely to elicit an incriminating response from the suspect.” *Rhode Island v. Innis*, 446 U.S. 291, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980).

Additionally, a statement will not be excluded where police did not have reason to know that the Defendant was “peculiarly susceptible to an appeal to his conscience” concerning the matter for which he is under arrest. *Id.* at 302-03, 100 S. Ct. 1682. In *Innis*, the Defendant made incriminating statements in response to a conversation between two officers regarding a firearm used in the commission of the crime and the potential a child could come into possession of the gun. The Court found the conversation of the officers was not “reasonably likely to elicit an incriminating response from the respondent” who interjected and ultimately lead them to the weapon. *Id.* Similarly, the Defendant began making spontaneous statements to Dean when he was discussing the whereabouts of the Defendant’s truck with other officers. However, unlike in the case of *Innis*, the conversation between TPS officers was logistical and unemotional. This type of conversation would not reasonably prompt an incriminating response. Additionally, the Defendant did not appear to be in distress or even emotional when apprehended. Further, when the Defendant shared with Dean that he had firearms in his truck and that he had planned to commit suicide in Niagara, these statement were not prompted by any communications at all, much less interrogation. Therefore, the Defendant’s spontaneous statements to Dean are admissible.

Additionally, the fact that CBSA and TPS were working in conjunction with the United State’s Marshal’s Service and the Lexington County Sheriff’s Department is irrelevant in the analysis of the admissibility of the Defendant’s statements. This factor would only be relevant if Miranda warnings were applicable, but they are not. Further, when Dean later sought to interview the Defendant at the Greater Toronto Enforcement Center, the Defendant declined the

interview and did not make any further statements. Again, making the advisement of Miranda irrelevant.

For the aforementioned reasons, the State maintains that such statements made by the Defendant are admissible as spontaneous statements of a party opponent, not resulting from interrogation.

Respectfully submitted:



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March 19, 2022

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	#2020-GS-32-2419A; 2020-GS-32-2422A
	)	
vs.	)	
	)	
VINCENT SHIVERS,	)	State's Memorandum in Support of
<u>DEFENDANT</u>	)	Admission of Select Crime Scene Photographs

Now comes the State, by and through the Office of Solicitor, Eleventh Judicial Circuit, in support of the admission of certain evidence in the form of photographs during the trial of the above-captioned case in Lexington County. The Defendant, Vincent Shivers, is currently charged with Murder and Possession of a Weapon during Commission of a Violent Crime.

The State must prove the elements of murder regarding the death of Roselynn Cedeno (Victim). The State must also prove the identity of her killer, through direct or circumstantial evidence. The State will present evidence that Roselynn Cedeno was killed by multiple gunshot wounds in the master bedroom of her residence. Surrounding the victim are multiple items of evidence, including cartridge casings and projectiles, while she is covered on the floor in bedding. Also present in the room are clothing and personal items belonging to the Defendant, Vincent Shivers. Based upon the condition of the scene, it is apparent that the Victim was shot and killed in this location. Certain photographs of the crime scene offer probative and relevant evidence in this case.

The State proposes only the need for a minimal, select number of crime scene photographs in which the victim can be observed. These select photographs serve to corroborate testimony offered by witnesses during the course of the trial, including the initial first responder, Joshua Hale, as to the condition of the scene. Likewise, CSI Detective Tom Smith will testify regarding the position, location, and identification of certain items of evidence within the scene.

Post-mortem photographs have been held admissible to establish necessary points during the State's case-in-chief presentation. In *State v. Kelsey*, 502 S.E.2d 63 (S.C. 1998), a murder trial, photographs of the victim were admissible in order to corroborate other testimony concerning the condition of the victim's body as it was first discovered by police at the crime scene and to establish the specific manner of death.

The relevancy, materiality, and admissibility of photographs are matters within the sound discretion of the trial judge. *State v. Kelsey*, supra. The trial judge must balance the prejudicial effect of graphic photographs against their probative value. "To constitute unfair prejudice, the photographs must create 'an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.'" *State v. Holder*, 676 S.E.2d 690, 697 (2009); *State v. Jackson*, 613 S.E.2d 374, 376 (2005) (quoting *State v. Alexander*, 401 S.E.2d 146, 149 (1991)).

