

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Cherokee County

Honorable Brian M. Gibbons, Circuit Court Judge

SHAUN ROGERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000503

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Shaun Rogers, Jr.,) 2019-GS-11-690-694
6 Defendant.) October 7 - 9, 2019
7 Gaffney, South Carolina

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10
11 B E F O R E :

12 HONORABLE J. DERHAM COLE, JUDGE; and a jury
13

14
15 A P P E A R A N C E S :

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18 E. JOSHUA SCHULTZ, ESQUIRE
19 Attorney for the Defendant

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21
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1 (Proceedings October 7, 2019)
2 (Latent print marked State's Exhibit No. 1 for
3 Identification; major case prints marked State's Exhibit No.
4 2 for Identification; latent print marked State's Exhibit
5 No. 3 for Identification; one fired bullet marked State's
6 Exhibit No. 4 for Identification; one fired bullet marked
7 State's Exhibit No. 5 for Identification; fired 9mm Luger
8 caliber cartridge marked State's Exhibit No. 6 for
9 Identification; fired 9mm Luger caliber cartridge marked
10 State's Exhibit No. 7 for Identification; fired 9mm Luger
11 caliber cartridge marked State's Exhibit No. 8 for
12 Identification; map marked State's Exhibit No. 9 for
13 Identification; semiautomatic pistol marked State's Exhibit
14 No. 10 for Identification; magazine and five unfired
15 cartridges marked State's Exhibit No. 11 for Identification;
16 one unfired 9mm cartridge marked State's Exhibit No. 12 for
17 Identification; waiver of rights marked State's Exhibit No.
18 13 for Identification; written statement marked State's
19 Exhibit No. 14 for Identification; videotape marked State's
20 Exhibit No. 15 for Identification; videotape marked State's
21 Exhibit No. 16 for Identification; videotape marked State's
22 Exhibit No. 17 for Identification; 9-1-1 call marked State's
23 Exhibit No. 18 for Identification; 9-1-1 call marked State's
24 Exhibit No. 19 for Identification; facebook post marked
25 State's Exhibit No. 20 for Identification; diagram marked

1 State's Exhibit No. 21 for Identification; diagram marked
2 State's Exhibit No. 22 for Identification; diagram marked
3 State's Exhibit No. 23 for Identification; diagram marked
4 State's Exhibit No. 24 for Identification; diagram marked
5 State's Exhibit No. 25 for Identification; photographs
6 marked State's Exhibit No. 26 through 45 for Identification;
7 SLED report marked State's Exhibit No. 46 for
8 Identification; SLED report marked State's Exhibit No. 47
9 for Identification; autopsy report marked State's Exhibit
10 No. 48 for Identification.)

11 (The following takes place outside the presence of the
12 jury venire.)

13 THE COURT: All right. First case for trial is the
14 State vs. Shaun Rogers, Jr.

15 Do we have any matters to address prior to the jury
16 being selected?

17 MR. BARNETTE: Your Honor, I do. There were some
18 pretrial matters that we had agreed on. Do you want those
19 on the record now or until after the jury?

20 THE COURT: Sure. You can do them now.

21 MR. BARNETTE: Your Honor, there was a possible
22 Jackson vs. Denno. The defendant actually gave 15 -- I
23 mean, three different statements in this case.

24 Your Honor, he initially gave a statement to law
25 enforcement at the sheriff's department. He gave a second

1 one at the county jail. And there was a third one made at
2 his bond hearing in front of Judge Howell at that time.

3 He was given his rights and waivers in this case.
4 Investigator Gardner and Investigator Parnell with the
5 sheriff's department gave them to him, Your Honor. Both
6 times when he spoke to them -- at the bond hearing Judge
7 Howell made sure he understood his rights before he spoke.

8 I don't think there's any objection from the defense
9 about the voluntariness or him understanding his rights.

10 They are part of the exhibits in this case, Your
11 Honor. And, Your Honor, they're marked as -- the waiver of
12 rights signed by Mr. Rogers is State's Exhibit No. 13.

13 State's Exhibit 14 was his first written statement he
14 gave to them, Your Honor.

15 State's Exhibit 15, Your Honor, is a video tape of the
16 first verbal statement given by Mr. Rogers at the sheriff's
17 department here in Cherokee County.

18 Sixteen is a second verbal statement that was given to
19 him at the Cherokee County Detention Center.

20 And 17 is the video-taped statement by Shaun Rogers at
21 the bond hearing in front of Judge Howell, Your Honor.

22 I don't think there's any -- I'll let Mr. Schultz talk
23 about that. I don't think there's any objection to it or
24 any statement that is not voluntary and not understood, and
25 he understood his rights.

1 MR. SCHULTZ: Thank you, Your Honor. May it please
2 the Court.

3 AS I said before, I represent Mr. Rogers here. We've
4 been over the statements that Shaun has made. There's
5 several statements, one written and several others verbal.

6 I have reviewed the statements with my client. I
7 reviewed the bond proceeding that is -- that the state
8 provided me. It's also available on U-tube. And I've
9 reviewed that. I believe all of those are voluntarily and
10 freely made. Thank you.

11 THE COURT: All right. Mr. Shaun Rogers Jr., you've
12 heard what your lawyer just told me.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: The solicitor indicates that you gave
15 three different statements, three different times. One was
16 to the law enforcement; one was at the county jail; and one
17 was at a bond hearing.

18 Ordinarily, before any statement that the state claims
19 you made could be used against you the Court has to
20 determine whether or not any statement that was made was
21 voluntarily made.

22 Mr. Schultz says that he's reviewed the statements,
23 he's talked to you about it and that your position is that
24 each of the statements that you've made, where you did make
25 one, was voluntarily made. In other words, nobody offered

1 you anything; nobody promised you anything; nobody forced
2 you in any way; nobody coerced you in any fashion; nobody
3 put any kind of pressure upon you of any kind; nobody
4 denied you anything that caused had to make a statement
5 that you otherwise would not have made. Is that true?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are each of the statements that you made
8 that have been described this afternoon, were each of those
9 statements made by you freely and voluntarily?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You made those statements of your own free
12 will and accord?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Nobody forced you into it or --

15 THE DEFENDANT: No, sir.

16 THE COURT: -- pressured you into it or promised you
17 something that you didn't get in order to get you to make a
18 statement?

19 THE DEFENDANT: No, sir.

20 THE COURT: You made those statements on your own
21 voluntarily?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. All right. What else?

24 MR. BARNETTE: Your Honor, we have a stipulation
25 between the parties.

1 Your Honor, I'm going to hand this over to Mr. Schultz
2 now.

3 It says, "The parties hereby stipulate to the
4 following as fact." This is stipulation No. 1, it's listed
5 as. "That Dr. Janice Ross of the Newberry Pathology
6 Associates performed an autopsy on Overton D. Good on
7 October 3rd of 2018. Dr. Ross found the manner of death
8 was a homicide. Dr. Janice C. Ross found the probable
9 cause mechanism of death was a laceration in the brain due
10 to a gunshot wound to the head -- of the head. Her autopsy
11 report and death certificate is attached to this
12 stipulation and consists of five pages as attachment one.
13 The autopsy report and the death certificate are made part
14 of the stipulation by reference. This stipulation and
15 attachment will be presented to the jury."

16 If I can hand that over and have them sign it at this
17 time, Your Honor, I talked to Mr. Schultz earlier. I'd
18 like to go ahead and get that signed by Mr. Schultz and by
19 the defendant.

20 MR. SCHULTZ: Just for the record, Your Honor, I did
21 speak with my client at the Cherokee County Jail there
22 yesterday afternoon, and me and him discussed this. And he
23 has now signed this stipulation.

24 MR. BARNETTE: Your Honor, if I could ask that it be
25 put on the record by the defendant he's in agreement with

1 it.

2 THE COURT: Mr. Rogers, you heard what the solicitor
3 told me about the stipulations.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You've discussed it with Mr. Schultz.

6 THE DEFENDANT: I did. Yes, sir.

7 THE COURT: And you signed the stipulation?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And did you read it?

10 THE DEFENDANT: Yes. I did.

11 THE COURT: And, as I understand it, you're also
12 agreeing to allow the admission of the pathologist's
13 report, which has been marked as State's Exhibit No. 48, to
14 be introduced in evidence without the necessity of the
15 pathologist actually being present and testifying?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And, as I say, you've read the
18 stipulation. And you agree to what's been stated in it?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay.

21 (Autopsy report marked State's Exhibit No. 48.)

22 MR. BARNETTE: May it please the Court, Your Honor.
23 Just a couple of other matters.

24 Your Honor, the defense asked me shortly ago about the
25 9-1-1. There's two 9-1-1 calls we've marked as State's

1 Exhibit 18, which is a call from 1521 Pleasant School Road
2 in Gaffney on October the 2nd of 2018.

3 There's a 9-1-1 call from Ms. Good on October 2nd of
4 2018. That's State's Exhibit No. 19.

5 We would stipulate that you don't have to authenticate
6 or change any of these to be able to show all that on both
7 9-1-1 calls. I think Mr. Schultz asked, and I have agreed.
8 I've agreed with that. You may want to ask him about that
9 also.

10 MR. SCHULTZ: That would -- we appreciate the
11 solicitor's stipulating to that. You said 18 and 19?
12 Eighteen is from the victim in the case and 19 is from --

13 MR. BARNETTE: Yeah. The victim's girlfriend and the
14 victim, and No. 19 is from Ms. Good.

15 MR. SCHULTZ: Okay. Ms. Good. Okay. And I'll be
16 happy to sign anything or anything like that.

17 THE COURT: so they've been apparently premarked as
18 State's Exhibits 18 and 19. so y'all are in agreement that
19 those are to be admitted into evidence?

20 MR. SCHULTZ: We are.

21 MR. BARNETTE: Well, they're authenticated. They're
22 the actual 9-1-1 calls, Your Honor. So there's no reason
23 to call the 9-1-1 operator. They can be stipulated and
24 placed into evidence.

25 THE COURT: That's what I'm saying. Y'all are in

1 agreement that the recordings be placed into evidence.

2 MR. BARNETTE: Yes, sir.

3 THE COURT: Okay.

4 MR. SCHULTZ: Yes, sir.

5 (9-1-1 call marked State's Exhibit No. 18; 9-1-1 call

6 marked State's Exhibit No. 19.)

7 MR. BARNETTE: Your Honor, just two other things.

8 One, I plan to argue and ask the Court for a jury
9 charge on hand of one, hand of all, jury charge.

10 Your Honor, I plan to argue -- not argue but state in
11 my opening. I just want to make the Court -- the Court on
12 notice of that, and Mr. Schultz. I -- I think he
13 understands that's what we've talked about from the
14 beginning. So I don't think there's any objection to that.

15 MR. SCHULTZ: The -- you know, one thing about --
16 about this case is that I think the -- the criminal
17 liability in this case according to the state would be the
18 hand of one, hand of all. And I think, for the record, I
19 would -- I think I would have to object to Mr. Barnette
20 bringing that up during opening.

21 Is that what you're saying, Barry?

22 MR. BARNETTE: I'm going to bring it up in opening,
23 Your Honor, because I believe that's our theory of the
24 case, and I believe the jury -- there'll be enough evidence
25 to charge it at a later time. Obviously, if it isn't,

1 he'll get a D.V. at the end of our case. So I don't see
2 any reason not to be able to state it in opening in this
3 case.

4 MR. SCHULTZ: I would object to it during an opening,
5 Your Honor, for the record.

6 THE COURT: All right. Well, I'm going to permit it.

7 MR. BARNETTE: And the last thing, Your Honor, I've
8 been given a list of potential witnesses for the defense.

9 Your Honor, the only thing I would ask for the Court
10 to caution the defense on -- obviously, it's a character
11 about the defendant or whatever.

12 We had a brief conference at the bench. Obviously,
13 they can't comment on anything on the victim's character in
14 this case. Obviously, I can bring up the case law from
15 that and anything.

16 I don't know if they're going to talk about that or
17 not. I don't know what those witnesses -- I've got a list
18 of ten of them. But I just wanted to bring out the
19 pretrial motion ahead of time if it becomes a situation
20 where they're going to attack the victim's character,
21 because this should not be any question in this case based
22 off the case law in this state.

23 MR. SCHULTZ: I don't think I'm going to attack the
24 victim's character in this, but I think certain facts will
25 come out about the victim selling drugs. I think that will

1 probably be inescapable in this case.

2 It may be admitted into evidence through the state;
3 may be admitted into evidence with my case in chief. But I
4 think somehow or another it will come out. But I don't
5 plan to specifically attack the victim's character in this
6 case.

7 MR. BARNETTE: Your Honor, I don't think he can bring
8 up anything that happened another day other than
9 October 2nd unless there's a reason to do so.

10 This is a drive-by shooting from that standpoint. It
11 was attempted armed robbery, attempted -- going into the
12 burglary, trying to break in the house or go into the
13 house, Your Honor. To me that has no relevance except what
14 happened that day. And I would object to anything that he
15 would bring out beyond that time period.

16 THE COURT: Well, of course y'all had the luxury of
17 knowing what the facts are and what the evidence will
18 reveal, and I don't. But is there any allegation that
19 Mr. Overton Good -- is that who the deceased is?

20 MR. BARNETTE: Yes, sir. That is.

21 THE COURT: Is there any allegations that they were
22 going there for the purpose of purchasing drugs from Mr.
23 Good, or is that part of the res gestae in this case, or
24 no?

25 MR. BARNETTE: Well, it's depends on which side you go

1 off of.

2 Our theory is they went to rob Mr. Good in that case.
3 I think their theory is that they went -- supposedly this
4 defendant went to buy weed from Mr. Good.

5 MR. SCHULTZ: And that is correct. That would be
6 my -- my theory of the case.

7 THE COURT: Okay.

8 MR. SCHULTZ: Is that they went there to purchase it.

9 THE COURT: Well, let's do it this way then. That's
10 your theory of the case?

11 MR. SCHULTZ: Yes, sir.

12 THE COURT: Cannot be presented to this jury until
13 such time as you intend to offer evidence, and then we'll
14 discuss the parameters of that offer if the state still
15 objects to it.

16 MR. SCHULTZ: Yes, sir.

17 THE COURT: Okay.

18 MR. SCHULTZ: Thank you.

19 THE COURT: What else?

20 MR. BARNETTE: All right. Nothing else from the
21 state, Your Honor.

22 MR. SCHULTZ: Your Honor, and I think we've already
23 actually taken care of this. Mr. Barnette was kind enough
24 to give me a copy of all of the N.C.I.C. printouts from all
25 of the witnesses that do have records. Some don't have

1 records.

2 I'm renewing my motion, but I think Mr. Barnette has
3 covered it. I'm referring to what Mr. Barnette handed me
4 before the lunch break.

5 I have records, N.C.I.C. printouts, on JaQuan Wood;
6 Danielle Smith whom I believe is the first witness to be
7 called by the state, at least right now; Carolyn Goode or
8 Good; Virginia Ann Lindsey; Lashonda Conley whom I may
9 call, as well as the state; Angela Smith; Joshua Byers,
10 Joshua Jermaine Byers; and Danielle Smith, another copy of
11 that. So that's all I have. I just want to make sure that
12 there's no other folks that I have not been provided the
13 N.C.I.C. printout for them.

14 The only -- and I think Mr. Barnette already gave me
15 Mr. Jefferies. I just have to find it. I'm not sure if
16 Mr. Jefferies is going to testify today.

17 MR. BARNETTE: Mr. Jefferies -- I did give him a copy
18 of that rap sheet, Your Honor. I don't think if he'll be
19 testifying here today or not. Depends on how far we get
20 along and depends on what other what the other witnesses
21 say in the case.

22 MR. SCHULTZ: But, Your Honor, I just want to make
23 sure I'm getting all the N.C.I.C. printouts of all of the
24 witnesses there for the state. And of course if any of my
25 witnesses there -- and I just gave Mr. Barnette a copy of

1 my potential witness list -- if any of those folks have
2 records or anything, I'm sure that Mr. Barnette will be
3 able to run N.C.I.C. And we'd be happy to provide him
4 social security numbers or anything like that.

5 MR. BARNETTE: We'll take any social security numbers
6 or dates of birth he'll give us.

7 THE COURT: All right. Do I understand that you're
8 saying that you had received seven criminal histories on
9 potential witnesses?

10 MR. SCHULTZ: Beg the Court's patience.

11 (Pause.)

12 MR. SCHULTZ: Seven, Your Honor, yes. There was a
13 repeat of Danielle Smith, but there's nothing on her. So,
14 but I have all of the N.C.I.C. printouts. I have seven.
15 But there's -- as the Court can tell, I think there's --

16 THE COURT: Well, there should be eight. You
17 talking -- you've got one for Carolyn Good; you've got one
18 for Angela Smith; you've got one for Virginia Ann Lindsey;
19 and you've got one for Danielle Smith; you've got one for
20 JaQuan Wood; you've got one for Joshua Byers; you've got
21 one for Jermaine Jefferies; and you've got one for Lashonda
22 Conley.

23 MR. SCHULTZ: Yes, sir. That's including Jermaine
24 Jefferies. But the ones I have right now in my hand are
25 seven.

1 MR. BARNETTE: And I'll get him one for May Denton,
2 Your Honor. She won't be testifying until tomorrow, and I
3 don't think she has a record. But we'll run him a rap
4 sheet on that also.

5 THE COURT: I'm just trying to nail down what we're
6 talking about so far. You have seven or eight?

7 MR. SCHULTZ: I'm sorry?

8 THE COURT: Do you have seven or eight histories?
9 Because you've named eight people, but you told me you had
10 seven histories.

11 MR. SCHULTZ: I have eight histories, Your Honor.

12 THE COURT: Okay. All right. Anything else?

13 MR. BARNETTE: One other thing, Your Honor. We
14 mentioned this before we started the case.

15 Mr. Wood was represented by Mr. Schultz previously.
16 That representation is ended. He's a potential witness in
17 this case. I just thought the Court may want to inquire of
18 him, just to put that on the record. I don't think there's
19 going to be a conflict, but I just want to make sure that's
20 clear on the record.

21 THE COURT: All right. Mr. Schultz, you've discussed
22 your previous representation of Mr. Wood with Mr. Rogers?

23 MR. SCHULTZ: I have, Your Honor, several times.

24 THE COURT: And do you perceive that there would be
25 any actual or potential conflict in your representation of

Jury qualification

1 Mr. Rogers because of your previous representation of
2 Mr. Wood?

3 MR. SCHULTZ: No, I do not perceive any conflict.

4 THE COURT: And is there anything that you've learned
5 during your representation of Mr. Wood that you would be
6 unable to question him about when he takes the witness
7 stand and testifies because of your previous
8 attorney-client relationship?

9 MR. SCHULTZ: No. I do not believe that.

10 THE COURT: Okay. Mr. Rogers, do you have any
11 concerns about Mr. Schultz's previous representation of
12 Mr. Wood?

13 THE DEFENDANT: No, sir.

14 THE COURT: Okay. Anything else?

15 MR. BARNETTE: Nothing from the state, Your Honor.

16 MR. SCHULTZ: No, sir.

17 THE COURT: All right. Bring the jury up, please.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: Good afternoon, ladies and gentlemen of
21 the jury panel.

22 We are ready to begin with jury selection in the first
23 case that's going to require some of your participation.

24 The title of the case is the State vs. Shaun Rogers, Jr.

25 When a person is accused of a crime where the

Jury qualification

1 jurisdiction lies here in the circuit court, they are
2 brought here by way of documents referred to as
3 indictments. And indictments are the changing papers.
4 It's just like an arrest warrant.

5 In this case the defendant, Shaun Rogers, Jr., is
6 charged with six separate and distinct criminal offenses,
7 although they all are alleged to have arisen out of one
8 particular event or a course of events which the state
9 alleges occurred back on October the 2nd of 2018.

10 But they're separate criminal offenses and the jury
11 selected will be called upon to render separate verdicts as
12 to the charges. And of course those verdicts could be the
13 same; they could be different. That would depend upon the
14 jury's determination of the facts based upon the evidence
15 and then the jury's application of the law that I will have
16 provided the jury. But each crime that is alleged against
17 the defendant is set forth in an indictment.

18 One indictment charges the defendant with having
19 committed the crime of burglary in the first degree, the
20 state alleging that Shaun Rogers, Jr. did here in Cherokee
21 County on or about October the 2nd of 2018, that he did
22 wilfully and unlawfully enter a dwelling occupied by
23 Overton Good. And that dwelling was located at 1521
24 Pleasant School Road here in Cherokee County.

25 They allege that he entered that dwelling without

Jury qualification

1 consent of the owner or person in possession and that he
2 entered that dwelling with intent to commit a crime therein
3 and that either in effecting entry or while in the dwelling
4 or in immediate flight therefrom he or another person who
5 was also participating in this criminal enterprise was
6 armed with a deadly weapon, or caused physical injury to a
7 person who was not a participant in the crime, or used or
8 threatened the use of a dangerous instrument, or displayed
9 what appeared to be a deadly weapon, or the burglary
10 occurred in the nighttime.

11 A person may be accused and may be found guilty of a
12 crime based upon them being a principal offender or based
13 upon them being an accomplice with some other person so
14 long as it is established by the evidence in the case that
15 all were acting together aiding, abetting and assisting and
16 participating one with the other in order to commit a
17 crime.

18 A second indictment charges the defendant, Shaun
19 Rogers, Jr., with the crime of discharging a firearm into a
20 dwelling, the state alleging by way of this indictment that
21 the defendant, Shaun Rogers, Jr., did here in Cherokee
22 County on or about October the 2nd of 2018, did discharge,
23 or did act in concert with another, caused to be discharged
24 unlawfully a firearm at or into a dwelling that was
25 occupied by another person.

Jury qualification

1 Another indictment charges Shaun Rogers, Jr. with the
2 crime of attempted murder, the state alleging that on or
3 about October the 2nd of 2018 that Mr. Rogers did, with
4 intent to kill, attempt to kill one Danielle Smith with
5 malice aforethought, expressed or implied, by shooting at
6 her with a firearm or that he did act in concert with
7 others in the commission of those acts.

8 A separate indictment charges the defendant, Shaun
9 Rogers, Jr., with the crime of attempted armed robbery in
10 that he did on October the 2nd of 2018 or while
11 participating with another while armed with a deadly
12 weapon, did attempt to take, steal and carry away goods or
13 monies belonging to Overton Good by the use of force or
14 intimidation.

15 And the remaining indictment charges Mr. Rogers with
16 two counts, two charges.

17 Count one, they allege that Shaun Rogers, Jr. did here
18 in Cherokee County on or about October the 2nd of 2018
19 wilfully and with malice aforethought kill one Overton Good
20 by shooting him with a firearm, or acting with another in
21 concert did, and that Mr. Overton Good died as a proximate
22 result of that gunshot wound.

23 And count two is a possession of a firearm during the
24 commission of a violent crime, the state alleging that on
25 or about October the 2nd of 2018 that Mr. Rogers did

Jury qualification

1 visibly display a firearm during the commission or
2 attempted commission of a violent crime, that violent crime
3 alleged to be the crime of murder.

4 (Pause for juror coughing.)

5 THE COURT: Let me -- let me do this.

6 Is it Ms. Leonard that's having the difficulty?

7 THE BAILIFF: She has asthma.

8 THE COURT: I know. I say is she the one having the
9 difficulty.

10 THE BAILIFF: Oh, yes, sir.

11 THE COURT: Okay. Ms. Leonard, I know that you needed
12 to be excused from court on Wednesday anyway and this case
13 could go into Wednesday. So we can excuse you from court
14 today, and you'll just need to call back. The bailiff will
15 provide you that number to call back to receive further
16 reporting information.

17 Okay. Thank you, ma'am.

18 (Whereupon, the juror was excused from the courtroom.)

19 THE COURT: Now, as to the allegations made by the
20 state by way of these indictments against Mr. Rogers he has
21 entered pleas of not guilty as to each of the separate
22 charges.

23 A plea of not guilty places upon the state because
24 they've made the accusation to establish the allegations
25 that they have set forth in each of these separate

Jury qualification

1 indictments.

2 The burden is on the state to prove each of the
3 essential elements of the crimes that are alleged against
4 Mr. Rogers; and therefore the burden is upon the state to
5 establish the defendant's guilt to the satisfaction of 12
6 jurors beyond a reasonable doubt before any verdict of
7 guilty could be returned as to any of the separate charges.
8 And therefore we're going to be selecting 12 of you as
9 primary jurors, and we'll select an additional juror or two
10 to serve as alternate jurors.

11 But by way of your selection you're going to be called
12 upon to participate as jurors in the case. And you will be
13 called upon to consider all of the evidence introduced
14 during the trial, to determine the facts where you can that
15 relate to the material allegations made against the
16 defendant.

17 Once you determine the facts that relate to the
18 allegations contained in each of the separate indictments
19 and charges, you will then apply the law that I will have
20 provided you, and those 12 jurors will determine whether or
21 not the defendant's guilt has been proven beyond a
22 reasonable doubt as it relates to each of the separate
23 charges.

24 Now, before we begin with jury selection I've got some
25 folks that I'm going to be introducing to you. And these

Jury qualification

1 are people that are involved in the trial of the case
2 either because they're the defendant or because they are a
3 purported victim or because they are related to someone who
4 was a purported victim as it relates to these charges.

5 You will also be introduced to all of the potential
6 witnesses to be called during the trial.

7 And the reason that I'm introducing all of these
8 people to you is because I need to find out if you have any
9 connection whatsoever with anybody who's going to be
10 identified as participating or relating to anyone in this
11 case.

12 So I need to find out if you have any connection by
13 blood or marriage, do you have any connection socially, do
14 you attend church with any of those folks, do you go to
15 school or did you go to school with any of these folks, do
16 you -- are you employed at some place where any of these
17 people might be employed, have you met them anywhere, have
18 you been introduced to them by anybody, as well as any
19 members of their families.

20 So I need to know if you know anybody that's going to
21 be introduced, as well as any members of their respective
22 families.

23 And if you do, then I need for you to stand, and we'll
24 address it separately. But I'll need you to stand and tell
25 me who it is that you know or have some connection with,

Jury qualification

1 what that connection is and whether or not in your view it
2 would have any bearing upon your decision in the case or
3 upon your ability to be fair and impartial if you were
4 called upon to serve as a juror in the case.

5 Now, first of all, as I told you, the defendant, the
6 person who is accused of having committed these crimes, is
7 Shaun Rogers, Jr.

8 Mr. Rogers, if you will, stand and face the jury panel
9 please, sir.

10 (Whereupon, the defendant stood.)

11 THE COURT: Look at the jury panel, not me.

12 All right. Thank you. You may be seated.

13 Mr. Rogers is being represented by Joshua Schultz.
14 Mr. Schultz is Mr. Roger's lawyer and he'll be assisting
15 him during the course of the trial of this case.

16 (Whereupon, Mr. Schultz stood.)

17 THE COURT: One of the persons who's alleged to be a
18 victim -- and that is the person who is alleged to be the
19 victim of the murder indictment -- is Overton Good.
20 Obviously, Mr. Good is not present, but members of his
21 family are.

22 So, Mr. Barnette, who are the members of his family
23 that are present?

24 MR. BARNETTE: I believe these four folks. This is
25 his parents and his other family.

Jury qualification

1 THE COURT: All right. Let's start on my right and
2 your right and the jurors' left, and just introduce. Just
3 tell them what your name is, what your connection is with
4 Mr. Good.

5 RICHARD GOOD, JR.: My name is Richard Good, Jr.
6 (Inaudible.)

7 THE COURT: Wait just a minute. I've got to -- the
8 court reporter has got to hear what you say, so kind of
9 turn to the side.

10 All right. We'll start with Richard. Say it again.

11 RICHARD GOOD, JR.: Richard Good, Jr. I'm Overton
12 Good's brother.

13 THE COURT: All right.

14 QUANTA GOOD: I'm Quanta Good, and I'm Richard's wife.

15 THE COURT: All right.

16 CAROLYN GOOD: My name is Carolyn Good, and I'm
17 Overton Good's mom.

18 THE COURT: All right.

19 RICHARD GOOD, SR.: My name is Richard Good, Sr. I'm
20 Overton's father.

21 THE COURT: Okay. Thank you.

22 In addition to any of those who might be called to
23 testify, the following persons are also potential witnesses
24 to be called during the trial.

25 Now, it's a long list, but not every witness that's on

Jury qualification

1 this list will necessarily be called to testify. But they
2 potentially do have information that might be material that
3 needs to be presented. So that's why there's going to be
4 an entire list of potential witnesses, because they might
5 end up being a witness.

6 We have Janice Ross who is a pathologist from
7 Charleston, South Carolina.

8 All of the following until I stop are employed by the
9 Cherokee County Sheriff's Department. And they include
10 Jordon Cutchin, Kenneth Sibley, Brandon Gardner, Billy
11 Anthony, Jimmy Henson, Brian Mullinax, Jacob Mullinax,
12 Christopher Parnell, Derrick Greer and Daniel Ward. All of
13 those are employed by the Cherokee County Sheriff's
14 Department.

15 In addition we have Carolyn Good who's just been
16 introduced to you. Angela Smith, Virginia Ann Lindsey,
17 Danielle Smith, JaQuan Kwame Wood, Joshua Jermaine Byers,
18 Jermaine Jefferies, Lashonda Conley, May Snipes Denton,
19 Deonica Logan, Dennis Gardner, Brandon Peeler, Dennis
20 Dawkins, Brant Suchewski, Jaquan Wood, Elijah Dawkins.

21 The following five or six witnesses are employed by
22 the state law enforcement division. They include Kimberly
23 Mears, Jennifer Nates, Michelle Eichenmiller, Charlotte
24 Pitts, Lesa Chapman, Bethany Davidson, Doris Yarborough,
25 Jackie Davis, Jamie Hall.

Jury qualification

1 And we also have Robert Padgett, also employed in the
2 Cherokee County Sheriff's Office.

3 Are there any other potential witnesses on behalf of
4 the state?

5 MR. BARNETTE: None from the state, Your Honor.

6 THE COURT: The defendant?

7 MR. SCHULTZ: None for the defense.

8 THE COURT: All right. Those are all of the potential
9 witnesses.

10 So does any juror know any of those folks? If you do,
11 please stand, and then I'll take you one by one. And I'll
12 ask you to identify yourself by name and juror number. And
13 then tell me what person or persons that you have a
14 connection with and what that connection is.

15 Now, I'm going to start on the row closest to me, and
16 I'll do each row, and I'll go backwards.

17 All right. And I'll start with you, ma'am, in the
18 blue. Your name and number.

19 JUROR NO. 37: No. 37.

20 THE COURT: Thirty-seven?

21 JUROR NO. 37: Yes, sir.

22 THE COURT: All right. How does that question relate
23 to you?

24 JUROR NO. 37: I'm sorry?

25 THE COURT: How does my question relate to you? why

Jury qualification

1 are you standing?

2 JUROR NO. 37: Because I know -- I used to go to
3 church with Deonica Logan.

4 THE COURT: You went to church with Deonica Logan?

5 JUROR NO. 37: Yes, sir.

6 THE COURT: All right. Is there anything about that
7 connection that would have any bearing upon your decision
8 in this case if you were selected as a juror in it?

9 JUROR NO. 37: Yes, sir.

10 THE COURT: Okay. Do you think that that connection,
11 there's some reason why you might be -- might not be able
12 to be fair and impartial?

13 JUROR NO. 37: Yes, sir.

14 THE COURT: Is that a yes?

15 JUROR NO. 37: Yes, sir.

16 THE COURT: Okay. Juror 37 will be excused from
17 service in the trial of the case.

18 Ma'am, if you don't mind, if you'll just go back and
19 have a seat in the back somewhere. Don't leave quite yet.
20 You can just have a seat on the back row, on the second
21 from the back row on the same side you're on.

22 All right. Next.

23 JUROR NO. 31: I'm Juror 31.

24 THE COURT: Your name?

25 JUROR NO. 31: Cordelia Earls.

Jury qualification

1 THE COURT: All right. And who is it that you know?

2 JUROR NO. 31: I know Richard Good.

3 THE COURT: All right. How do you know Richard Good?

4 JUROR NO. 31: We went to school together.

5 THE COURT: All right. And is there anything about
6 that connection that you have with him that would have any
7 bearing upon your ability to be fair and impartial in this
8 case if you were selected?

9 JUROR NO. 31: No, sir.

10 THE COURT: All right. Thank you, ma'am. You may be
11 seated.

12 All right. Now, are you on a row by yourself, ma'am,
13 in stripe shirt?

14 JUROR NO. 70: Yes.

15 THE COURT: Are you on a row by yourself?

16 JUROR NO. 70: Uh-huh.

17 THE COURT: Okay. Your name and number.

18 JUROR NO. 70: Juror 70.

19 THE COURT: Seven?

20 JUROR NO. 70: Seventy.

21 THE COURT: Seventy. Okay. Your name?

22 JUROR NO. 70: Carlameta Marlowe.

23 THE COURT: Who is it that you know?

24 JUROR NO. 70: Richard Good.

25 THE COURT: How do you know Richard Good?

Jury qualification

1 JUROR NO. 70: Our families went to church together
2 when we were younger. His sisters took care, take care of
3 my grandkids right now. They're like family to me.

4 THE COURT: All right. Is there anything about that
5 fact or that connection that would impair your ability to
6 be fair and impartial if you were selected?

7 JUROR NO. 70: Yes, sir.

8 THE COURT: All right. Ma'am, if you don't mind, you
9 can go back and have a seat back there with Juror 37.

10 No. 70 is excused.

11 You can go back to the right. Ma'am, you can go out
12 that way. It'll be closer.

13 All right. Next row. You, sir.

14 JUROR NO. 57: Juror 57, Jeff Humphries.

15 THE COURT: Who do you know?

16 JUROR NO. 57: I know Mr. Ward and Mr. Gardner and
17 Mrs. Gardner.

18 THE COURT: How do you know each of them?

19 JUROR NO. 57: Family acquaintance and went to school
20 with Mr. Ward.

21 THE COURT: All right. Is there anything about either
22 of those connections that would have any bearing upon your
23 decision in this case if you were selected?

24 JUROR NO. 57: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, ma'am.

2 JUROR NO. 129: 129, Genene Tate. And I'm related to
3 Doris Tate too.

4 THE COURT: That's the wife of Richard Good?

5 JUROR NO. 129: Yes, sir.

6 THE COURT: All right. And how are you related?

7 JUROR NO. 129: We're like third cousins.

8 THE COURT: Okay. Would that have any bearing in your
9 decision in the case if you were selected?

10 JUROR NO. 129: No.

11 THE COURT: All right. Thank you. Be seated.

12 Yes, ma'am.

13 JUROR NO. 109: Juror 109, Katherine Ramsey. I -- I
14 know Jordan Cutchin -- was in the band with my daughter
15 back when I was amateur. Also, worked at Gaffney High
16 School between the years of 2002 and 2014. So a lot of it
17 has been much later, but I believe I taught Kwame.

18 THE COURT: You believe you taught who?

19 JUROR NO. 109: Kwame. I remember the first name.

20 THE COURT: Okay. All right. That's JaQuan Kwame
21 Wood.

22 JUROR NO. 109: Uh-huh.

23 THE COURT: Okay. Is there anything about any of
24 those connections that would have any bearing upon your
25 decision in the case if you were selected?

Jury qualification

1 JUROR NO. 109: I don't believe so.

2 THE COURT: All right. Thank you, ma'am. You may be
3 seated.

4 Next.

5 JUROR NO. 119: Juror 119, Veronica Shippy.

6 THE COURT: Who do you know?

7 JUROR NO. 119: I know Mr. Good. I know his wife and
8 his son and his wife -- his wife. Coach Good -- well,
9 Mr. Good. He coached my brothers in basketball, and I'm
10 real good friends with the family, real close friends.

11 THE COURT: Okay. Is there anything about that fact
12 that would impair your ability to be fair and impartial if
13 you were selected?

14 JUROR NO. 119: Yes, sir.

15 THE COURT: All right. We'll excuse Juror 119 from
16 service. Just go have a seat in the back, please.

17 All right. Next, ma'am.

18 JUROR NO. 95: Ninety-five. I know most of the
19 officers on your list, as well as the dispatchers. I'm
20 also a paramedic and my husband is an officer.

21 THE COURT: And you know them --

22 JUROR NO. 95: I know them well. We've worked
23 together for almost 20 years now.

24 THE COURT: Professionally.

25 JUROR NO. 95: And friends outside of work, yes, sir.

Jury qualification

1 THE COURT: Okay. Is there anything about either of
2 those connections, professional or personal and social,
3 that would have any bearing upon your decision in the case
4 if you were selected?

5 JUROR NO. 95: I believe there is, yes, sir.

6 THE COURT: Okay. Juror 95, have a seat in the back,
7 please.

8 All right. Next row.

9 JUROR NO. 98: Juror No. 98. Name Marguerite Petty.
10 And I know the defendant's father and I know Shonda Conley.

11 THE COURT: You know Mr. Good and you know who else?
12 who else did you say you knew?

13 JUROR NO. 98: Shonda Conley, one of the witnesses.

14 THE COURT: Shaun? What was his last name?

15 JUROR NO. 98: Conley.

16 THE COURT: Oh, Conley. Okay. Lashonda Conley. All
17 right. Is there anything about either of those connections
18 that would impair your ability to be fair and impartial if
19 selected?

20 JUROR NO. 98: No, sir.

21 THE COURT: All right. Thank you, ma'am. You may be
22 seated.

23 Next.

24 JUROR NO. 46: No. 46. My name is Joel Hall. And I
25 know Richard Good. Good friend of mine. We played

Jury qualification

1 basketball.

2 THE COURT: All right. Is there anything about that
3 connection that would impair your ability to be fair and
4 impartial?

5 JUROR NO. 46: No, sir.

6 THE COURT: Thank you. Be seated.

7 Yes, sir.

8 JUROR NO. 14: Juror 14, Michael Bridges. There were
9 a couple of the officers that I knew.

10 THE COURT: Okay. And how do you know them?

11 JUROR NO. 14: I went to school with one. There were
12 a couple. I'm pretty sure there was one I go to church
13 with.

14 THE COURT: Okay. Is there anything about either of
15 those connections that would impair your ability to be fair
16 and impartial?

17 JUROR NO. 14: No, sir. I don't believe so.

18 THE COURT: Thank you. Be seated.

19 MR. SCHULTZ: Your Honor, I'm sorry to interrupt.
20 What number was that?

21 THE COURT: Fourteen.

22 MR. SCHULTZ: Thank you.

23 THE COURT: Yes, ma'am.

24 JUROR NO. 96: Yes. 96, Angela Peeler. I went to
25 school with Mr. Ward, but I don't know him personally.

Jury qualification

1 THE COURT: Would that have any bearing in your
2 decision?

3 JUROR NO. 96: No, sir.

4 THE COURT: Thank you. Be seated.
5 Yes, sir.

6 MR. BARNETTE: What was that number again, Your Honor?

7 THE COURT: Ninety-six.

8 MR. BARNETTE: Ninety-six.

9 JUROR NO. 5: Juror No. 5, Danny Bayne. I know the
10 officers too. I go to church with some of them.

11 THE COURT: One or several?

12 JUROR NO. 5: Jacob Mullinax and Jimmy Henson.

13 THE COURT: Okay. Would that have any bearing in your
14 decision in the case?

15 JUROR NO. 5: No, sir.

16 THE COURT: Thank you. Be seated.

17 MR. SCHULTZ: Your Honor, what number was that? I'm
18 sorry.

19 THE COURT: Five.

20 MR. SCHULTZ: Five. Yes, sir. Thank you.

21 THE COURT: All right. Anybody else need to tell me
22 about some connection you have with anybody involved in the
23 case?

24 And that also includes not just the witnesses, but
25 that also includes the lawyers or anybody that's employed

Jury qualification

1 in their respective offices. That would be the solicitor's
2 office with Mr. Barnette. I might not have introduced him
3 yet. But Barry Barnette is the solicitor. He's the one
4 that's presenting the case on behalf of the state.

5 So if you know anybody -- if you know him or anybody
6 in his office, I need to know about that. And of course
7 Mr. Schultz and anybody -- he or anybody in his office.

8 Okay. All right. Yes, ma'am.

9 JUROR NO. 20: Juror No. 20. I work for an attorney's
10 office, so I know them through that.

11 THE COURT: All right. What attorney do you work for?

12 JUROR NO. 20: Burts, Turner and Rhodes -- Richard
13 Rhodes.

14 THE COURT: Okay. Would that have any bearing in your
15 decision?

16 JUROR NO. 20: No, sir.

17 THE COURT: Thank you.

18 Yes, sir.

19 JUROR NO. 34: Thirty-four, Aaron Ervin. I grew up
20 with Overton. Played Little League football with him.

21 THE COURT: With who?

22 JUROR NO. 34: Overton Good.

23 THE COURT: Okay. Would that have any bearing in your
24 decision?

25 JUROR NO. 34: No, sir.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 Yes, ma'am.

3 JUROR NO. 7: Juror No. 7. My name is Lynn Blackwell.
4 I don't personally know any of these folks, but my son was
5 a previous dispatcher of Cherokee County. So several of
6 these names sound familiar. Dennis Gardner was a
7 supervisor.

8 THE COURT: Okay. Would that have any bearing in your
9 decision in this case?

10 JUROR NO. 7: No, sir.

11 THE COURT: Okay. Thank you.

12 MR. BARNETTE: What's her number again?

13 THE COURT: Seven.

14 Anybody else know anybody who has been introduced or
15 anybody that's related to them? If so, please stand.

16 (No response.)

17 THE COURT: All right. Now, this is an event which
18 the indictments allege occurred back on October the 2nd of
19 2018 at a residence located at 1521 Pleasant School Road in
20 Gaffney, South Carolina. And of course I read the
21 indictments to tell you what has been alleged.

22 Does any juror think that you might have heard, seen
23 or read anything that relates to this particular case? In
24 other words, have you been exposed to any type of
25 information that relates to this particular case from any

Jury qualification

1 source, whether it be television, radio, newspaper, talking
2 to somebody at work, at home, at church, at school? Have
3 you been exposed to any type of information that relates to
4 the case? If so, please stand.

5 All right. Your number again please, ma'am?

6 JUROR NO. 98: Ninety-eight, Juror No. 98, name --

7 THE COURT: All right. Just -- now, listen to my
8 question. Don't -- I don't want you to give me a lot of
9 information. Just answer the question as distinctly and as
10 shortly as you can.

11 From what source did you receive information?

12 JUROR NO. 98: Just some of the family.

13 THE COURT: Ma'am?

14 JUROR NO. 98: Some of the family of Shonda Conley.

15 THE COURT: Okay. And do you remember the information
16 that you received?

17 JUROR NO. 98: Yes, sir.

18 THE COURT: Okay. And is it the type of
19 information -- is it the type of information that could
20 cause you to be unable to be fair and impartial if you were
21 selected as a juror in the case?

22 JUROR NO. 98: It could, yes, sir.

23 THE COURT: Okay. You think there's a reasonable
24 probability that it would?

25 JUROR NO. 98: No, sir.

Jury qualification

1 THE COURT: You don't think there's a reasonable
2 probability that it could?

3 JUROR NO. 98: I can't hear you.

4 THE COURT: Okay. What I said was you said you had
5 heard some information about the case.

6 JUROR NO. 98: Yeah. I heard a lot of information
7 about the case.

8 THE COURT: All right. So what I'm trying to find out
9 is the information that you have heard, would it affect
10 your judgment in this case?

11 JUROR NO. 98: Oh, no.

12 THE COURT: It wouldn't?

13 JUROR NO. 98: No.

14 THE COURT: Well, let me ask you this. If during the
15 trial of the case the information that you have, if that
16 was not presented during the trial of the case -- in other
17 words, it didn't come in as evidence in the case -- would
18 you be able to put it aside, to ignore it and not allow it
19 to influence your decision?

20 JUROR NO. 98: Yes, sir.

21 THE COURT: You would do that?

22 JUROR NO. 98: Uh-huh.

23 THE COURT: All right. Thank you. You may be seated.
24 That's Juror 98.

25 Yes, ma'am.

Jury qualification

1 JUROR NO. 129: 129, Genene Tate.

2 THE COURT: What source have you received information?

3 JUROR NO. 129: Just newspaper.

4 THE COURT: Newspaper. What's the most recent thing
5 you read about it?

6 JUROR NO. 129: Just somebody pleading guilty.

7 THE COURT: No. I said what's the most -- I mean,
8 what is the most recent edition of the paper that you read
9 about something that relates to this case? How long ago
10 was it that you read the paper?

11 JUROR NO. 129: Maybe about seven or eight months ago.

12 THE COURT: Seven or eight months ago?

13 JUROR NO. 129: Yes, sir.

14 THE COURT: Okay. And is there anything about that,
15 what you read in the paper, that would affect your judgment
16 in this case?

17 JUROR NO. 129: No.

18 THE COURT: Because you understand that you have to
19 base a decision as a juror upon what you see and hear
20 during the trial, and you can't be influenced by any
21 outside or extraneous information. Could you do that?

22 JUROR NO. 129: Yes, sir.

23 THE COURT: All right. Thank you, ma'am. You may be
24 seated.

25 Yes, ma'am.

Jury qualification

1 JUROR NO. 109: 109, Katherine Ramsey. Last year I
2 read the newspaper article, but I have not read anything
3 since. But at the time of the -- of the incident one of my
4 students knew the victim and was very upset, and so that's
5 how I initially heard about it.

6 THE COURT: Okay. Is there anything that you heard or
7 read about the case that would affect your judgment if you
8 were called upon to serve as a juror?

9 JUROR NO. 109: I don't know.

10 THE COURT: Well, could you put aside anything that
11 you heard or read if it's not introduced during the trial
12 of the case? Could you put that aside and not allow it to
13 influence your judgment?

14 JUROR NO. 109: Yes, sir.

15 THE COURT: All right. Thank you, ma'am. You may be
16 seated.

17 Anybody else?

18 (No response.)

19 THE COURT: All right. Has any member of the jury
20 panel or any members of your immediate family -- and let me
21 define an immediate family member as a parent or a spouse
22 or a child or a sibling -- parent, spouse, child or
23 sibling. Have you or any members of your immediate family
24 ever been the victim of any type of criminal offense that
25 might be characterized or described as a violent offense?

Jury qualification

1 That would include murder, manslaughter, burglary,
2 criminal sexual conduct, domestic violence of a high and
3 aggravated nature, robbery, anything similar.

4 Have you or any members of your immediate family as I
5 have described it ever been the victim of such, as well as
6 have you or any members of your immediate family ever been
7 accused of having committed such?

8 So I need to know if you or a family member was a
9 victim of any such offense or accused of having committed
10 any such offense. If so, please stand.

11 All right. I will start on the front row.

12 Yes, ma'am.

13 JUROR NO. 33: Thirty-three, Shelly Elmer.

14 THE COURT: All right. How does that question relate
15 to you?

16 JUROR NO. 33: My father was a victim of a violent
17 crime, a stabbing, 28 years ago.

18 THE COURT: And was that here or somewhere else?

19 JUROR NO. 33: No. Upstate New York where we're from.

20 THE COURT: Would that experience have any bearing
21 upon your decision in this case?

22 JUROR NO. 33: No.

23 THE COURT: Thank you. Be seated.

24 All right. Next row.

25 JUROR NO. 57: Juror 57, Jeff Humphries.

Jury qualification

1 THE COURT: All right. How does it relate to you?

2 JUROR NO. 57: My father-in-law was murdered here in
3 Cherokee County.

4 THE COURT: How long ago?

5 JUROR NO. 57: 2009.

6 THE COURT: Would that have any bearing in your
7 decision in this case?

8 JUROR NO. 57: I don't think so.

9 THE COURT: Well, is there any reasonable probability
10 it could?

11 JUROR NO. 57: No, sir.

12 THE COURT: Okay. Thank you. Be seated.
13 Yes, sir.

14 JUROR NO. 111: Juror 111, David Rice. I was charged
15 with domestic violence 23 years ago.

16 THE COURT: Would that have any bearing in your
17 decision here?

18 JUROR NO. 111: No, sir.

19 THE COURT: Thank you. Be seated.
20 Yes, ma'am.

21 JUROR NO. 136: Juror 136, Crystal Lollis. My brother
22 was murdered by a burglar in Lenoir, North Carolina, and it
23 was 2018. The case has not finished yet.

24 THE COURT: Okay. Would that experience have any
25 bearing upon your decision in this case --

Jury qualification

1 JUROR NO. 136: Yes, it would.

2 THE COURT: -- if you were selected?

3 JUROR NO. 136: Yes.

4 THE COURT: All right. You can be excused. Have a
5 seat back there, please, ma'am.

6 All right.

7 JUROR NO. 98: No. 98.

8 THE COURT: Yes, ma'am.

9 JUROR NO. 98: My son was convicted of manslaughter,
10 involuntary manslaughter, in 1996.

11 THE COURT: And would that fact have any bearing upon
12 your decision?

13 JUROR NO. 98: No.

14 THE COURT: Thank you. Be seated.
15 Yes, ma'am.

16 JUROR NO. 128: Juror No. 128.

17 THE COURT: 128?

18 JUROR NO. 128: Yes.

19 THE COURT: Okay.

20 JUROR NO. 128: My brother-in-law was killed about two
21 years ago.

22 THE COURT: Was that here or somewhere else?

23 JUROR NO. 128: Right here in Cherokee County.

24 THE COURT: All right. Would that have any bearing on
25 your decision in this case?

Jury qualification

1 JUROR NO. 128: No, sir.

2 THE COURT: Thank you, ma'am. You may be seated.

3 JUROR NO. 128: I have one other question. Are any of
4 those people that are back here, are witnesses or anything?

5 THE COURT: I think some of them may be.

6 JUROR NO. 128: Because I know one of them and I
7 didn't recognize her until just now.

8 THE COURT: All right. Well, just tell me what she's
9 wearing.

10 JUROR NO. 128: Red hair.

11 THE COURT: All right. Stand up, please, ma'am. And
12 your name is what?

13 SHANETA FOSTER: I'm not witness.

14 THE COURT: You're who?

15 SHANETA FOSTER: I'm not a witness.

16 THE COURT: What's your name?

17 SHANETA FOSTER: Shaneta Foster.

18 THE COURT: Okay. She's not going to be a witness.

19 JUROR NO. 128: Okay. I was just making sure.

20 THE COURT: I'm glad you did that. Yeah. She's not
21 going to be testifying in the case. Thank you, ma'am.

22 All right.

23 JUROR NO. 96: Ninety-six, Angela Peeler. I was a
24 victim of a domestic assault.

25 THE COURT: And would that experience have any bearing

Jury qualification

1 in your decision?

2 JUROR NO. 96: No, sir.

3 THE COURT: Thank you. Be seated.

4 Has any member of the jury panel ever been called to
5 testify as a witness in a criminal case by either the
6 prosecutor or by a defendant's lawyer? Has anyone ever
7 testified as a witness in a criminal case? If so, please
8 stand.

9 All right. Your number.

10 JUROR NO. 23: Twenty-three, Anthony Colone.

11 THE COURT: All right. And you were called to testify
12 as a witness?

13 JUROR NO. 23: Yeah. I was an arresting security
14 officer in Las Vegas.

15 THE COURT: Okay. That's fine. Thank you.

16 Has any member of the jury panel or any members of
17 your immediate family ever been employed as any type of law
18 enforcement officer? Ever been -- you or a family member
19 ever been employed as any type of law enforcement officer
20 for any law enforcement agency -- civilian and/or military?
21 If so, please stand.

22 All right. You're Juror 57?

23 JUROR NO. 57: Jeff Humphries, yes, sir.

24 THE COURT: All right. How does that question relate
25 to you?

Jury qualification

1 JUROR NO. 57: I have a daughter and husband, Marines,
2 military police. She now serves Spartanburg Coroner's
3 office. Brother-in-law serves on the Spartanburg -- he's a
4 detective over there.

5 THE COURT: And would either of those connections have
6 any bearing --

7 JUROR NO. 23: No, sir.

8 THE COURT: -- in your decision?

9 JUROR NO. 23: No, sir.

10 THE COURT: Thank you.

11 Yes, sir.

12 JUROR NO. 111: 111, David Rice. I've got some.
13 Second cousin was a chief of police for Woodruff for years.

14 THE COURT: And would that have any bearing in your
15 decision?

16 JUROR NO. 111: No, sir.

17 THE COURT: Thank you. Be seated.

18 Has any member of the jury panel already formed an
19 opinion as to how you think the case ought to be decided
20 based upon what you've heard up to this point or based upon
21 any other consideration? Have you already made up your
22 mind as to how you think it ought to be decided? If so,
23 please stand.

24 (No response.)

25 THE COURT: Does any juror know of any reason

Jury qualification

1 whatsoever why you believe you could not be fair and
2 impartial if you were called upon to serve as a juror in
3 this particular case? If you have any reason whatsoever
4 why you think you could not be fair and impartial as a
5 juror in this particular case, I would ask that you please
6 stand.

7 (No response.)

8 THE COURT: All right. None responding.

9 Any other questions requested by the state?

10 MR. BARNETTE: None from the state, Your Honor.

11 THE COURT: By the defendant?

12 MR. SCHULTZ: Yes, sir. Could we approach?

13 THE COURT: Okay.

14 (Bench conference held off the record.)

15 THE COURT: I've got one other question.

16 Is any member of the jury panel or does any member of
17 the jury panel belong to any type of organization that
18 might be characterized as law enforcement support or
19 victim's advocacy type groups supporting victims and
20 victims' rights? Does any juror belong to such
21 organizations, as well as do you contribute time or money
22 to any type of those organizations?

23 And some of those would include, as an example,
24 Mothers Against Drunk Drivers, Citizens Against Violent
25 Crime, rape crisis, Children's Advocacy Center, any type of

Jury qualification

1 the honorary troopers' association, the fraternal order of
2 police, the policeman benevolence society.

3 Does any juror belong to any of those types of
4 organizations or do you contribute time or money to any of
5 those types of organizations? If so, please stand.

6 (No response.)

7 THE COURT: None responding.

8 Any other questions?

9 MR. BARNETTE: None from the state, Your Honor.

10 MR. SCHULTZ: Judge, under my requested voir dire I
11 would like the Court to ask six. I think everything else
12 has been covered.

13 THE COURT: Has any member of the jury panel ever
14 expressed any opinions about the criminal justice system in
15 general by writing letters to the editor in a newspaper or
16 making a speech or contribute a blog or posting anything on
17 facebook or any other type of social media? Has anyone
18 ever expressed opinions about the criminal justice system
19 through any public or social media source? If so, please
20 stand.

21 (No response.)

22 THE COURT: All right. None responding.

23 All right. Now, the way a jury is selected --

24 MR. SCHULTZ: Thank you, Your Honor.

25 THE COURT: okay. The way the jury is selected is all

Jury qualification

1 of your names are in the computer when you checked in. And
2 so the computer is going to randomly select you as we
3 call -- as we begin selection.

4 when your name is called you'll be asked to come
5 forward. Just have a -- take a stance right there in front
6 of the clerk. Turn and face the back of the courtroom
7 where you're seated now.

8 Each side has an opportunity to have you seated for
9 service in the case or to have you excused from serving in
10 the case.

11 If either side asks that you be excused from serving,
12 just go back and have a seat where are now.

13 If both agree to have you seated for service in the
14 case, you'll be having a seat in that jury box to your
15 right and to my left.

16 So please come forward as your name is called and
17 you'll be instructed whether you have been excused from
18 service or accepted for service in the case.

19 THE CLERK: Juror 90, Kristen Owens.

20 Come down front, Ms. Owens. Stand right there and
21 just turn around, please.

22 What says the state?

23 MR. BARNETTE: Please present the juror.

24 THE CLERK: What says the defense?

25 MR. SCHULTZ: Please seat the juror in this case.

Jury qualification

1 THE CLERK: Please take a seat in the jury box.
2 Juror 96, Angela Peeler.
3 what says the state?
4 MR. BARNETTE: Please present the juror.
5 THE CLERK: what says the defense?
6 MR. SCHULTZ: Please excuse the juror in this case.
7 THE CLERK: You've been excused.
8 Juror 34, Aaron Ervin.
9 MR. BARNETTE: what's that number again, please?
10 THE CLERK: Thirty-four.
11 MR. BARNETTE: Thank you, ma'am.
12 THE CLERK: what says the state?
13 MR. BARNETTE: Please present the juror.
14 THE CLERK: what says the defense?
15 MR. SCHULTZ: Please excuse the juror in this case.
16 THE CLERK: You've been excused.
17 Juror 22, Crystal Cobb.
18 what says the state?
19 MR. BARNETTE: Please present the juror.
20 THE CLERK: what says the defense?
21 MR. SCHULTZ: Please seat the juror in this case.
22 THE CLERK: Please take a seat in the jury box.
23 Juror 59, Natoshia Jones.
24 what says the state?
25 MR. BARNETTE: Please excuse this juror from service.

Jury qualification

1 THE CLERK: You've been excused.
2 Juror 23, Anthony Colon.
3 What says the state?
4 MR. BARNETTE: Please present the juror.
5 THE CLERK: What says the defense?
6 MR. SCHULTZ: Please excuse the juror.
7 THE CLERK: You've been excused.
8 Juror 109, Katherine Ramsey.
9 What says the state?
10 MR. BARNETTE: Please present the juror.
11 THE CLERK: What says the defense?
12 MR. SCHULTZ: Please excuse the juror in this case.
13 THE CLERK: You've been excused.
14 Juror 98, Margaret Petty.
15 What says the state?
16 MR. BARNETTE: Please excuse the juror from service in
17 this case.
18 THE CLERK: You've been excused.
19 Juror 32, Casity Elliott.
20 What says the state?
21 MR. BARNETTE: Please present the juror.
22 THE CLERK: What says the defense?
23 MR. SCHULTZ: Please seat the juror.
24 THE CLERK: Please take a seat in the jury box.
25 Juror 27, Michael Crowe.

Jury qualification

1 What says the state?
2 MR. BARNETTE: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. SCHULTZ: Please seat the juror in this case.
5 THE CLERK: Please take a seat in the jury box.
6 Juror 140, Christopher white.
7 What says the state?
8 MR. SCHULTZ: What number was that?
9 THE CLERK: 140.
10 MR. SCHULTZ: Thank you.
11 THE CLERK: Christopher white.
12 What says the state?
13 MR. BARNETTE: Please present the juror.
14 THE CLERK: What says the defense?
15 MR. SCHULTZ: Please seat the juror.
16 THE CLERK: Please take a seat in the jury box.
17 Juror 3, Sharon Bailey.
18 What says the state?
19 MR. BARNETTE: Please present the juror.
20 THE CLERK: What says the defense?
21 MR. SCHULTZ: Please seat the juror.
22 THE CLERK: Please take a seat in the jury box.
23 Juror 46, Joel Hall.
24 What says the state?
25 MR. BARNETTE: Please present the juror.

Jury qualification

1 THE CLERK: what says the defense?

2 MR. SCHULTZ: Please excuse the juror.

3 THE CLERK: You've been excused.

4 Juror 69, Stacy Longshore.

5 what says the state?

6 MR. BARNETTE: Please present the juror.

7 THE CLERK: what says the defense?

8 MR. SCHULTZ: Please seat the juror.

9 THE CLERK: Please take a seat in the jury box.

10 Juror 124, Sharon Spencer.

11 what says the state?

12 MR. BARNETTE: Please present the juror.

13 THE CLERK: what says the defense?

14 MR. SCHULTZ: Please excuse the juror.

15 THE CLERK: You've been excused.

16 Juror 129, Genene Tate.

17 what says the state?

18 MR. BARNETTE: Please present the juror.

19 THE CLERK: what says the defense?

20 MR. SCHULTZ: Please excuse the juror.

21 THE CLERK: You've been excused.

22 Juror 15, Doris Buckson.

23 what says the state?

24 MR. BARNETTE: Please excuse this juror from service.

25 THE CLERK: You've been excused.

Jury qualification

1 Juror 57, Jeffrey Humphries.
2 What says the state?
3 MR. BARNETTE: Please present the juror.
4 THE CLERK: What says the defense?
5 MR. SCHULTZ: Please excuse the juror.
6 THE CLERK: You've been excused.
7 Juror 5, Danny Bayne.
8 What says the state?
9 MR. BARNETTE: Please present the juror.
10 THE CLERK: What says the defense?
11 MR. SCHULTZ: Please excuse the juror in this case.
12 THE CLERK: You've been excused.
13 Juror 33, Shelly Elmer.
14 MR. SCHULTZ: What number, madam clerk?
15 THE CLERK: Thirty-three.
16 MR. SCHULTZ: Thank you.
17 THE CLERK: What says the state?
18 MR. BARNETTE: Please present the juror.
19 THE CLERK: What says the defense?
20 MR. SCHULTZ: Please excuse the juror.
21 THE CLERK: You've been excused.
22 Juror 99, Jon Phillips.
23 What says the state?
24 MR. BARNETTE: Please present the juror.
25 THE CLERK: What says the defense?

Jury qualification

1 MR. SCHULTZ: Please seat the juror.
2 THE CLERK: Please take a seat in the jury box.
3 Juror 111, David Rice.
4 What says the state?
5 MR. BARNETTE: Please excuse this juror from service.
6 THE CLERK: You've been excused.
7 Juror 7, Lynn Blackwell.
8 What says the state?
9 MR. BARNETTE: Please present the juror.
10 THE CLERK: What says the defense?
11 MR. SCHULTZ: Please excuse the juror in this case.
12 THE COURT: You've already used all of yours.
13 MR. SCHULTZ: I'm sorry.
14 THE COURT: Ms. Blackwell, you can have a seat in the
15 jury box.
16 MR. SCHULTZ: Thank you, Your Honor.
17 THE CLERK: Juror 130, Reginald Tate.
18 What says the state?
19 MR. BARNETTE: Please excuse this juror from service.
20 THE CLERK: You've been excused.
21 MR. SCHULTZ: What number was that, madam clerk?
22 THE CLERK: 130, Reginald Tate.
23 Juror 31, Cordelia Earls.
24 What says the state?
25 MR. BARNETTE: Please present the juror.

Jury qualification

1 THE CLERK: Says the defense?
2 MR. SCHULTZ: Please present.
3 THE CLERK: Please take a seat in the jury box.
4 Juror 134, Randall Upchurch.
5 What says the state?
6 MR. BARNETTE: Please present the juror.
7 THE CLERK: What says the defense?
8 MR. SCHULTZ: Please present.
9 THE CLERK: Please take a seat in the jury box.
10 Juror 94, Tarun Patel.
11 What says the state?
12 MR. BARNETTE: Please present the juror.
13 THE CLERK: What says the defense?
14 MR. SCHULTZ: Seat the juror.
15 THE CLERK: Please take a seat in the jury box.
16 Next juror will be for the first alternate.
17 Juror 20, Jo Champion.
18 What says the state?
19 MR. BARNETTE: Please present the juror.
20 THE CLERK: What says the defense?
21 MR. SCHULTZ: Please seat the juror.
22 THE CLERK: Please take a seat in the jury box.
23 Next juror will be for our second alternate.
24 Juror 128, Aliyah Tate.
25 What says the state?

Jury qualification

1 MR. BARNETTE: Please excuse this juror from service.

2 THE CLERK: You've been excused.

3 Juror 14, Michael Bridges.

4 What says the state?

5 MR. BARNETTE: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. SCHULTZ: Please excuse the juror from this case.

8 THE CLERK: You've been excused.

9 Juror 86, Casey Nix.

10 What says the state?

11 MR. BARNETTE: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. SCHULTZ: Please seat the juror.

14 THE CLERK: Please take a seat in the jury box.

15 (Whereupon, a jury was impaneled.)

16 THE COURT: All right. Those who have been selected,
17 I'll ask you to please go with the bailiff to a jury room,
18 and I'll bring you back shortly.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Are there any matters that need to be
22 addressed regarding jury selection by the state?

23 MR. BARNETTE: Nothing from the state, Your Honor.

24 THE COURT: By the defendant?

25 MR. SCHULTZ: Your Honor, the state struck a juror --

Jury qualification

1 THE COURT: Do you have something you want to address?

2 MR. SCHULTZ: I do, Your Honor.

3 THE COURT: Okay. Well, that's enough right there.

4 All right. Let me ask the jurors who were not
5 selected to please go with the bailiff back to the jury
6 assembly room -- to the jury assembly room. And I'll send
7 you word shortly when you can be excused.

8 (Whereupon, the remaining members of the jury venire
9 were excused.)

10 THE COURT: All right. Mr. Schultz.

11 MR. SCHULTZ: Your Honor, may it please the Court.

12 We're making a motion under Batson. The state struck
13 Juror 130 that -- who was a black male; the state struck
14 Juror 59, a black female; the state struck Juror 15 --
15 15 -- and that was a black female. And I believe as an
16 alternate, I think the state struck Juror 128 who was a
17 black female.

18 THE COURT: They also struck Juror 98.

19 MR. SCHULTZ: Yes, sir, 98, Your Honor.

20 THE COURT: Okay.

21 MR. SCHULTZ: And I will challenge this under Batson.

22 THE COURT: Mr. Barnette.

23 MR. BARNETTE: Okay. Thank you, Your Honor.

24 No. 59, I'd received a note right before jury
25 selection I'd like to make a court's exhibit from Tori

Jury qualification

1 Davis in our office where she said a black female towards
2 the back was communicating with a black male sitting across
3 from the jury panel. "He is a black male. Red, white and
4 blue plaid shirt. So I'd ask the Court about that. I'm
5 not sure if he's connected with the defendant."

6 She wrote out the information what the juror was
7 wearing. That was Juror 59. So that way I struck her
8 based off that note.

9 MR. SCHULTZ: Your Honor, may I see that letter?

10 THE COURT: Yes, sir.

11 MR. BARNETTE: She was wearing a gold shirt with the
12 earrings.

13 THE COURT: What was the concern?

14 MR. BARNETTE: Tori Davis, which is an assistant
15 solicitor in our office, I guess she was watching in the
16 back and saw that somebody from their side was trying to
17 communicate with her from there, which I've got concerns
18 about that too. Appears to be known from there.

19 MR. SCHULTZ: I don't know anything about that, Your
20 Honor.

21 MR. BARNETTE: I don't know. That's just -- she
22 handed this note to me. Actually, one of the bailiffs gave
23 it to me when jury selection was going on.

24 THE COURT: I don't understand it. You were concerned
25 that somebody that's here in support of the defendant was

Jury qualification

1 trying to contact a juror?

2 MR. BARNETTE: Well, she said they were seated across
3 from the jury panel in the back, which everybody sitting on
4 that side -- she said I'm not sure he's connected with the
5 defendant. But they were trying to communicate or seemed
6 to be communicating or had been communicating.

7 THE COURT: Okay. Well, that's -- do you want to
8 address that?

9 MR. SCHULTZ: I don't think we have the -- the person
10 here that saw the actual conduct, Your Honor.

11 MR. BARNETTE: That's the reason I struck her, was
12 this note. I'll be glad to make it --

13 THE COURT: Tori Davis is the person. She's an
14 assistant solicitor. That's not -- that's a race neutral
15 reason anyway.

16 All right. What about 98?

17 MR. BARNETTE: Ninety-eight, your Honor, knows the
18 defendant's family. If you remember, she stood up several
19 times from several different angles. She said that she
20 knew Mr. Jefferies, I believe, and Ms. Conley, her
21 witness -- their witness on there. And her son was also
22 convicted of voluntary manslaughter, and she stated that on
23 the record. That's the reason for her strike.

24 No. 15, Your Honor, has been convicted of P.D.C.,
25 fraudulent check and D.U.I.

Jury qualification

1 130 was convicted of a C.D.V. in this case, Your
2 Honor.

3 And 128, the reason why she was struck, if you
4 remember right, she looked and said that she knew somebody
5 behind the defendant's group. She stood up and pointed
6 that out. That's the reason why I struck her. She pointed
7 out during the jury, during the questions of the Court.

8 MR. SCHULTZ: That was 128, Barry? I'm sorry.

9 MR. BARNETTE: 128. That was the alternate.

10 THE COURT: She said she recognized somebody that's
11 apparently not a witness in the case. I don't know what
12 their connection with the case is but...

13 MR. BARNETTE: They were behind on that side of the
14 defense side.

15 THE COURT: She was sitting on the back row.

16 MR. BARNETTE: Yes, sir.

17 THE COURT: All right. Well, those all appear to be
18 race neutral.

19 Mr. Schultz, do you have any challenge to that?

20 MR. SCHULTZ: No, sir, Your Honor.

21 MR. BARNETTE: Your Honor, I'd like to make this one
22 note Court's Exhibit 1 just for the record.

23 THE COURT: All right. Let me see y'all just a
24 minute, please.

25 (Bench conference held off the record.)

1 (Note marked Court's Exhibit No. 1.)

2 THE COURT: All right. Bring the jury panel in,
3 please.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: Ladies and gentlemen, we're going to start
7 the trial of the case in the morning. So I'll ask you to
8 report to the jury room that you've just been introduced
9 to.

10 The way you get to that jury room is you come in the
11 side door across the street from the back of the church.
12 Rather than coming to the front door, you'll come to the
13 side door, and they'll bring you upstairs to the jury room
14 that you'll be occupying during the trial.

15 Now, as you leave, understand that your decision in
16 this case must be based upon the evidence presented during
17 the trial and the law that I'll provide you at the trial's
18 conclusion.

19 So you're never permitted to allow yourselves to be
20 influenced by any outside or extraneous information; and so
21 when you go home tonight and until you reach your decision,
22 you can't talk about the case with anybody in any fashion
23 whatsoever, with any person whatsoever.

24 You can't conduct any research; you can't conduct your
25 own investigation into any issues; you can't allow

1 yourselves to be exposed to any type of media coverage --
2 television, radio or newspaper. You can't go to the
3 internet and do searches for any information that relates
4 to the case.

5 That's, as I say, because you are jurors in the case.
6 You have to base your decision upon the evidence presented
7 during the trial, and you're not permitted to be influenced
8 by any outside or extraneous information.

9 So no discussions, no research, no investigation, no
10 media exposure.

11 With that, do have a good afternoon, and please report
12 to the jury room by 9:45 -- 9:45 in the morning. Okay.
13 Have a good afternoon.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: All right. The Rogers matter is in recess
17 until 9:45 in the morning.

18 MR. BARNETTE: Your Honor, if I could just briefly put
19 on the record what we talked about at the bench conference.

20 The SLED agent I've got coming up on the firearms
21 thing, we talked about a possible stipulation to that,
22 which I have no problem. I can write it up and give it to
23 Mr. Schultz. I just wanted to make sure, because I've got
24 to let her know something. She's got subpoenaed to
25 Florence, Darlington and --

1 THE COURT: What would the stipulation be other than
2 just the introduction of her report?

3 MR. BARNETTE: Her report, plus she -- there's a chain
4 of custody maintained with the firearm, with the shell
5 casings and the -- and the shell -- or the bullets.

6 THE COURT: All right. Mr. Schultz, do you need to
7 talk to Mr. Rogers about that?

8 MR. SCHULTZ: I did briefly, Your Honor. I would like
9 some time to do that. Could I inform the Court tomorrow or
10 would --

11 MR. BARNETTE: Well, I need to know sooner than that.

12 THE COURT: Well, he's got to know something this
13 afternoon.

14 MR. SCHULTZ: That's fine.

15 THE COURT: You can take all -- I'm not leaving.

16 MR. SCHULTZ: Yes, sir.

17 THE COURT: You can take all of the time you need to
18 right now.

19 MR. SCHULTZ: Thank you, Judge.

20 THE COURT: All right.

21 MR. BARNETTE: Yes, sir. If we can just come back on
22 the record after he gets a chance to talk to his client.

23 THE COURT: Sure. Yeah.

24 (Whereupon, a recess was taken.)

25 END OF PROCEEDINGS OCTOBER 7, 2019

1 (Proceedings October 8, 2019)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Any matters to address before
5 the jury comes in?

6 MR. BARNETTE: May it please the Court, Your Honor.

7 We talked -- I've talked to Mr. Schultz, talked with
8 the family in the case. We made an offer, Your Honor, to
9 the defendant that he pleads to all charges straight up.

10 We reduced the murder to voluntary manslaughter, and
11 he has to plead to burglary first straight up, possession
12 of a weapon during a violent crime straight up, discharging
13 a weapon into a dwelling straight up, attempted murder
14 straight up. And the murder would be reduced to voluntary
15 manslaughter. And also attempted armed robbery straight
16 up.

17 There are six charges total. The only one that would
18 be reduced would be the murder to voluntary manslaughter.
19 It'd be a straight-up sentence on those charges, Your
20 Honor.

21 This offer is made now. If he accepts it, fine. If
22 he doesn't, they'll be revoked and we'll go to trial.

23 THE COURT: All right. Mr. Schultz, have you talked
24 to Solicitor Barnette about that offer?

25 MR. SCHULTZ: I have, Your Honor.

1 THE COURT: And is what he stated what you understood
2 the offer to be?

3 MR. SCHULTZ: That is accurate, Your Honor.

4 THE COURT: And have you relayed that offer to
5 Mr. Rogers?

6 MR. SCHULTZ: I have, Your Honor.

7 THE COURT: Do you feel that he understands what the
8 offer is?

9 MR. SCHULTZ: I do.

10 THE COURT: Do you feel that he understands the
11 consequences of rejecting that offer?

12 MR. SCHULTZ: I do, Your Honor.

13 THE COURT: And does he understand that if he wishes
14 to accept the offer that he can, if he wishes to reject the
15 offer that the case will go to trial and that once the
16 trial begins that the solicitor won't be making any other
17 offer and that Mr. Rogers will simply have to accept the
18 decision of the jury as it relates to each of the charges?

19 MR. SCHULTZ: I do believe he understands that.

20 THE COURT: And do you believe that he understands if
21 he is convicted of each of these offenses that he
22 understands what the consequence would be as in contrast or
23 in comparison to the consequence that would occur if he
24 were to plead guilty to the offer made by the solicitor?

25 MR. SCHULTZ: I believe he understands that.

1 THE COURT: And has he indicated to you what his
2 preference is?

3 MR. SCHULTZ: He has, Your Honor. Declined.

4 THE COURT: All right. Mr. Rogers, you've heard what
5 the offer is. And Mr. Schultz has stated that he's
6 discussed it with you and your decision is that you're
7 rejecting the offer.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you understand that once the jury
10 comes in and is sworn there will be no further offers made
11 in this case.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you understand the significance of
14 the difference in the potential sentences that can be
15 imposed if you plead guilty pursuant to the offer as
16 opposed to if you go to trial and are convicted of the
17 crimes?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand the significant
20 difference in the sentences?

21 THE DEFENDANT: I do.

22 THE COURT: All right. And you've had time to reflect
23 upon your decision?

24 THE DEFENDANT: I have.

25 THE COURT: And you reject the offer?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay.

3 MR. BARNETTE: Your Honor, if I can just put on the
4 record to make sure it's covered.

5 Murder is day for day. Voluntary manslaughter and
6 other charges are 85 percent, no-parole offenses. So
7 there's a substantial difference there. I'm sure
8 Mr. Schultz has explained that to him. I just wanted to
9 make sure that's on the record.

10 THE COURT: Well, there is definitely a substantial
11 difference.

12 Mr. Schultz, you've explained it to him?

13 MR. SCHULTZ: I have, Your Honor. I explained to him
14 that all of the charges that the solicitor offered with
15 this case are now day-for-day sentences. In fact, at the
16 most it would be 85 percent sentences.

17 THE COURT: Okay. You can have a seat.

18 MR. SCHULTZ: Yes, sir.

19 THE COURT: All right. Any other matters we have to
20 address before the jury is brought in?

21 MR. BARNETTE: A couple of things, Your Honor.

22 We have Mr. Richard Good, Jr. He's going to be added
23 to the witness list. We talked about it. He was
24 introduced to the jury as a member of the family.

25 I've talked to Mr. Schultz about that. He understands

1 that. And I believe I talked Your Honor back in chambers.

2 There's really no need to ask the jury about him
3 because they were supposed to indicate if they knew him
4 beforehand when he introduced himself to the jury. So we'd
5 ask him to be added to the witness list for the state.

6 THE COURT: Is that a fair statement, Mr. Schultz?

7 MR. SCHULTZ: It is, Your Honor.

8 MR. BARNETTE: And, Your Honor, we do have a
9 stipulation. A second stipulation has been made. It's
10 been signed by the defendant and Mr. Schultz and myself.

11 This is concerning a SLED report on the firearms,
12 which is State's Exhibit 47.

13 Basically in that, Your Honor, the parties stipulate
14 the following as fact: That Investigator Billy Anthony of
15 the Cherokee County Sheriff's Office collected and
16 maintained a valid chain of custody of items, several
17 items, collected from 1521 Pleasant School Road in Gaffney
18 and at [REDACTED] Road in Gaffney, Your Honor. The list
19 of the firearms report under SLED Lab No. 18-14385 done by
20 Michelle Eichenmiller -- she's a SLED forensic scientist --
21 the items are listed as will follow: Item 4, one fired
22 bullet listed from hall wall; Item 5, one fired bullet
23 listed as from living room wall; Items 6 through 8, three
24 fired 9mm Luger caliber cartridge cases; Item 10, one CCY
25 Industrial's Model CPX-1 semiautomatic pistol, 9mm Luger

1 caliber serial No. 284544; received one magazine from one
2 SCCY Industrial Manufacturing box containing various
3 manuals, accessories; Item 10.3 is test specimens fired by
4 Item 10 pistol using laboratory supplied ammunition; Item
5 11, one magazine and five unfired 9mm Luger caliber
6 cartridges, listed as from CCY Industrial 9mm pistol; Item
7 12 is one unfired 9mm Luger caliber cartridge listed as
8 from chamber of CCY Industrial 9mm pistol. That was
9 collected at the scene and transported to the state law
10 enforcement division for analysis by Forensic Scientist
11 Michelle Eichenmiller. Her report and analysis of the
12 above mentioned items marked as State's Exhibit 47. Please
13 see Attachment 1 to the stipulation. It's attached to this
14 stipulation and is part of this stipulation. Both parties
15 agree for Items 3, 4, 5, 6, 7, 8, 10 and 11 and 13 to be
16 entered into evidence and published to the jury, as well as
17 this stipulation, the SLED firearms report that's marked as
18 State's Exhibit 47. The SLED firearms report is included
19 in this stipulation by reference also. A valid chain of
20 custody is maintained of these items by SLED and the
21 Cherokee County Sheriff's Office from collection at the
22 crime scenes at 1521 Pleasant School Road in Gaffney and
23 [REDACTED] Drive in Gaffney, South Carolina, to SLED for
24 testing and come back to the Cherokee County Sheriff's
25 Office."

1 I'd like to submit that and make that part of the
2 record that will be submitted to the jury, along with the
3 SLED report, State's Exhibit 47.

4 THE COURT: Mr. Schultz, you and Mr. Rogers in
5 agreement?

6 MR. SCHULTZ: We are, Your Honor.

7 THE COURT: Okay.

8 (Latent print marked State's Exhibit No. 3; one fired
9 bullet marked State's Exhibit No. 4; one fired bullet marked
10 State's Exhibit No. 5; fired 9mm Luger caliber cartridge
11 marked State's Exhibit No. 6; fired 9mm Luger caliber
12 cartridge marked State's Exhibit No. 7; fired 9mm Luger
13 caliber cartridge marked State's Exhibit No. 8;
14 semiautomatic pistol marked State's Exhibit No. 10; magazine
15 and five unfired cartridges marked State's Exhibit No. 11;
16 waiver of rights marked State's Exhibit No. 13.)

17 MR. BARNETTE: And, Your Honor, I think there's a
18 matter we talked in chambers about -- the alternate.

19 THE COURT: Yeah. During the morning recess when the
20 juror returned to court, one of the jurors, Juror No. 94,
21 expressed to the clerk of court that he was having a health
22 issue relating to his heart, which he has a condition. And
23 because of that health condition he has been excused by the
24 Court from further service. And of course that's been
25 addressed with the solicitor and with Mr. Schultz, and both

1 were in agreement based upon the representation of the
2 juror as to his health condition that it was appropriate
3 for him to be excused from further service.

4 Is that a fair statement? Do each of you agree?

5 MR. BARNETTE: The state agrees, Your Honor.

6 MR. SCHULTZ: The defense agrees.

7 THE COURT: And, Mr. Schultz, you have discussed that
8 with Mr. Rogers?

9 MR. SCHULTZ: Well, I didn't specifically discuss that
10 with my client, but I can right now.

11 THE COURT: You can. Go ahead.

12 MR. SCHULTZ: Thank you.

13 (Pause.)

14 MR. SCHULTZ: I did, Your Honor.

15 THE COURT: And he's in agreement and has no objection
16 to Juror 94 being excused?

17 MR. SCHULTZ: Correct.

18 THE COURT: All right. And as a result of that
19 excusal the clerk drew by lot from the two alternates the
20 alternate juror that will take Juror 94's place, Juror
21 No. 94's place, and that is Juror No. 86. So juror 86 will
22 become the twelfth juror and Juror No. 20 will continue to
23 serve as the alternate.

24 So anything else we need to address?

25 MR. BARNETTE: None from the state, Your Honor.

1 MR. SCHULTZ: Nothing from the defense.

2 THE COURT: All right. Bring the jury in, and ask Ms.
3 Blackwell -- that's Juror No. 7. Ask her to take the
4 foreperson's seat.

5 (The following takes place in the presence of the
6 jury.)

7 THE COURT: Good morning, ladies and gentlemen.

8 I apologize for the delay in having you brought in,
9 but we had some matters to address that necessarily
10 required some time to resolve. And so that's been done
11 now.

12 As you are also aware, one of your fellow jurors
13 during the overnight recess had a health condition arise
14 that he has dealt with before and therefore based upon that
15 medical condition has asked to be excused from serving.
16 And that condition has been verified, and so he has been
17 excused from any further service in the case.

18 And that of course means that one of the alternates
19 takes the place of that juror and becomes the twelfth. And
20 when you have alternates, that's the reason you have
21 alternates, is to take the place of one of the 12 if during
22 the trial one of those 12 cannot continue to serve.

23 When you have more than one alternate the first
24 alternate that's selected in the case is not necessarily
25 the one that takes the place the first time and becomes the

1 twelfth juror, and that's because the law provides that
2 when you have more than one alternate the way the twelfth
3 juror is selected from those alternates is that you draw
4 them by lot.

5 So the two alternate jurors' names were placed in a
6 hat, so to speak, and someone drew the name out, and it
7 happened to be Juror 86.

8 And so you, Ms. Champion so you will continue to serve
9 as the alternate juror in the case. And of course you'll
10 become the twelfth if something happens during the trial
11 that one of these 12 cannot continue to serve for some
12 reason.

13 Now, we are ready to begin with the trial of the case
14 for which each of you have been selected.

15 And, Ms. Blackwell, I'm going to ask you to serve as
16 the foreperson of this jury. And as the foreperson you're
17 going to have three specific duties that none of the other
18 jurors will have.

19 First of all, you'll be asked to serve as the
20 spokesperson for the jury. And that just means if
21 something arises during the trial that needs to be brought
22 to my attention -- you or one of your fellow jurors has
23 some difficulty, problem or question -- you're going to be
24 the person to let me know of that fact. You'll do that
25 directly if you're here in the courtroom, and you'll do it

1 through one of the bailiffs if you're outside the
2 courtroom.

3 Secondly, you'll be called upon to preside over jury
4 deliberations when that time comes at the end of the trial
5 after all of the evidence has been received and I have
6 instructed you on the law that's applicable in the case.

7 You will be tasked with the responsibility of
8 presiding over that deliberation process simply to ensure
9 that those deliberations are carried out in some orderly
10 fashion.

11 And, thirdly, you'll be asked to actually write the
12 verdicts or the decisions of the jury, and you'll indicate
13 those decisions on the back of the indictments which will
14 serve as the verdict forms in the case. And you'll be the
15 juror who will be responsible for stating the jury's
16 decision as it relates to each of the separate charges.

17 Now, the foreperson has those specific duties that
18 I've just indicated, but that does not mean that she is any
19 more important than any of you other jurors, and that's
20 because the decision of a jury is the unanimous consensus
21 opinion of all 12 jurors. So all of you are going to have
22 an equal say and an equal vote in what the ultimate
23 decisions will be in this case.

24 Someone simply has to be delegated those
25 responsibilities that I've just indicated, and I have

Jury sworn

1 delegated those to Ms. Blackwell in appointing her as the
2 foreperson. But all of you jurors are equally important so
3 far as the ultimate decisions in this case are concerned,
4 because, as I've stated, the verdicts have to be unanimous.
5 All of you must be in agreement.

6 Now, Ms. Champion, as you know, you will continue to
7 serve as an alternate juror, and the function, of course,
8 as you also know, is to take the place of one of the
9 original 12 if during the trial one of these 12 cannot
10 continue to serve. And if they cannot for some reason,
11 then you'll take that person's place, and then you'll
12 become the twelfth just as Ms. Nix has done this morning.

13 So it is important that you pay just as careful
14 attention as we ask of all of the jurors in the case,
15 because it does occur from time to time for one reason or
16 another one of these 12 may be unable to continue. And in
17 that event you would become the twelfth.

18 So we do appreciate your participation as an alternate
19 juror, just as we appreciate the participation of each of
20 you jurors who have been selected for the purpose of
21 deciding the verdicts in these particular cases.

22 You may swear the panel.

23 (Whereupon, the jury was duly sworn.)

24 THE COURT: All right. Ladies and gentlemen, as you
25 know, you have been selected to decide the verdicts in the

1 case of the State vs. Shaun Rogers, Jr.

2 As you also know, Mr. Rogers has been charged with six
3 separate and distinct criminal offenses. And they are set
4 forth in five separate indictments. One indictment has two
5 charges in it. But they're all separate criminal offenses,
6 even though they are alleged to have arisen out of one
7 particular event or a course of events which the state
8 alleges occurred back on October the 2nd of 2018.

9 But you will be considering each of the charges
10 separately as it relates to the evidence presented relating
11 to each of the separate charges. And of course then you'll
12 be applying the law as it relates to that particular charge
13 to the facts as you determine those facts to be relating to
14 the allegations, and you will determine whether or not the
15 defendant has been proven guilty or not.

16 Now, as you also know, prior to your selection I read
17 from the indictments so that you'll understand what the
18 charges are.

19 And, as you know, Mr. Rogers is charged in one
20 indictment with burglary in the first degree, the state
21 alleging by way of the indictment that he did on October
22 the 2nd of 2018 unlawfully enter a dwelling that was
23 occupied by Overton Good which was located at 1521 Pleasant
24 School Road here in Gaffney, Cherokee County, that he
25 entered that dwelling without consent and the intent to

1 commit a crime therein, and that either in effecting entry
2 or while in the dwelling or in immediate flight therefrom
3 he or another person who was also a participant in the
4 criminal offense was armed with a deadly weapon or caused
5 physical injury to a person who was not a participant in
6 the crime, or threatened or used a dangerous instrument, or
7 displayed what appeared to be a deadly weapon, or the
8 burglary occurred in the nighttime.

9 A separate indictment charges Mr. Rogers with having
10 committed the crime of discharging a firearm into a
11 dwelling. That indictment alleges that on the same date
12 and time that he did discharge or cause to be discharged
13 unlawfully a firearm at or into a dwelling which was
14 occupied by a human being.

15 A separate indictment charges Mr. Rogers with having
16 committed the crime of attempted murder, the indictment
17 alleging that he did with the intent to kill attempt to
18 kill Danielle Smith with malice aforethought by shooting at
19 her.

20 A separate indictment charges Mr. Rogers with the
21 crime of attempted armed robbery, again, same date and
22 time. The indictment alleges that while he was armed with
23 a deadly weapon he did attempt to take by means of force or
24 intimidation goods or monies that belonged to Overton Good,
25 either taken from him or from his presence.

1 The remaining indictment has two counts. Count one
2 charges Mr. Rogers with the crime of murder alleging that
3 he did wilfully and with malice aforethought kill one
4 Overton Good by shooting him with a firearm and that
5 Mr. Good died as a proximate result of that gunshot wound.

6 Count two alleges that Mr. Rogers did visibly display
7 a firearm during the commission of that violent crime, that
8 violent crime being the crime of murder as set forth in
9 count one of the indictment.

10 Now, as I've also told you, Mr. Good has entered a
11 plea of not guilty to each of the charges. That plea of
12 not guilty therefore places upon state because they made
13 the accusation, they brought the charge, to prove
14 Mr. Good's guilt beyond a reasonable doubt. So --

15 MR. SCHULTZ: Your Honor, you're saying Mr. Good.

16 THE COURT: Oh, I'm sorry. Excuse me. Mr. Rogers --
17 Mr. Rogers. I'm looking at the indictment, the last
18 indictment. Mr. Rogers.

19 The state must prove that Mr. Rogers has committed
20 each of the crimes that they allege that he has committed
21 by way of the allegations in the indictments, and so they
22 must prove the allegations set forth in each of the
23 indictments.

24 They must prove each of the essential elements of each
25 of the crimes that they have alleged against Mr. Rogers,

1 and therefore they must prove his guilt as to a charge to
2 your satisfaction beyond a reasonable doubt before any
3 verdict of guilty could be returned as to any of the
4 separate charges brought against Mr. Rogers.

5 Every person who is accused of a crime -- it does not
6 matter how serious the offense might be for which that
7 person stands charged -- that person shall always be
8 presumed innocent of that charge.

9 That presumption of innocence remains with every
10 defendant, as it does with this defendant, from the time
11 that he is placed under arrest and throughout the course of
12 the criminal process and even throughout the course of the
13 actual trial in the case.

14 That presumption of innocence will be with Mr. Rogers
15 throughout this trial, and it'll be with him even as you go
16 back into the jury room to begin with your deliberations in
17 this case, and it'll be with him there, and it'll be with
18 him forever unless you 12 jurors determine that he's no
19 longer entitled to that presumption of innocence as it
20 relates to a particular charge.

21 In other words, after you have carefully considered
22 all of the evidence in the case, and from that evidence you
23 have been able to determine the facts as they relate to the
24 particular allegations in each of the separate indictments,
25 and upon deciding those facts you apply the law that

1 applies to that particular charge, if you determine that
2 Mr. Rogers has committed some crime alleged against him
3 beyond a reasonable doubt, then he would no longer be
4 entitled to that presumption of innocence. But it is only
5 if, unless and until you are satisfied of his guilt beyond
6 a reasonable doubt that the presumption of innocence would
7 no longer be applicable.

8 Now, the way the trial will proceed is that in a
9 moment the lawyers are going to address you in what are
10 called opening statements.

11 There are two occasions in the trial of a case where
12 lawyers are permitted to address the jury directly, and
13 that is at the beginning of the trial before any evidence
14 has been introduced and then again at the conclusion of the
15 trial after all of the evidence has been received.