In the present case, minimal photographs from the crime scene serve a necessary purpose in corroborating testimony and the positioning of evidence at the scene. When photographs serve to corroborate testimony, it is not abuse of discretion to admit them. *State v. Kelsey*, 502 S.E.2d 63 (S.C. 1998); *State v. Tucker*, 478 S.E.2d 260 (1996). A photograph should be excluded only if it is calculated to arouse the jury's sympathy or prejudice or is irrelevant or unnecessary to substantiate facts. *Tucker*, supra.

For the foregoing reasons, the State maintains that the minimal use of photographs which document the condition of the crime scene, as well as the positioning of the victim and surrounding evidence, are necessary and probative in this case.

Respectfully submitted,



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Date: March 21, 2022

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

#2020-GS-32-2419A; 2020-GS-32-2422A

Plaintiff,

v.

**MOTION TO SUPPRESS
SEARCH OF HOME
AND VEHICLE**

VINCENT SHIVERS,

Defendant.

Defendant Vincent Shivers, by and through his undersigned attorneys, respectfully move the Court for an Order suppressing evidence obtained from the search of 216 Carriage Hill Court, Lexington, South Carolina and the blue Honda Accord, LA license plate number 790BSU.

Background

Lexington County Sheriff's deputies were dispatched to 216 Carriage Hill Court in reference to a welfare check on September 3, 2019 requested by Mr. Shiver's employer, Steve Smith at Camping World in Columbia, SC. Mr. Shivers had last worked on September 1, 2019 and left work around 5 pm. He did not report to work on Monday, although Shivers had mentioned to Smith that he believed he should have the day off since he worked on Sunday, and Monday was the Labor Day holiday. When Smith was unable to contact Shivers by telephone, he sent Eric Weir, another Camping World

employee, to drive by Shivers' home around 6:30 pm. Weir noted there were no cars in the driveway and that the lights were off.

On September 3rd, Shivers failed to report to work again. At 9:45 am, at Smith's request Weir again drove out to the home and walked part of the property. He knocked on the door, heard dogs barking, noted a blue Honda in the driveway, and left after five minutes. Smith called Lexington County Sheriff's Department to request a welfare check at 11:04 am.

Deputy Hale arrived at the home shortly thereafter and noticed the blue Honda. He made several attempts to knock at the front door and ring the doorbell with no answer. He could hear dogs barking inside. Deputy Hale walked to the side of the house and looked into the garage. He then walked to the back of the residence, which was fenced in, and noticed two levels with a deck separating the two. The lights were on downstairs and he saw dogs. He walked up the stairs to the second level and looked through the windows into a bedroom which is when he observed ankles exposed from sheets and blankets on the floor.

Deputy Hale made entry into the home through an unlocked back door. He lifted up the sheets and noticed blood and bruising on a female subject. He conducted a protective sweep of the residence. Shortly after 12 pm, EMS, Lexington County Fire service, and M.D. Pollard then arrived on scene.

A search warrant was signed by Judge B. Melton on September 3, 2019 at 1:34 pm. Detective B. Marthers was the affiant to the search warrant and provided the Judge with the probable cause for the search warrant. The warrant provided police with the

authority to search the residence at 216 Carriage Hill Court for items including but not limited to any and all clothing, blood, blood spatter, biological saliva, serological, trace evidence, fibers, latent prints, paper effects, any and all weapons, firearms, ammunition, shell casings, primers, powders, projectiles, electronic devices, as well as vehicles and outbuildings on the property. A written inventory of all property seized was to be provided to Judge Melton within ten days from the date of the warrant.

Sergeant Anderson advised Deputy Thomas that the Search Warrant had been signed at 1:34 pm on September 3, 2019. Deputy Thomas began to process the scene in "good faith."

Officers started outside the residence taking photographs and attempting to collect touch DNA and latent prints from various areas around the door, thumb latch, pull handle, etc. Black magnetic print powder was placed on the floor inside the front door and two footwear impressions were developed.

Around 2:15 pm, Investigator Marthers provided the Search Warrant to Deputy Thomas. Around 2:45 pm, Deputy Thomas conducted the initial search of the residence.

The deceased was photographed and labeled, as well as the expended cartridge cases on the floor beside her. Other items in the master bedroom were photographed and labeled.