16 But keep in mind, as I've just indicated, the evidence
17 comes in between the opening and the closing statements
18 accomplished by the lawyers. And so what the lawyers tell
19 you in their statements is not to be considered by you as
20 any evidence upon which you will base your decision, and
21 that's because the lawyers don't know anything about this
22 case of their own personal knowledge or perception like
23 witnesses will be testifying to when they take the witness
24 stand and provide information to you under oath.

25 The lawyers aren't going to be placed under oath.

1 They're not going to take the witness stand and they're not
2 going be subjected to direct and cross-examination like the
3 witnesses will be that are providing you with information.
4 So what the lawyers tell you in those statements is not to
5 be considered by you as any evidence upon which you will
6 base your decision. But you should listen to what the
7 lawyers have to say because those statements do serve a
8 purpose.

9 The opening statements will serve to provide you with
10 a basic understanding as to what this case is about from
11 both the perspective of the state as well as the defense so
12 that you'll have some context in which to place the
13 evidence that we will be receiving shortly thereafter.

14 The closing statements, again, occur after the
15 evidence has been received. And, again, while those
16 statements are not evidence, it does afford the lawyers an
17 opportunity to discuss with you the evidence that you have
18 seen and heard during the course of the trial. And each
19 will have an opportunity to try to persuade you or to
20 convince you that the evidence in the case does or does not
21 support a particular decision.

22 It's in between those opening and the closing
23 statements that we actually receive the evidence upon which
24 you will base your decision.

25 As you know, the state has the burden of proof because

1 they brought the charge, and so the state will go forward
2 first in its presentation of evidence.

3 After the state has concluded with its presentation of
4 evidence any defendant, person accused of a crime, has an
5 opportunity to testify or to call witnesses or to introduce
6 additional evidence, but please understand that a person
7 charged with a crime is never under any obligation to take
8 the witness stand and testify, is never under any
9 obligation to call any additional witness, is never under
10 any obligation to introduce any other evidence during the
11 course of the case, because the burden is never upon a
12 person accused of a crime to prove that they are not guilty
13 or to prove that they are innocent because in some cases
14 that might not be possible.

15 The burden is upon the state however to prove the
16 defendant's guilt beyond a reasonable doubt, and so they
17 must come forward with evidence to convince you of that
18 fact.

19 And so while a defendant may not take the witness
20 stand and may not call any additional witness, may not
21 introduce any other evidence, that's not a fact or
22 circumstance that the jury may consider in the slightest
23 degree against the defendant, nor may you allow that fact
24 to influence your decision when you go back to begin your
25 deliberations.

1 However, understand that any defendant, a person
2 accused of a crime, is always permitted an opportunity to
3 testify or to call witnesses or to introduce evidence.

4 So after all of the evidence has been received and
5 after you hear the final summations of the lawyers, I will
6 then instruct you fully on the law as it relates to the
7 criminal law generally and as it relates to these
8 particular crimes specifically. And then you'll be asked
9 to go back and to begin with your deliberations. And
10 through that process you're going to be called upon simply
11 through the exercise of good judgment and common sense
12 conscientiously applied to the testimony and evidence in
13 the case to decide the facts of the matter that relate to
14 the allegations where you can.

15 Once you decide those facts you'll then apply the law
16 as it relates to that particular charge, and you will
17 determine whether or not the defendant has been proven
18 guilty of that crime beyond a reasonable doubt.

19 If he has, then the verdict would be guilty as to that
20 particular charge. And if he has not, then the verdict
21 would be not guilty as to that particular charge.

22 Now, all that we're going to ask for you to do is pay
23 careful attention throughout the course of the trial. Give
24 every witness the same degree of attention while they
25 testify, because in order for you to decide the facts

1 you've got to do it based upon the evidence presented.

2 One of your prerogatives in deciding the facts is to
3 evaluate the credibility or believability of testimony
4 provided by witnesses. And so when a witness testifies you
5 can believe everything that they say; you may choose to
6 believe none of it.

7 You may believe one portion of it and reject some
8 other portion of it. You can believe one witness as
9 opposed to several, or several as opposed to one. But you
10 simply must in the exercise of good judgment and common
11 sense evaluate all of the evidence, decide what you find to
12 be the most credible and believable evidence. And that's
13 the evidence that you'll accept. And you'll reject any
14 that you find not to be credible or believable.

15 Your sole objective in the case is to simply render a
16 decision that's fair and impartial based upon the evidence
17 presented and the law that's applicable as I will have
18 provided it to you.

19 It's also important that you keep in open mind through
20 the course of the trial. And by that I simply mean that
21 you are not to begin making your minds or formulating your
22 opinions as to what you think the ultimate decisions in
23 this case ought to be until all of the evidence has been
24 received, until you have been instructed on the law that's
25 applicable to it and until you've been asked to begin with

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1 your deliberations in the case.

2 That is the process that has been designed over the
3 last 243 years, I think it is now, in order to ensure that
4 you can arrive at a fair and impartial decision based upon
5 the evidence and the law in the case.

6 So I do want to thank you in advance for your
7 participation, as well as for your careful attention. I
8 would ask that you please give the lawyers your attention
9 now as they give you their opening statements.

10 Mr. Barnette.

11 MR. BARNETTE: May it please the Court, Your Honor.

12 Madam forelady and ladies and gentlemen of the jury,
13 I'd like to take you back to October 2nd of 2018, take you
14 back to 1521 Pleasant School Road here in Gaffney in
15 Cherokee County. You may be familiar with that area up
16 there.

17 Overton Good lived there with Danielle Smith, his
18 fiancée there. And he was lucky. His parents actually
19 lived two or three doors up in the same neighborhood.

20 You'll hear from Carolyn Good. Her and her husband,
21 Mr. Good, lived there. And, unfortunately, she had both --
22 you'll hear from the witnesses. You're going to be hearing
23 from them from the witness stand.

24 What happened was the defendant, Mr. Rogers, and
25 Jeremy Jefferies came to Overton Good's house, pulled in

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1 the driveway next to their driveway.

2 It was early in the morning. Danielle Smith got up.
3 She looked out the window. She saw these two men coming.
4 She'd never seen them before.

5 They came up to the front door, both of them did, and
6 knocked on the door. Overton went to that door. He opens
7 it up. Immediately an arm points through with a handgun.
8 He immediately shuts the door as fast as he can.

9 Danielle is calling the police. You'll see over a
10 period of time that goes through, probably about a minute
11 or 45 seconds.

12 Both men get back in the car. They drive up.
13 Mr. Rogers drives up; Mr. Jefferies drives up and actually
14 goes into Ms. Good's lot, not knowing that.

15 She has just woke up with her husband, and she looks
16 out her bedroom window. She sees two men there talking.
17 She said, well, maybe they're at the wrong address.

18 As they're pulling out the passenger-side window opens
19 up. She sees one of the men that she knew,
20 Mr. Jefferies -- of course she didn't know Mr. Rogers --
21 pull like a hood up.

22 She realized something bad is going to happen. She
23 sees a gun come out. She goes out in the front yard. She
24 sees this car slowly drive down the road, the pink gun
25 going out as the driver is going slowly to make sure

Opening statements

1 several shots are fired.

2 In the meanwhile Overton is in the door still holding
3 the door while the bullets are being contacted. He
4 actually talks on the phone.

5 The bullets are fired. He is hit in the head. Y'all
6 are going to see. Officers saw blood on the wall.
7 Danielle Smith had to see all of this. Carolyn Good had to
8 watch as these people drove by working together and shot in
9 her son's house, keeps shooting even beyond the thing.
10 You'll see the one shot was even fired from the neighboring
11 house.

12 Both of these men after doing this drive-by shooting,
13 they contact people to get jobs. You'll be hearing from
14 people they contacted, acted like nothing was wrong, talked
15 to Mr. Rogers and to Mr. Jefferies. Don't say a thing.

16 And on top of that they pick up Mr. Wood that you'll
17 hear from. They pick him up and take him to the county
18 jail where he has to pay his G.P.S. monitor off. They park
19 in the front parking lot of the county jail after doing
20 this. Right there is the sheriff's department, probably a
21 football field away. Don't say a word.

22 Mr. Rogers -- do you think he says, oh, I'm going to
23 go tell somebody? They're together the whole time, three
24 different people.

25 Do you think Mr. Wood would have gotten in there if

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1 he'd known they did a drive-by shooting? They both knew
2 what they were doing that morning.

3 You've got a murder done by the drive-by shooting with
4 both of them together; you have a weapon being used in that
5 murder. The burglary simply when they reached inside the
6 door. It's like a football plane on a goal line. Your
7 house is protected. Once they break that barrier to commit
8 a burglary when they went in and reached inside of it.

9 You've got an attempted armed robbery trying to rob
10 them or burglarize them or whatever they were going to do.

11 Discharging a weapon into a dwelling. No question
12 about it.

13 Possession of a weapon during a violent crime.
14 Murder, burglary. All of those are violent crimes.

15 This man worked together with Mr. Jefferies to do this
16 crime, and you will see the evidence from there. You'll
17 hear from witnesses that were there.

18 There is no question this man was there. This man did
19 it. He worked together with Mr. Jefferies, and all of
20 their actions will speak louder than words.

21 The judge will give you the law. The one thing I
22 wanted to read to you is the important law we have here in
23 South Carolina. I don't know if you can read this while
24 I'm reading it to you.

25 One who is charged with the commission of a crime may

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1 be convicted as the perpetrator or as an accomplice.

2 Accomplice is often referred to as an aider or abettor in
3 the commission of a crime.

4 The judge will be reading this to you at the end of
5 the case.

6 And you're instructed that two or more people act
7 together with a common intent and purpose and they combine
8 or conspire or plan or otherwise agree to the commission of
9 the crime, each person who is present, who is aiding,
10 abetting, assisting and participating in the commission of
11 the crime is equally guilty. The act of one is deemed to
12 be the act of all.

13 Any person who joins with another or others to
14 accomplish an illegal purpose is held to be criminally
15 responsible for everything done by the -- any other person
16 which occurs as a natural and probable consequence of the
17 acts done pursuant to and in furtherance of the common plan
18 and purpose; and therefore where two or more people or
19 persons are acting together they are aiding, abetting,
20 assisting or participating with another in the commission
21 of a crime, the acts of one becomes the acts of all. The
22 hand of one is deemed to be the hand of all and are all
23 equally guilty of any crime that is accomplished by those
24 joint efforts.

25 That's the law in South Carolina. You'll hear that

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1 from the judge at the end of the case.

2 There is not a more likely case than what you'll see
3 in this case with this individual driving the car slowly --
4 and you'll hear Ms. Good tell you about this -- letting him
5 aim and fire the shots that wound up killing Overton Good
6 that could have killed Danielle Smith or anybody else that
7 was in that house that day or even the next-door house.

8 You'll see the evidence. They keep saying, well, he
9 may not know anything about it. I don't know what their
10 defense is going to be. But you'll even see a facebook
11 page that was posted by this defendant involving that same
12 gun. And we'll be presenting that evidence to you too.

13 Remember the hand of one is the hand of all. If
14 they're working together to help each other in a drive-by
15 shooting, they're equally guilty.

16 They went up to that house together, got back in that
17 car together, went up into Ms. Good's driveway and drove by
18 and shot those several shots.

19 He is equally guilty. Both of them are guilty of this
20 offense, of all of these offenses. And I believe the
21 evidence, once you hear it, will leave you firmly convinced
22 of this defendant's guilt. Thank you very much for your
23 time.

24 THE COURT: Mr. Schultz.

25 MR. SCHULTZ: Thank you, Your Honor. May it please

Opening statements

1 the Court.

2 THE COURT: Yes, sir.

3 MR. SCHULTZ: Ladies and gentlemen, first of all, I
4 want to thank you for your service here today. We've had a
5 couple of delays here. But this case is very important to
6 the defendant, the state and the lady involved. Your
7 service on this jury is very important for the preservation
8 of justice and, most importantly, the American justice in
9 this county, as well as this state, as well as this
10 country.

11 I'm also going to take you back to October 2nd of last
12 year, as Mr. Barnette just said. We have a different
13 version of events, I think a version of events that you'll
14 probably find more credible and more likely than Mr.
15 Barnette's version of events.

16 You are going to hear and see evidence. Some of it
17 you'll be able to actually be passed around. And you're
18 going to hear witnesses on the jury [sic] stand in the next
19 few days. Who knows how long this case may take? Could
20 take until tomorrow, could take until Thursday, could take
21 until Friday. But during that time you are going to hear
22 several folks talk about what happened that day.

23 Right now the real shooter may be testifying. His
24 name is Jermaine Jefferies. And he will be testifying
25 about what happened that day.

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1 There's no question, as Mr. Barnette said, of who the
2 shooter was that day. There is no question at all. In
3 fact, that gentleman has already admitted guilt in this
4 case. You'll see evidence of that as well.

5 The only question that remains as to whether my
6 client, Shaun Rogers, who is 19 years old --

7 MR. BARNETTE: Objection, Your Honor. Facts not in
8 evidence yet.

9 THE COURT: Overruled.

10 Go ahead.

11 MR. SCHULTZ: Thank you, Your Honor.

12 Shaun Rogers who is 19 years old knew that this
13 shooting was about to take place. And I will present to
14 you that that shooting, as Mr. Barnette snapped his fingers
15 one, two, three, four, five, six -- he didn't know that
16 that was going to happen.

17 You're going to also hear -- and I believe the state's
18 going to present this -- of Mr. Rogers and Mr. Jefferies,
19 what they went to after the shooting.

20 Now, Mr. Rogers is and remains to this day very
21 scared, and he was a scared kid that day.

22 MR. BARNETTE: Objection, Your Honor. There hasn't
23 been any testimony concerning that.

24 THE COURT: Let me see y'all just a minute.

25 (Bench conference held off the record in the presence

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1 of the jury but out of the hearing of the jury.)

2 MR. SCHULTZ: What happened that day was terrible,
3 but, at the same time, that's -- this is why we have you,
4 the jurors here, 12 reasonable people that are chosen by us
5 here in Cherokee County, to look at the facts, look at the
6 evidence and then to decide what really happened that day,
7 because, as the judge will instruct you maybe possibly
8 Wednesday, possibly Friday, we don't know. The judge will
9 instruct you that you are what are known as the finders of
10 fact. You decide what happened that day based upon the
11 people that sit right up here on that witness stand.

12 The state, these gentlemen right here, Mr. Barnette in
13 particular, have what is known as the burden of proof in
14 this case. They have the burden of proof, which means that
15 they must present evidence that will tend to show, or at
16 least show, that my client is guilty beyond a reasonable
17 doubt.

18 Now, you've heard those words before, guilty beyond a
19 reasonable doubt, burden of proof. But today those words
20 are a reality.

21 Now, what does reasonable doubt mean? Again, we've
22 heard those words on T.V.; we heard those words in movies.
23 I think probably everybody has watched to some extent "Law
24 and Order" or any kind of law movie. But those words are
25 used in the media and they're used in T.V. and they're used

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1 in movies. But today, like I said, those words are a
2 reality. And reasonable doubt -- and the judge is going to
3 instruct you, each and every one of you on this pretty
4 soon. Reasonable doubt is doubt that causes a reasonable
5 person some hesitation to act.

6 Now, they want you to act. They want you to return a
7 verdict of guilty in this case. I'm asking for a verdict
8 of not guilty on all counts.

9 A couple of minutes ago Judge Cole told you all that
10 if you do not believe that the evidence does not support or
11 if you do believe the evidence does not support the claims,
12 then you must find the defendant not guilty. And that's
13 exactly what I'm going to be asking you for when I get the
14 chance to talk to you again.

15 Now, some of you may have served on juries before;
16 some of you may have not. It's a very good experience,
17 very educational experience for everybody involved. And I
18 hope it will continue to be for the rest of your life.
19 Some of you may not even sit on juries for the rest of your
20 life.

21 But this is a very important case, very important case
22 not only for the state but also for my client -- my client.

23 I want you to listen very closely to what goes on
24 because the state's going to put their case first. As I
25 said before when I walked over here, the state has the

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1 burden of proof in this case. The state has the burden of
2 proof, and they get to go first. But I get to
3 cross-examine the state's witnesses.

4 I also get to present my own witnesses, but the state
5 has the opportunity to go first, and then I get to
6 cross-examine, challenge their credibility, challenge what
7 their story is, poke holes in the story.

8 And then what you do is you assess the believability
9 of those witnesses. That's your own job. And then you
10 deliberate and then you reach a conclusion. It has to be
11 unanimous. Everybody has to agree. Everyone.

12 So, again, I want to thank you for your attention. I
13 look forward to this case. And in a couple of days I'm
14 going to come back and ask you for a verdict of not guilty
15 on all counts. Thank you.

16 Judge, can we approach briefly?

17 THE COURT: Yes, sir.

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 THE COURT: We're going to take a short break before
21 we begin with the testimony. So please go to your jury
22 room, but don't discuss the case. I'll bring you back in
23 just a few minutes.

24 (The following takes place outside the presence of the
25 jury.)

Danielle Smith
Direct examination by Mr. Barnette

1 THE COURT: We'll be at ease ten minutes.

2 (Whereupon, a recess was taken.)

3 THE COURT: All right. Bring the jury in, please.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: All right. The jury is present. You may
7 proceed.

8 MR. BARNETTE: I'd like to call Danielle Smith, Your
9 Honor. May it please the Court.

10 DANIELLE SMITH, having been
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q Ms. Smith, I know you're soft-spoken. I'm going to
14 have to ask you to speak loud enough so this gentleman back
15 here can hear you. Okay?

16 A Okay.

17 Q Could you state your full name for the record, please?

18 A Danielle Smith.

19 Q And, Ms. Smith, where did you -- where did you live
20 back on October 2nd of 2018?

21 A 1521 Pleasant School Road.

22 Q Is that in Cherokee County?

23 A Yes.

24 Q Who lived with you there, ma'am?

25 A I lived with Overton. It was me and him.

Danielle Smith

Direct examination by Mr. Barnette

- 1 Q And do you work right now?
- 2 A Yes.
- 3 Q Where do you work at, ma'am?
- 4 A Dollar Tree Distribution.
- 5 Q What do you do there, ma'am?
- 6 A I'm a truck unloader.
- 7 Q Back on October 2nd of 2018, before that, had y'all
- 8 been somewhere that weekend?
- 9 A Yes.
- 10 Q Where did y'all go that weekend?
- 11 A We had went to Indiana to visit Overton's older
- 12 brother, Denzelle Good, who plays for the Colts, and we had
- 13 went because he had a game.
- 14 Q So he was playing with the Indianapolis Colts up in
- 15 Indiana.
- 16 A Indiana.
- 17 Q And who went with y'all?
- 18 A It was his father, his mother, his brother Richard,
- 19 Jr., Richard Good, Jr., and his fiancée. And it was me and
- 20 Overton.
- 21 Q So it was all the folks that's sitting here.
- 22 A Yes.
- 23 Q Plus yourself and Overton.
- 24 A Yes.
- 25 Q And what day did y'all leave to go up there?

Danielle Smith
Direct examination by Mr. Barnette

- 1 A We left on Friday. Early, early Friday morning.
- 2 Q And did y'all drive up there?
- 3 A Yes, we drove.
- 4 Q And how long did y'all stay up there?
- 5 A We stayed there for the weekend. We left Monday.
- 6 Q So y'all came back on Monday?
- 7 A Yes.
- 8 Q Did y'all drive back?
- 9 A Yes, we drove back.
- 10 Q And what time did y'all get back to your house?
- 11 A We got back at home, like, around 9:00 o'clock. It
- 12 was dark.
- 13 Q So the next morning, which was October 2nd.
- 14 A Yes.
- 15 Q If you would, tell the jury what happened that
- 16 morning.
- 17 A Well, Overton had got up and went to the bathroom. I
- 18 heard him go to the bathroom. He came back in the room. I
- 19 said, "Hey, baby. Getting up?" He was, like, yeah.
- 20 We went and sat in the living room. Our cable wasn't
- 21 on. So he texted his mother. He said he was going to get
- 22 her to pay the cable bill. So we were sitting in silence.
- 23 We were just sitting on the couch, on the love seat. The
- 24 love seat is, like, right beside the window.
- 25 Q Take your time.

Danielle Smith

Direct examination by Mr. Barnette

1 A We were just sitting there, and it was quiet. And all
2 of a sudden I heard a car door. And I always sit -- I have
3 my favorite seat, which is on the love seat right beside
4 the window.

5 I heard the car door shut. I looked out the window,
6 and it was two men at the neighbor's driveway. But when I
7 looked out the window and I stared for, like, at least
8 four, five, six seconds. They was looking directly at our
9 trailer.

10 And I asked Overton. I was, like, somebody is parked
11 in the neighbor's driveway but they're looking over here
12 and I don't know who they is.

13 So he just sat there, because if they was coming over
14 to the house, they was going to have to knock on the door.
15 We sat there. And, sure enough, there was a knock on the
16 door.

17 Overton went and answered the door. As soon as he
18 answered, as soon as he opened the door, he looked down and
19 looked up. And a gun came in the house. It was in the
20 house, was through the doorway. It was directly in his
21 face.

22 He hurried up, and he kinda went down and he pushed
23 the door closed really hard. It was -- he did it so fast,
24 and he was holding the door. He was on one knee and he was
25 holding the door and the doorknob. And he said, "Baby,

Danielle Smith
Direct examination by Mr. Barnette

1 call the police."

2 I was frantic. I went and grabbed his phone, put the
3 password in wrong several times because I was so scared. I
4 called the police and I started talking. And he said,
5 "Give me the phone, give me the phone."

6 He began giving the dispatcher the address, and he
7 said -- he was talking. I don't know what the dispatcher
8 was asking. He gave her the address. And he said, "I
9 don't know. I don't know who it is but I know one of
10 them's last name is Jefferies." And he just continued
11 talking.

12 And I called his mama. I said, "I'm going to call
13 your mama." I called her, and I was talking to her. I was
14 frantic and I was screaming for her to please come down and
15 just hurry up and just come down here with us because
16 somebody just tried to rob us.

17 And I looked out the kitchen window, and the car was
18 gone. So I was breathing a sigh of relief thinking that
19 everything was done. While I was on the phone -- while I
20 was on the phone I was sitting there and I started hearing
21 just noises. I've not heard ones like that before. It
22 sounded like firecrackers.

23 I just heard the voices, and then I started hearing
24 what was really gun sounds, and then the bullets just
25 started coming through the house. And I got on the floor

Danielle Smith
Direct examination by Mr. Barnette

1 and I was just screaming for help, just screaming and
2 screaming.

3 It seemed like it took forever for the bullets to
4 stop. And then when I got up -- I -- I was in the kitchen
5 on the floor. When I got up Overton was on the ground. He
6 was laying there. And so I went and shook him. And I was
7 like Overton, Overton. Then he wouldn't get up, and that's
8 when I seen the bloody handprint on the -- on the door and
9 it was -- and I just couldn't do nothing. I just started
10 screaming and I started crying. I've never seen nothing
11 like that in my life.

12 And his father had came, had ran down there finally.
13 And he was trying to open the door, but we couldn't open
14 the front door because Overton was laying in front of the
15 door. And so he came around back. And his father went
16 over. His mom and his dad was able to go in the house
17 through the back door. And after that the police came, and
18 we just exited the house.

19 Q And I know it's hard. Let me take you back.

20 A Okay.

21 Q When the two men got outta the car, did you see both
22 of them?

23 A Yes. I did.

24 Q And did both of them come up to the front door?

25 A Yes. Before they even -- there was even a knock you

Danielle Smith
Direct examination by Mr. Barnette

1 heard both of them coming up on my steps on our wooden
2 porch. You could hear them. And when Overton said, "Baby,
3 call the police," that's whenever you heard them run down
4 the downstairs.

5 Q And the gun that was put in through the doorway, it
6 was into the doorway inside of y'all's house.

7 A Yes.

8 Q What color was that gun, ma'am?

9 A It was pink.

10 Q And you told the police that too, didn't you?

11 A Yes.

12 Q Do you see one of the two men that went on that front
13 porch and got out of that car that day in this courtroom
14 today?

15 A Yes. I do.

16 Q Can you identify where he's at?

17 A He's right there with the blue shirt and the red tie.

18 MR. BARNETTE: Your Honor, I would like the record to
19 reflect that she's identified the defendant.

20 THE COURT: It shall.

21 Q Had you seen either one of these gentlemen before,
22 ma'am?

23 A Never.

24 Q And both of them got out of the car and came to
25 y'all's front porch.

Danielle Smith
Direct examination by Mr. Barnette

1 A Yes. When I looked out the window they were both
2 outta the car adjusting their pants and all of that, and
3 they had hoods on.

4 Q How many shots did you hear -- several?

5 A It was, like I say, at least about seven. I don't
6 know. It was just a lot. It just wouldn't stop. That's
7 all I was wanting it to do is stop.

8 MR. BARNETTE: Excuse me one minute, Your Honor.

9 (Pause.)

10 Q Just to make sure, and I want to make sure the jury
11 understands.

12 When Overton was on the ground, on his knee, was he
13 inside keeping the door shut?

14 A Yeah.

15 Q He wasn't never on the outside.

16 A No. He never went outside.

17 Q And when you found him, he was laying.

18 A Yes. When I finally got up, he was on the ground.

19 Q And that's right in front of the door.

20 A Yes.

21 Q So nobody could open it to get inside.

22 A No.

23 Q Thank you, ma'am. Please answer any questions
24 Mr. Schultz may have.

25 A Okay.

Danielle Smith
Cross-examination by Mr. Schultz

- 1 CROSS-EXAMINATION
- 2 BY MR. SCHULTZ
- 3 Q Ma'am, do you still live around that address?
- 4 A No.
- 5 Q Did you -- where did you move to?
- 6 A I moved back home.
- 7 Q And where is home?
- 8 A Forest City, North Carolina.
- 9 Q Okay. Now, you gave a statement to the police,
- 10 correct?
- 11 A Yes.
- 12 Q All right. And did you -- you only gave one statement
- 13 to the police?
- 14 A Yes.
- 15 Q All right. And do you remember giving that statement
- 16 to the police?
- 17 A Yes.
- 18 Q All right. And when you gave that statement to the
- 19 police, do you remember how long that was after this
- 20 incident took place?
- 21 A Probably maybe some minutes. I don't know. Maybe,
- 22 maybe 30 minutes, maybe 40. And then he pulled me to the
- 23 side and I gave my statement.
- 24 Q So is it safe to say that you made your statement when
- 25 the incident was fresh in your mind? Correct?

Danielle Smith
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q And you said in your statement that -- you said in
3 your direct testimony that you and Overton got back from
4 Indiana yesterday, meaning that was Monday, October 1st,
5 right?
- 6 A Yes.
- 7 Q All right. And you were both in the living room when
8 this incident happened?
- 9 A Uh-huh.
- 10 Q All right. And about what time in the day did this
11 incident happen?
- 12 A It was early morning. I'm going to say maybe
13 8:00-ish, 7:00-ish.
- 14 Q Was there anybody else in the home at that time?
- 15 A No, sir.
- 16 Q All right. Now, did you call 9-1-1?
- 17 A Yes.
- 18 Q All right. Do you know if Overton called 9-1-1?
- 19 A I called, and then I handed the phone to him.
- 20 Q Okay. So you were the first one to talk to a 9-1-1
21 operator.
- 22 A Yeah.
- 23 Q And then you handed the phone over to him.
- 24 A Uh-huh.
- 25 Q All right. Now, the person that actually came to the

Danielle Smith
Cross-examination by Mr. Schultz

1 door, you had never seen that person before in your life,
2 right?

3 A No.

4 Q But your brother said that it was a person named
5 Jefferies, right?

6 A Uh-huh.

7 Q Okay. And Jefferies was the one that stuck his hand
8 through the door, correct?

9 A Yes.

10 Q All right. And did he have a gun at that point?

11 A Yes.

12 Q All right. Now, my client Shaun, did he stick his
13 hand in the door?

14 A No, sir.

15 Q All right. Did he enter your residence at any point?

16 A No.

17 Q Okay. So, but you saw Shaun from a distance, correct?

18 A Yes. I saw him getting outta the car and looking
19 towards the house.

20 Q Okay. Now, up until this point from October 2nd of --
21 or October 2nd of 2018 to today, October 8th of 2019, did
22 you identify my client?

23 A Not whenever I did my first statement, no. He asked
24 me would I, but it was too traumatic. And after seeing
25 Overton like that, I just couldn't. It was just too much

Danielle Smith
Cross-examination by Mr. Schultz

- 1 for me.
- 2 Q Well, I understand that. But since that time, from
- 3 today all the way back during that time, did you ever
- 4 identify Shaun Rogers?
- 5 A No, sir.
- 6 Q Okay. What was that again? I'm sorry.
- 7 A No, sir.
- 8 Q Didn't want to interrupt you.
- 9 So you never identified Shaun Rogers.
- 10 A No.
- 11 Q Okay. Did you identify Jermaine Jefferies?
- 12 A No.
- 13 Q All right. But your brother told you --
- 14 MR. BARNETTE: Objection, Your Honor. There's no -- I
- 15 mean, Overton or the brother? I mean, he keeps asking the
- 16 brother. I didn't know it was about brother. It's
- 17 Overton. Excuse me. I mean, that's my objection. It's
- 18 misleading.
- 19 THE COURT: Ask your question again.
- 20 MR. SCHULTZ: I'm not trying to mislead the witness,
- 21 Your Honor.
- 22 THE COURT: Ask your question again.
- 23 MR. SCHULTZ: Sir? I'm sorry.
- 24 THE COURT: Ask the question again.
- 25 MR. SCHULTZ: Yes, sir.

Danielle Smith
Cross-examination by Mr. Schultz

1 Q You said in your statement that, "He told me the last
2 name of the boy was Jefferies."

3 A Yes.

4 Q Is that correct?

5 A Yes.

6 Q All right. And who is he in that sentence?

7 A Overton said it to -- told it to the dispatcher.

8 Q And you also said in your statement, "If I can look at
9 facebook I'll know."

10 A Uh-huh. That's what Overton said. He said, "I don't
11 know."

12 MR. BARNETTE: Your Honor, objection. He's reading
13 the statement trying to mislead her. If he's going to ask
14 questions, I don't have a problem with that. But, now --

15 THE COURT: She's responded to the question.

16 MR. BARNETTE: Well, he's asking her facebook, not
17 Overton's facebook. I know you don't have the statement in
18 front of you.

19 THE COURT: No. I don't. But she knows.

20 MR. BARNETTE: Okay.

21 MR. SCHULTZ: Judge, just for the record --

22 THE COURT: You'll get a chance to redirect if you
23 need to.

24 MR. SCHULTZ: I'm not trying to mislead anybody.

25 THE COURT: I understand. Go ahead.

Danielle Smith
Cross-examination by Mr. Schultz

- 1 Q You said you heard four or five shots, correct?
- 2 A No. I -- it was more -- it was a lot of shots. It
- 3 took forever to end. It was more than four shots.
- 4 Q And you also said in your statement and in your
- 5 testimony there that the gentlemen had hoods on.
- 6 A Yes.
- 7 Q All right. Were they hoodies or hoods?
- 8 A They had just jackets on with hoods.
- 9 Q All right. And were the hoods covering their faces?
- 10 A Yes, no. It was just over their heads. Their faces
- 11 were broad as day. They had no mask on. Hoods just
- 12 sitting there.
- 13 Q And where did you take a look at Mr. Rogers?
- 14 A Whenever I heard the car door shut and I was looking
- 15 out the window, I stared at them because I was just, like,
- 16 who are -- who is this. And they were just looking towards
- 17 the house. So I was like who is this.
- 18 Q And you were looking through blinds or you were
- 19 looking through the window?
- 20 A No. Through the window. We don't have blinds. So I
- 21 just moved the curtain.
- 22 Q You just moved the curtain.
- 23 A Uh-huh.
- 24 Q And so your testimony here today is that you saw
- 25 Mr. Rogers through a window.

Danielle Smith
Cross-examination by Mr. Schultz

- 1 A Uh-huh.
- 2 Q And through another car window or --
- 3 A No. Through the house window.
- 4 Q Through the house window.
- 5 A Yes.
- 6 Q Okay. All right. So, but, nevertheless, you said
- 7 that Mr. Rogers had a hood on.
- 8 A Uh-huh.
- 9 Q So would it be fair to say that you didn't really get
- 10 a good look at them? Correct?
- 11 A No. I got a good look. It was -- the sun was already
- 12 peaking up and everything. It was light.
- 13 Q Now, Mr. Rogers never -- again, sorry to belabor the
- 14 point -- never walked into the house, right?
- 15 A No. He was just right behind Jefferies.
- 16 Q And did you ever see Mr. Rogers with a gun?
- 17 A No, sir.
- 18 Q Did you ever see Mr. Rogers at all with any kind of
- 19 weapon whatsoever?
- 20 A No.
- 21 Q And where was Mr. Rogers sitting in the car?
- 22 A He was getting outta the car. So I don't know where
- 23 he was sitting. They were already outta the car. I had
- 24 already heard the car doors close. And then I looked out.
- 25 And they were both already on the same side of the car

Danielle Smith
Redirect examination by Mr. Barnette

1 fixing and adjusting whatever.

2 Q Fixing and adjusting. What do you mean by that?

3 A They just got out, just pulling up their jeans,
4 looking towards the house.

5 Q But, again, the only person you saw with a gun that
6 day was Jermaine Jefferies, correct?

7 A Yes.

8 MR. SCHULTZ: That's all I have, Your Honor. Thank
9 you.

10 MR. BARNETTE: Just a couple on redirect.

11 REDIRECT EXAMINATION

12 BY MR. BARNETTE

13 Q Ms. Smith, I'll give you a copy of your statement
14 since you weren't given a copy of it.

15 He asked you about the brother. It's Overton that was
16 talking to you.

17 A Yes. Overton.

18 Q I just want to make sure that's clear for the jury
19 from that standpoint.

20 A Uh-huh.

21 Q And on that, you weren't shown any lineups or anything
22 that day, were you?

23 A No.

24 Q This is the gentleman that you saw get outta that car
25 with Mr. Jefferies, is that right?

Danielle Smith
Redirect examination by Mr. Barnette

1 A Yes, yes.

2 Q And you haven't identified -- you weren't shown a
3 lineup of Mr. Jefferies either, were you?

4 A No.

5 Q So, in other words, you -- obviously, you'd seen
6 something you never saw before.

7 A Yes.

8 Q Is this something that you would remember for the rest
9 of your life unfortunately?

10 A Yes.

11 Q Do you remember the two men that came to that door?
12 Do you remember what they looked like?

13 A Yes. That's all that I can. I didn't want to think
14 about that stuff because it hurt so bad, and I just didn't
15 understand it. And it seemed so scary because I've never
16 seen it before. So, it looked so random. I couldn't deal
17 with what had just happened it had happened so quick.

18 Q Is this the man who got out of the car that day?

19 A Yes, yes.

20 Q Thank you, ma'am.

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

22 MR. BARNETTE: Your Honor, I'd like to call Carolyn
23 Good to the stand, please.

24

25

Carolyn Good

Direct examination by Mr. Barnette

1 CAROLYN GOOD, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q Ms. Good, if you would, give your full name for the
5 record, please.

6 A My name is Carolyn Good.

7 Q Ms. Good, where do you live at, ma'am?

8 A I live at [REDACTED] Road, Gaffney, South
9 Carolina.

10 Q And who lives with you, ma'am?

11 A Me and my husband, Richard Good, Sr.

12 Q And how long have y'all lived at that residence?

13 A We've lived there for nine years.

14 Q And did your son live a couple of doors down from
15 y'all?

16 A Yes, he did. Overton lived four doors down the road
17 from us.

18 Q And, ma'am, what does your husband do?

19 A My husband works for Wal-Mart Distribution in Shelby,
20 North Carolina. He's been there for 20 years.

21 Q And what do you do, ma'am?

22 A Well, up until three years ago I drove a school bus
23 for 22 years.

24 Q Taking you back to October 2nd of 2018. Had y'all
25 been somewhere the weekend before?

Carolyn Good
Direct examination by Mr. Barnette

1 A Yes, sir. Our middle son, Denzelle, plays football
2 for the National Football League and the Indianapolis
3 Colts. We went there to watch him play a football game
4 against the Texans on that Sunday.

5 Q And who went with you on that day, ma'am?

6 A My husband, Richard; my son, Richard, Jr.; his
7 fiancée, Dorshane; my son, Overton, and his girlfriend,
8 Danielle.

9 Q What day did y'all come back after the football game?

10 A We arrived back Monday evening around 9:00 o'clock
11 that night.

12 Q And did y'all go back to y'all's house? Did you drop
13 Danielle and Overton off?

14 A We did. When we left there on Friday morning
15 everybody parked their cars at Overton's house, which was
16 normal. Picked him and Danielle. We left and we returned.
17 We dropped Danielle and Overton off at home. We came on up
18 the road because we had a rental car. So we left our car
19 parked there, came on home and said good night. That was
20 it.

21 Q That morning, can you tell the jury what happened?

22 A That morning -- my husband is an early riser. So he
23 got up before I did.

24 He said your phone went off. So I checked my phone
25 and my son Overton had texted me saying, "Mom, I need you

Carolyn Good

Direct examination by Mr. Barnette

1 to pay my cable bill. Call me when you get up."

2 So I texted him back to let him know that I was awake.
3 He texted me right away explaining that he didn't go pay
4 his bill before we left, would I go pay it when I went out
5 that morning. So I told him, as a matter of fact, I would,
6 give me ten minutes to put on some clothes and I will be
7 right down.

8 After that I laid my phone down, went into the
9 bathroom. I came back. My husband brought me a cup of
10 coffee.

11 My bed is right -- our window, bedroom window, when
12 you look out of it, you're looking straight into our
13 driveway.

14 When I got the coffee, I was drinking my coffee. I
15 heard a car. I did as I always do any time I hear a car.
16 I pulled the shade, and I seen a silver car with tinted
17 windows in my driveway. Both of the windows were up. So I
18 kept looking. I told my husband. I said, "There's a car
19 out there. I don't know whose car it is."

20 So he -- he got up and he took a look. He was, like,
21 no, I don't know. And they just kept sitting there.

22 Then all of a sudden the passenger-side window on the
23 car goes down. And I was looking. And I said, "Well, you
24 know, it's two guys." Once the passenger-side window went
25 down I could tell that it was another guy driving.

Carolyn Good

Direct examination by Mr. Barnette

1 So they sat there in my driveway for what had to be at
2 least 45 seconds, because they were talking. I could tell
3 that they were talking. You could see the head moving.
4 What they were doing with their hands, I couldn't tell, but
5 just that you could tell their heads were moving. So I
6 could see they were talking.

7 So I told my husband. I said, "They're just sitting
8 there."

9 So about that time my husband grabbed his shoes, put
10 them on, and he got up. As he was walking to our bedroom
11 door the car starts to back up.

12 So I told my husband. I said, "Never mind. Must have
13 been a wrong address. They're leaving."

14 They started to back out of our driveway, and I was
15 still looking outta the window watching them as they backed
16 up.

17 Well, as -- just as I was about to close the shade, I
18 seen -- when they backed up to my mailbox I saw the car
19 come to a stop instead of just taking off. And I seen the
20 guy in the passenger side put a hood on his head. So I
21 don't know. It -- really it didn't really seem odd because
22 that's what kids do with these hoodies.

23 So I just kept looking. He drove. My neighbor is
24 maybe -- her mailbox from my mailbox, I would say about
25 30 yards maybe. So as they were driving up to her mailbox,

Carolyn Good
Direct examination by Mr. Barnette

1 I noticed a car coming to another stop.

2 So I was -- I looked, and I was, like, what in the
3 world are they doing, are they lost.

4 So, about that time I see the passenger in the car
5 protrude outta the window so much so that he put his left
6 arm on top of the car, and then he had his right arm in the
7 windowsill, you know, as if you're going to climb out of a
8 window. So that caught my attention. And I told my
9 husband. I said, "These crazy kids are going to ride down
10 the road hanging out of the window."

11 So when that happened, I see the car start to pick up
12 the little speed right back. Not the next house but the
13 next one from that, I see arm come out of the window and I
14 see a gun. And I told, yelled, at my husband. I said,
15 "This kid has got a gun."

16 And my husband jumped up off of the bed. I jumped up
17 outta the bed. My phone was ringing as I was running. And
18 I had no idea that somebody had tried to break into my
19 son's house. We had no idea what had occurred down the
20 road.

21 When I got -- when I got to my front door, stepped on
22 the top step, I hear pow. I'm jetting, and I called my
23 husband. I'm yelling back at him because he hadn't made it
24 to the door yet.

25 I said, "Babe, they're shooting at Overton's house."

Carolyn Good
Direct examination by Mr. Barnette

1 They're shooting at Overton's house."

2 I started running to the edge of the driveway, and I'm
3 screaming to the top of my lungs, "Stop it, stop it. Why
4 are you shooting at my son's house? Don't do that. Please
5 stop." All you can hear was gunshot, after gunshot, after
6 gunshot.

7 They rounded the corner. They got to the stop sign.
8 I see the boy slide back in the window, but he didn't stop
9 shooting. When they turned the stop sign they shot another
10 shot into my son from the side of his trailer after you
11 done turned off our road going down the next road. You
12 slow down enough to shoot another shot when all they had to
13 do was leave him alone and keep going. I apologize.

14 Q That's okay. Take your time.

15 (Pause.)

16 Q When they stopped -- they came into your driveway,
17 they stopped?

18 A They came in my driveway.

19 Q Yes, ma'am. And then they pulled back. And you saw
20 the window down. You did see two -- two men in the front
21 seat?

22 A I did.

23 Q And they stopped before you saw the pink -- or what
24 color was the gun when you saw it?

25 A It was pink. I yelled that out to my husband when he

Carolyn Good

Direct examination by Mr. Barnette

1 pulled out the gun. You could see it clear as day.

2 Q How fast was the car being driven?

3 A Probably not even 10 miles per hour, I would say,
4 because they were going really slow down the road. Several
5 times they came almost to a stop to let him hang out that
6 window, and then they slowed down a lot again when they got
7 right there before the house that my son's next-door
8 neighbor -- is where they slowed down again, and you could
9 hear the first shot.

10 So they had to be going pretty slow. I left my
11 bedroom. When I seen him pull that gun out, I leaped up
12 off the bed, run straight to the door.

13 By the time I get to my door and onto the porch,
14 that's when I heard the first shot, and they were right in
15 front of Overton's neighbor's house at the time.

16 So if a car was going down a road at regular speed, by
17 the time I get from my bedroom to my porch they'd have been
18 at the stop sign turning already.

19 Q And they weren't.

20 A No.

21 Q So you actually saw some of the shots when they were
22 shooting.

23 A I saw every shot, every shot. I heard every shot; I
24 saw every shot. I yelled for them to stop every shot
25 shooting at my son's house. I yelled. I begged them to

Carolyn Good
Direct examination by Mr. Barnette

1 stop shooting. why?

2 Q And what happened after the -- after the last shot?

3 A After the last shot, my husband had come out of the
4 house by then. He got into the car and drove straight down
5 the road.

6 I'm standing there with no clothes on, no shoes on.
7 So I went back inside. I grabbed my shoes. I grabbed the
8 car keys to our white car that nobody drove. I grabbed the
9 keys to that, and I jumped in the car.

10 By the time I got in the car Danielle Smith was
11 calling me, and she says, "Ma, he's not moving." I said
12 what. She say, "Overton's not moving." And she was crying
13 frantically. I'm nervous as crap.

14 And then about that time I get a call from my
15 husband's cell phone saying, "Baby, are you coming?" By
16 the -- by the time he called me I was whipping into
17 Overton's driveway. And he told me -- that's when he said
18 you gotta come around back, you gotta come around back. So
19 I did. I got out of the car and I went around the back.
20 And there -- there lays my son in front of the front door
21 not moving, not breathing.

22 Q Did the police come later, ma'am?

23 A I called 9-1-1 again.

24 Q So you called 9-1-1 too.

25 A Yes, because they just weren't coming fast enough for

Carolyn Good

Direct examination by Mr. Barnette

1 me. So I called again and I begged them to hurry up and
2 send somebody to come and help us.

3 Q And you saw the two men in the car.

4 A Yes. I knew it was two men. One I got a good look
5 at.

6 Q And which one did you get a good look at, ma'am?

7 A Jefferies.

8 Q And did you identify him for the police later?

9 A I did.

10 Q And what did you notice about the other person, the
11 driver?

12 A I didn't get a good look at his face. All I could
13 make out was the hairstyle.

14 Q Looking at this defendant is that hairstyle --

15 A That's the hairstyle.

16 Q Is the same hairstyle that you saw driving?

17 A A little bit shorter maybe.

18 Q The same hairstyle.

19 A Same thing.

20 Q Let me show you State's Exhibit 20 just for I.D.
21 purposes. Is that similar to the hairstyles you saw?

22 A That's him. That's the hairstyle I saw.

23 Q Thank you, ma'am.

24 was these two men working together, or working
25 together to do the drive-by shooting?

Carolyn Good
Direct examination by Mr. Barnette

1 A I believe they were.

2 Q Is that what you saw?

3 A That's what I saw. You had time enough to sit in my
4 driveway for almost one flat minute. You have enough time
5 to sit there and think about what you're going to do.

6 Q And you saw the actions they did.

7 A I saw everything. From the time they pulled into my
8 driveway, I did not close the blind. It's normal for me.
9 When I see a car pull in my driveway, I look and see who it
10 is.

11 We don't have a lot of visitors. So I know when a car
12 pulls up I should know who it is. So that was the first
13 red flag to me when I told my husband I don't know this
14 car.

15 Q Now, when they pulled back and were in the middle of
16 the road, they stopped again?

17 A Stopped again right in front of my mailbox.

18 Q And that's when it really got your attention.

19 A That's when it really got my attention.

20 Q And you've already told the jury what happened.

21 A Yes, sir. I did.

22 Q Thank you, ma'am. Please answer any questions defense
23 may have.

24

25

Carolyn Good
Cross-examination by Mr. Schultz

1 CROSS-EXAMINATION

2 BY MR. SCHULTZ

3 Q Ms. Good, where were you staying when you went and saw
4 this? What address?

5 A [REDACTED] Road.

6 Q And that's in Gaffney, Cherokee County?

7 A Gaffney, South Carolina 29341.

8 Q You gave a statement to the police, correct?

9 A I did.

10 Q All right. Do you remember when you gave that
11 statement?

12 A On the morning all of this took place.

13 Q And did you give any other statements to the police at
14 all since that time or since this time?

15 A No.

16 Q Okay. And you said in your statement you opened the
17 blind and you saw a silver Chevy vehicle, right?

18 A Yes, sir.

19 Q Okay. And that's your testimony here today, correct?

20 A Yes, sir.

21 Q And you saw a young black male in the passenger seat
22 with the window up, right?

23 A Yes, sir. I did.

24 Q And that is the person that you got a good look at?

25 A Yes. I got a really good look at the passenger.

Carolyn Good
Cross-examination by Mr. Schultz

1 Q All right. And you later found out that gentleman's
2 name. What -- what was that gentleman's name?

3 A Jermaine Jefferies, I think, Jermaine Jefferies.

4 Q Jermaine Jefferies, is that correct?

5 A Jefferies.

6 Q All right. And was Jefferies the one with the pink
7 gun?

8 A Yes.

9 Q All right. And you remember seeing that pink gun that
10 day, right?

11 A I do.

12 Q All right. And Jefferies was the one with that gun,
13 correct?

14 A Yes.

15 Q Did you ever see Mr. Rogers with a gun?

16 A No. I never seen Mr. Rogers with a gun. I barely
17 seen Mr. Rogers at all.

18 Q Now, you said something in your direct examination.
19 You said that you got a look at the driver's hairstyle, is
20 that correct?

21 A Yes. That's -- that's what I was telling. That's the
22 only way I knew it was a male. I couldn't get a really
23 good look at his face. I couldn't have picked him out of a
24 lineup, but I did -- only thing that was stuck out was the
25 hairstyle.

Carolyn Good
Cross-examination by Mr. Schultz

- 1 Q And are you saying today that my client had this same
2 hairstyle today as he did back then?
- 3 A It wasn't exactly the same but it was basically the
4 same.
- 5 Q Basically the same.
- 6 A Yeah.
- 7 Q So it wasn't close cropped at all or anything?
- 8 A No. It was off his head.
- 9 Q Okay.
- 10 A I mean, I don't know how else to put it but...
- 11 Q Now, you said the windows on this car were tinted,
12 right?
- 13 A Right.
- 14 Q All right. So would it be fair to say that you did
15 not get a good look at the gentleman, the driver of the
16 car? Would that be a fair statement?
- 17 A I just said I didn't.
- 18 Q You just said you didn't?
- 19 A Right. I did not get a good look at Rashaun [sic]
20 Rogers.
- 21 Q Did you ever identify my client in a lineup or
22 anything?
- 23 A No. I didn't.
- 24 Q Did you ever identify Mr. Jefferies in a lineup?
- 25 A I did.

Carolyn Good
Redirect examination by Mr. Barnette

1 Q All right. That's all I have.

2 MR. SCHULTZ: Thank you, Your Honor.

3 MR. BARNETTE: Just one quick one on followup.

4 REDIRECT EXAMINATION

5 BY MR. BARNETTE

6 Q You was never showed a lineup for Mr. Rogers, were
7 you?

8 A No, sir.

9 Q You were shown a lineup for Mr. Jefferies.

10 A only for Mr. Jefferies.

11 Q Because that's -- you talking about the -- that's the
12 only person you really could identify.

13 A Right. I explained to -- if I'm not mistaken, I think
14 it was -- Mr. Gardner that I did get a good look at the
15 passenger. He asked me if I thought I could identify him
16 if he -- if I ever seen him again. I said yes.

17 He asked me right away what about the driver, and I
18 said I didn't get a very good look at the driver.

19 Q Thank you, ma'am.

20 THE COURT: You may step down.

21 THE WITNESS: Thank you, sir.

22 MR. BARNETTE: Your Honor, I'd like to call Richard
23 Good, Jr. at this time.

24 THE COURT: Okay.

25

Richard Lanier Good, Jr.
Direct examination by Mr. Barnette

1 RICHARD LANIER GOOD, JR.,
2 having been first duly sworn, testified as follows:

3 Q If you would, sir, please give us your full name for
4 the record.

5 | A Richard Lanier Good, Jr.

6 | Q And where do you live at, sir?

7 A 957 Overbook Drive, Apartment H2, in Woodland Estates,
8 Gaffney, South Carolina.

9 | Q where do you work at, sir?

10 | A I work at Nestle.

11 Q And how long have you been there, sir?

12	A	A few years.

13 Q Okay. And do you know the defendant in this case?

14 | A Yes, sir.

15 | Q How do you know him?

16 A I trained him on two different jobs on two different
17 occasions, once at Ridder Corporation and again at Nestle
18 Frozen Foods.

19 Q So you trained him before in jobs then.

20 | A Yes, sir.

21 Q was you a facebook friend of his?

22 | A Yes, sir.

23 Q Let me show you what's been marked as State's Exhibit
24 No. 20. Is that Shaun Rogers' facebook page? Have you
25 seen it?

Richard Lanier Good, Jr.
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q And after this event occurred did you check his or
3 look at his facebook?

4 A Yes, sir.

5 Q And on his facebook, was this the front of his
6 facebook page?

7 A Yes.

8 Q Was this another picture showing a pink gun that was
9 on his facebook?

10 A Yes, sir.

11 MR. SCHULTZ: Your Honor, I object to this at this
12 point.

13 THE COURT: All right. Let me ask the jury to please
14 step out. I'll address the issue and bring you back
15 shortly.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: Okay.

19 MR. SCHULTZ: Your Honor, I would object to the --
20 Your Honor, there's a -- I believe two -- well, at least
21 one facebook sharing post that Mr. Barnette wishes to put
22 into evidence right now.

23 I would object to this for a couple of reasons there.
24 This apparent post was made on September 29th at 12:38 a.m.
25 It -- it looks like it's from Shaun Rogers' facebook

Richard Lanier Good, Jr.
Direct examination by Mr. Barnette

1 account, but, again, I would object to this under the fact
2 that Mr. Barnette has not authenticated this document
3 there.

4 I believe for any facebook posts, social media posts,
5 twitter documentation, instagram or anything, I think the
6 state, or at least the admitting party, has to show that
7 this is a -- this post here or facebook page was made --
8 made by -- by the party.

9 Not only that. I believe that the state or the
10 admitting party or the party wishing to admit this document
11 has to show some kind of internet protocol address where it
12 was from because this, this page, could be faulty.

13 Mr. Rogers may not have posted this. This may have
14 been somebody else that had access to his account. So I
15 don't believe this document has been properly
16 authenticated. That would be the nature of my objection.

17 MR. BARNETTE: My position is, Your Honor, the case
18 law right now if somebody can go on a facebook to verify
19 it, and, obviously, he's a friend in this situation. He
20 went and looked on this post. It had Shaun Rogers and had
21 this gun posted on there, Your Honor, which we would submit
22 is very relevant to this case.

23 You may want to look at the facebook page.

24 THE COURT: What's the date of that?

25 MR. BARNETTE: The --

Richard Lanier Good, Jr. (In-camera)
Direct examination by Mr. Barnette

1 THE COURT: September 29th of 2018?

2 MR. BARNETTE: Yes, sir.

3 THE COURT: And was Mr. Good a friend on facebook of
4 Mr. Rogers prior to that date?

5 MR. BARNETTE: Yes, sir. That's my understanding.

6 THE COURT: I'm going to let you in a minute. I need
7 to know if he was a friend of Mr. Rogers on facebook and if
8 he communicated with Mr. Rogers on this same facebook page
9 prior to September the 29th of 2018. So you'll need to lay
10 a foundation for it.

11 MR. BARNETTE: Do you want me to do that outside the
12 presence of the jury, Your Honor, at this time?

13 THE COURT: Yes, sir.

14 BY MR. BARNETTE

15 Q Mr. Good, you was a facebook friend of Mr. Rogers at
16 the time, is that right?

17 A Yes, sir.

18 Q And after this event occurred did you hear that
19 Mr. Rogers was one of the two individuals involved with
20 this?

21 A Yes, sir.

22 Q And did you go to check his facebook page at that
23 point?

24 A I did.

25 Q And when you checked it did -- was this a post that

Richard Lanier Good, Jr. (In-camera)
Direct examination by Mr. Barnette

1 was posted on -- it's actually the second page of the
2 exhibit.

3 A Yes, sir.

4 Q And did you see that post?

5 A Yes, sir.

6 Q And the post says Shaun Rogers shared a post. And,
7 "It was Jermaine that hit that thing hard." Was that it
8 from September 29th at 12:38 a.m.?

9 A Yes, sir.

10 Q And that's what you saw on his facebook.

11 A Yes, sir.

12 Q And, obviously, it had been posted on his facebook
13 page.

14 A Yeah. He shared it. It's got a little share button
15 on facebook. Like, if I post something, you can just hit
16 share, like, it's like a like. So if I shared it, that
17 mean I was supporting what you're doing.

18 Q Right. So he shared it.

19 A Yeah.

20 Q And he's shared it with others on facebook.

21 A Uh-huh.

22 Q And you could see that, being a facebook friend of
23 his.

24 A Yes, sir.

25 MR. BARNETTE: Your Honor, that would be the showing.

Richard Lanier Good, Jr. (In-camera)
Direct examination by Mr. Barnette

1 THE COURT: Did I understand that this is the same
2 page that you have communicated with Mr. Rogers before?

3 THE WITNESS: I've never communicated with him on
4 facebook before. We are just -- just like a -- a mutual
5 friend of people.

6 BY MR. BARNETTE

7 Q Well, what I mean, I guess, obviously, y'all had
8 agreed to be friends.

9 A Yeah. That's it. Send a friend request and he
10 accept. That's the end of it.

11 Q So y'all were friends on facebook, so you could see
12 what he has, and vice versa.

13 A He could see, yeah.

14 Q But you'd never communicated him on facebook.

15 A No, no.

16 Q Other than sharing information, I guess.

17 A No.

18 Q Or sharing --

19 A Just what he could see.

20 Q He could see things on yours.

21 A He could see what I post and I could see what he
22 posted. That's it.

23 Q Yes, sir.

24 A If I -- if I put have a nice day, he can hit share and
25 it look the same thing. That's it. It wasn't like we had

Richard Lanier Good, Jr. (In-camera)
Direct examination by Mr. Barnette

- 1 a conversation with each other.
- 2 Q So you would share things, but you could share things
- 3 with each there.
- 4 A Yes.
- 5 Q And other friends on -- friends of y'all's.
- 6 A Yes, sir.
- 7 Q And y'all did do that.
- 8 A Yeah. It's -- it's popular on facebook to share a
- 9 video or a pair of shoes or something like that.
- 10 Q So you've done that before with him, obviously.
- 11 A No.
- 12 Q Okay. I mean, not -- I mean, y'all could share
- 13 information.
- 14 A Yes, sir.
- 15 Q Okay.
- 16 THE COURT: Well, I'm a little bit confused. You had
- 17 shared information with Mr. Rogers before this post, or no?
- 18 THE WITNESS: I don't know what you mean by shared
- 19 information.
- 20 THE COURT: Well, I thought that's what you testified
- 21 to.
- 22 MR. BARNETTE: No. Let me rephrase the question.
- 23 BY MR. BARNETTE
- 24 Q He made a friend request or you made a friend request.
- 25 A Yes.

Richard Lanier Good, Jr. (In-camera)
Direct examination by Mr. Barnette

- 1 Q And y'all became friends on facebook.
- 2 A Yes.
- 3 Q At that point y'all could see each other's posts.
- 4 A Yes.
- 5 Q And you can share a post among yourselves or among
- 6 other friends on your --
- 7 A Yes, sir.
- 8 Q And, obviously, he shared this post.
- 9 A Yes, sir.
- 10 Q And, like you said, you could share a post with him,
- 11 or vice versa, if you wanted to.
- 12 A Uh-huh, yes, sir.
- 13 Q And that's what friends do a lot of times.
- 14 A Uh-huh.
- 15 Q You may not comment on a page or whatever. You may
- 16 just share it.
- 17 A Yes.
- 18 Q Okay.
- 19 THE COURT: All right.
- 20 MR. SCHULTZ: That would be the perfect --
- 21 THE COURT: Let me see that again.
- 22 MR. BARNETTE: Yes, sir.
- 23 THE COURT: Am I understanding from your testimony
- 24 that at some point prior to September the 29th of 2018 that
- 25 you and Mr. Rogers at least communicated to the extent that

Richard Lanier Good, Jr. (In-camera)
Cross-examination by Mr. Schultz

1 y'all agreed to be friends with each other on facebook
2 pages?

3 THE WITNESS: Yes, sir.

4 THE COURT: Yeah.

5 MR. BARNETTE: And if I could just ask a followup
6 question, Your Honor.

7 BY MR. BARNETTE

8 Q You knew each other from training him at Nestle.

9 A My first time meeting was at Ryder Corporation.

10 Q So y'all knew each other in person too, as well as on
11 facebook.

12 A Yeah. Just as far as work. It wasn't no personal.

13 Q Y'all knew each other from work.

14 A Yeah.

15 THE COURT: All right. Mr. Schultz, do you want to
16 ask him anything?

17 MR. SCHULTZ: I do.

18 CROSS-EXAMINATION

19 BY MR. SCHULTZ

20 Q Is it Mr. Goode or Mr. Good?

21 A Good. Like having a good day.

22 Q All right. Good. And you said that you were friends
23 with Shaun on facebook?

24 A Just on facebook.

25 Q Okay. And do you remember when you became friends

Richard Lanier Good, Jr. (In-camera)
Cross-examination by Mr. Schultz

- 1 with Shaun on facebook?
- 2 A We was working at Ryder. It was around -- it was in
3 2017.
- 4 Q All right. Do you -- did you bring any evidence to
5 Court to verify that you were indeed friends with Shaun on
6 facebook?
- 7 A My phone in the car.
- 8 Q All right.
- 9 A But I went and checked yesterday, and I was taken off
10 the friend list. His page is still active to this day.
- 11 Q So is -- when you say his, you mean Shaun.
- 12 A Shaun Rogers' facebook is still active. When I went
13 and checked yesterday, I wasn't a friend any more.
- 14 Q So you said -- and I think everybody was kind of
15 confused by this. You never communicated with Shaun on
16 facebook?
- 17 A No. It's -- I got 5,000 friends on facebook. I don't
18 communicate with everybody.
- 19 Q All right. And when you say communicate, what do you
20 mean by that?
- 21 A Like, share, message, none of that. Anything you can
22 do extra on facebook, I rarely post it. I get on there and
23 stroll. That's about it.
- 24 Q You rarely post, right?
- 25 A Say that again.

Richard Lanier Good, Jr. (In-camera)
Cross-examination by Mr. Schultz

1 Q You -- so your testimony here today is you rarely
2 post.

3 A Yeah. I didn't post anything. I don't post. I just
4 stroll.

5 Q Okay. So you don't post. You just look at others.

6 A Yeah.

7 Q Okay.

8 MR. SCHULTZ: That will be all I would have for this
9 witness here.

10 THE COURT: All right. Mr. Barnette, this -- the
11 actual exhibit, Exhibit --

12 MR. BARNETTE: Twenty, Your Honor, I think.

13 THE COURT: Twenty?

14 MR. BARNETTE: Yes, sir. It's No. 20. I've checked,
15 Your Honor.

16 THE COURT: Where did that exhibit actually come from?

17 MR. BARNETTE: Well, Investigator Gardner when he was
18 interviewing the defendant actually pulled that up on his
19 facebook. He was able to actually go on his facebook.
20 I've been on his facebook. I went looking at his facebook.
21 It's active right now. It's open to the public.

22 THE COURT: This came off of the defendant's phone?

23 MR. BARNETTE: No. Defendant's facebook. It was
24 actually Investigator Gardner that looked at the -- when
25 they were interviewing him in the interview which we got.

Richard Lanier Good, Jr. (In-camera)

1 He actually pulled --

2 THE COURT: Interviewing who?

3 MR. BARNETTE: Mr. Rogers.

4 THE COURT: Mr. Rogers. All right. And so Mr. Rogers
5 allowed him to pull up the facebook?

6 MR. BARNETTE: well, it's public. what I mean by
7 public, anybody can pull it up. we can pull it up. I can
8 go get my phone right now, Judge, and pull up his facebook
9 for you. It's open right now. Mr. Rogers has left it
10 active.

11 THE COURT: Oh, so you don't have to be a friend then.

12 MR. BARNETTE: No.

13 THE COURT: It's just open to anybody.

14 THE WITNESS: Yes.

15 MR. BARNETTE: Yes, sir.

16 THE COURT: Okay.

17 MR. BARNETTE: But in order to post stuff and things
18 on there, you have to be a friend or whatever. But you can
19 review it.

20 THE COURT: I see. Okay. All right. So okay. I
21 think I understand. And so this was printed off of a
22 facebook page?

23 MR. BARNETTE: Yes, sir, by Investigator Gardner. But
24 it's a fair representation of what he saw, because I asked
25 him is this what he saw once he checked the facebook. And

Richard Lanier Good, Jr. (In-camera)

1 I can go through that. I didn't know if you wanted me to
2 go into that much detail in front of the jury.

3 THE COURT: No. I didn't. The purpose was to lay the
4 foundation for its admission.

5 All right. I understand. Overrule the objection.

6 MR. SCHULTZ: Your Honor, just a couple of more
7 things.

8 Your Honor, I think the -- I understand the Court's
9 ruling here, but without any proper foundation of him --
10 this gentleman being a friend of Mr. Rogers -- there's --
11 there's not a printout of anywhere where he's a friend of
12 Mr. Rogers on facebook.

13 THE COURT: He's testified to it.

14 MR. SCHULTZ: I understand that, but there's --

15 THE COURT: That is subject to examination, but he's
16 testified that he and Mr. Rogers were friends on facebook
17 and that he has seen that post before.

18 MR. SCHULTZ: But that post could not be Mr. Rogers.
19 It could be somebody else.

20 THE COURT: Well, you mean the Russians hacked in?

21 MR. SCHULTZ: We don't know.

22 THE COURT: Okay.

23 MR. SCHULTZ: Without a proper internet protocol by --
24 address, I don't think the state has properly authenticated
25 that document. If they present someone from facebook or

Richard Lanier Good, Jr. (In-camera)

1 someone that can take a look at that to find out when that
2 was actually posted and what I.P. address it was actually
3 posted from -- I don't think it's been properly
4 authenticated.

5 THE COURT: All right.

6 MR. BARNETTE: I think it has, Your Honor, because the
7 case law allows you. If a person is a friend, verify that
8 that's the facebook page, and that's what we've done.

9 I can put Investigator Gardner up. And, I mean, I
10 think it was the day of or whatever that he actually saw
11 and put it up there and did a printout. And you can pull.
12 And, like I said, I can madam clerk here if she has
13 facebook access to pull up his facebook right now. The
14 thing that's kinda interesting is they've terminated his
15 friendship with the defendant after all of this.

16 THE COURT: I understand the argument. I'm going to
17 overrule your objection and permit it.

18 MR. BARNETTE: Thank you, Your Honor.

19 THE COURT: We'll probably be able to break for lunch
20 and resume with the testimony after. I assume it's going
21 to be some length, so.

22 MR. BARNETTE: This; by the way, shows what I asked
23 him, Your Honor.

24 THE COURT: How long --

25 MR. SCHULTZ: I'm sorry?

Richard Lanier Good, Jr.
Direct examination by Mr. Barnette

1 MR. BARNETTE: I didn't -- I was going to end with
2 this issue, with the facebook.

3 THE COURT: How long do you think your
4 cross-examination will take?

5 MR. SCHULTZ: Ten minutes, Your Honor.

6 THE COURT: Okay. Bring them back. We'll do it.

7 (The following takes place in the presence of the
8 jury.)

9 MR. BARNETTE: May it please the Court, Your Honor.
10 May I approach the witness?

11 THE COURT: You may.

12 CONTINUED DIRECT EXAMINATION BY MR. BARNETTE

13 Q Mr. Good, let me show you what's been marked as
14 State's Exhibit 20. Is this Shaun Rogers' facebook page
15 you saw after you --

16 A Yes, sir.

17 Q And was page two a second posting that you saw?

18 A Yes, sir.

19 Q Okay. And that's where he shared a post, is that
20 right?

21 A Yes, sir. He just shared it.

22 MR. BARNETTE: Your Honor, I'd like to move this into
23 evidence at this time.

24 THE COURT: It's admitted over objection.

25 (Facebook post marked State's Exhibit No. 20.)

Richard Lanier Good, Jr.
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, I'd like to publish it to
2 the jury at this time.

3 THE COURT: You may.

4 MR. BARNETTE: It shows the first page of State's
5 Exhibit No. 20.

6 BY MR. BARNETTE

7 Q Mr. Good, is this the facebook page you saw?

8 A Yes, sir.

9 Q And is that still active as far as you know?

10 A Yes, sir.

11 Q So it's up right now.

12 A Yes, sir.

13 Q And you were a friend of his, is that right?

14 A I was.

15 Q Are you still a friend or have you been --

16 A No, sir.

17 Q Okay. So you've checked recently?

18 A Yes, sir.

19 Q Okay. Let me show you the second page of State's
20 Exhibit 20. Is this a post that you saw on his facebook?

21 A Yes, sir.

22 Q And he shared that post, is that right?

23 A Yes, sir.

24 Q And what does the heading of that say?

25 A "Jermaine and that thing hit heard," and laughing and

Richard Lanier Good, Jr.
Cross-examination by Mr. Schultz

- 1 post, 100.
- 2 Q And that's what was posted on that post, is that
- 3 right?
- 4 A Yes, sir.
- 5 Q And that was on Shaun Rogers' facebook.
- 6 A Yes, sir.
- 7 MR. BARNETTE: Your Honor, may I hand it to the jury?
- 8 It might be easier for them to see it.
- 9 Q If you would, please, answer any questions that the
- 10 defense may have for you.
- 11 CROSS-EXAMINATION
- 12 BY MR. SCHULTZ
- 13 Q Mr. Good, did you give a statement to the police?
- 14 A No, sir.
- 15 Q And so when --
- 16 A No, sir, no. I did not.
- 17 Q Thank you. I think you answered that.
- 18 The -- so you never communicated up until this point
- 19 about any kind of facebook post or anything?
- 20 A None.
- 21 Q Okay. And you said you were friends with my client on
- 22 facebook, is that right?
- 23 A That's it. Yes, sir.
- 24 Q Could it have been that somebody else posted that? I
- 25 mean, you weren't sure, positive.

Richard Lanier Good, Jr.
Cross-examination by Mr. Schultz

- 1 A I mean, he shared it.
- 2 Q I understand that. But somebody else -- were other
- 3 people sharing that as well?
- 4 A No.
- 5 Q Nobody else was sharing that?
- 6 A No, not that I'm -- nobody I'm friends with.
- 7 Q All right. And/but you're not positive that Shaun
- 8 Rogers was the actual person that shared that post,
- 9 correct?
- 10 A I mean, it just said it on the thing that he shared
- 11 it.
- 12 Q But you can't be positive that it was him. It could
- 13 have been somebody else, right?
- 14 A Not on September the 29th. It -- it had to be. It
- 15 had to be Shaun Rogers on September the 29th.
- 16 Q Now, going back to the incident there, were you
- 17 present at the incident when this incident happened?
- 18 A No, sir.
- 19 Q So you know nothing of this incident.
- 20 A No, sir.
- 21 Q All right.
- 22 MR. SCHULTZ: That's all I have, Your Honor.
- 23 MR. BARNETTE: Just one question on follow up.
- 24
- 25

Richard Lanier Good, Jr.
Redirect examination by Mr. Barnette

1 REDIRECT EXAMINATION

2 BY MR. BARNETTE

3 Q Was this the same facebook page you've always seen for
4 Mr. Rogers?

5 A Yes, sir.

6 Q Okay. Thank you, sir.

7 MR. BARNETTE: That's all the questions I have.

8 THE COURT: Okay. Step down.

9 Has everyone viewed the exhibit?

10 okay. All right. We're going to break for lunch.

11 We'll come back and resume at 2:30.

12 Let me caution you that now that you've been selected
13 and the trial has begun you're never permitted to talk
14 about the case even among yourselves. You can only do that
15 during jury deliberation at the trial's conclusion.

16 So no discussions about the case; no investigation; no
17 research. Don't permit yourselves to be exposed to any
18 type of media coverage relating to the case.

19 As I told you, you've got to base your decision upon
20 what you see and hear during the trial. You can't be
21 influenced by any outside or extraneous information.

22 Okay. Have a good lunch. I'll see you at 2:30 this
23 afternoon.

24 (The following takes place outside the presence of the
25 jury.)

Virginia Ann Lindsey
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, just one thing real quick.
2 I talked to Investigator Gardner. It was actually
3 during Jefferies' interview when he pulled up the facebook
4 page -- Rogers -- from that standpoint. I just wanted to
5 make sure that was clear for the record. Not Mr. Rogers.

6 MR. SCHULTZ: Your Honor, I still object to that.

7 THE COURT: I understand.

8 All right. Court is in recess until 2:30.

9 (Whereupon, a recess was taken.)

10 THE COURT: Are we ready for the jury?

11 MR. BARNETTE: The state is ready, Your Honor.

12 MR. SCHULTZ: The defense is ready.

13 THE COURT: Okay. Bring them in.

14 (The following takes place in the presence of the
15 jury.)

16 THE COURT: Good afternoon.

17 We're going to continue with the state's presentation.

18 MR. BARNETTE: May it please the Court. I'd like to
19 call Virginia Lindsey to the stand.

20 VIRGINIA ANN LINDSEY, having
21 been first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. BARNETTE

23 Q Ms. Lindsey, if you would, state your full name for
24 the record, please.

25 A My name is Virginia Ann Lindsey.

Virginia Ann Lindsey
Direct examination by Mr. Barnette

- 1 Q Can you talk a little bit louder so this gentleman
2 back here --
- 3 A Virginia Ann Lindsey.
- 4 Q Thank you, ma'am. I appreciate you doing that.
5 Where do you live at, ma'am?
- 6 A 1525 Pleasant School Road. That's in Gaffney.
- 7 Q And what you do, ma'am? What kind of work do you do?
- 8 A I don't work. I'm on disability.
- 9 Q And who is your next-door neighbor? Who was your
10 next-door neighbor back on October 2nd of 2018?
- 11 A Overton was on my right.
- 12 Q Okay. And did his mother live a couple of houses up
13 or a couple of places up?
- 14 A Yes.
- 15 Q So y'all were in the same neighborhood then.
- 16 A Yes.
- 17 Q The morning of October 2nd of 2018, where did you go
18 that day or that morning?
- 19 A I left that morning around 7:00 to take my grandkids
20 to school. I dropped them off, and then I went back to the
21 Y.M.C.A.
- 22 Q Okay. And after you went to the Y.M.C.A. -- what did
23 you do at the Y.M.C.A.?
- 24 A I normally do the cardio for an hour and then do a few
25 of the machines and then go back home.

Virginia Ann Lindsey
Direct examination by Mr. Barnette

1 Q When you went back home, what did you find or what was
2 going on?

3 A Well, when I went back -- on my way back home I had
4 somebody blink lights at me, like, you know, slow down. I
5 guess I must have been speeding. And when I got up there
6 and got ready to hit the corner I seen all the fire trucks
7 and ambulances and policemen and everywhere.

8 Q Okay. And who did you see there?

9 A I seen Overton's mother in his yard.

10 Q Was she very emotional?

11 A Very.

12 Q And after you saw her and everything did you
13 eventually get to your house?

14 A Eventually I was able to get in my yard. And after I
15 parked my car I went over and assisted her and, you know,
16 prayed with her to try to calm her down, because I didn't
17 know what was going on. I didn't even know anything had
18 happened. So I went over, you know, just to console her
19 because I seen how she was crying hysterical, so.

20 Q When you got in your house, what did you find in your
21 house?

22 A Well, finally after they let me go in my house,
23 because I messed around and crossed over to where she was,
24 and then I wasn't able to go back home because they said,
25 you know, I couldn't leave and go back.

Virginia Ann Lindsey
Direct examination by Mr. Barnette

- 1 so finally after I got in, I did go take a shower.
2 And I got up and I went up the hallway and I looked in my
3 grandson's bedroom, and it was like something was all in
4 the floor. And I was, like, what is this, because nothing
5 was there when we left. And I cut the light on and I
6 noticed a glow from around the light had -- was broken.
7 And it was all in the floor.
- 8 Q Did you notice something in the ceiling or the walls?
9 A Yes.
- 10 Q What was it?
11 A A bullet hole.
- 12 Q So you're right -- like, this is your house here.
13 A And he's right here.
- 14 Q And Overton's house is right there.
15 A Uh-huh.
- 16 Q So is this the direction from where his house was,
17 where you had the bullet hole?
18 A Yes.
- 19 Q Let me show you what's been marked as State's
20 Exhibit 49. Is that a picture of the front of your house,
21 ma'am?
22 A Yes, sir.
- 23 Q And show you State's Exhibit 50. Is that a picture of
24 the way that bullet hole looked in y'all's, I guess -- it's
25 crown molding, I guess.

Virginia Ann Lindsey
Direct examination by Mr. Barnette

- 1 A Yes. Right over the head of the bed.
- 2 Q And then State's Exhibit 51. Is that a picture of
- 3 where the bullet went through on the other side?
- 4 A Yes, that's where it come through on this side.
- 5 Q And came through. Excuse me. Came through that side
- 6 and went to the other side.
- 7 A Uh-huh.
- 8 Q And State's Exhibit 52. Is that the light that you
- 9 were talking about?
- 10 A Yes, sir.
- 11 Q And State's Exhibit 53. Is that the glass that you
- 12 noticed?
- 13 A That's it.
- 14 Q Does these all fairly represent what you saw that day?
- 15 A Yes, sir.
- 16 Q And this is the day this incident occurred.
- 17 A Yes.
- 18 MR. BARNETTE: Your Honor, I'd like to move these into
- 19 evidence at this time.
- 20 MR. SCHULTZ: No objection to this.
- 21 THE COURT: What numbers are those?
- 22 MR. BARNETTE: Forty-nine, 50, 51 and 52 and 53, Your
- 23 Honor.
- 24 May I publish to the jury, Your Honor?
- 25 THE COURT: You may.

Virginia Ann Lindsey
Direct examination by Mr. Barnette

1 MR. BARNETTE: Thank you, sir.

2 (Photographs marked State's Exhibits Nos. 49 through
3 53.)

4 Q Showing you State's Exhibit 49, or publishing it to
5 the jury. Is that the front of your house, ma'am?

6 A Yes, sir.

7 Q Showing you State's Exhibit 50. Whose bedroom is this
8 again, ma'am?

9 A My two grandsons.

10 Q I'll do this the old fashioned way. If you will, come
11 on down, ma'am.

12 MR. BARNETTE: If you would, turn that light back on,
13 sir.

14 (Whereupon, the witness left the stand.)

15 Q Ma'am, is this a picture of the front of your house?

16 A Yes.

17 Q That's State's Exhibit 49.

18 State's Exhibit 50. If you would, come down here,
19 ma'am. Could you -- or might be better to do it this way.
20 Let me show you State's Exhibit 51. Is this a -- where was
21 this picture, this, from, ma'am?

22 A This is from my grandson's bedroom.

23 Q Did they stay in that bedroom?

24 A Yes.

25 Q Okay. How many grandsons do you have?

Virginia Ann Lindsey
Direct examination by Mr. Barnette

- 1 A Two.
- 2 Q And they stayed in that bedroom?
- 3 A Yes.
- 4 Q Can you show this part of the jury and go down there?
- 5 Can you show them what the bullet went through, where the
- 6 bullet hole was?
- 7 A The bullet hole is right there.
- 8 Q Let's go down here a second so they can see that.
- 9 A Bullet hole is right there.
- 10 Q okay. Let me show you State's Exhibit 50. Is that
- 11 where the bullet hole went across the room into --
- 12 A Across -- across in front of the beds.
- 13 Q okay. Is that -- where is the hole at, ma'am? Can
- 14 you show it to them? I'm sorry.
- 15 A It's right there right under the bed.
- 16 Q If you would, come back down here a second so they can
- 17 see here.
- 18 A The bullet hole is right there, right under the beds.
- 19 THE COURT: All right. Just a minute.
- 20 You're going to have to repeat that, please.
- 21 The court reporter -- you've got your back to the
- 22 court reporter, so speak up a little bit louder so she can
- 23 hear what you say.
- 24 THE WITNESS: Yes, sir.
- 25 Q Let me show you State's Exhibits 52 and 53. I'll show

Virginia Ann Lindsey
Direct examination by Mr. Barnette

1 them together. Fifty-two. What is that a picture of,
2 ma'am?

3 A That's a picture of a light running from that bed in
4 the ceiling.

5 Q And was that covered by something?

6 A It had a globe around it.

7 Q And State's Exhibit 53. What is that?

8 A That's the globe that was broken when the bullet hit
9 it.

10 Q If you would, come down here, ma'am.

11 A This is the light that's right over that bed. That's
12 the globe that was over the light that the bullet hit and
13 shattered.

14 Q If you would, please, have a seat.

15 (Whereupon, the witness returned to the stand.)

16 Q And you -- and was that there that morning when you
17 went into their bedroom?

18 A No.

19 Q Did you notice it when you came back?

20 A Yes.

21 Q And you say, again, your two grandkids, children,
22 lived there with you?

23 A Oh, yes.

24 Q And what was their ages?

25 A They are now 11 and 6. They were 10 and 5 at the

Virginia Ann Lindsey
Cross-examination by Mr. Schultz

1 time.

2 Q And you'd took them to school that morning.

3 A Yes.

4 Q They'd been in that bedroom that night.

5 A Yes.

6 Q If you would, please, answer any questions the defense
7 may have for you, ma'am. Thank you.

8 A Okay.

9 CROSS-EXAMINATION

10 BY MR. SCHULTZ

11 Q Virginia, how long have you lived at this address?

12 A Thirteen years.

13 Q All right. And when did you first notice these holes
14 there?

15 A After I was able to get back in my house and go take a
16 shower. And I come back up the hallway and happened to
17 look in there and see something on their floor, and I cut
18 the light on and I seen all of the broken glass.

19 Q All right. And that was -- what date did you return
20 to your home?

21 A The day I returned?

22 Q Yes.

23 A October the 2nd when I left the gym.

24 Q Okay. And about what time was that, do you remember?

25 A It was about -- when I got in my home, it was, like,

Virginia Ann Lindsey
Cross-examination by Mr. Schultz

1 maybe 11:00 or 12:00 o'clock. It wasn't early because I
2 was -- the ambulance and everything was there when I got
3 there, so.

4 Q Okay. So this is 11:00 o'clock a.m.

5 A Yes.

6 Q And, again, just to confirm, referring to State's
7 Exhibit 50 here, this is -- this is your children's house
8 or your children's bedroom?

9 A My grandsons' bedroom.

10 Q Grandsons.

11 A Uh-huh.

12 Q Did you give a statement to the police?

13 A No, I didn't give no statement. I called a detective
14 in to show them where the light had been broken. And the
15 detective I talked to outside, he pointed and showed where
16 the bullet had come in from the outside.

17 Q All right. And just to confirm. You weren't there at
18 around 7:30 or 8:00 o'clock when this incident happened,
19 correct?

20 A No.

21 Q Okay. Did you witness anything?

22 A No.

23 Q Okay. Did you hear about anything, who shot or
24 anything?

25 A No.

Angela Crawford Smith
Direct examination by Mr. Barnette

1 Q Okay. So all you did was you came home, you noticed a
2 bullet, or at least one bullet hole was there, right?

3 A Yeah, after I got in my house. All the commotion, you
4 know, the ambulance and everything was there. So it took a
5 minute, because I stepped over, like, into the crime scene,
6 so I couldn't go back. I had to wait until the detective
7 give me the order that I could go back to my yard.

8 MR. SCHULTZ: That's all I have, Your Honor. Thank
9 you.

10 MR. BARNETTE: No further questions, Your Honor.
11 We'd ask for this witness to be excused.

12 THE COURT: You may step down.

13 (Whereupon, the witness was excused.)

14 MR. BARNETTE: Your Honor, I would like to call Angela
15 Smith to the stand.

16 ANGELA CRAWFORD SMITH, having
17 been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BARNETTE

19 Q Ms. Smith, if you would, give your full name for the
20 record, please.

21 A Angela Crawford Smith.

22 Q I know you're soft-spoken. Talk loud enough so they
23 can hear you back here.

24 A Angela Crawford Smith.

25 Q Thank you, ma'am.

Angela Crawford Smith
Direct examination by Mr. Barnette

- 1 Where do you work at now, ma'am?
- 2 A I work at United Community Bank.
- 3 Q And what's your position there, ma'am?
- 4 A Teller.
- 5 Q Back on October 2nd of 2018, where did you work then,
- 6 ma'am?
- 7 A American Staffing.
- 8 Q And what was your position there, ma'am?
- 9 A Staffing coordinator.
- 10 Q That morning did two gentlemen come in or two men come
- 11 in and talk to you about a job?
- 12 A Yes, sir.
- 13 Q And who was one of those two men?
- 14 A Jermaine Jefferies.
- 15 Q And who -- was there another gentleman with him?
- 16 A There was a gentleman with him.
- 17 Q Can you describe him, or do you remember?
- 18 A He was African-American, approximately 5'6", wearing a
- 19 hoodie.
- 20 Q Okay. And when they came in, what was they asking
- 21 about? What was they looking about?
- 22 A Jermaine had an appointment with me for an
- 23 application.
- 24 Q And what time was this appointment?
- 25 A 9:00 a.m.

Angela Crawford Smith
Direct examination by Mr. Barnette

1 Q Okay. Did either one of the gentlemen seem to be
2 agitated or upset or anything like that?

3 A No, sir.

4 Q What did -- what did they do when they got in your
5 office?

6 A Jermaine had a seat at my desk, and I reviewed the
7 application he had submitted on line the night before and
8 completed his application.

9 Q What did the other gentleman do?

10 A He sat at an empty desk, at a chair at the end of it.

11 Q Okay. Could you identify him from what you remember?

12 A I could not.

13 Q But it was both of them together.

14 A Yes.

15 Q If you would, please, answer any questions the defense
16 may have for you, ma'am.

17 MR. SCHULTZ: I have nothing for this witness.

18 THE COURT: You may step down.

19 MR. BARNETTE: Thank you, Your Honor.

20 We'd ask for the witness to be excused.

21 THE COURT: She may be.

22 MR. SCHULTZ: No objection.

23 (Whereupon, the witness was excused.)

24 MR. BARNETTE: Your Honor, I'd like to call Ms. Denton
25 to the stand.

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May Snipes Denton
Direct examination by Mr. Barnette

1 said it was not for him, it was for his friend.

2 Q And who was his friend?

3 A He passed him the phone. It was Jermaine Jefferies.

4 Q Okay. So you handed -- did you talk to Jermaine too?

5 A Yes. I did.

6 Q And what kind of -- what kind of job were they, you
7 talking about?

8 A It was working for the trash truck.

9 Q And when you talked did they seem excited, upset or
10 anything like that?

11 A No. They were pretty much calm. Jermaine was
12 supposed come in that day at 1:30 to process and get ready,
13 but he never showed.

14 Q So, but Shaun Rogers is the one that called you first.

15 A He did -- he did. He was not looking for work.

16 Q Did he talk to Jermaine Jefferies? He passed the
17 phone to Jermaine Jefferies?

18 A Yes.

19 Q And this is 10:00 a.m. on October 2nd of 2018.

20 A Yes.

21 Q If you would, please, answer any questions Mr. Schultz
22 may have for you, ma'am.

23

24

25

May Snipes Denton
Cross-examination by Mr. Schultz

1 CROSS-EXAMINATION

2 BY MR. SCHULTZ

3 Q Is it Ms. Denton?

4 A Yes.

5 Q All right. And your testimony here today is that you
6 spoke to my client, as well as Mr. Jefferies, is that true?

7 A Yes. I spoke with both of them.

8 Q Okay. Did you meet them personally?

9 A No. I did not.

10 Q All right. Okay. And this was -- you gave a
11 statement to the police on 10/3/2018, correct?

12 A Yes.

13 Q Okay. Have you talked to the police ever since then?

14 A No.

15 Q Okay. Do you know anything more about this incident
16 whatsoever?

17 A Just what's been on the news.

18 Q Okay. And because you didn't speak to Jermaine that
19 day, right?

20 A You said did I speak with him?

21 Q Yes.

22 A Yes. I did.

23 Q And he was interested in the job, correct?

24 A Yes.

25 Q Okay. And about what time was this, again?

JaQuan Wood

Direct examination by Mr. Barnette

1 A It was around 10:00 o'clock.

2 Q All right. Thank you very much.

3 MR. BARNETTE: Your Honor, we'd ask for this witness
4 to be excused.

5 MR. SCHULTZ: No objection.

6 THE COURT: She may be.

7 (Whereupon, the witness was excused.)

8 MR. BARNETTE: I'd like to call Mr. Wood to the stand,
9 Your Honor.

10 JAQUAN WOOD, having been first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q Mr. Wood, if you would, give your full name for the
14 record, please.

15 A JaQuan Wood.

16 Q And, Mr. Wood, where do you live at?

17 A 701 Littlejohn Street.

18 Q Back on October 2nd of 2018, where did you live at,
19 sir?

20 A Peachtree Apartments on Wilkinsville Highway in
21 Gaffney, South Carolina.

22 Q And that morning was you contacted by Shaun Rogers and
23 Jermaine Jefferies?

24 A I contacted, I called, Jermaine Jefferies to carry me.

25 Q You called.

JaQuan Wood

Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q If you would, tell the jury about that, who you
3 called.

4 A I called Jermaine Jefferies to carry me to get a -- I
5 was on house arrest at the time. I had Jermaine Jefferies
6 to carry me to pay my bracelet.

7 He called -- he came around about, like, 9:45 or
8 10:00 o'clock. He carried me to Food Lion. Me and him --
9 me and him and then Shaun. Me and him and Shaun had went
10 to Food Lion to carry me to pay my -- I'm sorry. Me,
11 Little J and Shaun -- they was carrying me to pay my
12 brace -- pay my bracelet. But we stopped at Food Lion
13 because I was on house arrest and I had to get a money
14 order. We stopped at Food Lion. Then went to Food Lion,
15 went to the jailhouse, and went to the jailhouse to pay my
16 bracelet. And I just went back. They carried me back
17 home. That was it.

18 Q Let me take you, let me just take you, go through and
19 make sure.

20 You were on house arrest. Is that G.P.S. monitoring
21 by the county jail?

22 A Yes, sir.

23 Q And you were out on charges, obviously.

24 A Yes, sir.

25 Q And you have to pay every month on that?

JaQuan Wood

Direct examination by Mr. Barnette

- 1 A Every week.
- 2 Q Every week on that bracelet.
- 3 A Every two weeks.
- 4 Q So you had to pay a fee to have that bracelet to be
- 5 out on home detention.
- 6 A Yes, sir. \$63 every week.
- 7 Q So Jermaine -- you called Jermaine.
- 8 A Uh-huh.
- 9 Q And was Shaun Rogers with him when he came and picked
- 10 you up?
- 11 A Yes, sir.
- 12 Q And they were both together.
- 13 A Yes, sir.
- 14 Q Did they say anything about a drive-by shooting?
- 15 A No, sir.
- 16 Q Did they say anything about what they had done that
- 17 morning?
- 18 A No, sir.
- 19 Q If they had said something like that would you have
- 20 been hanging out with them?
- 21 A No, sir, because I had to pay my bracelets. I don't
- 22 want no parts of that, no, sir.
- 23 Q Yes, sir. I understand.
- 24 A No, sir.
- 25 Q So they took you over to the county jail right over

JaQuan Wood
Direct examination by Mr. Barnette

- 1 here?
- 2 A Yes, sir.
- 3 Q Did they stay in the parking lot, in the car?
- 4 A Yes, sir. I walked in, paid my bracelet and got back
- 5 in the car and we went back to Peachtree Apartments.
- 6 Q You had to pay Captain Padgett or Major Padgett?
- 7 A Yes, sir.
- 8 Q Okay. And you paid that and went back to the car.
- 9 Where did they take you from there?
- 10 A Peachtree Apartments where I was staying at.
- 11 Q And this is around 9:45 or 10:00 o'clock that morning?
- 12 A No, sir.
- 13 Q They never told you about any drive-by shooting?
- 14 A No, sir.
- 15 Q Did they act excited or scared or anything like that?
- 16 A No, sir.
- 17 Q Where is the sheriff's department in relationship to
- 18 where they were parked at?
- 19 A Like across the street.
- 20 Q They stayed in the car, both of them did.
- 21 A Yes, sir.
- 22 Q And both of them was in the car when they dropped you
- 23 off.
- 24 A Yes, sir.
- 25 Q And Shaun Rogers we're talking about, is that the

JaQuan Wood
Cross-examination by Mr. Schultz

- 1 gentleman sitting at the table?
- 2 A Yes, sir.
- 3 Q Identify what he's wearing, sir.
- 4 A No, sir.
- 5 Q You can't?
- 6 A I can't remember at the time.
- 7 Q No, no. Identify what he's wearing now.
- 8 A Oh, blue shirt.
- 9 Q And is he sitting there at that table beside his
- 10 attorney?
- 11 A Yes, sir.
- 12 MR. BARNETTE: Your Honor, I'd like the record to
- 13 reflect he's identified the defendant.
- 14 THE COURT: It shall.
- 15 Q And that was the man that was with Jeramine Jefferies
- 16 when they picked you up and dropped you off.
- 17 A Yes, sir.
- 18 MR. BARNETTE: One moment, Your Honor, please.
- 19 (Pause.)
- 20 Q Please answer any questions the defense may have for
- 21 you, Mr. Wood.
- 22 CROSS-EXAMINATION
- 23 BY MR. SCHULTZ
- 24 Q Mr. Wood, do you know Jermaine Jefferies?
- 25 A He's my cousin.