At 4:11 pm, a secondary search of the master bedroom was conducted and the room was measured and diagramed. Projectiles on the floor were photographed and labeled. Evidence around the deceased was collected. The deceased was transported at

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approximately 5:56 pm. Additional items in the master bedroom were photographed, labeled and collected.

The en suite, closet, hallway bathroom, second bedroom, kitchen, and walkout basement were searched.

The residence was secured at approximately 11:30 pm and held overnight pending the results of the autopsy. Deputy Smith returned to the residence at 9:31 am on September 4th to further process the scene.

At 9:45 am, Deputy Smith coordinated with Patrol Master Deputy Baum who advised no one had entered the crime scene after Smith left the night before. The crime scene tape was in place, and MD Baum was in possession of the Search Warrant and the key to the residence.

At 10:30 am, a secondary search of the residence was conducted including a search of the master bedroom closet, the formal study, formal dining room, kitchen, exterior doors, rear windows, and second bedroom.

At 12:44 pm, the blue Honda Accord on the property was searched. The grounds of the property were also searched.

The third bedroom was searched and a second search of the basement was conducted. The residence was secured at 5 pm on September 4th and held overnight pending the results of the autopsy.

Deputy Smith returned to the residence on September 8th at 9:45 am. At approximately 9:50 am, Patrol Deputy Kevin Willie Harris advised no one had entered

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the crime scene after Smith departed on September 4th. The crime scene tape was still in place, and MD Baum had possession of the Search Warrant and the key to the residence.

At approximately 9:55 am, a third search of the residence was conducted. BlueStar was used in the master bedroom and a search of the garage was conducted. A third search of the walkout basement was conducted.

While on scene, Deputy Smith was notified that the autopsy was complete and one projectile was missing. Another search of the master bedroom was conducted to attempt to find the projectile, which was ultimately located in the carpet padding. The scene was released at 12:35 pm on September 8, 2019.

The return to the Search Warrant listing the inventory of property seized from the house was sworn to before Judge Melton on October 14, 2019; 36 days after the residence was released from police control.

Exceptions to Warrant Requirement

Applicable Law:

The community caretaking doctrine to the warrant requirement can, under limited circumstances, justify a search when there is no reasonable basis to believe criminal activity is underway. *Cady v. Dombrowski*, 413 U.S. 433, 93 S. Ct. 2523 (1973). Although the community caretaking doctrine commonly includes activities such as impounding a vehicle impeding traffic, entry into a car after an accident to assess medical conditions, etc., the Fourth Circuit has held that the doctrine also extends to activities “protecting the safety of persons or property.” *Clark v. Coleman*, 448 F. Supp. 3d 559,

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CLERK OF COURT
LEXINGTON, KY

571 (W.D. Va. 2020), quoting *Unites States v. Gillespie*, 332 F. Supp. 2d 923, 929 (W.D. Va. 2004). However, there are two limitations to this doctrine. First, it only applies to police activities “totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.” *Id.*, quoting *United States v. Ramage*, No. 1:09CR61, 2009 U.S. Dist. LEXIS 111639, at *6 (N.D. W. Va, July 13, 2009) (citing *Cady*, 413 U.S. at 441). Second, there cannot be anything on the record to suggest assertion of this exception is pretextual or in bad faith. *United States v. Gwinn*, 219 F. 3d 326, 335 (4th Cir. 2000).

In addition to the community caretaking exception, the Supreme Court has held that more general emergencies which show a sufficient level of urgency may also justify a warrantless entry and search. *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403, 126 S. Ct. 1943 (2006). Under this emergency doctrine, the officer “must have had an objectively reasonable belief that an emergency existed that required immediate entry to render assistance or prevent harm to persons or property within.” *United States v. Moss*, 2002 F. 2d 673, 678 (4th Cir. 1992).

Although the community caretaker doctrine and the emergency doctrine are similiar, there is a notable difference between the two. Both doctrines arise out of law enforcement’s duty to protect persons and property. *Id.*

However, the community caretaker doctrine requires a court to look at the function performed by an officer, while the emergency doctrine requires an analysis of the circumstances surrounding whether or not an emergency requiring immediate action existed. *Hunsburger v. Wood*, 570 F. 3d 546, 554 (4th Cir. 2009).

Discussion:

It is well settled that general emergencies and protecting the safety of persons are exceptions to the warrant requirement of the Fourth Amendment. The Supreme Court has never applied the community caretaking doctrine to justify warrantless entry into a home, and in *Caniglia v. Strom*, decided in May 2021, the Court stressed the “unmistakable distinction between vehicles and homes” in reference to the community caretaking doctrine and “declined to expand the scope of exceptions to the warrant requirement to permit warrantless entry into the home.” 141 S. Ct. 1596, at 1599-1600 (2021), *see Cady v. Dombrowski*, 413 U.S. 433 (1973), *Collins v. Virginia*, 138 S. Ct. 1663 (2018).

Therefore, the only exception to the warrantless entry of the home that could apply is the emergency exception. To invoke the “emergency doctrine,” the officer must have an objectively reasonable belief that an emergency existed that required immediate entry to render assistance or prevent harm to persons or property within. *United States v. Moss*, 963 F. 2d 673 (4th Cir. 1992).

Defendant submits that the officer went beyond the scope of the welfare check by entering the fence surrounding the back deck and yard. Police were called to check on Vincent Shivers, an approximately 50 year old male, who had not shown up to work for approximately 26 hours and was unable to be reached by telephone.

On Tuesday, when Shivers did not come to work, Smith sent co-worker Weir to Shivers house to check on him at 9:45 am, less than an hour after the store had opened for the day. Weir saw a blue Honda in the driveway, which was not the vehicle Shivers drove, knocked on the door and heard dogs barking inside. No one answered the door,

Weir returned to work, and at 11:04 am Smith called the police to conduct a welfare check.

Shivers had been "missing" for a little over 24 hours when his employer called the police. Although they had knowledge of his past heart issues, Shivers vehicle was not at the residence, which would tend to show that he was not home and not in need of emergency services. Additionally, entering the backyard through a closed fence is beyond the scope of a welfare check.

An action is "reasonable" under the Fourth Amendment, regardless of the individual officer's state of mind, "as long as the circumstances, viewed objectively, justify [the] action." *Scott v. United States*, 436 U.S. 128, 138, 98 S. Ct. 1717 (1978).

Here, the officer acted reasonably by going to the residence to check on Shivers as requested by his employer. Once at the residence, it was reasonable to knock on the front door, and check around the house for any signs of distress. The officer's actions became unreasonable when it was determined that the vehicle Shivers drove was not in the driveway and not in the garage - which would lead one to believe he was not at home. Further, by entering a closed fence into defendant's backyard, Deputy Hale exceeded the scope of the welfare check as 1) it was highly likely defendant was not home as his car was not present, 2) defendant had only been "missing" for approximately 26 hours, and 3) Deputy Hale entered an area of the property that was closed off to private citizens.

Duration of Search

Applicable Law:

The police officer's actions while executing the search warrant must be considered in context, and the Court must determine whether the police exceeded the scope of the warrant by conducting a 6 day search of defendant's residence. *United States v. Squillacote*, 221 F. 3d 542 (2000).

The magnitude of a search, by itself, is insufficient to establish a constitutional violation. The relevant inquiry is whether the search and seizure was reasonable under the circumstances. *Id.*, at 557; *See United States v. Wuagneux*, 683 F. 2d 1343, 1352 (11th Cir. 1982). A search may be as extensive as reasonably required to locate the items described in the warrant. *Walter v. United States*, 447 U.S. 649, 656, 100 S. Ct. 2395, 2401 (1980).

Discussion:

During a search, the police conducting the search and seizure are responsible for preserving the evidence, and guaranteeing that nothing is tampered with nor destroyed. *United States v. Squillacote*, 221 F. 3d 542, 556 (2000).

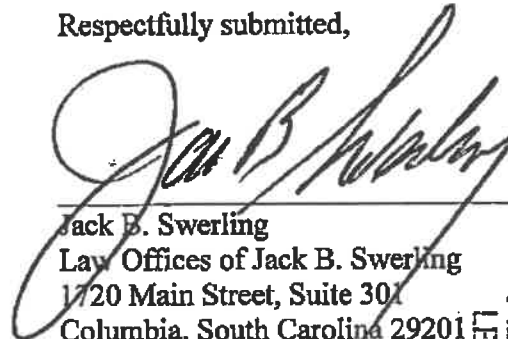
In *Squillacote*, the FBI searched the Appellants' home for six consecutive days to search for evidence related to espionage-related activities after conducting 550 days of undercover surveillance on the Appellants. Each night, an FBI agent would remain in the home to ensure that none of the evidence was tampered with or destroyed. 221 F. 3d 542, at 552, 556-7.