JaQuan Wood
Cross-examination by Mr. Schultz

- 1 Q Okay. Do you know Shaun Rogers?
- 2 A Yes, sir.
- 3 Q All right. Who do you know better, Jermaine Jefferies
- 4 or Shaun Rogers?
- 5 A Jermaine.
- 6 Q Jermaine?
- 7 A Yes, sir.
- 8 Q How -- well, how long have you known Jermaine
- 9 Jefferies for?
- 10 A His whole life.
- 11 Q Right. His whole life. Okay. How long have you
- 12 known Shaun Rogers?
- 13 A A good bit of years, probably about five years,
- 14 probably about ten years. I don't know. It's been a long
- 15 time.
- 16 Q But you know them.
- 17 A Little J. I know Jermaine longer than I knowed him,
- 18 yeah.
- 19 Q So there was three folks in the car, correct, at this
- 20 time?
- 21 A Me. I'm the third person because I'm paying my
- 22 bracelet, yeah, yes, sir.
- 23 Q Right. There was nobody else in the car, right? You
- 24 went up to pay the bracelet.
- 25 A No, sir.

JaQuan Wood
Cross-examination by Mr. Schultz

1 Q All right. Did Jefferies make any comments to you
2 about what had happened?

3 MR. BARNETTE: Objection, Your Honor. Hearsay at this
4 point.

5 THE COURT: Sustained.

6 Q Was there anything brought up at all?

7 A No, sir.

8 MR. BARNETTE: Objection, Your Honor. Hearsay.

9 THE COURT: Well, he just asked if anything was
10 brought up.

11 So you can answer yes or no on that question.

12 A No, sir.

13 Q Nothing at all.

14 A No, sir.

15 Q Okay. And how long were you in the car there with
16 Jermaine and Shaun?

17 A Probably about five or ten minutes, something like
18 that, because I stay in Peachtree, and Food Lion and
19 Peachtree probably about five minutes. I went in Food Line
20 to go pay -- get my money order. So I went in and went out
21 and went to the jailhouse to pay my bracelet. That was it.

22 Q Why were you getting a money order in Food Lion?

23 A Because I was on house arrest.

24 Q And house --

25 A No. You can't pay cash. You gotta pay a money order.

JaQuan Wood
Redirect examination by Mr. Barnette

- 1 Q Got to pay a money order when you're on house arrest.
2 A Uh-huh.
3 Q Okay. So they took you to Food Lion first?
4 A Yes, sir.
5 Q Okay. So they took you to Food Lion, and then they
6 took you over --
7 A To pay my bracelet, yes, sir.
8 Q All right. And then what happened?
9 A I went back home.
10 Q Okay. But they --
11 A I'm on house arrest. I can't leave. If I leave, I
12 violate it, yes, sir.
13 Q I understand that. All right. But they took you back
14 home at that point, right?
15 A Yes, sir.
16 Q And there was no, no problems whatsoever.
17 A No, sir.
18 Q All right.
19 MR. SCHULTZ: That's all I have, Your Honor.
20 MR. BARNETTE: Just one quick question, Your Honor.
21 REDIRECT EXAMINATION
22 BY MR. BARNETTE
23 Q What is Mr. Rogers' nickname?
24 A I don't know.
25 Q Is he called Man?

Billy Anthony
Direct examination by Mr. Barnette

1 A I don't know, sir.

2 MR. SCHULTZ: Objection, Your Honor. Leading.

3 A No, sir. I don't.

4 MR. BARNETTE: I'll rephrase the question.

5 A I call Little J, Little J. That's my cousin. I don't
6 know him. I say Shaun, I call him Shaun. I never called
7 him Man or none of that.

8 Q So you called him Shaun.

9 A Yeah. Shaun. That's his name.

10 Q Thank you, sir.

11 A Yes, sir.

12 THE COURT: Step down.

13 MR. BARNETTE: We'd ask for this witness to be
14 excused, Your Honor.

15 THE WITNESS: That's it?

16 THE COURT: He may be.

17 Yes, sir.

18 (Whereupon, the witness was excused.)

19 MR. BARNETTE: Your Honor, I would like to call Billy
20 Anthony to the stand.

21 BILLY ANTHONY, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETTE

24 Q If you, would, sir, state your full name for the
25 record, please.

Billy Anthony
Direct examination by Mr. Barnette

- 1 A Billy Anthony.
- 2 Q And where do you work at, sir?
- 3 A The Cherokee County Sheriff's Office.
- 4 Q And what is your position there, sir?
- 5 A I'm a detective assigned to the crime scene
6 investigation unit.
- 7 Q And how long have you been in that position, sir?
- 8 A I've been in the crime scene unit full time for seven
9 years.
- 10 Q And how long have you been in law enforcement, sir?
- 11 A Just over 17 years.
- 12 Q Back on October 2nd of 2018 was you called to a crime
13 scene at 1521 Pleasant School Road here in Gaffney?
- 14 A Yes, sir. I was.
- 15 Q And is that location in Cherokee County?
- 16 A Yes, sir. It is.
- 17 Q When you arrived there, if you would, tell the jury
18 what you found.
- 19 A When I arrived on the scene -- myself and two other
20 crime scene investigators responded.
- 21 There was numerous other officers there that had the
22 scene secured with evidence tape. There was E.M.S.
23 personnel and fire department personnel there. And I
24 believe some family members, neighbors were kind of in the
25 yard next door to the residence.

Billy Anthony
Direct examination by Mr. Barnette

1 Q What time was this incident called in, sir, that
2 morning?

3 A That morning -- refer to my notes. At 8:25 a.m.

4 Q So you arrive shortly after that with other law
5 enforcement, is that correct?

6 A Yes, sir. I arrived there right around 9:00 o'clock.

7 Q And what did y'all find when y'all did, worked the
8 crime scene?

9 A When we initially arrived on the scene there was an
10 investigator already talking to some people that were
11 there. They advised that they -- what our understanding
12 was, it was a drive-by shooting at the time.

13 So we started looking around the edges of the roadway,
14 in the roadway to look for any evidence that could be
15 destroyed while we were waiting on a search warrant to
16 arrive.

17 Once we received a search warrant for the residence we
18 had located three cartridge casings in the front yard right
19 on the edge of the roadway in front of 1521 Pleasant School
20 Road.

21 Q And let me show you what's been marked as State's
22 Exhibit 25. Does this diagram fairly represent where you
23 found the three shell casings?

24 A Yes, sir, it does.

25 MR. BARNETTE: Your Honor, I'd like to enter 25 into

Billy Anthony
Direct examination by Mr. Barnette

1 evidence at this time.

2 MR. SCHULTZ: No objection, Your Honor.

3 (Diagram marked State's Exhibit No. 25.)

4 MR. BARNETTE: Permission to publish State's
5 Exhibit 25 to the jury, Your Honor.

6 THE COURT: You may.

7 Q I think that's part of the -- can you see from there,
8 Investigator Anthony? Can you see this from there?

9 A It's a little difficult.

10 THE COURT: You can step down.

11 (Whereupon, the witness left the stand.)

12 Q Showing the diagram.

13 A The residence, this is the mobile home. It's marked
14 as 1521 Pleasant School Road. This is Pleasant School Road
15 in front of the residence. And our markers are -- this is
16 marker 01, this is marker 02 and marker 03. This is where
17 the cartridge casings were located in front of the
18 residence.

19 Q And did y'all take pictures of those items, sir?

20 A Yes, sir. We did.

21 Q Let me show you what's been marked as State's Exhibits
22 41, 42, 43, 44 and 45. Do those fairly represent what you
23 saw that morning?

24 A Yes, sir. They do.

25 Q And these are pictures of the shell casings where they

Billy Anthony

Direct examination by Mr. Barnette

1 were and the locations, is that right?

2 A Yes, sir. That's correct.

3 MR. BARNETTE: Your Honor, I'd like to move these into
4 evidence at this time.

5 MR. SCHULTZ: No objection, Your Honor.

6 (Photographs marked State's Exhibits Nos. 41 through
7 45.)

8 MR. BARNETTE: Permission to publish them, Your Honor.

9 THE COURT: You may.

10 Q What is this a picture of, sir?

11 A This is from the 1521 Pleasant School Road. The
12 residence would be behind you. This is Pleasant School
13 Road. This is the marker 01 from the first cartridge
14 casing and this is marker 02 from the second cartridge
15 casing.

16 Q Let me show you State's Exhibit -- that was State's
17 Exhibit 41 I just showed you. This is State's Exhibit 42.
18 Can you tell us what this is, sir?

19 A Yes, sir. This is the driveway that's leading into
20 1521. This is our marker No. 03 where the other cartridge
21 casing was located. And the road would be -- we were
22 actually standing in the road taking that photograph.

23 Q And State's Exhibit 43. Can you tell us what that is
24 a picture of, sir?

25 A Yes, sir. That's the closeup photograph of the

Billy Anthony
Direct examination by Mr. Barnette

- 1 cartridge casing that's right there of 01.
- 2 Q Show you State's Exhibit 44. What is that, sir?
- 3 A That right there is the cartridge casing, and that is
- 4 from marker 02.
- 5 Q State's Exhibit 3. No. It'd be State's Exhibit 45.
- 6 What is that, sir?
- 7 A It's a little hard to see. There's -- this is the
- 8 cartridge casing right -- it's in the crack of the asphalt.
- 9 That was our marker 03.
- 10 Q And did y'all collect those pieces of evidence, sir?
- 11 A Yes, sir. I did.
- 12 Q Where is the shell casing, again, if you could show
- 13 the jury real quick, sir?
- 14 A It is right in the crack of the asphalt, right there.
- 15 Q And did you collect those items, sir?
- 16 A Yes, sir. I did.
- 17 Q Okay.
- 18 (Whereupon, the witness returned to the stand.)
- 19 Q And did you go look in the trailer itself, sir?
- 20 A Yes, sir. I did.
- 21 Q And how many bullet holes did you find in the front of
- 22 the trailer?
- 23 A On the front we located five entry holes into the
- 24 residence.
- 25 Q Was a diagram done concerning that, sir?

Billy Anthony
Direct examination by Mr. Barnette

- 1 A Yes, sir. It was.
- 2 Q And was there a diagram concerning the path of those
- 3 bullets?
- 4 A Yes, yes, sir.
- 5 Q And did you recover two of the bullets from the
- 6 trailer?
- 7 A Yes, sir. We did.
- 8 Q And did two of them go out the back of the trailer?
- 9 A Yes, sir.
- 10 Q And one was in Mr. Good.
- 11 A Yes, sir. That's correct.
- 12 Q Let me show you State's Exhibits 21 through 24. Do
- 13 those diagrams fairly represent what you saw?
- 14 A Yes, sir. They do.
- 15 Q Let me let you look at State's Exhibits 26 through 37.
- 16 Take a look at those, sir, and see if those pictures fairly
- 17 represent what you saw.
- 18 (Pause.)
- 19 A Yes, sir. Those are all photographs we took on the
- 20 scene.
- 21 MR. BARNETTE: Your Honor, at this time I'd like to
- 22 move 21 through 37 into evidence.
- 23 THE COURT: Those are all consecutively numbered?
- 24 MR. BARNETTE: Yes, sir. They are.
- 25 THE COURT: Twenty-one through thirty-seven?

Billy Anthony
Direct examination by Mr. Barnette

1 MR. BARNETTE: Yes, sir.

2 (Pause.)

3 MR. SCHULTZ: Your Honor, no objection to 21, or
4 State's 21, to State's 22, State's 23, State's 24, State's
5 27, State's 28, State's 29 and State's 31, State's 32,
6 State's 33, State's 34, State's 35, State's 36 and
7 State's 37.

8 (Photographs marked State's Exhibits Nos. 21 through
9 37.)

10 MR. BARNETTE: Your Honor, may we approach for a
11 second?

12 (Bench conference held off the record in the presence
13 of the jury but out of the hearing of the jury.)

14 Q Sir, let me show you State's Exhibits 38, 39 and 40.
15 Does these fairly represent what you saw that day too?

16 A Yes, sir. They do.

17 MR. BARNETTE: Your Honor, at this time I'd like to
18 move those three exhibits in.

19 MR. SCHULTZ: Your Honor, no objection to State's
20 Exhibit 39 coming in; no objection to State's 40 coming in.
21 And State's 38, we'll probably -- matter of law on this. I
22 would object to State's 38.

23 THE COURT: Overruled.

24 (Photographs marked State's Exhibits Nos. 38 through
25 40.)

Billy Anthony

Direct examination by Mr. Barnette

1 MR. BARNETTE: And, Your Honor, I'm willing to
2 substitute a black and white picture for that.

3 THE COURT: I'll let you state your objection for the
4 record.

5 MR. SCHULTZ: My objection for the record with 38 --

6 THE COURT: I'll let you state that later.

7 MR. SCHULTZ: All right. Thank you.

8 MR. BARNETTE: And, Your Honor, what I'm going to do,
9 I'm going to substitute. I'm going to take the colored
10 picture of 38 and put it as Court's Exhibit 1, and I'm
11 going to sub the black and white picture in as State's
12 Exhibit 38.

13 THE COURT: All right. Let her mark that.

14 (State's Exhibit No. 38 marked Court's Exhibit No. 2;
15 black and white photograph marked State's Exhibit No. 38.)

16 MR. BARNETTE: Permission to publish these to the
17 jury, Your Honor.

18 THE COURT: You may.

19 Q If you would, sir, come on down with me, if you would.

20 A Yes, sir.

21 (Whereupon, the witness left the stand.)

22 Q Was Mr. Good still there when you got there?

23 A Yes, sir. He was.

24 Q And where was he at?

25 A He was lying against the inside of the front door.

Billy Anthony
Direct examination by Mr. Barnette

1 Q Okay. Let me show you what's been entered into
2 evidence as State's Exhibit 21. I'll adjust this. If you
3 would, show us where the bullet holes was, sir, on the
4 diagram.

5 A This is the front steps and front porch going up to
6 the front door. As we mark them, this is bullet hole No. 1
7 entering near the top of the door. This is our bullet hole
8 No. 2; No. 3 near the bottom right side of the front door.
9 No. 4 was to the left of the front door; and No. 5 under
10 the window to the left of the front door.

11 Q Let me show you State's Exhibit 22. What is this
12 diagram of, sir?

13 A This is an exploded view of the inside of the
14 residence. Basically, this is the body -- living-room side
15 of the home. This would be the front wall just laid down
16 for diagram purposes, and this is the rear wall laid down.

17 This is where the bullet holes were on the inside of
18 the residence. This is No. 1; No. 2 on the inside; No. 3
19 on the door; No. 4 inside front wall; and No. 5 inside
20 front wall.

21 The lines that come across the diagram, No. 1 traveled
22 across the hallway, and the projectile was lodged in the
23 wall of the hallway.

24 No. 2 was not located inside the residence.

25 No. 3 traveled through the front wall, exited the rear

Billy Anthony
Direct examination by Mr. Barnette

1 wall of the residence.

2 No. 4 entered front wall, traveled through and exited
3 rear wall of the residence.

4 No. 5 entered the front wall, traveled under the sofa
5 and was lodged in the rear wall. Or I'm sorry. It exited
6 the rear wall. No. 3 actually stopped inside the rear
7 wall.

8 Q Let me show you State's Exhibit 24. What does that
9 show, sir?

10 A This a sketch of the back of the residence. This is
11 showing the markers, the bullet hole, No. 4, from the front
12 of the residence. This is where it traveled through the
13 rear of the residence.

14 And No. 5, where it traveled through the rear of the
15 residence.

16 Q State's Exhibit No. 26. Can you tell us what that is,
17 sir?

18 A This is a photograph of the front of the residence of
19 1521.

20 Q Show you State's Exhibit 27. Can you show -- I'll see
21 if I can put that in a little closer. Can you tell us what
22 that's a picture of, sir?

23 A This is the front of the residence, also a little
24 closer in the front door. And this is a bullet hole in the
25 front of the residence. And we've got another one here.

Billy Anthony
Direct examination by Mr. Barnette

- 1 This was prior to us marking -- marking them.
- 2 Q State's Exhibit 28. What is this showing, sir? Go
3 ahead, sir.
- 4 A This is the left of the front door. The front door,
5 you can see the doorframe here. Here is one of the bullet
6 holes in the front of the residence, and the second one is
7 right almost off just under the window.
- 8 Q Get a little bit closer where you can see it. Okay.
- 9 A This is the one under the window.
- 10 Q Let me show you State's Exhibit 30. Sir, what is
11 this?
- 12 A This is where a round struck the picket on the front
13 of the porch that traveled to the front door.
- 14 Q Let me go out a little bit so you can see where it was
15 in relationship. Okay. State's Exhibit 31. What is that,
16 sir?
- 17 A This is just a closer-up photo of the round where it
18 struck the picket.
- 19 Q Where did -- let me show you State's Exhibit 32.
20 Where did it go after that?
- 21 A Through the front door of the residence. This is your
22 doorframe to the right, and there's where it entered the
23 front door.
- 24 Q Let me show you State's Exhibit 33 and let go out a
25 little bit so the jury can. Start from the top one. Can

Billy Anthony
Direct examination by Mr. Barnette

1 you tell us what this photograph shows -- State's
2 Exhibit 33?

3 A This is the front door of the residence. We have
4 marked the bullet hole with scale tape and numbers. And we
5 have actually placed a dowel rod through the holes showing
6 the trajectory of where the rounds traveled from. Here is
7 marked No. 2 with a dowel rod showing the trajectory.

8 Q Up there, sir?

9 A And here is where No. 3 -- it enters through the
10 picket and enters through the front door of the residence.

11 Q Let me show you State's Exhibit 34. What does this
12 show, sir?

13 A This is the bullet entry to the left of the front door
14 as indicated by No. 4. And this is where we were measuring
15 up the height from ground level.

16 Q How high was that one, sir? Can you tell?

17 A It appears that one was about 5'6" and a half inches
18 above ground level.

19 Q Let me show you State's Exhibit 35. What is this a
20 picture of, sir?

21 A This is a window. The front door would be to the
22 right of the window. And this is marker five and the
23 trajectory of the round going through.

24 Q Let me show you State's Exhibit 36. Can you tell us
25 what this is? Can you tell us what that is, sir?

Billy Anthony
Direct examination by Mr. Barnette

1 A This is on the inside of the residence. This is your
2 doorframe. Your door's right here. And this is the
3 entrance of No. 1 where it entered the residence.

4 Q Let me show you State's Exhibit 37. What is this,
5 sir? Can you tell us what that is, sir?

6 A Again, this will be the front door. You can see the
7 door handle and deadbolt. You've got the light switches,
8 and here is where No. 2 entered the residence on the
9 inside.

10 Q Let me show you State's Exhibit 38. This will be
11 black and white. Can you tell us what this is, sir?

12 A Yes, sir. This is the inside of the residence.
13 Again, front door. This is your doorframe. This is marker
14 No. 3 where the bullet went through the pickets, through
15 the front door, entered. And there's our marker-up marking
16 the side of the door.

17 Q Let me show you State's Exhibit 39. What is that,
18 sir?

19 A That is to the right of the front door inside the
20 living room. That is a No. 4 that entered the front of the
21 residence.

22 Q Let me show you State's Exhibit 40. What is that,
23 sir?

24 A This is marker No. 5, the round that entered below the
25 window to the front of the residence.

Billy Anthony
Direct examination by Mr. Barnette

1 Q If you would, just stay right there, sir. Let me show
2 you what's been marked as State's Exhibits 6, 7 and 8. Is
3 these the shell casings that y'all recovered, the cones in
4 the front yard?

5 A Yes, sir. They were.

6 Q And did you enter these into evidence?

7 A Yes, sir. I did.

8 Q Was they taken to SLED for analysis?

9 A Yes, sir.

10 MR. BARNETTE: Your Honor, I'd like to enter 6, 7 and
11 8 at this time.

12 Q And did y'all collect two bullets from inside the home
13 outta the wall?

14 A Yes, sir. We did.

15 Q And are those State's Exhibits 4 and 5? Are those the
16 two bullets that you recovered?

17 A Yes, sir. They are.

18 MR. BARNETTE: Your Honor, I'd like to enter 4, 5, 6,
19 7 and 8 into evidence at this time.

20 MR. SCHULTZ: Those are the three shell casings and
21 the two bullets. No objection, Your Honor.

22 THE COURT: They're admitted.

23 (One fired bullet marked State's Exhibit No. 4; one
24 fired bullet marked State's Exhibit No. 5; fired 9mm
25 cartridge case marked State's Exhibit No. 6; fired 9mm

Billy Anthony
Direct examination by Mr. Barnette

1 cartridge case marked State's Exhibit No. 7; fired 9mm
2 cartridge case marked State's Exhibit No. 8.)

3 MR. BARNETTE: May I publish them to the jury, Your
4 Honor?

5 THE COURT: You may.

6 Q Showing you State's Exhibit 4. This is the first
7 projectile inside the hall wall of the residence. Is that
8 one of the bullets you found inside, sir?

9 A Yes, sir. That was recovered out of the hall wall.

10 Q And did you recover it and place it into evidence,
11 sir?

12 A Yes, sir. I did.

13 Q And was that taken to SLED for analysis?

14 A Yes, sir. It was.

15 Q Showing you State's Exhibit 5. Was this the other
16 bullet you found?

17 A Yes, sir. It is.

18 Q Okay. And was that also collected by you?

19 A Yes, sir. It was.

20 Q Placed into evidence?

21 A Yes, sir.

22 Q And taken to SLED for analysis.

23 A Yes, sir. It was.

24 Q Okay. State's Exhibit 6. Is that the shell -- one of
25 the shell casings you found outside of one of the cones?

Billy Anthony
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q State's Exhibit 7. Is this another shell casing that
3 you found?

4 A Yes, sir.

5 Q Are these 9mm shell casings?

6 A Yes, sir.

7 Q And State's Exhibit 8. Is that another shell casing
8 that y'all found?

9 A Yes, sir. It was.

10 Q And was all of these things taken -- collected into
11 evidence and taken to SLED for analysis?

12 A Yes, sir.

13 Q If you would, just stay right there.

14 (Pause.)

15 Q After you collected all of this evidence and it was
16 taken to SLED for analysis, was you called back out to the
17 neighbor's location?

18 A While we were still at the 1521 Pleasant School Road,
19 we were notified by one of the investigators that a round
20 had struck the house next door. When we were finishing up
21 there we went next door, went to that residence to
22 photograph and recover any evidence.

23 Q Y'all were still there.

24 A Yes, sir, we were still there.

25 Q You just went next door and did these pictures.

Billy Anthony
Direct examination by Mr. Barnette

1 A Yes, sir. That's correct.

2 Q State's Exhibit 49. Was that the residence y'all went
3 to and is a picture of that?

4 A Yes, sir. That is.

5 Q And State's Exhibit 50. Is this the bullet hole that
6 was found? I guess it's -- I guess where it actually came
7 in was -- is that where it actually came in at?

8 A Yes, sir. We marked it as entered this wall and
9 lodged in the wall across the bedroom.

10 Q Okay. And that's where it went in the other wall, is
11 that right?

12 A Yes, sir. And when we looked -- we were going to try
13 to remove that round, but it was going to do considerable
14 damage. So the round was left inside the wall somewhere.
15 We were unable to locate it.

16 Q And State's Exhibit 52. That's the photograph of the
17 light next door after it was broke.

18 A Yes, sir.

19 Q And State's Exhibit 53 is the glass from that bullet.

20 A Yes, sir. That's correct.

21 Q If you would, please, have a seat up on the stand if
22 you would.

23 (Whereupon, the witness returned to the stand.)

24 Q Later on was you called to [REDACTED] Drive in
25 Gaffney, here in Cherokee County?

Billy Anthony
Direct examination by Mr. Barnette

1 A Yes, sir. We were.

2 Q And was a -- did y'all recover a gun from that
3 location?

4 A Yes, sir.

5 Q And did you recover some items with that gun?

6 A Yes, sir. We did.

7 Q Let me show you what's been marked as State's Exhibits
8 10, 11 and 12. And whose residence is [REDACTED] Drive?

9 A I was informed that [REDACTED] Drive, we went out to
10 do the search warrant. This would be the home of Jermaine
11 Jefferies and, I believe, his mother.

12 Q Okay. And did you recover those items from their
13 house?

14 A Yes, sir. I did.

15 Q And where were they located in the house?

16 A These were located inside the master bedroom in a
17 drawer, like a chest of drawers, in the residence.

18 Q And did you collect those things and place them into
19 evidence, sir?

20 A Yes, sir. I did.

21 Q And was they sent to -- I keep calling it SLED --
22 state law enforcement division for analysis?

23 A Yes, sir. They were.

24 MR. BARNETTE: Your Honor, I'd like to enter 10, 11
25 and 12 into evidence at this time.

Billy Anthony
Direct examination by Mr. Barnette

1 (Pause.)

2 MR. SCHULTZ: No objection, Your Honor.

3 THE COURT: Let me see 10.

4 MR. BARNETTE: Yes, sir.

5 THE COURT: They're admitted.

6 (Semiautomatic pistol marked State's Exhibit No. 10;
7 magazine and five bullets marked State's Exhibit No. 11; one
8 unfired 9mm cartridge marked State's Exhibit No. 12.)

9 MR. BARNETTE: Permission to publish these to the
10 jury, Your Honor.

11 THE COURT: You may.

12 Q If you would, sir, please, step down.

13 (Whereupon, the witness left the stand.)

14 Q sir, if you would describe this gun for the jury, if
15 you would.

16 A Yes, sir. This is a SCCY CPX-1 9mm pistol. It's pink
17 in color with a silver slide. It's semiautomatic.

18 Q And that was the item that you collected from that
19 residence, is that right?

20 A Yes, sir.

21 Q And also, did you also obtain a magazine from there?

22 A Yes, sir. The magazine was in the weapon at the time
23 we recovered it. It contained five 9mm rounds, and there
24 was actually a round in the chamber.

25 Q And that was State's Exhibit 11 I just showed you.

Billy Anthony
Direct examination by Mr. Barnette

1 This is State's Exhibit 12. Is that the round that was in
2 the chamber?

3 A Yes, sir. That's correct.

4 Q And was all these items sent to the state law
5 enforcement for analysis?

6 A Yes, sir. They were.

7 MR. BARNETTE: At this time, Your Honor, I'd like to
8 put the stipulation in. I think it's the second
9 stipulation concerning the SLED findings on the firearm,
10 which is going to be State's Exhibit 47 at this time, Your
11 Honor.

12 Do you want me to read the first stipulation, read the
13 stipulation and then publish the report?

14 THE COURT: You may.

15 MR. BARNETTE: Thank you, Your Honor.

16 The parties hereby stipulate or agree to the following
17 as fact: That Investigator Billy Anthony of the Cherokee
18 County Sheriff's Office collected and maintained a valid
19 chain of custody on several items collected from 1521
20 Pleasant School Road.

21 The parties hereby stipulate to the following as fact:
22 That Investigator Billy Anthony with the Cherokee County
23 Sheriff's Office collected and maintained a valid chain of
24 custody on several items collected from 1521 Pleasant
25 School Road, Gaffney, South Carolina, and [REDACTED] Road,

Billy Anthony
Direct examination by Mr. Barnette

1 Gaffney, South Carolina, that are listed in the SLED
2 firearms report under SLED lab No. 18-14385 done by
3 Michelle Eichenmire, SLED forensic scientist.

4 The items were listed as follows: Item 4, one fired
5 bullet listed as from hall wall; Item 5, one fired bullet
6 listed from living room wall; Items 6 through 8, three
7 fired 9mm Luger Caliber cartridge cases; Item 10, one SSY
8 [sic] Industrial Model CPX-1 semiautomatic pistol 9mm Luger
9 caliber, serial No. 254544 [sic]. Received one magazine,
10 one S -- one SYI [sic] -- excuse me -- SCCY Industrial
11 manufactured contained various manuals and accessories.

12 Item 10.3, test specimens fired by Item 10 pistol
13 using laboratory supplied ammunition.

14 Item 11 is one magazine with five unfired 9mm Luger
15 caliber cartridges listed as from CCY Ind. 9mm pistol.

16 Item 12, one fired 9mm Luger caliber cartridge listed
17 as from chamber. SCCY Ind. 9mm pistol.

18 The evidence collected at the scene was transported to
19 the state law enforcement division, SLED, for analysis by
20 Forensic Scientist Michelle Eichenmiller. Her report and
21 analysis of above mentioned items marked as State's Exhibit
22 47, please see attached one of the stipulations, attached
23 to the stipulations as part of this stipulation.

24 Both parties agree for Items 3, 4, 5, 6, 7, 8, 10, 11,
25 13 to be entered into evidence and published to the jury,

Billy Anthony
Direct examination by Mr. Barnette

1 as well as stipulation. And the SLED firearms report,
2 attachment one, marked as SLED -- State's Exhibit 47.

3 The SLED firearms report is included with the
4 stipulation by reference also.

5 A valid chain of custody was maintained on these items
6 by SLED and Cherokee County Sheriff's Office from the
7 collection at the crime scene, from the crime scene, at
8 1521 Pleasant School Road, Gaffney, South Carolina, and [REDACTED]
9 [REDACTED] Drive, Gaffney, South Carolina, to SLED for testing
10 and back to the Cherokee County Sheriff's Office. And it
11 was witnessed by all three, by Mr. Schultz and myself and
12 Mr. Rogers.

13 Q Now, Investigator Anthony, the two bullets from the
14 wall, as well as the three shell casings, were sent for
15 analysis against the gun that you found at the residence at
16 [REDACTED] Drive?

17 A Yes, sir. They were.

18 MR. BARNETTE: Your Honor, this is attachment one to
19 State's Exhibit 47 I would like to enter in at this time.

20 (SLED report marked State's Exhibit No. 47.)

21 Q Is this the SLED report that was received by the
22 sheriff's department from SLED?

23 A Yes, sir. It is.

24 Q Okay. And it's from the firearms department. It has
25 y'all's case number, as well as the folks involved in this

Billy Anthony
Direct examination by Mr. Barnette

1 case.

2 MR. BARNETTE: And, Your Honor, can I just read it to
3 the jury from that standpoint?

4 THE COURT: You may.

5 MR. BARNETTE: Item 4, one fired bullet listed as from
6 hall wall; Item 5, one fired bullet listed as from living
7 room wall. Physical and microscopic examinations of 4 and
8 5 reveal they're most consistent with bullets loaded into
9 some 9mm caliber cartridges.

10 Items 4 and 5 was microscopically compared to each
11 other and with the bullets test fired by Item 10, and Item
12 10 is the 9mm pistol that was entered in as State's Exhibit
13 10. was fired by Item 10 pistol matching individual and
14 that the characteristics were found and it's concluded that
15 Items 4 and 5 were fired by Item 10.

16 Items 6 through 8, three fired 9mm Luger caliber
17 cartridge cases, results.

18 Item 6, 7 and 8 were physically examined and
19 microscopically compared with each other with cartridge
20 cases fired, test fired, by Item 10 pistol. Matching
21 individual and identifying characteristics were found and
22 it's concluded that Items 6, 7 and 8 were fired by Item 10.

23 Item 10 was a pistol that was recovered. Based off
24 this report the bullets and the shell casings came from
25 that gun.

Billy Anthony
Cross-examination by Mr. Schultz

1 Q It was fired by the gun.

2 A Yes, sir. That's correct.

3 MR. BARNETTE: And Item 10 -- I can read the rest of
4 them, but I think that's the main major parts of it from
5 that standpoint.

6 Q Just in summary, Investigator Anthony, based off the
7 SLED report this gun, which is State's Exhibit 10, fired
8 State's Exhibits 4 and 5, the two bullets you found.

9 A Yes, sir.

10 Q And the three shell cases found in the front yard was
11 also fired, which is State's Exhibits 6, 7 and 8, was fired
12 by that gun also.

13 A Yes, sir. That's correct.

14 Q And that gun was found in Jermaine Jefferies' home.

15 A Yes, sir. That's correct.

16 MR. BARNETTE: One moment, Your Honor.

17 (Pause.)

18 Q If you would, sir, please answer any questions that
19 Mr. Schultz may have for you, sir. Thank you.

20 A Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. SCHULTZ

23 Q Investigator Anthony -- correct?

24 A Yes, sir.

25 Q All right. How long have you been working with

Billy Anthony
Cross-examination by Mr. Schultz

1 Cherokee County?

2 A Full time a little over 17 years.

3 Q Seventeen years. And you've investigated your fair
4 share of violent crimes in that time, right?

5 A Yes, sir. That's correct.

6 Q All right. Okay. And were you the chief investigator
7 on this case?

8 A Yes, sir. There was three investigators, actual crime
9 scene investigators. We work as a team when we respond,
10 but primarily one of us is the lead crime scene
11 investigator as far as collecting evidence, and the other
12 two assist with sketches, drawings, measurements, those
13 things.

14 Q And that's your principal -- that was your principal
15 job in this case, correct?

16 A Yes, sir. That's correct.

17 Q All right. And you've done this perhaps hundreds,
18 maybe thousands, of times, correct?

19 A Yes, sir. That's correct.

20 Q Okay. And you've been on this job for 17 years, you
21 said.

22 A Yes, sir.

23 Q Okay. Now, I am referring to State's Exhibit 29 here.
24 Can you see that okay, Investigator?

25 A Yes, sir.

Billy Anthony
Cross-examination by Mr. Schultz

- 1 MR. SCHULTZ: Beg the Court's patience, Your Honor.
2 (Pause.)
3 MR. SCHULTZ: Approach the witness, Judge?
4 Q This is the front door of what residence again?
5 A 1521 Pleasant School Road.
6 Q Okay. And is that where the incident happened?
7 A Yes, sir. That's correct.
8 Q All right. And that's where the victim was found,
9 correct?
10 A Yes, sir.
11 Q All right. Very good.
12 Oh, and one more question there with this. Were there
13 any bullet holes found in this picture there? Did you see
14 any bullet holes in that picture?
15 A Yes, sir.
16 Q okay. Could you maybe come over here and get this
17 here?
18 A Yes, sir.
19 (Whereupon, the witness left the stand.)
20 Q Can you explain to the jury or detail where the bullet
21 hole was found there to the jury?
22 A Yes, sir. We have one right to the left of the door
23 here between the door and window. There's one right to the
24 right of the front door right there. And it's hard to see
25 here, but that's where a round has struck the front door,

Billy Anthony
Cross-examination by Mr. Schultz

1 but it traveled through those pickets.

2 Q Where did -- what hole did you -- well, what bullet
3 did you conclude was the bullet that ultimately took this
4 kid's life or Mr. Wood's life?

5 A Can I refer to my notes?

6 Q Yes. Absolutely. Would you like for me to leave this
7 up here?

8 A Yes, sir, if you don't mind.

9 (Pause.)

10 A These are our photographs before we had marked with
11 evidence markers. This one, I believe, is marked as one.

12 No. 2, I believe, is this one. Yes. This is marked
13 the one that we did mark as No. 2. This one entered the
14 front of the residence. It was not located inside the
15 residence. It didn't strike another wall. It wasn't found
16 inside the residence. And every other round was accounted
17 for through the residence.

18 Q But you -- so that one directly, I guess, the
19 jury's --

20 A To the right at the front door.

21 Q That one right here if I could. That hole right
22 there. That bullet was never found, correct, Investigator?

23 A Yes, sir. That's correct.

24 Q All right. But all of the other bullets were found,
25 is that correct?

Billy Anthony
Cross-examination by Mr. Schultz

- 1 A No, sir. We had two that traveled through the back
2 wall of the residence. They went on. We pulled
3 trajectory. The grass was about waist high or a little
4 higher. We pulled the strings out and it went out into the
5 open field. And we never were able to locate those two
6 that exited the back of the residence.
- 7 Q But all of the bullets that you actually did recover
8 and you -- have a seat there.
- 9 (Whereupon, the witness returned to the stand.)
- 10 MR. SCHULTZ: Beg the Court's patience, Your Honor.
- 11 (Pause.)
- 12 Q How many bullets did you recover?
- 13 A We recovered two at the scene.
- 14 Q Two at the scene.
- 15 A Yes, sir.
- 16 Q Okay. Referring to State's Exhibit 4 and State's
17 Exhibit 5. You recognize these, correct?
- 18 A Yes, sir.
- 19 Q And what are those?
- 20 A Those are the projectiles that we recovered, one from
21 marker No. 1 inside the hall wall of the residence, and
22 then our marker No. 3, the south wall, the rear wall, of
23 the residence that we recovered.
- 24 Q And you concluded -- or maybe not you concluded but
25 SLED concluded -- that all of those bullets were fired from

Billy Anthony
Cross-examination by Mr. Schultz

- 1 the same gun, correct?
- 2 A Yes, sir. That's correct.
- 3 Q And in this case this gun right here, correct?
- 4 A Yes, sir. That's correct.
- 5 Q All right. And this is a 9mm, correct?
- 6 A Yes, sir. That's correct.
- 7 Q All right. Explain to jury the difference in caliber.
- 8 what is the difference between a 9mm and a .32?
- 9 A You can buy firearms. They come in all different
- 10 calibers. You typically have with handguns, there's
- 11 various calibers that you may have. They -- there's a wide
- 12 range of them. I'm unsure how many calibers, but each --
- 13 each one represents, basically, the size of a round. So
- 14 you could go something from a small like a .22 all the way
- 15 up to a 9mm, .40 caliber, .45.
- 16 Q Is this a fairly -- fairly popular gun?
- 17 A We see that caliber a lot. That caliber.
- 18 Q why do you think you see that caliber a lot?
- 19 A It's a popular caliber out that people do have.
- 20 Q 9mms are cheap. would you say that's a fair
- 21 statement?
- 22 A As compared to others, they are relatively the same
- 23 price. The higher up you go in caliber or the type of
- 24 weapon dictates the price.
- 25 Q Have you ever seen a pink gun?

Billy Anthony
Cross-examination by Mr. Schultz

- 1 A Yes, sir.
- 2 Q All right. So this is not -- this is not the only
- 3 pink gun that you've ever seen before, right?
- 4 A No, sir. That's correct.
- 5 Q Okay. I'm sorry. I don't mean to be aiming at you.
- 6 But this is -- you've been doing this for 17 years, right?
- 7 A Yes, sir.
- 8 Q And this is not the only pink gun that you've actually
- 9 come across, right?
- 10 A Yes, sir. That's correct.
- 11 Q Okay. Just guessing. Probably weren't prepared for
- 12 this question. But how many pink guns have you ever came
- 13 across in your almost 20 years of doing this?
- 14 A It's been very limited. You don't see, typically see,
- 15 a lot of them out as far as in my course of work. Over 20
- 16 years I've probably saw ten or so. Fifteen of the pink
- 17 ones that's actually came into evidence.
- 18 Q So ten or fifteen?
- 19 A Yes, sir.
- 20 Q Now, when a -- when somebody fires a gun, a bullet
- 21 comes out the barrel, correct?
- 22 A Yes, sir.
- 23 Q Okay. And shells usually come out as well, right?
- 24 A On the semiautomatic, they eject out, yes, sir.
- 25 Q And that 9mm pink gun is a semiautomatic, correct?

Billy Anthony
Cross-examination by Mr. Schultz

- 1 A Yes, sir. That's correct.
- 2 Q And these are two of the shells that you found here.
- 3 A Yes, sir. They are.
- 4 Q Are those the only shells that you recovered?
- 5 A We recovered three at the scene.
- 6 Q Okay. There's three.
- 7 A Yes, sir.
- 8 Q Okay.
- 9 A And those are the three that we recovered.
- 10 Q And, again, not to belabor the point, but you
- 11 concluded, as well as SLED concluded, that all of those
- 12 shell casings were taken or dislodged from this 9mm
- 13 semiautomatic weapon, gun, correct?
- 14 A Per SLED report, yes, sir. They were all fired. Yes,
- 15 sir.
- 16 Q I know you didn't do that.
- 17 A Yes.
- 18 Q But SLED people concluded that.
- 19 A Yes, sir. That's correct.
- 20 Q Now, when it comes to the measurements and everything
- 21 that you did at the house of this incident there, you did
- 22 all of the measurements, is that correct, Investigator?
- 23 A I was present for all of them. Like I say, we work as
- 24 a team. So I may be writing them down or may be actually
- 25 giving the measurements to one of the others. I think on

Billy Anthony
Cross-examination by Mr. Schultz

1 this one I actually wrote them down as they were giving
2 them to me.

3 Q All right. And looking at State's Exhibit, I believe,
4 40 here, this is a bullet that came through the wall,
5 correct?

6 A Yes, sir. It is.

7 Q All right. And you recovered that bullet, correct?
8 You can look through your notes, obviously.

9 A No, sir. No. 5 traveled through the back wall.

10 Q All right. What about No. 4? Did you recover that
11 bullet?

12 A No, sir. No. 4 traveled through the back wall also.

13 Q All right. What about No. 3? Did you track that
14 bullet or did you find that bullet?

15 A Yes, sir. That was one of the ones that we recovered
16 and was sent to SLED.

17 Q All right. What about No. 2?

18 A No, sir. No. 2, we did not recover.

19 Q What about No. 1?

20 A Yes, sir. It was recovered in the hall wall inside
21 the residence.

22 Q Would it be your conclusion that even the bullets you
23 didn't recover were all -- the bullet holes that were
24 caused were all caused by the same weapon, correct?

25 A It could be, but it may not be. I cannot answer for

Billy Anthony
Cross-examination by Mr. Schultz

1 anything that we couldn't locate to have tested to compare
2 to a weapon. You could have another 9mm or another caliber
3 very close that may make a hole or that mimics the others.
4 So it could possibly be from another weapon. I have no way
5 of knowing.

6 Q Now, but to your -- your knowledge this was, this gun,
7 was recovered at Jeremy Jefferies' house, correct?

8 A Yes, sir. That's correct.

9 Q Okay. And -- well, let me ask you this. Did you run
10 any fingerprints on this at all?

11 A I did not. It was sent to SLED for all testing.

12 Q Okay. Do you -- do you have any knowledge that SLED
13 tested it for fingerprints?

14 A I do not.

15 Q Okay. Do you have any knowledge that any other guns
16 were recovered or anything?

17 A No. As far as this case, no other weapons were
18 recovered.

19 Q All right. And, now, I'm referring to previously
20 admitted State's Exhibit, looks like, 20. Did you ever see
21 that before?

22 A No, sir.

23 Q All right. And looking at this, the natural gun used,
24 is -- it's a pink gun.

25 MR. BARNETTE: Objection, Your Honor. I think the

Billy Anthony
Cross-examination by Mr. Schultz

1 jury can view the picture of the gun and tell the
2 difference between it, if they're the same or not. He's
3 asking an opinion on something.

4 THE COURT: This is cross-examination.
5 Go ahead.

6 MR. BARNETTE: Okay.

7 Q Would -- would you -- would you say to a hundred
8 percent certainty that that gun is the same as that?

9 MR. BARNETTE: Objection, Your Honor. That's an
10 answer that asks him to speculate on something, a hundred
11 percent certain of.

12 THE COURT: Sustained.

13 Q Does that gun look similar?

14 A Yes.

15 Q Okay. But, again, you've seen a lot of pink guns in
16 your time.

17 A Yes, sir. I've seen several. Yes, sir.

18 Q By your own admission, 10 to 15 guns.

19 A Yes, sir.

20 Q All right. That gun that was used in the incident may
21 not be that gun in that facebook post, correct?

22 MR. BARNETTE: Objection, Your Honor. Asks for
23 speculation on the part of the witness.

24 THE COURT: Sustained.

25 MR. SCHULTZ: Beg the Court's patience.

Billy Anthony
Cross-examination by Mr. Schultz

1 (Pause.)

2 Q How many shell casings did you recover, again?

3 A We recovered three from the residence.

4 Q Three from the residence.

5 A Yes, sir.

6 Q Were there any other shell casings that you found on
7 the street or outside of the residence or anything like
8 that?

9 A No, sir. There were not.

10 Q Now, when you say the residence, do you mean, like,
11 inside the residence, or outside?

12 A No. Those were recovered outside on the property
13 right next to the roadway. It was in the yard of 1521.

14 Q A couple of more questions, Officer. I appreciate
15 your patience here.

16 Was this gun found anywhere in proximity to Shaun
17 Rogers?

18 A No, sir.

19 Q It was found in Jermaine Jefferies' house, correct?

20 A Yes, sir.

21 Q All right. And you concluded through your
22 investigation that Jermaine Jefferies was the shooter,
23 correct?

24 A As far as for ours, we send it to SLED for testing.
25 And that weapon fired those rounds. But as far as ours,

Billy Anthony
Redirect examination by Mr. Barnette

1 once we're done with the scene the other investigators
2 handle the investigation.