In addition to the extreme thoroughness required in a search for evidence of espionage, the search in *Squillacote* was complicated by the condition of the Appellants' house which was very cluttered, and in disarray. Additionally, the house was undergoing renovations and the basement, which contained many items of interest, contained an

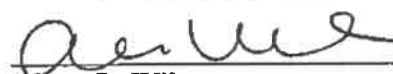
Defendant submits that this "pause" in search essentially transformed the warrant into an impermissible general search, thus blanket suppression of all of the evidence seized is warranted.

Finally, the return was not sworn to until October 14, 2019, thirty six days after the residence was released. Although, this error is routinely considered a ministerial violation. In light of the various constitutional errors committed regarding this search, defendant submits that the totality of the circumstance requires blanket suppression of the evidence.

Respectfully submitted,



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Attorneys for Defendant

LISA J. COOPER
CLERK OF COURT
LEXINGTON SC

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FILED

March 16, 2022
Columbia, South Carolina

State v. Vincent Shivers

March 18, 2020 Page 220 of 293

STATE OF SOUTH CAROLINA

County of Lexington
Case Number: 19-017162

SEARCH WARRANT

Date: September 3, 2019 11334/1300
Detective: B. Marthens

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LISA M. COMER
CLERK OF COURT
LEXINGTON SC

SCCA
(3-1978)

F20-00047

513

Additional Discovery: CSI Notes/SLED Reports



STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

SEARCH WARRANT

SC Attorney General

Section 19-13-160

March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF LEXINGTON:

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

The residence to be searched is located at 216 Carriage Hill Ct in the Lexington area of Lexington County, South Carolina and is described as being a multistory brick residence with a gray front door facing the roadway, with tan trim around it. There are (6) windows on the front of the residence, facing the roadway, also with tan trim around them. There is a (2) car garage on the left side of the residence that is below the main floor. The mailbox is roadside and encased in a brick column with "216" in gold in color numbers on the front of the column. Also to be searched is a Blue Honda Accord, bearing LA License Plate: 790BSU in the driveway.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Sought in the search is evidence that includes but is not limited to any and all clothing, blood, blood spatter, biological saliva, serological, trace evidence, fibers, latent prints, paper effects and any and all weapons, firearms, ammunition, shell casings, primers, powders, and projectiles. Also sought are any and all electronic devices to include cell phones, tablets and any and all audio, video, and/or digital recording devices or papers. Law enforcement is seeking any and all evidence that could help establish the cause, manner and mode of injury to the female victim. This search is to also include any vehicles on the property and any outbuildings.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to Judge B. Melton within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington, South Carolina


Signature of Judge
Dated: September 3, 2019SCCA
(3-1978)

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F20-00047

Additional Discovery: CSI Notes/SLED Reports

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

AFFIDAVIT

Personally appeared before me, one Det. B. Marthers, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of S.C. Code Ann. § 17-13-140, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Sought in the search is evidence that includes but is not limited to any and all clothing, blood, blood spatter, biological saliva, serological, trace evidence, fibers, latent prints, paper effects and any and all weapons, firearms, ammunition, shell casings, primers, powders, and projectiles. Also sought are any and all electronic devices to include cell phones, tablets and any and all audio, video, and/or digital recording devices or papers. Law enforcement is seeking any and all evidence that could help establish the cause, manner and mode of injury to the female victim. This search is to also include any vehicles on the property and any outbuildings.