3 Q All right. And you weren't the one to actually find
4 the weapon at Jeramine Jefferies' house, correct?

5 A Yes, sir. That's correct.

6 Q Okay. You were not.

7 A Oh, no, sir. I was. Yes, sir.

8 Q You were?

9 A Yes. I found it at the residence.

10 Q And you found that after a proper search warrant,
11 correct?

12 A Yes, sir. That's correct.

13 Q All right. Did you ever execute a search warrant on
14 my client, Shaun Rogers?

15 A No, sir. I did not.

16 Q Okay. Because there was no suspicion that Shaun
17 Rogers had shot, correct?

18 A I'm not aware.

19 Q Thank you.

20 MR. SCHULTZ: That's all I have, Your Honor.

21 MR. BARNETTE: Just one on followup, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. BARNETTE

24 Q How many guns have you seen in your career?

25 A Thousands.

Billy Anthony
Redirect examination by Mr. Barnette

1 Q Like I've already said, you deal with guns all of the
2 time.

3 A Yes, sir.

4 Q So you've seen thousands of these guns.

5 A Yes, sir.

6 Q And you can just remember seeing 10 or 15 pink guns in
7 your career.

8 A Yes, sir.

9 Q Thank you, sir.

10 A Yes, sir.

11 THE COURT: You may step down.

12 MR. BARNETTE: We'd ask for this witness to be
13 excused, Your Honor.

14 THE COURT: He may be.

15 MR. SCHULTZ: No objection.

16 (Whereupon, the witness was excused.)

17 MR. BARNETTE: Your Honor, I have a stipulation I'd
18 like to publish, or do you want to take a break at this
19 point?

20 THE COURT: I'm going to take a short break.

21 we'll take a short break. Please go to the jury room.
22 Don't discuss the case. I'll bring you back after that
23 break.

24 (The following takes place outside the presence of the
25 jury.)

1 THE COURT: We're going to take ten minutes.

2 (Whereupon, a recess was taken.)

3 THE COURT: All right. Bring the jury in, please.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: All right. Solicitor.

7 MR. BARNETTE: May it please the Court, Your Honor.

8 Your Honor, at this time I'd like to publish the two
9 9-1-1 calls that were made that morning.

10 The first one will be the phone call made by Danielle
11 Smith in this case at the residence at 1521 Pleasant School
12 Road. And Mr. Good was on it too, Your Honor. I'd like to
13 publish it at this time without -- I think it's without
14 objection. It'll be State's Exhibit No. 18.

15 MR. SCHULTZ: It is, Your Honor.

16 THE COURT: All right.

17 MR. BARNETTE: Let me know if you can't hear.

18 (Whereupon, State's Exhibit No. 18 was played for the
19 jury.)

20 MR. BARNETTE: I will play State's Exhibit No. 19.

21 This is the other call that was made by Ms. Good on that
22 morning.

23 (Whereupon, State's Exhibit No. 19 was played for the
24 jury.)

25 MR. BARNETTE: And, Your Honor, I'd like to put

1 stipulation No. 1 in, which is State's Exhibit 48, it's
2 attached to, which is the autopsy of the victim in this
3 case, Overton Good, Your Honor. May I publish it to the
4 jury, Your Honor?

5 THE COURT: You may.

6 MR. BARNETTE: The parties hereby stipulate to the
7 following as fact: That Dr. Janice Ross of Newberry
8 Pathologist Associates, P.A., performed an autopsy on
9 Overton Good on October 3rd of 2018. Dr. Ross found the
10 manner of death was a homicide. Dr. Janice Ross found that
11 probable cause and mechanism of death was laceration of
12 brain due to gunshot wound of the head. Her autopsy report
13 and death certificate for Overton Good is attached to this
14 stipulation, consists of five pages as attachment one. The
15 autopsy report and death certificate are made part of the
16 stipulation by reference. The stipulation and attachment
17 will be presented to the jury.

18 And, Your Honor, I'm not going to read all of it.
19 It'll be available. But, basically, it's a fatal
20 penetrating gunshot wound to the head which entered the
21 left temporal skull lacerating the partial lobe bilaterally
22 and exits through the right partial skull. Bullet
23 retrieved from the scalp.

24 Your Honor, at this time the state would rest.

25 THE COURT: All right. Ladies and gentlemen, that is

1 all of the testimony or other evidence to be offered by the
2 state, at least in their case in chief.

3 Before we go any further we'll -- I've got some
4 matters to address, first of all, but because of the hour
5 it would seem prudent to simply come back in the morning to
6 continue with the trial.

7 So you'll be excused for the balance of the afternoon.
8 You'll be asked to report back to the jury room at 9:45,
9 9:45 in the morning, at which time we will continue with
10 the trial.

11 Keep in mind you're still not to discuss the case, not
12 to conduct any research, not to do any investigation on
13 your own. And do not permit yourselves to be exposed to
14 any type of media coverage -- television, radio or
15 newspaper -- that might relate to the case.

16 Have a good evening. I'll see you in the morning at
17 9:45.

18 (The following takes place outside the presence of the
19 jury.)

20 MR. BARNETTE: Your Honor, just for the record, I
21 think at one point, State's Exhibit 38, the defense
22 objected to it. I think you were going to let him state on
23 the record what his grounds was on that.

24 THE COURT: All right. Mr. Schultz.

25 MR. SCHULTZ: I'm assuming Mr. Barnette is referring

1 to the state's exhibit --

2 MR. BARNETTE: It was the black-and-white picture.

3 MR. SCHULTZ: Okay. Yes. This is State's Exhibit 38.
4 Apologize for the delay there.

5 Judge, this -- and I do not believe the color photo
6 was entered into evidence, but this clearly shows a lot of
7 blood splatters and a lot of other material there. I'm not
8 sure entirely what it is. But I would argue that the jury
9 could at least infer that this was blood. And I believe
10 that State's Exhibit 38 would be too prejudicial. So that
11 that would be the basis for my objection, Your Honor.

12 THE COURT: All right. Note your exception.

13 MR. BARNETTE: And, Your Honor, just for the record, I
14 did sub in the black-and-white picture for the colored
15 picture. The colored picture is marked as Court's
16 Exhibit 2, I think.

17 THE COURT: Anything else before we recess?

18 MR. SCHULTZ: Your Honor, at this time I would move
19 for a directed verdict, or would you like for me to do that
20 in the morning?

21 THE COURT: You can do it now.

22 MR. SCHULTZ: All right. Thank you.

23 Your Honor, I would at this time move for a directed
24 verdict on all of the evidence that the state's presented.
25 In the light most favorable to the state I do not believe

1 the state has met their burden of proof. The state's
2 theory, obviously nothing further, would be that Mr. Rogers
3 is guilty under hand of one, hand of all.

4 I do not believe there's any been -- been any
5 evidence, at least from the witnesses there in the case,
6 that Mr. Rogers is guilty of anything more than just being
7 there.

8 I think that we're following mere presence. So I
9 would move at this time under State vs. Gibson, under
10 accomplice liability theory, and I'm quoting State vs.
11 Gibson. This is a South Carolina case. "A person must
12 personally commit the crime or be present at the scene of
13 the crime and intentionally, or through a common design,
14 aid, abet, or assist in the commission of that crime
15 through some overt act." And that's quoting State vs.
16 Condrey.

17 Your Honor, furthermore, "In order to establish the
18 parties agreed to achieve an illegal purpose, thereby
19 establishing presence by pre-arrangement, the State need
20 not prove a formal expressed agreement, but rather can
21 prove the same by circumstantial evidence and the conduct
22 of the parties."

23 So, Your Honor, I believe that under that there's no
24 evidence to believe that Mr. Rogers was -- conspired with
25 the codefendant in this case, Mr. Jefferies.

1 And, for the record, Mr. Jefferies has not testified
2 and he probably won't be testifying in this case. The
3 state has not presented sufficient evidence. So I'm -- at
4 this time move for a directed verdict. Thank you.

5 MR. BARNETTE: May it please the Court, Your Honor.

6 You had Danielle Smith, Your Honor, see two
7 individuals come out of the silver car. She identified the
8 defendant as one of those two individuals. They both came
9 up on the porch. She heard them walk up there. She heard
10 them both at the door.

11 Obviously, Mr. Good opened the door. At that point a
12 pink gun was put inside the door, which she proves the
13 claim for the burglary in that case, attempted armed
14 robbery in that situation. He was able to shut the door.
15 They called the police.

16 At that time the car was backed up and taken into Ms.
17 Good's house at [REDACTED] Road up there. She
18 saw them actually stop in the driveway, was actually
19 talking between the two of them at the time.

20 She saw them pull back. She thought maybe it was the
21 wrong address at that point. Then when she saw them roll
22 down the window, saw them start leaning out, then she saw
23 the pink gun and she knew it was a lot more than that.

24 She actually saw them stop again before they went down
25 the road indicating that, obviously, they knew or were

1 working in concert.

2 Said that Mr. Jefferies, which she identified, was
3 outside, had the arm up on the top of the thing leaning
4 out. The car was being driven very slowly to make sure he
5 could shoot at the trailer from that standpoint. He even
6 shot another time when he went up on the stop sign in this
7 case.

8 There is all of the evidence, ample evidence, to show
9 that he was involved in this case under the hand-of-one
10 theory in our state.

11 There has been no mere-presence evidence introduced at
12 this point. Shows that he was active participant. All the
13 evidence shows at this point. The evidence of Danielle
14 Smith, as well as Ms. Good in this case -- Carolyn Good.

15 And then plus all the events that occurred afterwards,
16 them picking up Mr. Wood, taking him. Never showed any
17 action or whatever, took him actually to the county jail,
18 which is probably a little bit over a football field away
19 from the sheriff's department itself.

20 They also talked to two other individuals, one by
21 phone, met with one. Never said anything to them about
22 that concerning that they were together the whole time from
23 that standpoint.

24 There has been no evidence to show to the contrary in
25 this case. Obviously, at this point I think there's ample

1 evidence to show that he is guilty under the hand-of-one
2 theory in this case and that he's not entitled -- it's not
3 mere presence right now. There's no evidence showing that
4 he was merely present. Everything shows him an active
5 participant in this case.

6 So I'd ask at this point to deny the directed-verdict
7 motion. Unless additional evidence is put in at a later
8 time I'd ask -- obviously, I object to any mere presence in
9 this case because there hasn't been any evidence showing
10 that he was merely present. Everything shows that he was
11 actively involved in this case. Thank you, Your Honor.

12 THE COURT: There is more than sufficient evidence to
13 establish each of the essential elements of the crimes that
14 have been alleged and the defendant's participation in
15 those crimes, and therefore the motions for directed
16 verdict are denied.

17 MR. SCHULTZ: Thank you, Your Honor.

18 THE COURT: Mr. Schultz, have you talked to Mr. Rogers
19 about his right to testify, as well as not testify?

20 MR. SCHULTZ: I have, Your Honor.

21 THE COURT: Mr. Rogers, when you are charged with a
22 crime, as you are now, you always have an absolute right to
23 remain silent, which means that nobody can make you take
24 the witness stand and testify during the trial of this
25 case.

1 No one can require that you provide any statement; no
2 one can require that you answer any questions that might
3 tend to implicate you in a crime that the state claims you
4 committed.

5 So you have an absolute right to remain silent and to
6 rest upon the state's burden to establish your guilt to the
7 satisfaction of this jury beyond a reasonable doubt without
8 you providing any testimony, statements or evidence that
9 might tend to prove your own guilt.

10 However, if you wish to provide this jury with any
11 additional information, during the time that you are
12 permitted to present evidence is the only opportunity that
13 you will have to provide that additional information.

14 You can do that through your own testimony or through
15 the calling of other witnesses or introduction of other
16 evidence. But the trial of this case is the only time that
17 you're going to have to present testimony yourself by
18 testifying and answering questions of your lawyer, as well
19 the prosecutor.

20 If you elect not to take the witness stand and testify
21 during this trial, I'm going to instruct the jury, as I
22 already have, that they can't hold that against you, they
23 can't consider it in any way, nor can they allow it to
24 influence their decision in any fashion.

25 At the same time, if you make a decision to take the

1 witness stand and testify, you're going to have to answer
2 not only your lawyer's questions, but you will have to
3 answer the prosecutor's questions to the extent that
4 they're relevant even if the response to any question might
5 tend to prove you guilty of a crime the state claims you
6 committed.

7 Do you understand your right to testify?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you understand your right not to
10 testify?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that it's your decision?

13 THE DEFENDANT: I do.

14 THE COURT: Do you understand that nobody can make
15 that decision for you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have you and Mr. Schultz discussed the
18 advantages and disadvantages of your testifying, as well as
19 your not testifying?

20 THE DEFENDANT: We have.

21 THE COURT: And do you appreciate what those
22 advantages and disadvantages are?

23 THE DEFENDANT: I do.

24 THE COURT: And have you had plenty of time to reflect
25 upon your decision?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And have you made a decision as to whether
3 or not you'll testify?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. I'm going to -- since we're
6 recessing for the day, I'm going to allow you through the
7 overnight recess to continue to reflect upon your decision.

8 If you need to talk Mr. Schultz about it any more,
9 feel free to do so. But in the morning when we resume the
10 trial, I'll ask you then what your decision is.

11 THE DEFENDANT: All right.

12 THE COURT: Okay. Anything else?

13 MR. SCHULTZ: No, Your Honor. Thank you for that
14 additional time.

15 THE COURT: All right. Court is in recess until
16 9:45 in the morning.

17 END OF PROCEEDINGS OCTOBER 8, 2019

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1 (Proceedings October 9, 2019)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Any matters to address before the jury is
5 in?

6 MR. BARNETTE: Yes, sir. State's Exhibit No. 9. Me
7 and Mr. Schultz met with you in chambers and they've
8 stipulated and agreed to let that be into evidence at this
9 time.

10 MR. SCHULTZ: Your Honor, that's correct.

11 THE COURT: What is that?

12 MR. BARNETTE: It's a map of the area, Your Honor, map
13 of 1521 Pleasant School Road area.

14 MR. SCHULTZ: And I believe it's a Google map of --
15 it'd be their image.

16 (Map marked State's Exhibit No. 9.)

17 MR. BARNETTE: And then, Your Honor, Mr. Jefferies --
18 we did not call him as a witness. We made him available.
19 And Mr. Rick Vieth also, I think, talked to Mr. Schultz.
20 And we made him available for Mr. Schultz to interview
21 yesterday.

22 MR. SCHULTZ: That's correct, Your Honor. I didn't
23 speak to Mr. Vieth, but Mr. Vieth was kind enough to send
24 me an email where he had no problem with me talking to
25 Mr. Jefferies.

1 I spoke to Mr. Jefferies who, obviously, is a
2 codefendant in this matter, and I decided at that point
3 after interviewing Mr. Jefferies to not put him up on the
4 stand in my case in chief.

5 THE COURT: And you've discussed your reasoning with
6 Mr. Rogers?

7 MR. SCHULTZ: I have, Your Honor.

8 THE COURT: And is he in agreement with your decision?

9 MR. SCHULTZ: He is.

10 THE COURT: Is that true, Mr. Rogers?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Anything else we need to address?

13 MR. BARNETTE: Not from the state, Your Honor.

14 MR. SCHULTZ: Not from the defense.

15 THE COURT: All right. And the defendant has how many
16 witnesses, Mr. Schultz?

17 MR. SCHULTZ: I'm sorry, Your Honor?

18 THE COURT: How many -- how many witnesses do you
19 have?

20 MR. SCHULTZ: I have two at this point, Your Honor.

21 THE COURT: All right. And you've discussed with
22 Mr. Rogers again this morning about his right to testify or
23 not?

24 MR. SCHULTZ: I have, Your Honor.

25 THE COURT: Has he indicated to you a preference?

1 MR. SCHULTZ: He has.

2 THE COURT: What has he indicated to you?

3 MR. SCHULTZ: His preference is not to testify.

4 THE COURT: Is that right, Mr. Rogers?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, as I told you yesterday, this is the
7 only opportunity that you will have to either testify or
8 call other witnesses. So do you understand you can't wait
9 until later to change your mind about your decision to
10 testify?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you're satisfied with the decision
13 that you made?

14 THE DEFENDANT: I am.

15 THE COURT: And you do not wish to testify during the
16 trial of this case?

17 THE DEFENDANT: No, sir.

18 THE COURT: Okay. Any other matters to address before
19 the jury is brought in?

20 MR. BARNETTE: None from the state, Your Honor.

21 MR. SCHULTZ: None from the defense. Thank you,
22 Judge.

23 THE COURT: Bring them in, please.

24 (The following takes place in the presence of the
25 jury.)

Lashonda Conley
Direct examination by Mr. Schultz

1 THE COURT: Good morning, ladies and gentlemen.

2 As you know, when we recessed yesterday the state had
3 concluded with their presentation of evidence. So we are
4 now going to proceed with any to be offered by the defense.

5 Mr. Schultz.

6 MR. SCHULTZ: Thank you, Your Honor. May it please
7 the Court.

8 The defense's first case, first witness, would be
9 Lashonda Conley.

10 LASHONDA CONLEY, having been
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. SCHULTZ

13 Q Could you please state your name for the record?

14 A Lashonda Conley.

15 Q And you lived in Gaffney here all of your life?

16 A Yes, sir.

17 Q All right. And are you familiar with the facts of
18 this case?

19 A Yes, sir.

20 Q All right. And did you give a statement to the police
21 when this all happened?

22 A Yes, sir.

23 Q All right. Do you remember making that statement to
24 the police?

25 A Yes, sir.

Lashonda Conley
Direct examination by Mr. Schultz

- 1 Q All right.
- 2 MR. SCHULTZ: And may I approach the witness, Your
- 3 Honor?
- 4 THE COURT: You may.
- 5 Q This gun right here, referring to State's Exhibit 10,
- 6 do you recognize that gun, Ms. Conley?
- 7 A Yes, sir.
- 8 Q All right. Is that your gun?
- 9 A Yes, sir. Appears to be.
- 10 Q All right. And do you remember where that gun was
- 11 found?
- 12 A Yes, sir.
- 13 Q where?
- 14 A In the -- in my room in a drawer.
- 15 Q In your room in the drawer. Okay. Did you know that
- 16 Jermaine Jefferies used this gun?
- 17 A No, sir.
- 18 Q All right. But that gun was found in your home,
- 19 correct?
- 20 A Yes, sir.
- 21 Q All right. And you are Jermaine Jefferies' mother,
- 22 correct?
- 23 A Yes, sir.
- 24 Q All right. Is that pink 9mm gun registered to you?
- 25 A Yes, sir.

Lashonda Conley
Cross-examination by Mr. Barnette

1 Q Is this the first time you saw it since that day?

2 A Yes, sir.

3 Q All right.

4 MR. SCHULTZ: That's all I have for this witness, Your
5 Honor.

6 MR. BARNETTE: Thank you, Your Honor. May it please
7 the Court.

8 CROSS-EXAMINATION

9 BY MR. BARNETTE

10 Q Ms. Conley, I know this is hard --

11 A Yes, sir.

12 Q -- for you. Jermaine Jefferies lived with -- is your
13 son.

14 A Yes, sir.

15 Q Did you know Shaun Rogers?

16 A I did.

17 Q How did -- if you would, tell the jury how you knew
18 Mr. Rogers.

19 A Well, they stayed in the same neighborhood we have,
20 and I been staying there, like, 16 years, and I grew up
21 there, and they grew up there too. We all.

22 Q How far is Shaun's -- where he stayed at from y'all's
23 house?

24 A He's, like, on the next street over. It's my street
25 and then it's the next street over.

Lashonda Conley
Cross-examination by Mr. Barnette

1 Q And did your son and Mr. Rogers kind of grow up
2 together or, I mean, basically, hang out together all of
3 the time?

4 A Yes, sir.

5 Q Did -- where -- how -- where had they been hanging out
6 the most lately before all of this happened?

7 A To my knowledge, they usually hang out -- as growing
8 up they hung out on the -- over the codefendant's house.

9 Q You mean Mr. Rogers' house.

10 A Yes, sir.

11 Q Okay. And that morning -- where do you work at,
12 ma'am?

13 A I work for Spartanburg Regional. I work for the
14 Immediate Care Westside -- Immediate Care Gaffney.

15 Q Okay. And that morning, how did you get to work?

16 A My son, Jermaine Jefferies, dropped me off.

17 Q Okay. And what kind of car -- what kind of car did
18 you own, ma'am?

19 A I have a 2010 Ford Fusion.

20 Q Okay. Is it silver in color?

21 A It's silver.

22 Q And after he dropped you off and you was at work --

23 A Uh-huh.

24 Q -- did you -- did you call him back to come and pick
25 you up?

Lashonda Conley
Cross-examination by Mr. Barnette

1 A Yes, sir.

2 Q And did he come back and pick you up?

3 A Yes, sir.

4 Q And, like you said, did he hang out with Mr. Rogers?

5 A Yes, sir.

6 Q They hang out together and they were together a lot.

7 A Yes, sir.

8 Q Okay.

9 MR. BARNETTE: One moment, Your Honor, please.

10 (Pause.)

11 Q Thank you, ma'am, for answering my questions.

12 A You're welcome.

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

14 MR. SCHULTZ: Your Honor, could this witness be
15 excused?

16 THE COURT: She may be.

17 MR. SCHULTZ: Thank you.

18 (Whereupon, the witness was excused.)

19 MR. SCHULTZ: Your Honor, the defense's next witness
20 would be Brandt Suchewski, Your Honor. Sorry, Your Honor.
21 I know I'm mispronouncing that. Stavitski, Your Honor.

22

23

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25

Brandt Stavitski
Direct examination by Mr. Schultz

- 1 BRANDT STAVITSKI, having been
2 first duly sworn, testified as follows:
3 THE COURT: Do this. Go ahead and give the court
4 reporter your last name, and spell it for her.
5 THE WITNESS: It's Stavitski, S-T-A-V-I-T-S-K-I.
6 DIRECT EXAMINATION BY MR. SCHULTZ
7 Q I apologize for your name.
8 A Not a problem.
9 Q That may happen at times.
10 A It does.
11 Q I apologize for that.
12 Brandt, how old are you?
13 A I'm 42.
14 Q All right. And have you lived in Spartanburg County
15 or Cherokee County all of your life?
16 A No.
17 Q Okay. And when did you move here?
18 A 2006.
19 Q 2006?
20 A Yes, sir.
21 Q Where did you move from, sir?
22 A Virginia.
23 Q Do you know my client, Shaun Rogers?
24 A I do.
25 Q How do you know him?

Brandt Stavitski
Direct examination by Mr. Schultz

- 1 A I coached him in baseball. I've known him through
2 school, friends with my son. Just I guess a family friend
3 these days as the years have gone on.
- 4 Q Do you remember what team that you coached Shaun in?
- 5 A It was youth baseball in Gaffney, and it was All Star
6 teams, regular season teams. I couldn't place the name on
7 the actual team. I mean. It's been some years back. I
8 can't -- can't come up with the name of it, but I did it
9 for about three or four years. I coached him.
- 10 Q All right. And when you coached him did you have a
11 chance to know him well?
- 12 A Yes.
- 13 Q And is there any particular incident that sticks out
14 in your mind about Shaun?
- 15 A No. Just a -- no. He's a good kid. He was a great
16 kid, athletic kid, smart kid, honest kid, competitive kid.
- 17 Q Was he a good baseball player?
- 18 A Yes.
- 19 Q Do you know if he played any other sports?
- 20 A I'm pretty -- he played football, basketball,
21 baseball. Outside of that, you know, I think those are the
22 three that I'm most familiar with.
- 23 Q Was he a, I guess, for lack of a better word, was he
24 one of your favorite people to coach?
- 25 A Oh, yeah, absolutely.

Brandt Stavitski
Direct examination by Mr. Schultz

1 Q Why would you say that, sir?

2 A Just he's a good kid. He had a -- you know, he was
3 competitive. You know, he had some grit about him, you
4 know, honest, hard -- hardworking, you know, played. He
5 worked at it. You know, just the mentality of things. And
6 he was a good athlete.

7 Q Did you know his mother as well?

8 A I do.

9 Q Okay. Did they come over to your house?

10 A They have, yes.

11 Q All right. And so he -- you would say he's a
12 trustworthy individual?

13 A Oh, absolutely, absolutely.

14 Q And when did you first learn about that this happened
15 with Shaun?

16 A Saw it on the news originally.

17 Q Did it surprise you that --

18 A Oh, it shocked me. I was pretty much flabbergasted
19 with him, completely under shock.

20 Q Why did it flabbergast you?

21 A It's not the young man that I know. It's not the
22 young man that's grown up around me or anything to that
23 nature. That's just not that kid.

24 Q How many years approximately did you coach him with
25 youth baseball?

Brandt Stavitski
Cross-examination by Mr. Barnette

1 A I coached him about four years, but, I mean, he's been
2 in my life since second grade. So many years.

3 Q You said he's the same age as your sons.

4 A Yes.

5 Q Did your son and him -- Mr. Rogers -- hang out
6 together?

7 A Yes.

8 Q All right. And do you trust Mr. Rogers?

9 A Absolutely.

10 Q Is there anything more you want the jury to know about
11 Shaun?

12 A You know, just he's -- he's a good kid. He's an
13 honest kid. I just can't fathom, you know, just, you know,
14 what I've heard. I just -- it's not -- not the kid I know.
15 I know that much. It's not the kid I know.

16 Q Thank you for being here, sir.

17 A Absolutely.

18 MR. SCHULTZ: That's all I have.

19 MR. BARNETTE: May it please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. BARNETTE

23 Q Sir, what age group did you coach him in?

24 A Nine to twelve.

25 Q Nine to twelve.

Brandt Stavitski
Cross-examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q Did you coach him after that?
- 3 A I did not coach him after that, no, sir.
- 4 Q Okay. That was the time you spent the most time with
- 5 him, was from nine to twelve years old.
- 6 A I mean, it -- I spent a good amount of time with him
- 7 then and then in the years following as well.
- 8 Q Okay. In what way did you follow him in the years
- 9 after?
- 10 A He was friends with my son and, you know, stayed, you
- 11 know, just interaction, stayed in contact with him and, you
- 12 know, communication.
- 13 Q Well, I know, but I guess it's a little bit different.
- 14 He's now 19?
- 15 A Yeah, yes, sir.
- 16 Q And, obviously, you didn't keep in contact with him
- 17 the last couple of years, did you?
- 18 A I have, you know. You know, I saw him at his work.
- 19 You know, I've talked to him. I seen him, you know, when
- 20 he got his -- when he got his education. You know, he saw
- 21 me and my life and made it clear to us with his -- you
- 22 know, pregnancy, of his significant other, all of that.
- 23 You know, we were all -- we were made aware of and
- 24 communicated with him and but not -- not to the extent of
- 25 when we were -- when he was younger, not as much time, but

Brandt Stavitski
Cross-examination by Mr. Barnette

1 absolutely stayed in contact and -- and involved.

2 Q You realize he'd been convicted. I mean, he's been
3 involved in two instances disturbing schools.

4 A I did not know that, no, sir.

5 Q And he's been with assault and battery third.

6 A I did not know that.

7 Q And you realize he went to the alternative school --

8 A Yes, sir.

9 Q -- concerning that.

10 A Yes, sir.

11 Q Okay. And the alternative school is separate from
12 Gaffney High. It's a different -- it's, basically, where
13 kids are sent when they get in trouble at school.

14 A Okay. It was -- I did not know that, no, sir.

15 Q Okay. So you didn't know all of that, did you?

16 A I didn't know that -- that he went there, that it was
17 alternative. I mean, I knew he went to the alternative
18 school and finished there, but I didn't know the reasons,
19 no, sir.

20 Q He finished there. He didn't finish at Gaffney.

21 A Yeah. Absolutely.

22 MR. SCHULTZ: Your Honor, I object to this. I think
23 that has been asked and answered.

24 THE COURT: Overruled.

25 Go ahead.

Brandt Stavitski
Cross-examination by Mr. Barnette

- 1 Q So he didn't finish at Gaffney High School. He
2 finished at the alternative school.
- 3 A The alternative school, yes, sir.
- 4 Q So, obviously, you didn't see him October 2nd of 2018,
5 that day.
- 6 A No, sir, no, sir. I did not.
- 7 Q You didn't see him October 1st of 2018 before that.
- 8 A No, sir.
- 9 Q You didn't see him September 30th of 2018, did you?
- 10 A No, sir.
- 11 Q It was a period of time before this incident occurred
12 on October 2nd of 2018. You hadn't seen him in that period
13 of time right before that happened.
- 14 A Right before that happened, no, sir.
- 15 Q You had no interaction with him.
- 16 A No, sir.
- 17 MR. BARNETTE: One moment, Your Honor, please.
- 18 (Pause.)
- 19 Q And when he played on your ball team and everything,
20 was he a leader on your team?
- 21 A Yes.
- 22 Q He was a leader on the team and led the other players
23 too.
- 24 A Yes, he -- and, yeah, him and a couple of other kids,
25 yes, sir.

Brandt Stavitski
Cross-examination by Mr. Barnette

1 Q Thank you, sir, for answering my questions.

2 A Absolutely.

3 THE COURT: You may step down.

4 MR. SCHULTZ: May the witness be excused for the
5 duration?

6 THE COURT: He may be.

7 MR. SCHULTZ: Thank you, Your Honor.

8 (Whereupon, the witness was excused.)

9 MR. SCHULTZ: Your Honor, at this point the defense
10 rests.

11 THE COURT: Any reply?

12 MR. BARNETTE: Nothing from the state, Your Honor.

13 THE COURT: All right. That's all the evidence that's
14 going to be presented during the case.

15 What remains to be done are the lawyers' final
16 summations, after which I'll instruct you on the law that's
17 applicable, and then you'll begin deliberations.

18 Before we do that I've got some matters I'll need to
19 address with the lawyers. So I'll ask you to please go to
20 your jury room. Do not yet begin any discussions of the
21 case. I'll bring you back shortly to conclude.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: All right. Motions or other matters to
25 address before we conclude?

1 MR. SCHULTZ: Your Honor, again, I would renew my
2 motion for a directed verdict at this time, as I stated
3 yesterday, under the ground which I stated yesterday.

4 THE COURT: All right. Those are -- motions are
5 denied.

6 Do y'all have any specific requests for instructions?

7 MR. BARNETTE: Hand of one, hand of all, Your Honor,
8 would be our request for instruction.

9 MR. SCHULTZ: Mere presence, Your Honor.

10 THE COURT: All right. Anything else we need to
11 address before we conclude?

12 MR. SCHULTZ: Your Honor, the only -- the only thing,
13 I'd like to see the Court's mere presence instruction that
14 the Court is going to use because I like to use it in my
15 closing.

16 THE COURT: Okay.

17 MR. SCHULTZ: Thank you.

18 MR. BARNETTE: Your Honor, may I look at the exhibits
19 real quick while we're waiting?

20 THE COURT: Sure.

21 (Pause.)

22 THE COURT: All right. Bring the jury in, please,
23 sir.

24 (The following takes place in the presence of the
25 jury.)

Closing arguments

1 THE COURT: All right. As you know, you're going to
2 hear from the lawyers, after which I'll instruct you on the
3 law, and then you'll begin your deliberations. So please
4 give the lawyers your attention now as they give you their
5 final summations.

6 Mr. Barnette.

7 MR. BARNETTE: May it please the Court, Your Honor.

8 Madam forelady, ladies and gentlemen of the jury,
9 we're at the point now where I'm going to talk to you about
10 the case.

11 And the one thing I want you to remember about is this
12 is a drive-by shooting. It's a drive-by shooting that had
13 two people involved in it. You have the person that's
14 driving and the person that's shooting. Rarely are they
15 the same person because you can't do both of them. It's
16 almost impossible to accurately shoot from there.

17 You heard the witnesses that was there that morning.
18 You heard these two ladies come up and testify to it. They
19 came up and told you what they saw. They saw two people
20 get outta the car and walk up to the porch. They was on
21 the porch at the front door, and they came. She saw what
22 happened when he shut the door. Heard both people leave.
23 And both and get in it. They get in the car, and you see
24 her look, and she knew the car was gone.

25 They go up the street. Didn't know they just parked

Closing arguments

1 in front of Ms. Good's window at her driveway. She sees
2 them sitting there talking, discussing. She said she saw
3 the movements and everything.

4 And what's amazing, both of these women testified to
5 exactly what they saw. She didn't try to add, try to
6 subtract or anything. And they're talking right there,
7 discussing what they're going to do.

8 She first thought it was somebody just randomly
9 stopped, but they pulled back. She saw the window down.
10 And they go out and pull out and started going down the
11 road.

12 They stop. She said that's really strange, and then
13 she sees this man with a gun. She sees it as they're
14 driving down the road very slowly. She sees him put his
15 arm up here and puts it there steadying himself. There's
16 no way he can lean out and do all of that and a car drive
17 that fast. Mr. Rogers is driving slowly. He knows what
18 they're going to do. He's helping, assisting him. He was
19 going to help them with the burglary and armed robbery,
20 attempted, and as he went driving by.

21 The judge will charge you on reckless, the reckless
22 disregard for somebody. When they shoot into a dwelling,
23 it's a murder, ladies and gentlemen. My position is this
24 is a murder. The facts show that this reckless intent,
25 shooting at somebody's trailer like that five times.

Closing arguments

1 I'm going to show you a couple of the pictures, and
2 you'll have them back there with you. Just shooting
3 somebody's, I mean, it's unbelievable. And then even you
4 heard Ms. Good say that when they went by he shot again.
5 You saw the other shot went in the neighbor's house. Thank
6 God her grandchildren weren't in the house. They'd went to
7 school that day. Couldn't be anything more dangerous, the
8 actions of both of the men in this case.

9 You heard on the 9-1-1 tape the time, and you hear the
10 whizzing in there, the bullets coming in with the killing.
11 The period of time matches up exactly what both of these
12 ladies testified to. You couldn't have more truthful
13 testimony in this case between these two folks.

14 All of the evidence leads to both of them working
15 together. Jermaine Jefferies needed his assistance in
16 order to do it.

17 You heard the testimony of Mr. Jefferies. They'd
18 worked together all of the time. You heard the testimony.
19 Two ladies. They called about jobs to see about jobs.

20 You heard Virginia Smith, or Ms. Smith, goes in. Both
21 of them go in there, said Mr. Jefferies is talking to me,
22 the other guy fell asleep. Do you think he's concerned
23 about what they just did? He has no concern whatsoever,
24 almost did, and the other lady on there.

25 Shaun Rogers calls her and said, well, I don't need a

Closing arguments

1 job but my friend does -- Jeremy Jefferies. Hands the
2 phone to Mr. Jefferies, and they know.

3 This ain't about -- I mean, they're both together.
4 They don't have a care in the world. To show they really
5 don't have a care in the world, they go pick up Mr. Wood.
6 And to show you how brazen they are, after they've done a
7 drive-by shooting, they take him to Food Lion to get a
8 receipt to pay for his G.P.S. monitor here at the county
9 jail.

10 They drove to the county jail. Both of them do. And
11 if he's so scared, so afraid or whatever, he could have
12 went over to the sheriff's department and tell them. The
13 sheriff's department's right across the street. No. They
14 didn't care. They did not care.

15 They wanted to do a robbery, they wanted to get in
16 that house. And when he stopped them, they said, well,
17 we're going to teach him a lesson. They shot in that house
18 to teach him a lesson. Leave a man dead at his front door
19 trying to hold his door shut while the police is trying to
20 get there.

21 when his mom and his girlfriend has to watch it
22 happen, and he wants to tell you don't hold him responsible
23 for it. Oh, I didn't know what was going to happen. Oh,
24 yeah, he did. He was involved in it. He knew what they
25 were going to do. He knew they went to rob that man that

Closing arguments

1 day, to go into his trailer. And they meant to drive by
2 and shoot to teach him a lesson.

3 When you shoot in people's houses, people, we can't
4 have that. A person needs to be safe in their house.
5 Overton Good, as well as Ms. Smith, should have been safe
6 in that home and obviously weren't.

7 He knew about the pink gun. He even shows it on his
8 facebook. You'll have this back with you, ladies and
9 gentlemen. That's his facebook page. On there he shares
10 the man that thing hit hard. That was back on September
11 the 29th. And, folks, you will have that picture with you;
12 you'll have the gun.

13 Mr. Schultz asked Mr. Anthony how many pink guns have
14 you seen in your career. He said 10 or 15. Asked him how
15 many. He's seen thousands. What's the odds of him posting
16 another gun, a different gun? He knew Jermaine Jefferies
17 had a gun. He used it.

18 I can go through all of these pictures with you, but
19 you'll have them back there. No question this is a murder;
20 no question this is attempted murder; no question this is a
21 burglary; no question this is attempted armed robbery; no
22 question it's discharging a weapon into a dwelling.

23 This should never have happened, but he made a
24 conscientious decision to drive that car. He made a
25 conscious decision to go over with him. He made a

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1 conscious decision to go onto that porch, both of them,
2 trying to get inside. He made a conscientious decision to
3 go off of that porch.

4 He made a decision to get in that car and drive two or
5 three things up. And you'll have the map back there, and
6 on this map, location in Cherokee County, 1521 Pleasant
7 School Road. His mom lived up the road right up there.

8 They parked at the neighbor's house, backed up and
9 went up to her house and parked in the driveway. And she
10 said they were at least there 45 seconds talking, and then
11 they did this drive-by shooting and come back this way.
12 When they shot back behind the house, that one shot that
13 hit the neighbor's house.

14 The only thing I want you to look, ladies and
15 gentlemen, they didn't even come back this way. They could
16 have easily went this way and come back out. They have
17 several different directions. They had all of that
18 available to them.

19 You'll have that map with you also. He made a
20 conscious decision to drive right by that. Stopped one
21 time, slowly drove by.

22 I can't emphasize enough to you, ladies and gentlemen.
23 There is no question that this guy knew exactly what he was
24 doing that day.

25 And the judge will be charging you, and I'm going to

Closing arguments

1 read this again and hand it to you also. One who has been
2 charged with the commission of a crime may be convicted as
3 perpetrator or an accomplice. An accomplice is often
4 referred to as an aider or an abettor in the commission of
5 a crime.

6 You are instructed that there are two or more people
7 act together with a common intent or purpose, they combine
8 or conspire or plan or otherwise agree to the commission of
9 the crime, each person who is present and who is abetting
10 and aiding -- abetting, aiding and assisting or
11 participating in the commission of a crime is equally
12 guilty. The act of one is deemed to be the act of all.

13 Any person who joins -- any person who joins with
14 another or others to accomplish an illegal purpose is held
15 to be criminally responsible for everything done by any
16 other person which occurs as a natural and probable
17 consequence of the acts done pursuant to and in furtherance
18 of a common plan and purpose.

19 And therefore two or more persons are acting together
20 and they are aiding, abetting, assisting and participating
21 with one another in the commission of a crime, the acts
22 become the acts of one or acts -- the acts of one become
23 the acts of all. The hand of one is deemed to be the hand
24 of all. And they are all equally guilty of any crime
25 that's accomplished by those joint efforts.

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1 And Judge Cole's also going to charge you about
2 reasonable doubt, and part of that reasonable-doubt charge
3 says this: Proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced of the defendant's guilt.
5 There are very few things in this world we know with
6 absolute certainty.

7 In criminal cases the law does not require the proof
8 that overcomes every possible doubt. If, based upon your
9 consideration of the evidence, you are firmly convinced
10 that the defendant's -- is guilty of the crime which he has
11 been charged, then you must find him guilty of that crime.

12 If, on the other hand, you think there's a real
13 possibility that the defendant is not guilty of the crime
14 which -- with which he is charged, then you must give him
15 the benefit of the reasonable doubt and find him not
16 guilty.

17 Ladies and gentlemen, if you look at all of the
18 evidence in this case, the evidence presented by these two
19 ladies right here, that will leave you firmly convinced of
20 this defendant's guilt.

21 He did this. He participated. He was an aider and
22 abettor in the case. He worked in concert. All of his
23 actions show by those dates, by independent witnesses, the
24 witnesses that was there, show they were working together.
25 And he assisted him in this crime, the crime that left

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1 Overton dead that day.

2 I'm going to ask you to find him guilty on all counts,
3 because the law is clear. His actions are clear. The
4 testimony is clear of these two women, what happened that
5 day.

6 And like Ms. Good told you from the witness stand, he
7 didn't need to do this. He had all kinds of avenues. And
8 the sad thing is he didn't care. He went and talked to two
9 different ladies about jobs and he even took somebody to
10 the county jail. He didn't care one bit what they had done
11 that day and left a man dead.

12 Thank you for your time.

13 Thank you, Your Honor.

14 MR. SCHULTZ: Ladies and gentlemen, thank you again
15 for your time.

16 I know when I first talked to you yesterday it was --
17 seems like a long time ago -- but I anticipated that this
18 case could take all week. It has not taken all week,
19 and-but in the last three days, including today, I want to
20 thank you very much for your time and your energy and your
21 effort.

22 I've watched each and every one of you all during this
23 trial, and everybody here paid close attention to
24 everything that was going on. I really thank you for that.
25 I know -- and I know Shaun does too. So thank you so much

Closing arguments

1 for your kind attention and everything that comes along
2 with that. So I thank you for being jurors.

3 Mr. Barnette is indeed correct. The judge is going to
4 charge the instruction for hand of one, hand of all. But
5 in a couple of minutes Judge Cole is also going to charge
6 you this instruction. I'm going to go back to the evidence
7 after my argument here. And I'm just going to read this.
8 I'm starting at the top line there if everybody can see
9 that okay. I'm going to read that.

10 Prior knowledge by the defendant -- in this case the
11 defendant is Shaun Rogers -- that some person is intending
12 to commit a crime without more is not sufficient to make
13 him or her guilty of the crime of which he may be shown to
14 have knowledge, and, likewise, the mere presence of the
15 defendant at the scene of a crime or in close proximity
16 thereto even with -- and I want to emphasize that -- even
17 with knowledge that another is intending to commit the
18 crime is not sufficient standing alone to prove the
19 defendant guilty of the crime as an accomplice.

20 Ladies and gentlemen, you can't find him guilty
21 because of this. Mr. Barnette is going to talk about the
22 hand of one, hand of all. He may get up there and talk
23 about the hand of one, hand of all after he gets a chance
24 to rebut my arguments there. He already has talked about
25 that as well. But there's been no evidence that my client

Closing arguments

1 was in a conspiracy to do this. He was just there. He had
2 no idea that this was about to happen.

3 Let's go through all of the witnesses that testified
4 in the last -- in the last day.

5 We heard. First of all, we heard from Danielle Smith.
6 And these folks gave truthful testimony; they gave
7 emotional testimony. I feel bad for what happened to them
8 that day. I can't imagine what they're struggling with.
9 They're going to be struggling with that the rest of their
10 lives. But, nevertheless, I asked them a couple of
11 questions about whether they saw Shaun with a weapon that
12 day. No. They did not. They did not see him brandish at
13 any point this pink gun. Not once.

14 During the testimony that you heard the state
15 presented you did not hear any of the state's witnesses say
16 one time that he had a gun, that Shaun had a gun.

17 You heard the 9-1-1 call at the end of yesterday.
18 What did that 9-1-1 call say? Did it say anything about
19 Shaun Rogers? No.

20 In fact, the victim in the case called 9-1-1, and the
21 words out of his mouth -- and you have the right to go back
22 and listen to that 9-1-1 call. He says it very clearly.
23 He says Jefferies -- Jefferies. He didn't say anything
24 about Shaun Rogers. He didn't say anything about another
25 person. He says Jefferies. Listen to that 9-1-1 call

Closing arguments

1 again. That's in evidence. You can go back there and
2 listen to it.

3 Now, the state ballistics -- excuse me -- the
4 investigator for the county found all of these shell
5 casings here. Found one -- one, two, three. And they
6 found two bullets.

7 I'm going to put these up on the board here. All of
8 these shell casings, all of them, right there. You can see
9 all of them right there. One, two, three. Trace back to
10 this gun, a gun that my client never had at all.

11 Again, the bullets were never found in and around the
12 residence -- these two. One, two. Again, trace back to
13 this gun right here, again, that Jefferies, Jermaine
14 Jefferies, brandished, fired and caused the death of the
15 victim in this case.

16 State's evidence never showed that Shaun ever went
17 into the house that day. Never fired. He was just there.
18 And that is what my argument is here -- mere presence.

19 Now, I keep going back to this jury instruction that
20 Judge Cole is going to advise you of in a couple of minutes
21 here. Even if you go back there and you believe that my
22 client had some prior knowledge, you may believe that, that
23 some person is intending to commit a crime. Without more
24 that -- it's not sufficient -- it's not sufficient.

25 Yesterday you swore an oath to uphold what the judge

Closing arguments

1 told you to do. You swore an oath to render the facts
2 impartially. I'm just going to read this again. I hate to
3 belaboring this point because it's just so important. It's
4 so important because my client's life is hanging in the
5 balance here. Truth and justice is hanging in the balance
6 here.

7 Prior knowledge by the defendant. I'm just going to
8 put Mr. Rogers. Prior knowledge by Shaun Rogers that some
9 person is intending to commit a crime without more is not
10 sufficient to make him guilty of the crime.

11 I'm going to go back a little bit. Even -- even with
12 knowledge that another is intending to commit a crime is
13 not sufficient standing alone to prove the defendant guilty
14 of the crime as an accomplice.