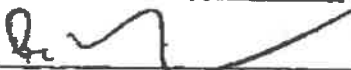
DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

The residence to be searched is located at 216 Carriage Hill Ct in the Lexington area of Lexington County, South Carolina and is described as being a multistory brick residence with a gray front door facing the roadway, with tan trim around it. There are (6) windows on the front of the residence, facing the roadway, also with tan trim around them. There is a (2) car garage on the left side of the residence that is below the main floor. The mailbox is roadside and encased in a brick column with "216" in gold in color numbers on the front of the column. Also to be searched is a Blue Honda Accord, bearing LA License Plate: 790BSU in the driveway.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

LCSD deputies were dispatched to the listed address in reference to a welfare check on 9/3/2019. Deputies were advised by complainant Steve Smith that his manager, Vincent Shivers, had not been at work in (2) days. Upon arrival, the responding deputy observed what appeared to be a deceased person laying in the floor of one of the bedrooms covered in bedding. The deputy made entry into the residence and observed multiple handgun cartridge casings in the same bedroom. Upon lifting the bedding from the female, he observed bruising and blood on her body. The deputy conducted a protective sweep inside the residence and found no other occupants. LCFS and LCEMS responded to the scene and determined that the female was deceased. Neither Vincent nor his personal vehicle, a 2017 Ford F150 pickup truck, were located at the residence. A search warrant is being sought for the residence in order to further the investigation into the death and identity of the female.

Sworn to and Subscribed before me
3rd day of September 2019.


Signature of Judge



Affiant

Address: 521 Gibson Rd., Lexington, SC 29072
Phone: 803.785.8230

RETURN

I received the attached Search Warrant 09/08/19, 20 19 and have executed it as follows:

On 09/08/19 20 19 at 1235 hrs o'clock 9 M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Kitchen Counter Top
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

SWAGS, 4
601 Lfth, 2
exp ch. cases, 7, .45 ACP
shotgun, Remington 870 express, with ammo
Blue shirt
Pistol, 7
Cartridge, .45ACP
Pressure Washer
Blue Adult Furry onesie
Plaid Panama Pants & Black shorts
Dell Laptop Computer, N7110, Dell Inspiron
VARIOUS shot shells
Rifle, Remington, 700, Bolt Action, with Ammo
Rifle, Bushmaster, AR-15, XM15-E25
Rifle, Ruger, mini-14, with Ammo

This inventory was made in the presence of CSF Cady Weyandt
AND

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14
day of Oct 20 19
Q (L. S.)
Signature of Judge

T. Smith, 343
(Signature of Officer Executing Warrant)

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JANET J. COLE
CLERK OF COURT
LEONARD J. COLE

RETURN

I received the attached Search Warrant 09/05, 20 19, and have executed it as follows:

On 09/08th 20 19 at 1235 hr o'clock Pm M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Kicker Counter Top
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

Continued From page 1...

Pistol, Intra-Loc, Tac-DC9, With Ammo

Pistol, CZ, Scorpion QVO, With Ammo

various notebooks and paper

green plant material

white paper with green plant material

gun box, Springfield Armory

1 PPA, Apple, A1701

1 PHONE, Apple, NET

Ammo Box, H&K, .45 ACP

VARIOUS GUN MAGAZINES With Ammo

2 Springfield Armory magazines with Ammo

VARIOUS Ammo in Calibers, manufacture, and make

gun box, Kimber

white undershirt

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J.S.M. COWEN
CLERK OF COURT
- EXHIBITION 30

This inventory was made in the presence of CSI Cody WYATT
AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14
day of Oct 20 19

T. Smith, 343

(Signature of Officer Executing Warrant)

2 (L. S.)
Signature of Judge

RETURN

I received the attached Search Warrant 09/03/, 20 19, and have executed it as follows:

On 09/08 20 19 at 1235 hrs o'clock PM M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Kitchen Counter Top
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

Continue From Page 2

sandals, female, white

1 PPA, Apple, A13955

white t-shirt (undershirt)

Drug paraphernalia, 2

/// LAST Item ///

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J.S.A.L. CONER
CLERK OF COURT
LEXINGTON SC

This inventory was made in the presence of CSI Cody Weyant
AND

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14

day of Oct 20 19

T. Smith, 343
(Signature of Officer Executing Warrant)

[Signature]
Signature of Judge

(L. S.)

RECEIVED

Jul 28 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Court of

The Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

Vincent Shivers,

APPELLANT.

APPELLATE CASE NO. 2022-000425.

CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the Record on Appeal contains all material proposed to be included by all parties and not any other material.

s/Jason Yonge
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Williams, Stitely & Brink, PC
200 E. Main St.
Lexington, SC 29072
(803) 359-9000
jyonge@wsblegal.com

Attorney for Appellant