15 Just because someone was present there does not make
16 him responsible for the acts of another. There must be
17 some agreement. There must be some agreement that this was
18 going to happen.

19 The state, as I said yesterday morning -- the state
20 has the burden of proof. They have to present some sort of
21 agreement that this was going to happen. They could have
22 done that. They could have presented the codefendant in
23 this case. They didn't. They did not.

24 The person that actually fired those six shots, where
25 is he? Nowhere to be found -- nowhere to be found.

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1 MR. BARNETTE: Your Honor, I'm going to object at this
2 point.

3 THE COURT: I sustain that objection.

4 MR. SCHULTZ: Let's talk about more of what happened
5 with the witnesses there.

6 We went over the 9-1-1 call. And, again, you can go
7 back and talk about that, talk about the 9-1-1 call that
8 the victim made at that.

9 Now, Mr. Barnette talked about my client's conduct
10 after this all happened. That's difficult. But at the
11 same time he was scared -- he was scared. He did not know
12 what to do that day.

13 I want you to think about that in the whole context of
14 what you would do in this situation. It's a very important
15 part of this whole case.

16 I put up two witnesses there, again, that had nothing
17 really to say. And, again, we talked about that gun. The
18 gun was not found on Shaun Rogers. This gun was not found
19 on Shaun Rogers' person. This gun was not found anywhere
20 in close proximity to him. Guess where this gun was found.
21 At his mom's house registered to her.

22 Everything in this case points to Jermaine Jefferies
23 as the shooter. Again, this is not a question of who done
24 it. Everybody in this courtroom knows. The 12 of you
25 know; the state knows; all of the people in the gallery

Closing arguments

1 know Jermaine Jefferies was the shooter. We know this.
2 We've concluded that before. We have that testimony.

3 All you have to figure out is was Shaun Rogers there.
4 Of course he was there. But the state has not met their
5 burden of proof that there was collusion or a conspiracy
6 between these folks.

7 MR. BARNETTE: Your Honor, I'm going to object. I
8 don't think that's a proper statement of the law.

9 THE COURT: Be sure you state it properly if you're
10 going to argue the law.

11 MR. SCHULTZ: Thank you, Your Honor.

12 As I said before, what the victim is going through, I
13 can't imagine. But, at the same time, the emotional impact
14 of that, of the case, is difficult. I understand that.
15 But we picked the 12 of you, 13 of you, to render the
16 judgment based upon the facts in an impartial manner, and
17 that's why we have this process, so we're not governed by
18 emotions, that we're not governed by feelings. We're
19 governed by the law. We're a nation of people. Yes.
20 That's true. But we are a nation of laws. Not people.
21 Laws. And no one is above that law.

22 You have to follow the judge's instructions in this
23 case. And I keep going back to this. I keep wanting to
24 tell everybody about this because it is so important to
25 this case.

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1 Usually, and I'm just going to be frank, the cases
2 that I try -- I try several cases every year. This is
3 probably the shortest murder case I've ever been involved
4 in, because there was an agreement on basically what
5 happened. We know who the shooter was. We know that Shaun
6 was there. The discrepancy arrives as to whether or not he
7 knew what was going on.

8 And the instruction that the judge is going to give
9 you regarding mere presence here is the most important feat
10 to this case. Even if you believe that he had some prior
11 knowledge, that he was intending to commit a crime, it's
12 not sufficient to make him guilty of the crime. They have
13 to show more. In this case they didn't. It's not
14 sufficient.

15 Now, when I last spoke to you -- seems like a long
16 time ago, but it was a little more than 24 hours ago -- I
17 spoke about reasonable doubt and what it means, what is
18 reasonable doubt.

19 Reasonable doubt is doubt that causes a reasonable
20 person -- and you're all reasonable folks -- some
21 hesitation to act. This paragraph alone that Judge Cole is
22 going to read to you in a couple of minutes here, that is
23 all of the reasonable doubt that you'll need in this case.

24 Now, in some other cases -- some of you may have
25 served on civil jurors. Maybe some of you may have served

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1 on criminal juries before. But in a civil matter it's
2 preponderance of the evidence, which means more likely than
3 not something happened.

4 Civil cases are usually like car wrecks, something
5 about money.

6 In a criminal case it goes someone's liberty and
7 freedom is on the line. Their burden, the state's burden
8 of proof, is very high. They haven't done it. If they
9 had, we wouldn't be here today. They have not done it.
10 They have to prove each and every element of that crime,
11 and I present to you that they have not done it.

12 Lastly, I wanted to appeal to your common sense. Does
13 it seem right that my client should be just as guilty as
14 the man and the boy that pulled it? Does that seem right?

15 MR. BARNETTE: Your Honor, I am going to object at
16 this point. The law says they could be held to the same
17 standard, hand of one, hand of all.

18 THE COURT: Be sure you state the law correctly.

19 MR. SCHULTZ: Thank you, Your Honor.

20 Use your common sense. That's all I'm asking you to
21 do. I am asking you to be fair; I'm asking you to be
22 impartial. But I'm also asking you to use your common
23 sense. That's why we selected all of you.

24 You can take a look at the evidence. We have all of
25 the evidence here. I stipulated to a lot of things in this

Closing arguments

1 case because there's not many questions about this case.
2 The only question is do you believe that he acted in
3 concert.

4 There has been no evidence. However, I will say this.
5 Take a look at all of this stuff, each and every one of
6 what the state has presented. Take a look at the maps if
7 you want to. Take a look at everything.

8 I just want to read this again. I'm just going to go
9 over this again. I hate to keep belaboring this point, but
10 it's very, very, very important.

11 Prior knowledge by the defendant that some person is
12 intending to commit a crime without more -- and this is the
13 law of this state and you have to go by this -- is not
14 sufficient to make him guilty of that crime.

15 So you may go back, and you say, well, maybe he knew a
16 little bit. But it's not sufficient. It is not
17 sufficient.

18 And, likewise, the mere presence of somebody, of the
19 defendant, at that scene of a crime even -- even with that
20 knowledge that another is intending to commit a crime is
21 not sufficient standing alone to prove the defendant guilty
22 of the crime as an accomplice. You have to go by that.

23 The judge is going to instruct you with that, and I'm
24 asking for a verdict of not guilty on all counts. Thank
25 you for your service.

Closing arguments

1 MR. BARNETTE: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. BARNETTE: Ladies and gentlemen of the jury,
4 action speaks louder than words.

5 I'm going to ask you to use your common sense also.
6 And, like I said, you can listen to these two ladies'
7 testimony again. You heard how powerful it was and how
8 truthful it was.

9 He keeps talking about Overton talking on the 9-1-1
10 tape. Well, you gotta remember she saw out the window the
11 two people coming up there. All he saw was the man he
12 identified with the pink gun.

13 The 9-1-1 operator didn't say was there more people.
14 Never got to that point because, obviously, he got killed
15 in that period of time.

16 If you listen to the second 9-1-1 call you hear Ms.
17 Good basically saying they. She says they, because she
18 sees what happens the whole time.

19 He says, well, prior knowledge and all of that. No.
20 Actions speak louder than words, ladies and gentlemen,
21 because the actions of this man right here that shows
22 everything that he did, him going there with Jermaine
23 Jefferies, them going on the front porch. The only
24 difference he has a gun to do the robbery with him. I
25 mean, but if he's so scared, why is he even there? He

Closing arguments

1 knows he has a gun because you seen the facebook page from
2 September 29th. He walks up there with him. He knows.
3 Supposedly, he's so scared.

4 And then when Overton shuts the door on them, they go
5 back to the car. They drive up to Ms. Good's and sits up
6 there and plans it.

7 He is so scared, and when they're talking there when
8 she doesn't really know what's going on, pulls back, could
9 have went the other direction, could have totally went away
10 from them a different direction -- you'll have that map
11 where you can see that. But no. He backs up, watched him
12 roll down the window. He could have jumped outta the car
13 at any time and said I'm not going to be part of this.
14 Starts going down the road. And listen to her testimony.
15 You heard it. If you need to hear it again, you can. The
16 judge can play it for you, the Court can.

17 He stops. Then as she sees him getting out with the
18 pink gun where he puts his arm up, this guy knows exactly
19 what they're doing because he's with him. He could have
20 said I'm not going to drive any more. I could have jumped
21 right out of the car and got the heck out of there. No.

22 He slowly drives by to make sure Mr. Jefferies has had
23 enough time to release five bullets in the front of that
24 trailer. And look where all of the bullets are, folks.
25 Right at the front door where Mr. Overton was holding that

Closing arguments

1 door shut. He let him get steady, let him make sure he
2 shot those shots.

3 And you heard Ms. Good talk about how slowly he moved.
4 Even at the stop sign he's still moving. He's still
5 shooting. And he shoots one in the neighbor's house. And
6 they gave truthful testimony because they were there and
7 they saw it.

8 Actions speak louder than words, ladies and gentlemen.
9 He keeps believing the same way. You've got to have a
10 conspiracy. This wasn't no conspiracy. This is -- to be
11 honest, they were working together. Common sense, and you
12 looked at this.

13 And they keep saying, well, we didn't call the
14 codefendant. Both sides get to call witnesses, ladies and
15 gentlemen. The codefendant was charged by us, by this
16 sheriff's department. Either side could have called him as
17 a witness.

18 Under your oath, as the judge will tell you, the
19 evidence you're considering is what's in front of you, and
20 all of the evidence -- all of the evidence -- points to
21 this man being with him and doing this.

22 It's a drive-by shooting, ladies and gentlemen. It
23 takes two. And of course it's horrible what he did
24 afterwards. He was so frightened. You heard Ms. Smith
25 when she's talking. He falls asleep on the desk. He's so

Closing arguments

1 scared. He calls a woman trying to get a job for Jermaine
2 Jefferies after they shoot into the trailer.

3 MR. SCHULTZ: Your Honor, arguing facts not in
4 evidence, Your Honor.

5 MR. BARNETTE: I'll rephrase that.

6 They -- after they did the drive-by shooting. Then,
7 like I said, I can't imagine having the gall to drive a man
8 up to the county jail right by the sheriff's department.
9 And he is so scared, he is so torn up about this, at any
10 time he could have called 9-1-1. At any time he could have
11 got out of that car. At any time he could have got out and
12 went in the jail and said I saw this man, I had nothing to
13 do with this. Never happened. He was that scared.

14 Ladies and gentlemen, you bring your common sense.
15 You weigh the credibility of the witnesses. They were
16 together all of the time. You heard Mr. Jefferies and
17 Ms. Jefferies, the mother, talking about that.

18 You've got the facebook post. Compare the gun in the
19 facebook post. If you need to listen to these two ladies'
20 testimony again, please listen to it again. But you've got
21 two 9-1-1 calls. Overton Good's trying to keep that door
22 shut. His mom sees what's going on. She sees what they
23 are doing.

24 And the one thing I can tell you is actions speak
25 louder than words. And the judge is going to charge you

Jury charge

1 the law on the hand of one, hand of all. They worked in
2 concert, that they assist.

3 Let me tell you something, ladies and gentlemen. He
4 assisted him in the crime. He was driving. His actions
5 shows what he did.

6 And they have the Good family and you have to find
7 this gentleman guilty because he is guilty under the hand
8 of one, hand of all. He wasn't just merely present. He
9 was assisting, working together.

10 Thank you for your time.

11 THE COURT: Ladies and gentlemen, you of course have
12 heard and seen all of the evidence in the case.

13 You've now heard the final summations of the lawyers;
14 and therefore it now becomes my duty to instruct you on the
15 law that's applicable. You'll then be asked to go back and
16 to begin your deliberations.

17 Through that process you'll examine the evidence
18 relating to the allegations; you'll determine the facts
19 where you can. Upon determining the facts you'll apply the
20 law that I will have provided you, and you will determine
21 whether or not the defendant has been proven guilty of a
22 crime beyond a reasonable doubt.

23 It is your exclusive duty to determine what the facts
24 are, and you do that through your own common sense
25 examination and evaluation of all of the testimony and

Jury charge

1 other evidence received during the course of this trial.

2 And you 12 jurors alone will decide what weight, value
3 and effect to give to any particular witness' testimony or
4 other evidence in the case. Your sole objective is to
5 simply render a fair and impartial decision based upon the
6 evidence presented during the trial and the law that is
7 applicable as I will have provided it to you.

8 Now, in this case, as you know, the defendant has been
9 charged with six separate and distinct criminal offenses
10 that are set forth in five separate indictments. All of
11 the offenses are alleged to have arisen out of one
12 particular event or a course of events which the state
13 alleges did occur back on October the 2nd of 2018. But
14 each of the indictments charge a crime that is separate
15 from the others.

16 You will be considering each charge contained in the
17 separate indictments individually based upon the evidence
18 that has been presented as it relates to that particular
19 charge and the law that is applicable to that particular
20 charge.

21 And so as you decide the facts and apply the law and
22 arrive at decisions, those decisions may be the same as it
23 relates to each of the indictments, or they may be
24 different. That will of course depend upon your
25 determination of the facts as they relate to the

Jury charge

1 allegations contained in a particular indictment and then
2 your application of the law as I will have provided it to
3 you.

4 But in this case, as you are aware, the defendant is
5 charged with burglary in the first degree. He's also
6 charged in a separate indictment with the crime of murder
7 and possession of a firearm during the commission of that
8 crime. In a separate indictment he is charged with
9 attempted armed robbery; in a separate indictment he is
10 charged with attempted murder; and in the remaining
11 indictment he is charged with discharging a firearm into a
12 dwelling.

13 Now, as to each of the charges contained in each of
14 those indictments, as I previously told you, the defendant
15 has entered a plea of not guilty.

16 That plea of not guilty has placed upon the state the
17 burden of proving the allegations that they have made by
18 way of each of these indictments, the burden of proving
19 each of the essential elements of the crimes that are
20 alleged in each of these separate indictments; and
21 therefore the burden is upon the state to establish the
22 defendant's guilt to your satisfaction beyond a reasonable
23 doubt before a verdict of guilty could be returned as to
24 any of the charges contained in the separate indictments.

25 The burden is never upon a defendant or a person

Jury charge

1 accused of a crime to prove that they are not guilty or to
2 prove that they are innocent because in some cases that
3 might not be possible.

4 The burden is always upon the state because they
5 brought the charge to establish the defendant's guilt
6 beyond a reasonable doubt.

7 You are further instructed that it is a vital,
8 important and cardinal rule of law that every defendant in
9 a criminal trial -- and it does not matter how serious the
10 offense might be for which that person stands charged --
11 that person shall always be presumed innocent of that
12 charge. That presumption of innocence remains with any
13 defendant, as it does with this defendant, from the time
14 that he is placed under arrest and throughout the course of
15 the criminal process and even throughout the course of the
16 actual trial in the case.

17 As I told you, that presumption of innocence will be
18 with Mr. Rogers even as go back into the jury room to begin
19 with your deliberations after I provide you with this
20 instruction. And that presumption of innocence will be
21 with him in the jury room, and it'll be with him forever
22 unless you 12 jurors determine that he is no longer
23 entitled to that presumption of innocence as it relates to
24 a particular charge.

25 In other words, after you've considered all the

Jury charge

1 evidence that relates to a particular charge and you've
2 determined the facts that relate to those allegations, and
3 after deciding the facts you apply the law that is
4 applicable to that particular charge, if you 12 jurors
5 unanimously determine that his guilt has been proven beyond
6 a reasonable doubt as to a particular charge, then he would
7 no longer be entitled to the presumption of innocence as it
8 relates to that charge. But it is only if, unless and
9 until you are satisfied of his guilt beyond a reasonable
10 doubt that the presumption of innocence would no longer be
11 applicable.

12 Now, as you know, the state has the burden of proving
13 the defendant's guilt beyond a reasonable doubt. This does
14 not mean that the state has to prove his guilt beyond all
15 doubt or beyond any possible doubt, but it does require the
16 state to prove his guilt to your satisfaction beyond a
17 reasonable doubt.

18 The term reasonable doubt should be given its plain
19 and ordinary meaning. A reasonable doubt is the kind of
20 doubt that would cause a reasonable person to hesitate to
21 act upon the information provided.

22 A defendant is entitled to any reasonable doubt that
23 arises from the evidence or lack of evidence in a case, and
24 if upon any factual issue essential to a finding of a
25 verdict of guilty you have some reasonable doubt as to how

Jury charge

1 that issue should be resolved, it is your duty to resolve
2 that reasonable doubt in favor of the defendant.

3 Now, while there are various forms of evidence such as
4 photographs, documents, charts and other types of physical
5 exhibits, there are really only two types of evidence.
6 Either or both of those types of evidence may be used
7 independently or together in order to prove some fact in
8 question. But the two types of evidence are direct
9 evidence and circumstantial evidence.

10 Direct evidence is the testimony of a person who
11 testifies from actual knowledge of that fact. It is the
12 testimony of a person who has actually perceived the
13 existence of that fact by means of his or her senses, and
14 then they come into court and they testify as to what they
15 have previously seen or heard, or felt for that matter.

16 Direct evidence proves the existence of a fact
17 directly, and it does not require any deduction or
18 inference in order to establish that fact.

19 Circumstantial evidence, on the other hand, is the
20 proof of some other fact or set of facts which taken either
21 singly or collectively may prove the existence of a fact in
22 question as a necessary consequence, that is by a deduction
23 or through an inference.

24 An inference is simply a deduction of fact that may
25 logically and reasonably be drawn from the proof of some

Jury charge

1 other fact or set of facts. In other words, it's not a
2 fact proven by the direct testimony of a witness based upon
3 their personal perception, but it is a conclusion which
4 might reasonably be drawn from the proof of other facts.
5 In other words, you may infer that a particular fact exists
6 or that a particular event occurred based upon the proof of
7 sufficient factual circumstances which would reasonably
8 warrant your arriving at a particular conclusion.

9 The commission of a crime, as well as any particular
10 element necessary to establish the commission of a crime,
11 may be proven by direct evidence; it may be proven by
12 circumstantial evidence; or it may be proven by a
13 combination of both direct evidence and circumstantial
14 evidence.

15 The law makes no distinction between the weight or the
16 value to be given to direct evidence or circumstantial
17 evidence. However, to the extent that the state relies
18 upon circumstantial evidence in order to establish the
19 commission of a crime, all of the circumstances proven must
20 be consistent with each other and when taken together point
21 conclusively to the guilt of the accused beyond a
22 reasonable doubt.

23 If those circumstances merely portray the defendant's
24 behavior as suspicious the proof is insufficient and it
25 fails. The burden rests with the state regardless of

Jury charge

1 whether the state relies upon direct evidence or
2 circumstantial evidence or some combination of both of
3 those types of evidence to prove the defendant guilty
4 beyond a reasonable doubt.

5 Proof beyond a reasonable doubt is proof that leaves
6 you firmly convinced of the defendant's guilt. There are
7 very few things in the world that we know with absolute
8 certainty, and in criminal cases the law does not require
9 proof that overcomes every possible doubt.

10 If, based upon your consideration of the evidence in
11 this case and in the exercise of good judgment and common
12 sense, you are firmly convinced that the defendant is
13 guilty of a crime for which he stands charged, then you
14 must find the defendant guilty of that crime.

15 If, on the other hand, you think there is a real
16 possibility that the defendant is not guilty of a
17 particular crime with which he stands charged, then you
18 must give him the benefit of that doubt and find him not
19 guilty of that particular charge.

20 Now, because you are the judges of the facts, you are
21 therefore necessarily the sole judges of the credibility,
22 that is the believability, of each witness that has
23 testified during the course of this trial.

24 You 12 jurors alone will decide what weight, value and
25 effect to give to any particular witness' testimony, or

Jury charge

1 even portions of that testimony. But there are a number of
2 factors which you should consider in arriving at your
3 determination as to a particular witness' credibility
4 and/or their believability, and I'm going to list those
5 factors for you.

6 You should consider the demeanor of the witness, that
7 is how the witness appeared to you when the witness was
8 testifying from the witness stand. Was the witness
9 straightforward in responding to questions, or was the
10 witness hesitant or evasive in responding to questions that
11 were posed of the witness.

12 Simply put, did the witness appear to you to be
13 telling the truth and to have knowledge of the facts to
14 which that witness has testified.

15 You should also consider whether or not the testimony
16 of a witness is consistent or is it inconsistent with that
17 witness' own testimony provided here in court or whether
18 it's consistent or inconsistent with some other statement
19 that the same witness might have made outside of court.
20 And you should consider whether or not the testimony of a
21 witness is consistent, or is it inconsistent with other
22 testimony or other evidence received during the course of
23 the trial.

24 You should also consider how the witness came to know
25 the facts to which that witness has testified. In other

Jury charge

1 words, what was that particular witness' opportunity and
2 ability to perceive the existence of those facts to which
3 that witness has testified by having previously used his or
4 her senses, and then what is that witness' ability to be
5 able to come into court and to accurately recollect to you
6 as to what they have previously perceived.

7 You should consider any bias or prejudice or interest
8 that a witness might have with regard to a case. In other
9 words, do you find some reason that a particular witness
10 would come into court and would testify one way or another
11 to help or hurt one side or the other. And you may
12 consider any interest that a witness might have in the
13 outcome if you determine that a witness does have such an
14 interest and you find that that interest would bear upon
15 that particular witness' credibility.

16 You should also consider whether or not the testimony
17 of a witness is strengthened, or is it weakened by other
18 testimony or other evidence received during the course of
19 the trial.

20 Now, because you are the judges of the facts and
21 because you are the judges of the credibility of each
22 witness that has testified you are permitted to believe as
23 much or as little of what a witness has testified to as you
24 deem is appropriate in the exercise of good judgment and
25 common sense.

Jury charge

1 And so you may believe everything that a witness
2 testified to; you may choose to believe none of it. You
3 may believe some portion of a witness' testimony and reject
4 some other portion of that same witness' testimony.

5 You could believe one witness as opposed to several,
6 or several as opposed to one. But whatever your good
7 judgment and common sense tells you is the most believable
8 and credible testimony and evidence is the testimony and
9 evidence that you should accept. And then you should
10 reject any testimony or other evidence that you find not to
11 be credible or believable.

12 Again, your sole objective is to simply render a fair
13 and impartial decision based upon the evidence presented
14 and the law that's applicable in the case.

15 The same law that provides that you are the judges of
16 the facts also provides that I am the judge of the law.
17 And that simply means that nobody is going to tell you how
18 to arrive at your determination of fact in this case. You
19 do that, as I've stated, through the exercise of good
20 judgment and common sense conscientiously applied to the
21 testimony and the evidence received during the course of
22 the trial.

23 You must however under your oath as a juror accept the
24 law as I provide it to you as being the law that you are to
25 apply in the case; and therefore you are not to concern

Jury charge

1 yourself with what you thought the law was before you came
2 to serve as a juror this week or what you think the law
3 ought to be.

4 Under your oath as a juror you must simply accept the
5 law as I provide it to you as being the law that you are to
6 apply in the case, and then you simply take that law and
7 you apply it to the facts as you 12 jurors determine those
8 facts to be based upon your review of the evidence.

9 Now, as you know, the defendant is charged with six
10 separate and distinct offenses, and so I'm going to
11 instruct you on the law as it relates to each of those
12 separate and distinct offenses.

13 You can decide the case or deliberate in the case in
14 any fashion you wish to and in any order you wish to so far
15 as these indictments are concerned. I've got to give
16 them -- the instruction to you in some order. And so I'm
17 just giving them to you in the order that I've decided.
18 But that's up to you as to how you wish to address each of
19 the separate indictments.

20 But one indictment, the first I'm going to address, is
21 the indictment charging the defendant with burglary in the
22 first degree.

23 Section 16-11-311 -- and you'll see these blue volumes
24 and red volumes behind me. Those are the Code of Laws of
25 South Carolina. Some of those volumes set forth criminal

Jury charge

1 statutes or -- and also set forth penalties for violation
2 of the statutes which constitute a crime.

3 Some criminal offenses are statutorily created. In
4 other words, the legislature prohibits us from engaging in
5 a certain type of conduct, and where we engage in that
6 conduct in violation of a statute it constitutes the crime
7 for which he can receive some form of punishment or
8 penalty. But please understand that you are never to be
9 concerned with any punishment or penalty that might result
10 from any decision that you make. That's not something that
11 you determine. Your sole obligation under your oath as a
12 juror is to determine whether or not the defendant has
13 committed a crime for which he stands charged.

14 Section 16-11-311 defines the crime of burglary in the
15 first degree. That statute provides that a person is
16 guilty of burglary in the first degree if the person enters
17 a dwelling without consent and with the intent to commit a
18 crime therein and either when effecting entry or while in
19 the dwelling or in immediate flight he or another
20 participant in the crime such as an accomplice -- and I'll
21 define that term for you later -- is armed with a deadly
22 weapon or causes physical injury to a person who is not a
23 participant in the crime or uses or threatens the use of a
24 dangerous instrument or displays what is or appears to be a
25 pistol, firearm or other deadly weapon.

Jury charge

1 So based upon the statute before you could return a
2 verdict of guilty as to the crime of burglary in the first
3 degree it would be necessary that the evidence in this case
4 has established to your satisfaction beyond a reasonable
5 doubt four essential elements.

6 First of all, the evidence must prove that the
7 defendant or an accomplice actually entered a dwelling.
8 And the term entry is defined, and an entry is an
9 indispensable element in the crime of burglary.

10 An entry is the act of going into the dwelling. It is
11 not necessary, however, that the entire body of a person
12 shall go into a dwelling. The least entry is sufficient,
13 and it may be accomplished by any part of the body or even
14 by some implement or other instrument at the discretion of
15 the person committing the entry.

16 It is not necessary that actual physical force be used
17 to accomplish the entry, nor does any door, window or other
18 barrier have to actually be opened or removed in order to
19 effect an entry.

20 As stated, it must be an entry into a dwelling. A
21 dwelling is defined as a building or a structure which is
22 used or normally used for sleeping, living or lodging by
23 any person.

24 There must be an entry of a dwelling without consent.
25 Entering without consent means to enter a dwelling without

Jury charge

1 the consent of the owner or the person in lawful possession
2 of the premises.

3 There must be an entry of a dwelling without consent
4 and with the intent to commit a crime. There must be an
5 intent to commit a crime, whether or not the crime is
6 actually committed, accomplished or completed.

7 The mere entry of a dwelling without an intent to
8 commit a crime does not constitute the crime of burglary.
9 It is only when there is an entering as I defined it
10 accompanying with an intent to commit a crime that the
11 crime of burglary is complete. And a crime of any grade or
12 severity is sufficient to satisfy this particular element
13 of the crime of burglary.

14 The term intent refers to the state of a person's mind
15 which directs his objections towards a specific object or
16 goal; and therefore the entering of a dwelling without
17 consent and with the intent to commit a crime therein
18 completes the crime of burglary.

19 Now, in order for the crime to be burglary in the
20 first degree there has to be an additional element proven
21 to your satisfaction beyond a reasonable doubt. And that
22 additional element is that the burglary has to be
23 accompanied by one of the following -- one or more of the
24 following factors. It doesn't have to be all. It could be
25 all, but it has to be at least one.

Jury charge

1 That is in order for to be -- to be a burglary in the
2 first degree the burglary has to accompany the fact that
3 the defendant or another participant in the crime was armed
4 with a deadly weapon or caused physical injury to a person
5 who was not a participant in the crime or used or
6 threatened the use of a dangerous instrument or displayed
7 what appeared to be a pistol or firearm.

8 Now, the next offense that I will address is the crime
9 of attempted armed robbery. And, obviously, attempted
10 armed robbery, you have to be attempting to commit the
11 crime of armed robbery. So I'm going to charge you as to
12 the law of armed robbery, and then I'll tell you what is
13 meant by the term attempt.

14 Section 16-11-330 of the Code of Laws defines the
15 crime of armed robbery, and it states that a person who
16 commits the crime of robbery while armed with a pistol,
17 dirk, slingshot, metal knuckles, razor or other deadly
18 weapon is guilty of the crime of armed robbery.

19 A robbery is defined as a larceny by force or the
20 threat of the use of force. A robbery is the taking of
21 another person's property with the intent to steal it from
22 the person or presence of that person by the use of force
23 or violence or by the threat of the use of force or
24 violence, that is through intimidation, in order to
25 accomplish the theft.

Jury charge

1 A robbery is the forcing of a person to surrender
2 property with the intent to steal it by using force or
3 violence or threatening the use of force or violence in
4 order to accomplish the theft.

5 A robbery becomes an armed robbery when the robbery is
6 accomplished through the use of a pistol or firearm or
7 other deadly weapon.

8 Now, attempted armed robbery. The term attempt is the
9 commission of an overt act or acts done in furtherance of
10 the intent to do a specific thing which tends towards the
11 accomplishment of the intended goal but which falls short
12 of completion.

13 An attempt to commit a crime means making an effort
14 towards or doing an act or acts which directly move towards
15 the completion of the commission of the crime which is
16 intended.

17 In this case the crime is alleged to be the crime of
18 armed robbery; and therefore before you could find the
19 defendant guilty of attempted armed robbery in this case it
20 would be necessary that the state has proven beyond a
21 reasonable doubt that the defendant or an accomplice did
22 attempt to commit the crime of robbery and at the time that
23 that attempt was committed he was armed with a pistol or
24 firearm which was being used to accomplish the crime of
25 robbery.

Jury charge

1 I'm now going to instruct you on the law as it relates
2 to the crime of murder.

3 Murder is defined in Section 16-3-10 of the South
4 Carolina Code of laws as the killing of any person with
5 malice aforethought, either expressed or implied.

6 In order for you to find the defendant guilty of the
7 crime of murder it would be necessary that the evidence in
8 this case has established to your satisfaction beyond a
9 reasonable doubt that the defendant, Shaun Rogers, Jr., or
10 an accomplice did commit some act or acts which proximately
11 caused the death of Overton Good and that the killing was
12 done with malice aforethought.

13 Malice aforethought is an essential element of the
14 crime of murder. So what is it? Well, malice as an
15 essential element of the crime of murder is a state of mind
16 connoting an ill will and having an intent to do harm.

17 It is a technical term importing wickedness and
18 excluding any just cause or legal excuse. It is something
19 which springs from depravity, from a heart devoid of social
20 duty and fatally bent on mischief. It is a state of mind
21 indicating an extreme disregard for or an extreme
22 indifference to human life.

23 Malice may be likewise defined as a state of mind
24 which indicates a formed purpose and design to do a
25 wrongful act under circumstances that exclude any legal

Jury charge

1 right to do it.

2 The words expressed and implied malice do not mean
3 different kinds of malice but merely the manner in which
4 malice may be shown to have existed, that is to say either
5 by direct evidence or by circumstantial evidence from which
6 you might infer the existence of malice.

7 Malice may be expressed as where there is an expressed
8 threat to kill or a lying in wait or where the
9 circumstances show directly that an intent to kill was
10 entertained by the killer.

11 Malice may be inferred, though no expressed intent to
12 kill is proven by direct evidence, where the facts and the
13 circumstances which have been proven by the evidence in the
14 case satisfy you beyond a reasonable doubt that malice was
15 present in the mind of the killer at the time that any
16 killing took place.

17 The existence of malice may be inferred from acts,
18 declarations and conduct of the killer, as well as from any
19 other circumstances shown to have existed at the time of
20 the event from which you might reasonably infer the
21 existence of malice, as often the state of a person's mind
22 can only be proven by circumstantial evidence.

23 Malice as an essential of the crime of murder does not
24 necessarily require proof of an ill will or a hatred
25 towards a particular person who happened to be killed, nor

Jury charge

1 does it necessarily require proof of an actual or a
2 specific intent to take human life, but rather it means a
3 state of mind accompanying conduct signifying a general
4 malignant recklessness and an extreme disregard for or an
5 extreme indifference to human life.

6 So even if the facts proven are sufficient to raise an
7 inference of malice, such an inference would simply be an
8 evidentiary fact to be taken into consideration by you 12
9 jurors along with all of the other evidence received during
10 the course of the trial. And you shall give it such
11 weight, if any, that you determine it should receive, if
12 any.

13 The state is required to prove malice, just as it must
14 prove any other essential element of the crime of murder,
15 and it is for you 12 jurors to determine whether or not
16 that has been established.

17 It also must be malice aforethought. The law does not
18 require that malice must exist for any appreciable length
19 of time before the commission of an act proximately causing
20 a fatal result. In fact, it may be conceived at the very
21 moment that the fatal act is committed.

22 It is sufficient in the law so long as the state does
23 prove beyond a reasonable doubt both the existence of
24 malice and the commission of an act or acts by the
25 defendant or an accomplice which proximately caused the

Jury charge

1 fatal result.

2 Now, while the state must prove beyond a reasonable
3 doubt that a killing did occur and that it was accompanied
4 by the element of malice aforethought in order to establish
5 the crime of murder, it is not necessary that the state
6 prove any motive for such a killing. However, there may be
7 evidence of motive introduced during the course of the
8 trial.

9 Count two of that indictment alleges possession of a
10 firearm during the commission of a violent crime. And in
11 order to be guilty of that offense, which is a separate and
12 distinct criminal offense, it must be established that at
13 the time a violent crime was committed -- in this case that
14 would be the crime of murder -- that the defendant did
15 visibly display or possess a firearm during the commission
16 of that violent crime, the crime of murder.

17 Now, I'm going to instruct you on the law as it
18 relates to the crime of attempted murder.

19 Attempted murder is also a statutory offense, and it's
20 set forth in Section 16-3-29 of the Code of Laws of South
21 Carolina. And that particular code section provides that a
22 person who, with intent to kill, attempts to kill another
23 person with malice aforethought, either expressed or
24 implied, commits the offense of attempted murder.

25 In order for you to find the defendant guilty of the

Jury charge

1 crime of attempted murder it would be necessary that the
2 evidence in this case has established to your satisfaction
3 beyond a reasonable doubt that the defendant or an
4 accomplice did with malice aforethought and a specific
5 intent to kill commit some overt act or acts in an attempt
6 to kill the individual named in the indictment. In this
7 particular case that would be Danielle Smith.

8 The term malice aforethought in relation to the crime
9 of attempted murder is the same as I have instructed you as
10 it relates to the crime of murder.

11 Again, as I previously stated when defining the term
12 attempted armed robbery, an attempt is the commission of an
13 overt act or acts done in furtherance of the intent to do a
14 specific thing which tends towards the accomplishment of
15 the intended goal but which falls short of completion.

16 Now, with respect to the crime of attempted murder,
17 unlike the crime of murder, which does not require a
18 specific intent to kill, in order to prove the crime of
19 attempted murder a specific intent to kill must be proven.

20 A specific intent to kill means that the defendant or
21 an accomplice consciously intended the commission of the
22 acts that constitute the attempt to commit the crime of
23 murder. Specific intent refers to the state of a person's
24 mind which directs his objections towards a specific object
25 or goal. In this case that would be to kill someone. That

Jury charge

1 is to commit the crime of murder.

2 The element of a specific intent to kill may be
3 inferred from acts, declarations and conduct of the killer,
4 as well as from any other circumstances established by the
5 evidence in the case from which you might reasonably infer
6 such intent as often a person's intent or state of mind may
7 only be established by circumstantial evidence.

8 And therefore in order to establish the crime of
9 attempted murder it is necessary that the evidence in this
10 case establishes that the defendant or an accomplice did
11 with malice aforethought and a specific intent to kill
12 commit some overt act or acts in the attempt to kill
13 Danielle Smith without justification or legal excuse.

14 The remaining indictment charges the defendant with
15 the discharging of a firearm into a dwelling. That's also
16 a statutory offense set forth in 16-3-440. And that
17 statute provides in its pertinent part that it is unlawful
18 for a person to discharge or cause to be discharged
19 unlawfully firearms at or into a dwelling regularly
20 occupied by persons.

21 And therefore in order to be found guilty of a
22 violation of this particular section of law it would be
23 necessary that the evidence establishes beyond a reasonable
24 doubt that the defendant or an accomplice did discharge a
25 firearm, that is did fire a bullet from a firearm at or

Jury charge

1 into a home which is normally occupied by some person.

2 Now, you've heard the term accomplice and accomplice
3 liability. And you are further instructed that one who is
4 charged with the commission of a crime may be convicted as
5 the principal offender or as an accomplice.

6 In this case the state is alleging that the defendant,
7 Shaun Rogers, Jr., is guilty of the crimes alleged against
8 him as an accomplice with another person.

9 An accomplice is one who knowingly and voluntarily and
10 with a common intent and purpose unites with the principal
11 offender in the commission of criminal acts which result in
12 the commission of a crime.

13 An accomplice is often referred to as an aider or an
14 abettor in the commission of the crime. In order to be
15 guilty as an aider or an abettor or as an accomplice a
16 person must be a participant in a crime.

17 Prior knowledge by the defendant that some person is
18 intending to commit a crime without more is not sufficient
19 to make him guilty of the crime for which he may be shown
20 to have knowledge.

21 And, likewise, the mere presence of the defendant at
22 the scene of a crime or in close proximity thereto even
23 with knowledge that another is intending to commit a crime
24 is not sufficient standing alone to prove the defendant
25 guilty of the crime as an accomplice.

Jury charge

1 In order for the defendant to be found guilty of a
2 crime under the legal theory of aiding and abetting or
3 accomplice liability it must be proven beyond a reasonable
4 doubt that the defendant was present at the scene of the
5 crime with the intention of aiding, abetting, assisting or
6 participating in the crime and in the conduct which
7 culminates in the commission of a crime.

8 It is the law that when two or more people act
9 together with a common intent and purpose and they combine,
10 plan or otherwise agree to the commission of a crime, each
11 person who is present to aid, abet, assist or otherwise
12 participate in the commission of that crime are equally
13 guilty in any crime accomplished by the efforts of all who
14 participate.

15 The hand of one is the hand of all, and the acts of
16 one are the acts of all. Any person who joins with another
17 to accomplish an illegal purpose is held to be criminally
18 responsible for everything done by any other person which
19 occurs as a natural and probable consequence of the acts
20 done pursuant to and in furtherance of a common plan or
21 purpose.

22 In order for the defendant to be found guilty under
23 the legal theory of accomplice liability it must be proven
24 that the defendant was present at the scene when a crime
25 was committed and was present at that scene with the

Jury charge

1 intention of aiding, abetting, assisting or participating
2 in the common plan or scheme which culminates in the
3 commission of the crime and not just merely present without
4 any such intent.

5 Under the legal doctrine of accomplice liability two
6 or more persons may be guilty of an unlawful homicide even
7 though only one person actually commits the act which is
8 directly responsible for the death of another, and
9 therefore where two or more persons combine or otherwise
10 agree to the commission of the crime, such as a robbery,
11 and in the commission of any criminal acts done in
12 furtherance of that crime a homicide is committed by one of
13 the participants which is a natural and probable
14 consequence of those acts done in furtherance of a common
15 plan, all who are present and are participating in the
16 criminal acts are equally as responsible as the one whose
17 acts directly caused the fatal result.

18 The common purpose may not have been to kill anyone at
19 all, but if, during the commission of a criminal offense, a
20 homicide is committed by one of the participants which is a
21 natural and probable consequence of the acts done in
22 furtherance of the common plan, each person who is present
23 aiding, abetting, assisting and participating in the common
24 design are equally guilty of any homicide committed by any
25 one of the participants. Again, the hand of one is the

Jury charge

1 hand of all, and the acts of one are the acts of all.

2 Any criminal offense requires the presence of criminal
3 intent, and a criminal intent is a mental state of
4 conscious wrongdoing in contrast to the commission of an
5 act which is the result of accident, mistake or
6 inadvertence.

7 As I have stated previously, any intent may be proven
8 by acts, declarations and conduct of the defendant, as well
9 as any other circumstances which are established by the
10 evidence in the case from which you might reasonably infer
11 any such intent, as often the state of a person's mind may
12 only be established by the use of circumstantial evidence.

13 You are further instructed, and I emphasize to you,
14 that the fact that a defendant does not take the witness
15 stand and testify during the course of a criminal trial is
16 not a fact or circumstance that you may allow to weigh in
17 the slightest degree against a defendant.

18 As I've told you, the burden is always upon the state
19 because they've made the accusation and they brought the
20 charge to prove the defendant's guilt beyond a reasonable
21 doubt.

22 The burden is never upon a defendant or a person
23 accused of a crime to prove that they are not guilty or to
24 prove that they are innocent because in some cases that
25 might not be possible.

Jury charge

1 Therefore you are not to draw any inference or reach
2 any conclusion from the fact that a defendant does not
3 testify during the trial of a criminal case, nor may you
4 allow that fact to influence your decision, nor may you
5 even discuss that fact during your deliberations in this
6 case.

7 Now, ladies and gentlemen, I am not in any way
8 concerned with what your decisions are, but any decision
9 that you reach has to be the unanimous and consensus
10 opinion of all 12 of you jurors.

11 And, Madam Forelady, as you know, you're going to be
12 tasked with the responsibility of presiding over jury
13 deliberations in the jury room simply to ensure that those
14 deliberations are carried out in some orderly fashion, but
15 all jurors are expected to participate in those
16 deliberations because, as I've stated, the verdict or any
17 decision rendered has to be the unanimous and consensus
18 opinion of all 12 jurors.

19 Now, Madam Forelady, you're going to have the
20 indictments, along with the evidence which has been
21 introduced.

22 The indictments are not proof of anything. The
23 indictments are not evidence, but the indictments are
24 simply there so that you understand what the charge is that
25 has been brought against the defendant, and the indictment

Jury charge

1 will serve as the verdict form as it relates to that
2 particular charge.

3 You will notice on the back of each indictment in the
4 lower left-hand corner there's the word verdict. It's
5 beneath that word that you're going to indicate the jury's
6 unanimous decision as it relates to that particular charge.

7 With respect to each of the indictments you have two
8 potential verdict forms, and those potential two verdict
9 forms are guilty and not guilty. So whatever that decision
10 is as it relates to that particular charge, you will insert
11 that verdict form in the space provided.

12 You will also sign your name as the foreperson.
13 You're the only juror that will be signing the verdict
14 forms. And you will also place the appropriate date, and
15 today is the 9th of October.

16 Now, during deliberations there may come a time where
17 you have some question about the evidence or about the
18 facts that relate to the case.

19 I am never permitted to comment about the facts or
20 about the evidence, and all of the evidence that's going to
21 be introduced in the trial of this case has been
22 introduced. So no additional evidence can be received now
23 that the case has been closed and is going to be submitted
24 to you for your deliberations.

25 So while you go back you and you're deliberating if

Jury charge

1 you have a question about the evidence or the facts, I
2 can't answer those.

3 If you think there's something else out there that
4 would help you make a decision and you'd like to know if
5 you can have it, you can't, because it has not been
6 introduced. Everything that's been introduced is here.
7 And we'll verify it before it goes back. And so if there's
8 something you thought was introduced but you don't have it,
9 you let me know of that fact. But everything should be
10 back there, because we'll verify the exhibits before they
11 go back.

12 So if there's something that was not introduced, no
13 point in inquiring about it, because even if it did exist
14 and would help you, it can't be introduced now.

15 If you have a question about testimony of a witness
16 and you think rehearing that testimony will help you answer
17 that question, we can bring you back into the courtroom to
18 have testimony replayed in its entirety, or just a portion
19 of it if that's all you need.

20 I don't have transcripts to send back for -- you know,
21 as you go back to deliberate. But if you do wish to hear
22 the testimony of a witness replayed, I can bring you back
23 into the courtroom for that witness' testimony to be
24 reheard by you.

25 Now, this instruction on the law was a long

Jury charge

1 instruction, and there was a lot of information there, but
2 it's the law that has to be applied, and you have to apply
3 it.

4 So if, during your deliberations, you ever have a
5 question about the law that you are to apply and you need a
6 complete re-instruction or you need an explanation as to
7 some point of law or you need a clarification about the law
8 that you are to apply, I am permitted to answer those
9 questions. So I can always give you a re-instruction, a
10 clarification or an explanation about the law that you are
11 to apply. So if you have a question about the law, you let
12 me know and I'll respond accordingly.

13 If at any time you have a question or a matter that
14 needs to be addressed to me, Madam Forelady, if you'll
15 write it on a piece of paper, give it to the bailiff, he or
16 she will give it to me, and then I'll respond to your
17 question or issue.

18 If we have smokers on the jury, you may smoke during
19 deliberations, but you cannot smoke in the courthouse. You
20 have to go outside. So if you do want to smoke, let the
21 bailiff know. They'll take you outside to accomplish that
22 purpose.

23 However, understand that deliberations may not take
24 place unless all 12 jurors are present in the jury room so
25 that all may participate. So if at any time a juror is

Jury charge

1 absent for an authorized reason, deliberations have to
2 stop. They can only resume when all 12 are present so that
3 all may participate.

4 Your lunches have been ordered, and as soon as they
5 arrive they'll be provided to you. You can stop and eat
6 and then resume deliberations, or you can eat while you
7 deliberate. I'll leave it up to you. That's in your
8 discretion. You'll decide how you want to handle that.

9 Now, I'm hoping that that's going to cover everything
10 that I needed to cover with you. However, if I failed to
11 provide you with some information that I should have, I'm
12 sure one of these lawyers will remind me of that fact. And
13 if I do need to bring you back, I'll do so and provide you
14 with that additional information.

15 If I do not need to bring you back for any reason,
16 I'll send word by way of the bailiff that you may begin
17 with your deliberations. And in that event he will bring
18 to the jury room all of the exhibits which have been
19 introduced.

20 And to you, Madam Forelady, he'll also bring the
21 indictments which will serve as the verdict forms.

22 Now, there are some D.V.D.s which have been played,
23 and so you'll have a computer back there so you can play
24 those if you need to. If for some reason the computer
25 doesn't work or you can't get it to work, let us know.

Jury charge

1 We'll help you with that.

2 Ms. Champion, as the alternate juror I'm going to ask
3 you to stay in the courtroom with me.

4 I'll ask the 12 primary jurors to please retire to
5 your jury room. But do not begin deliberations until I
6 send you word to do so.

7 (Whereupon, the jury retired to deliberate at
8 12:52 p.m.)

9 THE COURT: Ms. Champion, as you know, you can't
10 participate in deliberations because the original 12 jurors
11 are apparently able to do that.

12 So that's going to conclude your service in the trial
13 of this case. And we appreciate your time and the
14 attention that you devoted to it.

15 I anticipate selecting another jury this afternoon
16 beginning at 2:30. So I'm going to give you a choice since
17 you have participated in a trial. You can come back at
18 2:30 and perhaps be selected again. If you would rather, I
19 will permit you to be excused for the balance of today, and
20 you'll simply call back tonight to see when and if you need
21 to come back.

22 Do you know what your preference is about that?

23 THE JUROR: I can call back tonight if it's okay.

24 THE COURT: So you'd like to be excused for today?

25 THE JUROR: Yes, sir.

Jury charge

1 THE COURT: Okay. Did you order lunch? I am guessing
2 you did.

3 THE JUROR: I think she told me to go ahead in case it
4 didn't --

5 THE COURT: Yeah. All right. Well, I don't know how
6 long it's going to take for that to get here. Oh, it may
7 be here. So what we'll do, we'll give you your lunch, and
8 you can eat it here or you can take it home or you can take
9 it to the car. You can do what you want to with it. Don't
10 throw it away. But you can do what you want about that.
11 But you don't have to stay if you don't want to. Okay.

12 THE JUROR: Okay.

13 THE COURT: Thank you again for your help.

14 THE JUROR: Thank you.

15 THE COURT: Are there any exceptions taken to the
16 instruction or requests for additions to the instruction by
17 the state?

18 MR. BARNETTE: None from the state, Your Honor.

19 THE COURT: By the defendant?

20 MR. SCHULTZ: None from the defense.

21 THE COURT: All right. Let me ask y'all to verify the
22 exhibits, please.

23 (Pause.)

24 THE COURT: Are all of the exhibits which were
25 introduced during the trial accounted for?

Jury charge

1 MR. BARNETTE: Yes, sir.

2 MR. SCHULTZ: They are, Your Honor. We verified that.

3 THE COURT: Send the exhibits back, and the verdict
4 forms, and tell the jury to begin deliberations and notify
5 us when they've concluded.

6 We'll be at ease while the jury is deliberating.

7 (Whereupon, a recess was taken.)

8 (Questions from the jury marked Court's Exhibits Nos. 3
9 and 4.)

10 THE COURT: All right. Are we ready for the jury?

11 MR. BARNETTE: The state is ready, Your Honor.

12 MR. SCHULTZ: The defense is ready.

13 THE COURT: Bring them in.

14 (Whereupon, the jury returned to the courtroom at
15 2:53 p.m.)

16 THE COURT: Madam Forelady and ladies and gentlemen, I
17 have the questions that you have asked regarding the
18 application of the law.

19 Now, the first question related to what would be
20 considered a factual question or evidentiary question, and
21 I can't answer that question.

22 If it was not presented -- in other words, if the
23 answer to that question was not presented by way of
24 testimony or other evidence, I can't respond to it now and
25 I can't answer the question now. And that was the question.

Jury charge

1 about what day the firearm had been recovered.

2 You've also asked for me to reinstruct you on the law
3 as it relates to the doctrine of accomplice liability,
4 which I'm going to do.

5 You've also asked a question about what constitutes
6 possession of a firearm, and I'll instruct you on that
7 after the instruction on accomplice liability.

8 Okay. Now, with regard to accomplice liability, one
9 who is charged with the commission of a crime may be
10 convicted as the principal offender or as an accomplice.
11 And in this case the state is alleging that the defendant,
12 Shaun Rogers, Jr., is guilty of the crimes set forth in the
13 indictments as an accomplice with another.

14 An accomplice is one who knowingly and voluntarily and
15 with a common intent and purpose unites with the principal
16 offender in the commission of criminal acts which result in
17 the commission of a crime.

18 An accomplice is often referred to as an aider or an
19 abettor in the commission of a crime. In order to be
20 guilty as an aider or an abettor or as an accomplice a
21 person must be a participant in the crime.

22 Prior knowledge by the defendant that some person is
23 intending to commit a crime without more is not sufficient
24 to make him guilty of the crime of which he may be shown to
25 have knowledge. And, likewise, the mere presence of the

Jury charge

1 defendant at the scene of a crime or in close proximity
2 thereto even with knowledge that another is intending to
3 commit the crime is not sufficient standing alone to prove
4 the defendant guilty of the crime as an accomplice.

5 In order for the defendant to be found guilty of a
6 crime under the legal theory of aiding and abetting or
7 accomplice liability it must be proven beyond a reasonable
8 doubt that the defendant was present at the scene of the
9 crime with the intention of aiding, abetting, assisting or
10 participating in the common plan or scheme which culminates
11 in the commission of the crime.

12 It is the law of this state that when two or more
13 people act together with a common intent and purpose and
14 they combine, plan or otherwise agree to the commission of
15 a crime, each person who is present to aid, abet, assist or
16 otherwise participate in the commission of that crime are
17 equally guilty of any crime accomplished by the efforts of
18 all who participate.

19 The hand of one is the hand of all, and the acts of
20 one become the acts of all. Any person who joins with
21 another to accomplish an illegal purpose is held to be
22 criminally responsible for everything done by another
23 person which occurs as a natural and probable consequence
24 of the acts done pursuant to and in furtherance of the
25 common plan or purpose.

Jury charge

1 In order for the defendant to be found guilty of a
2 crime under the legal theory of aiding and abetting or
3 accomplice liability it must be proven that the defendant
4 was present at the scene when a crime was committed and was
5 present at the scene with the intention of aiding,
6 abetting, assisting or participating in the plan or scheme
7 which culminates in the commission of the crime and not
8 just merely present without such an intent.

9 Under the theory of accomplice liability two or more
10 persons may be guilty of an unlawful homicide even though
11 only one person actually commits the act which is directly
12 responsible for the death of another. And therefore where
13 two or more persons combine or otherwise agree to the
14 commission of a crime, such as a robbery or any other
15 crime, and in the commission of criminal acts done in
16 furtherance of that crime a homicide is committed by one of
17 the participants which is a natural and probable
18 consequence of those acts done in furtherance of the common
19 plan, all who are present and participating in those
20 criminal acts are equally as responsible as the one whose
21 acts directly caused the fatal result.

22 The common purpose may not have been to kill anyone at
23 all, but if, during the commission a criminal offense, a
24 homicide is committed by one of the participants which is a
25 natural and probable consequence of the acts done in

Jury charge

1 furtherance of the common plan, each person who is present
2 aiding, abetting, assisting and participating in the common
3 design are equally guilty of any homicide committed by one
4 of the participants. The hand of one is deemed to be the
5 hand of all; the acts of one are deemed to be the acts of
6 all.

7 Now, with regard to your question about the possession
8 of an item -- in this case a weapon -- possession of a
9 weapon may be actual or constructive. Actual possession
10 means the weapon is in the actual physical custody of the
11 person charged with its possession.

12 Constructive possession occurs when one does not have
13 actual physical custody of the weapon but has knowledge of
14 the presence of the weapon and the intent to exercise
15 dominion and control over the weapon.

16 The element of intent to exercise dominion and control
17 over the weapon may be proven where it is established that
18 the defendant had knowledge that another had actual
19 possession of the weapon and it is proven that the
20 defendant is an accomplice in the commission of a crime
21 committed with another who actually physically possessed
22 the weapon.

23 Okay. All right. Please retire, and if you have
24 further questions, please let me know.

25 (Whereupon, the jury retired to deliberate at

Jury charge

1 3:00 p.m.)

2 THE COURT: All right. We'll be at ease while the
3 jury continues to deliberate.

4 Any exceptions taken from the instruction?

5 MR. BARNETTE: None from the state, Your Honor.

6 MR. SCHULTZ: None from the defense.

7 (Whereupon, a recess was taken.)

8 (Question from the jury marked Court's Exhibit No. 5.)

9 THE COURT: All right. Bring the jury in, please.

10 (Whereupon, the jury returned to the courtroom at 3:42
11 p.m. to report its verdict.)

12 THE COURT: Madam Forelady, I understand based upon
13 the note that you have sent to me that you and your fellow
14 jurors have reached a unanimous decision on two of the
15 indictments.

16 THE FOREPERSON: Yes, sir.

17 THE COURT: And that you have been unable to render a
18 unanimous decision on the other three indictments.

19 THE FOREPERSON: That's correct.

20 THE COURT: Four charges but three indictments.

21 THE FOREPERSON: Correct.

22 THE COURT: Have you indicated the jury's unanimous
23 decision on the ones that have been concluded?

24 THE FOREPERSON: Yes, sir.

25 THE COURT: All right. Now, with regard to those

Verdict

1 indictments and those charges that the jury has not reached
2 a unanimous decision, do you feel like that any further
3 deliberations would assist you in being able to arrive at a
4 unanimous decision?

5 THE FOREPERSON: No, sir. I've asked the jury that
6 question, and we do not think we would be able to.

7 THE COURT: Okay. Do any jurors think if you
8 continued to deliberate that you would be able to render a
9 unanimous decision?

10 (No response.)

11 THE COURT: All right. I have nobody raising.
12 Madam Forelady, would it be your view that the jury is
13 hopelessly deadlocked as to the other charges?

14 THE FOREPERSON: Yes, sir.

15 THE COURT: Does any juror disagree with the
16 foreperson's opinion?

17 (No response.)

18 THE COURT: All right. None have indicated in the
19 affirmative.

20 All right. Ma'am, if you will, please hand the
21 verdict forms up by way of the bailiff.

22 THE CLERK: 2019-GS-11-694, the State of South
23 Carolina vs. Shaun Rogers, Jr., indictment for burglary
24 first degree, the verdict is guilty. Signed by foreperson,
25 Lynn Blackwell.

Verdict

1 2019-GS-11-691, the State vs. Shaun Rogers, Jr.,
2 indictment for attempted armed robbery, the verdict is
3 guilty. Signed by foreperson, Lynn Blackwell.

4 Ladies and gentlemen of the jury, if this is the
5 verdict of you all, please indicate by raising your right
6 hands.

7 (Whereupon, all jurors responded in the affirmative.)

8 THE CLERK: Thank you.

9 THE COURT: Does the defendant wish to have the jury
10 polled?

11 MR. SCHULTZ: Yes, sir.

12 THE COURT: All right. Poll the jury, please, ma'am.

13 THE CLERK: When I call your name and juror number, if
14 you'll just raise your right hand, I'm going to ask you if
15 this is your verdict. Then you'll respond yes or no.

16 Juror 90, Kristen Owens, is that your verdict? You'll
17 need to respond out loud.

18 THE JUROR: Yes.

19 THE CLERK: Okay. Thank you.

20 Juror 22, Crystal Cobb.

21 THE JUROR: Yes.

22 THE CLERK: This is your verdict.

23 Juror 32, Chasity Elliott, is this your verdict?

24 THE JUROR: Yes.

25 THE CLERK: Juror 27, is it Michaela Crowe?

Verdict

1 THE JUROR: Michaela.

2 THE CLERK: Michaela Crowe. Is this your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Juror 140, Christopher White, is this your
5 verdict?

6 THE JUROR: Yes.

7 THE CLERK: Juror 3, Sharon Bailey, is this your
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Juror 69, Stacy Longshore, is this your
11 verdict?

12 THE JUROR: Yes.

13 THE CLERK: Juror 99, John Phillips, is this your
14 verdict?

15 THE JUROR: Yes.

16 THE CLERK: Juror 7, Lynn Blackwell, is this your
17 verdict?

18 THE JUROR: Yes.

19 THE CLERK: Juror 31, Cordelia Earls, is this your
20 verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror 134, Randall Upchurch, is this your
23 verdict?

24 THE JUROR: Yes.

25 THE CLERK: Juror 86, Cassey Nix, is this your

Verdict

1 verdict?

2 THE JUROR: Yes.

3 THE CLERK: Is there anyone that I did not call your
4 name?

5 (No response.)

6 THE CLERK: All right.

7 THE COURT: All right. Any other matters to be
8 addressed with the jury present?

9 MR. BARNETTE: None from the state, Your Honor.

10 MR. SCHULTZ: None from the defense.

11 THE COURT: All right. Thank you for participation in
12 the trial of this case. That's going to conclude your
13 service for today. That's going to conclude your service
14 for the week. The balance of the week will be taken up
15 with nonjury matters. And so you won't need to call back
16 or come back.

17 So I do want to thank you for your participation this
18 week and for your willingness to serve if called upon. I
19 hope it has not been too much of a hardship on you, and I
20 do sincerely hope that it has been an educational and a
21 beneficial experience for you.

22 So thanks again for your help. If you'll go to the
23 jury room one more time the clerk will bring you your pay
24 voucher.

25 (Whereupon, the trial jury was excused.)

Verdict

1 THE COURT: Do either of you have you any reason to
2 give me as to why a mistrial should not be declared as to
3 Indictments 19-00690, 00692 and 00693 -- murder, attempted
4 murder and discharging a firearm into a dwelling?

5 MR. BARNETTE: I see no reason at this time. They
6 could not reach a verdict, Your Honor. We'll be able to
7 retry it at a later date.

8 MR. SCHULTZ: I see no reason, Your Honor.

9 THE COURT: Okay. Mistrial is declared in those three
10 indictments.

11 MR. SCHULTZ: Thank you, Your Honor.

12 THE COURT: We'll take ten minutes while y'all prepare
13 the sentencing documents.

14 (DVD marked Court's Exhibit No. 6; DVD marked Court's
15 Exhibit No. 7; summary by Investigator Brandon Gardner
16 marked Court's Exhibit No. 8.)

17 (Whereupon, a recess was taken.)

18 MR. BARNETTE: May it please the Court, Your Honor.

19 This is the case of State vs. Shaun Rogers, Jr. Your
20 Honor, he was found guilty just shortly -- well, this
21 afternoon. And there's been a period of time between
22 these.

23 Your Honor, he was found guilty of burglary first on
24 19-GS-11-694, Your Honor, and also found guilty by the jury
25 on 19-GS-11-691, Your Honor.

Guilty plea and sentence

1 Your Honor, he is going to plead guilty on the
2 following indictments under North Carolina vs. Alford:
3 19-GS-11-690, Your Honor. The first count was for murder.
4 Your Honor, he is pleading guilty to voluntary manslaughter
5 on that.

6 He's also pleading to count two on the indictment,
7 possession of a weapon during a violent crime. He is also
8 pleading guilty on 91-GS-11-692 [sic], Your Honor. That's
9 for attempted murder.

10 Then 19-GS-11-693, Your Honor, discharging a firearm
11 into a dwelling. Your Honor, these are straight-up pleas
12 to this, Your Honor, in this case.

13 Your Honor, I know you've heard the facts of the case.
14 What I'd like to do is move all of the exhibits. I think
15 there was 53 exhibits, as well as all of the testimony and
16 evidence in the case, as part of this guilty plea also.

17 And then I've also got three other exhibits to add to
18 that to make that part of the facts and evidence for this
19 guilty plea, Your Honor.

20 I have Court's Exhibit 6, Your Honor, which is an
21 interview with Jeremy Jefferies, the first one. That was
22 Investigator Gardner with him on that one, Your Honor.

23 And then Court's Exhibit 7, Your Honor, is also an
24 interview by Captain Ward that was done with Mr. Jefferies,
25 the codefendant.

Guilty plea and sentence

1 Your Honor, I'd like to make both of those part of the
2 facts and exhibits of this, and evidence, in this plea,
3 Your Honor, as well as Court's Exhibit 8, Your Honor, which
4 is a summary done by Investigator Gardner in this case,
5 Your Honor. It consists of nine pages, Your Honor. And
6 I'd like to make that part of the evidence and exhibits in
7 this case, as well as the facts of the case also for this
8 guilty plea, Your Honor.

9 I don't think there's any objection to those items.
10 They've been provided in discovery, Your Honor.

11 MR. SCHULTZ: No objection, Your Honor.

12 MR. BARNETTE: May I pass these up to Your Honor?

13 THE COURT: Sure.

14 MR. BARNETTE: I didn't know if you wanted the summary
15 or not, Your Honor.

16 THE COURT: All right. You are Shaun Rogers, Jr., and
17 Mr. Schultz is your lawyer. And of course you understand
18 why we're here, having participated in the trial of this
19 case.

20 I have before me three indictments charging you with
21 four separate and distinct offenses. These are four of the
22 offenses for which you stood trial and for which a jury was
23 unable to render a decision.

24 Indictment 2019-00690 charges you with the crimes of
25 murder and possession of a firearm during the commission of

Guilty plea and sentence

1 a violent crime.

2 The solicitor has indicated that he has offered to
3 allow you to enter a plea of guilty if you wish to to the
4 lesser included offense of voluntary manslaughter in count
5 one and that you would also plead guilty to possession of a
6 firearm during the commission of that violent crime,
7 voluntary manslaughter being a violent crime.

8 Has Mr. Schultz been over that indictment with you and
9 also explained to you about the lesser included offense of
10 voluntary manslaughter?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand it?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And of course before today you talked to
15 Mr. Schultz at length about the case that's brought against
16 you.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And you've explained to him everything you
19 know about the allegations made against you?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And did y'all discuss the possibility that
22 you have a defense to the charge of voluntary manslaughter?

23 THE DEFENDANT: Repeat again, please.

24 THE COURT: Did y'all discuss the possibility that you
25 have a defense --

Guilty plea and sentence

1 THE DEFENDANT: Yes, sir.

2 THE COURT: -- to the charge of voluntary
3 manslaughter?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And did you determine whether or not you
6 did?

7 THE DEFENDANT: Say that again, sir.

8 THE COURT: Are you aware of any defense that you have
9 to the charge of voluntary manslaughter?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. And what defense do you have
12 to that charge?

13 THE DEFENDANT: I have none.

14 MR. SCHULTZ: Your Honor, if I may. I've been over
15 these questions with Mr. Rogers. He seemed to understand
16 that. I would ask if the Court could maybe give him that
17 question again.

18 THE COURT: Well, did you discuss with him the
19 possibility of a defense to the charge of voluntary
20 manslaughter?

21 MR. SCHULTZ: I did, Your Honor.

22 THE COURT: And did y'all determine that he did or did
23 not have one?

24 MR. SCHULTZ: He does not.

25 THE COURT: He does not have a defense to the charge?

guilty plea and sentence

1 MR. SCHULTZ: He does not have a defense to the
2 charge.

3 THE COURT: Okay. Well, I understood that he was
4 pleading guilty pursuant to North Carolina vs. Alford.

5 MR. SCHULTZ: Your Honor, we do not have to do Alford
6 right now. I went over that with my client.

7 THE COURT: So it's not.

8 MR. SCHULTZ: It's not. It's not an Alford plea.

9 THE COURT: Okay. So he's entering an actual plea to
10 voluntary manslaughter.

11 MR. SCHULTZ: Yes, sir.

12 THE COURT: Okay. All right. So, Mr. Rogers, do you
13 understand what the state would have to prove in order for
14 you to be convicted of that lesser included offense?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And did Mr. Schultz explain to you that if
17 you were convicted of it or if I accept your plea of guilty
18 to it you could receive a sentence of up to 30 years on the
19 voluntary manslaughter and an additional five years on the
20 possession of a weapon during the commission of that
21 violent crime?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I also have before me Indictment
24 2019-00692. That indictment charges you with attempted
25 murder. And, as you are aware, the state alleges that on

Guilty plea and sentence

1 October the 2nd of 2018 you did with intent to kill or
2 acting in concert with another attempt to kill Danielle
3 Smith by shooting at her with a firearm.

4 Attempted murder also carries a potential sentence of
5 up to 30 years in jail. Do you understand that charge and
6 the potential punishment?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Are you aware of any defense that you have
9 to that charge?

10 THE DEFENDANT: No, sir.

11 THE COURT: And do you know of any defense that you
12 have?

13 THE DEFENDANT: No, sir.

14 THE COURT: Do you understand a defense is some reason
15 based upon the facts or the circumstances, as well as
16 perhaps the law or all of it -- but a defense is a reason
17 why you should not actually be found guilty or why you are
18 actually not guilty of some crime the state claims you
19 committed. So you're telling me that you have no defense,
20 that you are guilty of the crimes to which you are now
21 pleading guilty?

22 THE DEFENDANT: I have a defense, but, at the same
23 time, I don't feel like I could win a trial with it.

24 THE COURT: Well, I thought you told me that you
25 didn't have a defense to it.

Guilty plea and sentence

1 (Pause to confer with counsel.)

2 MR. SCHULTZ: Your Honor, if I may. I know I just
3 said -- and this is my fault, Your Honor. I know I just
4 said a couple of minutes ago that the plea wouldn't be
5 taken under Alford. I think it's probably better to do it
6 under Alford. That's my fault, Your Honor. That's not my
7 client's fault.

8 THE COURT: I'm not blaming him. I'm just trying to
9 find out answers to the questions.

10 Okay. Let's -- I guess we'll have to start back again
11 then.

12 Mr. Rogers, a defense, as I've just stated -- when
13 somebody's charged with a crime they may be guilty of the
14 crime, they may be not guilty of the crime. They may have
15 a defense to a charge, whether it be a legal defense or a
16 factual defense or both. But a defense is a reason based
17 upon the facts and the law as to why you should not
18 actually be found guilty of some crime the state claims you
19 committed.

20 Now, in this case do you have a defense to the charge
21 of manslaughter?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You do? All right. What is it?

Guilty plea and sentence

1 THE DEFENDANT: It was proof that I didn't kill
2 anybody.

3 THE COURT: It was what?

4 THE DEFENDANT: It was proof that I haven't shot a gun
5 and killed anyone.

6 THE COURT: All right. And do you understand that the
7 way I understood it from the trial earlier is that nobody's
8 claiming that you shot the gun? They're claiming that
9 Jermaine Jefferies shot the gun. They're just claiming
10 that you were acting as an accomplice with Mr. Jefferies.

11 Are you pleading guilty to voluntary manslaughter
12 based upon the fact that you were an accomplice with
13 Mr. Jefferies, or do you deny being an accomplice with
14 Mr. Jefferies?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Well, I gave you alternative responses, so
17 you've got to pick one or the other.

18 (Pause to confer with counsel.)

19 THE DEFENDANT: I'm pleading guilty to accomplish
20 [sic] -- Mr. Jefferies.

21 THE COURT: You're pleading guilty as an accomplice to
22 Mr. Jefferies?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So you are admitting that you aided,
25 abetted, assisted and participated with Mr. Jefferies in

Guilty plea and sentence

1 the killing of Overton Good? You're just not the person
2 who fired the weapon?

3 (Pause to confer with counsel.)

4 MR. SCHULTZ: Your Honor, if I may.

5 THE COURT: Okay.

6 MR. SCHULTZ: My client just relayed to me -- and this
7 is the defense we obviously used at trial -- that he did
8 not know anything about it, about the actual shooting or
9 the shooting was about to take place.

10 THE COURT: All right. So then, Mr. Rogers, am I to
11 understand then your position is that you do have a defense
12 to the charge of manslaughter because you were not with
13 Mr. Jefferies for the purpose of participating in the
14 killing of Overton Good?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You admit that you were with Mr.
17 Jefferies?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You're just stating that you did not
20 intend to commit a crime, nor did you intend to assist him
21 in the commission of a crime.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Well, you understand that's a
24 defense to a criminal charge? And if that defense were
25 established to the satisfaction of a jury or if a jury in

guilty plea and sentence

1 considering that defense had a reasonable doubt as to
2 whether or not you were guilty of the charge of murder or
3 voluntary manslaughter, then the jury has to resolve that
4 doubt in your favor, and they'd have to find you not
5 guilty. Do you understand?

6 THE DEFENDANT: Okay.

7 THE COURT: All right. Well, do you understand if you
8 plead guilty you give up your right to assert any defense
9 that you have?

10 In other words, you've told me what the defense is,
11 but you understand if you plead guilty having that defense
12 will not today result in any not-guilty verdict.

13 In fact, it will result in a guilty decision because
14 you will have pled guilty to the charge, notwithstanding
15 you claim to have a defense to it, the point being, as I
16 feel sure that Mr. Schultz has explained to you, when you
17 plead guilty to a criminal charge, even when you plead
18 guilty pursuant to North Carolina -- or plead guilty
19 pursuant to North Carolina vs. Alford even though you deny
20 your guilt, when you plead guilty you still authorize me to
21 impose a sentence just as if you had pled guilty and
22 admitted everything they claimed you did or just as if you
23 had denied your guilt and had a jury trial and,
24 notwithstanding that fact, a jury found you guilty. I
25 would still be able to -- I would still be authorized to

Guilty plea and sentence

1 impose a sentence. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Well, do you still wish to go forward and
4 plead guilty to voluntary manslaughter and possession of a
5 weapon during the commission of that violent crime pursuant
6 to North Carolina vs. Alford?

7 (Pause to confer with counsel.)

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay.

10 MR. BARNETTE: We would like to go forward on the
11 other two, Your Honor.

12 THE COURT: Yeah. We'll proceed with sentencing on
13 the other two.

14 MR. BARNETTE: Yes, sir.

15 THE COURT: All right. I have before me Indictment
16 2019-00694. That's an indictment for burglary in the first
17 degree wherein you have been convicted by the jury of that
18 offense.

19 And I also have before me Indictment 2019-00691, an
20 indictment for attempted armed robbery, wherein you have
21 been found guilty by a jury of having committed that ,
22 offense.

23 Does the state have any additional information you'd
24 like to provide me with respect to those charges?

25 MR. BARNETTE: Your Honor, I know Mr. Good wants to --

Sentence

1 the only thing I would comment is obviously this action led
2 to the death of an individual, Overton Good, in this
3 situation, and also what happened to Danielle Smith. And I
4 know you heard from both of them earlier.

5 Mr. Good would like to address the Court on this
6 issue.

7 THE COURT: All right. Mr. Good. Actually Mr. Good.

8 RICHARD GOOD, SR.: Good afternoon, Your Honor.

9 MR. BARNETTE: I'm sorry.

10 RICHARD GOOD, SR.: Good afternoon, Your Honor.

11 My name is Richard Good, Sr., and I'm standing on
12 behalf of my son, Overton Good.

13 372 days ago this individual along with another person
14 took away my son from us, his family. And I'm here to
15 stand for him. This is my day here to stand for him. But
16 my biggest -- here to feel, touch, talk, everything to
17 their son. I can't. I'm going to leave here and go out to
18 the graveyard and talk to him. I can't touch him, I can't
19 hear him, anything. So on behalf of my family, the state,
20 city and the people, give the man the full extent of the
21 law. Thank you.

22 THE COURT: Thank you, Mr. Good.

23 Anyone else?

24 MR. BARNETTE: I don't think so, Your Honor. You've
25 heard from everybody else, and they stand up here asking

Sentence

1 the Court for justice.

2 THE COURT: All right. Mr. Schultz.

3 MR. SCHULTZ: Thank you, Your Honor. May it please
4 the Court.

5 You obviously heard the facts of the case the last few
6 days here. The -- we are before you right now on a
7 burglary first and also the attempted armed robbery.

8 Your Honor, I am asking for a couple of things here
9 today.

10 Number one I want the record to reflect that my client
11 has been in jail now 372 days.

12 Mr. Rogers has been an ideal client in all respects.
13 I have spoken to him several, several times, numerous
14 times. He's just one of my favorite clients. Always has a
15 kind word to say about me or his family.

16 Last weekend, weekend before last, we probably spent
17 about seven hours going over all of the body cam and dash
18 cam footage that was in this -- in this plea. I think -- I
19 think we probably went over about ten or eleven D.V.D.s at
20 various lengths. And so I've spent a lot of time going
21 over everything with him.

22 Obviously, Your Honor, this was a very emotional trial
23 for both parties involved. He has several -- Mr. Rogers
24 has several support there in the audience, there.

25 Like I said, Your Honor, he's been in jail since this

Sentence

1 charge happened. He's been to bond hearings and things
2 like that. And I believe that in the future, I think
3 Mr. Rogers will refrain from hanging out with the likes of
4 anybody like Jermaine Jefferies.

5 Your Honor, I don't want to get into the facts too
6 much about this because you've heard them. Jermaine
7 Jefferies -- he was the shooter.

8 As I put on the record there today, I think this
9 morning, I spoke briefly with Mr. Jefferies and for about
10 ten minutes. Mr. Vieth allowed me to talk to Mr. Jefferies
11 and Mr. Jefferies -- I don't like to say this about a
12 fellow human being, but he's a scary individual. I
13 don't -- I don't know what went through his head doing this
14 very, very heinous act. But Mr. Jefferies just gave me the
15 chills when I spoke to him just for a very brief time back
16 in the jail room there.

17 Mr. Jefferies, as the Court knows, has already
18 accepted responsibility for being the shooter. He is at
19 least going to receive a sentence of 30 years, and I think
20 that he deserves more, but that's just me. And probably
21 the Goods feel that he deserves more. But he at least is
22 going to be serving 30 years day for day.

23 Your Honor, the evidence indicates that my client was
24 the driver that day. The evidence also indicates that my
25 client made a series of decisions after this all went down

Sentence

1 that he probably regrets. Should he have called the police
2 after this all happened? Yes. He should have. Should he
3 have called his mother? Yes. He should have.
4 Nevertheless, he didn't.

5 He's 19 years old and he was scared, and I think he
6 was mostly scared of any retaliation from Mr. Jefferies who
7 is, as I said before is, a very scary individual.

8 Your Honor, knowing all of that I am asking the Court
9 to impose the minimum sentence on burglary first running
10 that all concurrent and for a probationary sentence to
11 follow that 15-year sentence.

12 As I said before, Your Honor, he's 19 years old. He
13 has no record whatsoever. He comes from a very good home.
14 I think you heard the testimony today of his coach there,
15 and I think he offered very compelling testimony of
16 Mr. Rogers. And I also talked to Mr. Rogers' football
17 coach as well yesterday, and he had nothing but good things
18 to say about Mr. Rogers as well.

19 So I spent a lot of work on this case. Ultimately,
20 that's what happened. I thought this would be all resolved
21 today, but, nevertheless, it wasn't. But there's some
22 people that I would like to speak on Shaun's behalf at the
23 appropriate time, Your Honor.

24 THE COURT: All right. Mr. Rogers, do you want to add
25 anything to what your lawyer has told me?

Sentence

1 THE DEFENDANT: Yes, sir. I want to first start off
2 by saying I'm -- I want to apologize to the family for me
3 being with the person that day, even though I didn't know
4 what was going to happen. They -- they still think I did
5 it but -- but I wasn't even think different if I was the
6 family myself. And I want them to know that I apologize
7 for me just, like he was saying, I was just there and I
8 didn't mean for nothing to happen. I wasn't even -- I
9 don't even know how they feel, because I don't. I don't
10 even know how I would feel if I was to be the one that got
11 killed. I wouldn't be the one to go through, like I don't
12 want them to go through that. And I also ask that if you
13 see fit you give mercy on my sentence.

14 THE COURT: All right. Who else wants to be heard?

15 DEUNICA LOGAN: Your Honor, I am -- my name is Deunica
16 Logan. I'm Shaun's mother.

17 October the 2nd was a very horrible day. I remember
18 sitting at home. Around noon or so I get a call telling me
19 there was a shooting in front of my home, and I immediately
20 start praying. That's just what I do. I immediately start
21 praying.

22 And as the day went on I'm, like, something's not
23 right, I haven't heard from my baby and I haven't heard
24 from him, not call him, not been able to talk to him, like,
25 something is just not right. I talk to my baby every day.

Sentence

1 Something's not right.

2 So then I eventually talked to him around maybe about
3 3:00 or so. He says I'm coming. I said on the way home,
4 you know, just stop by and pick up your brother from
5 school. That way I don't have to leave out.

6 And he was like -- in his voice I heard the shaking
7 that's in him. I said, "Lord, something is not right with
8 my baby, something's not going on, this is not him."

9 And then once I found out what was going on I said now
10 I understand the trembling that was actually going on
11 within him.

12 This is not something that I ever expected him to be
13 around, this guy. Because what happened today, it's a
14 whole lot of history that goes on behind him. But -- but
15 just because of the love that he have for people, he always
16 try to find good in everyone. Even though there is bad,
17 but he always trying to find good in someone and this -- he
18 always tell me, "Mama, I'm not you, I'm not you, I'm not
19 you."

20 So just because he see a little speck of good in you,
21 I always did want to try to pull that out of you and also
22 because of that right there that his meekness was taken for
23 a weakness, led him to a horrible situation that day all
24 because he chose to want to be with someone to go get high.

25 It's not worth it, because in the end you never know

Sentence

1 when someone else's dark cloud behind there might have led
2 you to a dark place. And now we're standing here through
3 another tragic situation where a family done lost someone
4 behind some craziness. But the young man that I raised is
5 still standing here. He's still standing here, and we all
6 still trying to figure out what's next because there is so
7 many facts and things even of the particular case that
8 still never even came out. And I'm still standing.

9 And my heart has always went out to the family. I've
10 never been able to speak to them because I never even knew
11 them prior to this situation. I never even knew how to
12 even approach them. And every time I did go approach them,
13 I never -- I never got that clear that I could actually
14 even just go approach them and let them know, you know, I
15 feel your pain.

16 I never lost a child before, but I still feel your
17 pain because I know what it feels like if one of mine was
18 to be missing. I have five children and this is my second
19 eldest. And I understand. You know, she's -- they're all
20 going to be tormented every day just for the thought even
21 her riding past her home and her son is never -- and he's
22 never going to arise again.

23 But my baby just made a poor choice on not speaking
24 out that day because something tragic is what's in his
25 mind, he's not understanding what should I do right now.

Sentence

1 It's like he just blanked out, what am I supposed to do.

2 He didn't know what to do.

3 But when all of this came -- came to my home that day
4 and I opened up my door, I called them. There's some
5 officers here in my home, they're looking for you, where
6 you at. He was at home with his girlfriend that he was
7 living with his girlfriend. He was at home with his
8 girlfriend. I said, okay, I'm coming to pick you up. I
9 think it was Officer K.P. and a couple of other guys that
10 was actually there.

11 I went to their home. I picked him up and I brought
12 him back. I brought him straight down here to the Cherokee
13 County Detention Center. I called Officer K.P. as he
14 instructed me to. They talked for a while.

15 No one's life has been the same since this day. He
16 has a 1-year-old son that he's barely even got to know. I
17 think he maybe spent, maybe, a month with him before this
18 situation took place.

19 So then there's still -- that's still another child
20 that's actually lost now. This baby, I don't know how much
21 time you're trying to give him or what you're going to give
22 him, but then there's still another child that has to grow
23 up still lost. And there's another in this system without
24 a father. He still has his mother, but his father is going
25 to be taken for a period of time.

Sentence

1 I'm just asking that through your deliberation and
2 everything that you have going on that you do see fit to
3 have mercy either like they, the solicitor, just submitted,
4 some more evidence and stuff into the -- to you, to take
5 everything into consideration and have mercy upon him
6 because he did -- like he did admit, he was there. He
7 drove the car but not knowing the fullness of what was
8 going to actually take place.

9 His wrong took place because he chose to make a
10 decision on jumping outta the car or coming to the police
11 department or whatever may be. That was a choice that he
12 actually made. But I'm just asking that now that you
13 actually have mercy upon him and give him possibly the
14 least possible sentence you possibly can so he can get back
15 to his life.

16 And, like I said, I understand the life that was taken
17 here from the Goods that they'll never see that baby again.
18 I totally understand that. That's a situation there that I
19 know we're never going to be able to bring him back.
20 There's nothing that we can ever do here at this moment to
21 even fix that situation. That situation was took 2018.
22 That's something that none of us in this courtroom can fix.
23 There's nothing that none of us can do to change that
24 situation. That situation took place.

25 I am just looking for mercy upon the courts that he

Sentence

1 doesn't have to endure his life, the rest of his life,
2 behind a simple mistake behind someone else's doings.

3 THE COURT: Okay. Thank you, ma'am.

4 Have you got somebody else?

5 Yes, ma'am.

6 JAMIE STAVENSKY: Good afternoon. My name is Jamie
7 Stavensky. I've known Shaun since he was seven years old.

8 THE COURT REPORTER: Excuse me. I can't hear.

9 JAMIE STAVENSKY: I'm sorry.

10 I've known him since he was seven years ago. He's
11 been in my home, he's been on vacations, he's traveled with
12 us. I've seen him make poor choices, I've seen him make
13 fantastic choices.

14 THE COURT: You said you've seen him make poor
15 choices?

16 JAMIE STAVENSKY: As a -- as a teenager, of course.
17 All children make silly choices and they learn from them.

18 He graduated from high school. He got a job when he
19 was 16. He has a son. And he is a genuinely good child.

20 He was arrested a few months after he turned 18. So
21 as somebody who has loved him like one of her own children
22 for the majority of his life and as the mother of his --
23 the godmother of his child, I ask you to please show mercy
24 in your sentence for him.

25 THE COURT: Okay. Thank you, ma'am.

Sentence

1 Anything else?

2 MR. SCHULTZ: Yes. Just a couple.

3 SONYA HAMRICK: I have been knowing this young man
4 ever since --

5 MR. SCHULTZ: State your name for the record.

6 SONYA HAMRICK: Sonya Hamrick. Ever since he was
7 about two or three years old. He's never been no bad
8 person. He's never disrespected anyone that I know of.
9 His mom -- his mom and grandma and them, they always
10 brought him up with respect. And I know if he could do it
11 all over again, he wouldn't have got in that car. He
12 wouldn't be in that -- he would never would have got in
13 that car.

14 So I agree with the mama. If you could, you know,
15 give him a chance. I mean, yeah. He had made a mistake,
16 but just if you could, just give him a chance.

17 And to me the Shaun that I know, I don't think you'll
18 probably never see his face again. I mean, this was a
19 shock to the whole family that it happened like this. And
20 I'm with his mother.

21 I'm sorry that y'all lost y'all child. You know, I'm
22 sorry about Danielle. I know them personally, but I just
23 want to say just if he could get another chance, you know,
24 would I put my life out. Yes. I would put my life on it?
25 Yes, I would put my life on that. This wouldn't happen no

Sentence

1 more.

2 So if you could just give him another chance, he's a
3 father. I mean, the baby every -- he need his baby; his
4 baby need him. I mean, and this is really, really hurtful
5 right now. Everybody hurting on both ends. Everybody
6 hurting.

7 So if he -- you know, just if he could have another
8 chance, you know. Just another chance, you know.

9 Give him tough, tough, tough rules, tough rules. I
10 mean, he was working. He graduated when he was 17. Went
11 to school.

12 I mean, just another chance. That's all I would like
13 to say. But he -- he's always been a great child. Always
14 have. And I been knowing him for 17 years. And I ain't
15 never known him to get in no trouble or doing, out doing
16 all kind of stuff. I ain't never until October the 2nd.
17 And I was on the phone when they came to his mama's house.
18 I was on the phone with her. And it shocked me. So if you
19 could just, please, just give him another chance, sir.
20 Just please.

21 THE COURT: Okay. Thank you, ma'am.

22 SHAUN ROGERS: Your Honor, my name is Shaun Rogers.
23 I'm his father. I mean, my son was raised. He's never
24 been in no trouble in his entire life until now.

25 He made one. I mean, I go back on they -- when they

Sentence

1 say he went to the -- he had to go to the alternative
2 school, but what they didn't mention was he went to the
3 alternative school. He graduated a year early. He got
4 outta school. He got a job and had this child.

5 I mean, he's never been in trouble. He's never
6 done -- I mean, this is the first time being in trouble. I
7 just ask you to please have mercy on my son.

8 THE COURT: Okay. Thank you.

9 MR. SCHULTZ: That's all we have, Your Honor. Thank
10 you.

11 THE COURT: Mr. Rogers, is this your facebook page?
12 Madam Clerk, would you hand him that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you posted that?

15 THE DEFENDANT: Posted that a couple of days before, I
16 believe before that.

17 THE COURT: You posted that a couple of days before
18 what?

19 THE DEFENDANT: Before we had -- before we -- the day
20 before I met with Jay.

21 THE COURT: The day before what?

22 THE DEFENDANT: The day before I -- a couple of days
23 before October the 2nd.

24 THE COURT: And what did you mean by this post that
25 Jermaine and that thing hit hard with a smiley face,

Sentence

1 laughing one hundred, and a picture of that gun which --

2 THE DEFENDANT: A couple of days before.

3 THE COURT: -- the state contends is the murder
4 weapon.

5 THE DEFENDANT: A couple of days before I seen that
6 picture on facebook. Me and him was in open field. Where
7 we live we got a big open field right beside our houses.
8 where we live there's a big field. We went out. We shot
9 the gun a couple of times. And then a couple of days after
10 that that same -- that picture right there, it popped up on
11 facebook and I seen it. So I attach -- I shared and I
12 attached and I sent that.

13 THE COURT: A couple of days later being after the
14 murder took place?

15 THE DEFENDANT: No, no, sir. It was still in
16 September.

17 THE COURT: Well, this says September the 29th.

18 THE DEFENDANT: A couple of days before that we shot
19 the gun in the field. And then that day that picture
20 popped up on facebook and I seen it and it was the same gun
21 that he had.

22 MR. SCHULTZ: Your Honor, if I may.

23 THE COURT: Sure.

24 MR. SCHULTZ: I think what my client -- my client is
25 trying to get at is that him and Jermaine were out shooting

Sentence

1 a pink gun previous to that post. And then he saw that
2 post on somebody else's facebook page and then he -- he
3 shared it.

4 I don't think he actually took that photograph. He --
5 somebody else took that photograph, and then it was shared
6 by him. I think it was shared by a lot of people. Perhaps
7 it was no more than a thousand. So it was shared by a lot
8 of people. I hope that clarifies it.

9 THE COURT: It does.

10 All right. On Indictment 2019-00694, an indictment
11 for burglary in the first degree wherein you've been
12 convicted by the jury for that offense, the sentence is
13 you, Shaun Rogers, Jr., be confined to the South Carolina
14 Department of Corrections for a period of 20 years.

15 Indictment 2019-00691, attempted armed robbery,
16 wherein you have also been convicted by a jury of that
17 offense, the sentence is you be confined to the South
18 Carolina Department of Corrections for a period of 20
19 years.

20 He's to be given credit for any time he's entitled to
21 pursuant to 24-13-40.

22 Mr. Rogers, you have a right to appeal the verdict of
23 the jury and the sentence of the Court. You must file any
24 notice of your intention to appeal those decisions within
25 ten days of today's date. You can discuss that with

Sentence

1 Mr. Schultz for advice.

2 END OF REQUESTED TRANSCRIPT OF RECORD

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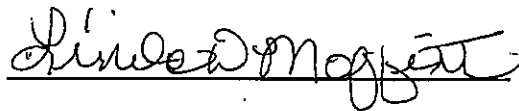
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Cherokee County, South Carolina, on the 7th, 8th and 9th days of October 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 5, 2019

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
2)
3 COUNTY OF CHEROKEE)
4)
5 STATE OF SOUTH CAROLINA,)
6 Plaintiff,)
7 vs.)
8 SHAUN ROGERS, JR.,)
9)
10 Defendant.)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

TRANSCRIPT OF RECORD
2019-GS-11-00690
2019-GS-11-00692
2019-GS-11-00693

November 23, 2021
Gaffney, South Carolina

B E F O R E:

HONORABLE R. KEITH KELLY, Judge.

A P P E A R A N C E S

BARRY J. BARNETTE, SOLICITOR
For The State

TRACY RACINE, ESQUIRE
For Defendant

RUSS RACINE, ESQUIRE
For Defendant

Julie A. Cendroski,
Circuit Court Reporter III
Seventh Judicial Circuit

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1			
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1 THE STATE OF SOUTH CAROLINA VS. SHAUN ROGERS, JR.

2 THE CLERK: Mr. Rogers, would you please raise
3 your right hand. And do solemnly swear or affirm the
4 information you give this court will be the truth, the
5 whole truth and nothing but the truth so help you God?

6 THE DEFENDANT: Yes.

7 THE CLERK: You can put your hand down, sir.

8 THE COURT: All right, very good. Sir, I'm going
9 to ask your lawyer to speak to you and I want you to
10 tell me if you can see and hear your lawyer.

11 Ms. Racine, you have the floor.

12 MS. RACINE: Hi, Mr. Rogers, can you hear me and
13 see me?

14 THE DEFENDANT: Yes.

15 MS. RACINE: Okay, good.

16 THE COURT: Okay. Very good. Sir, I'm gonna ask
17 you to speak loudly, please. In the indictment
18 2019-GS-11-00690, the State says in Count 1 that you did
19 in Cherokee County, South Carolina, on or about October
20 2 of 2018, feloniously, willfully, and with malice
21 aforethought kill one Overton Good by shooting him with
22 a firearm and that he died as an approximate result
23 thereof, in violation of South Carolina law.

24 Count two of the same indictment alleges that you
25 did, in Cherokee County, South Carolina, on or about

1 October 2 of 2018, visibly display a firearm during the
2 commission or attempted commission of a violent crime,
3 that being murder, in violation of South Carolina law.
4 It was sent to the grand jury, and on April 25 of 2019,
5 a true billed indictment was returned.

6 As to count one ---

7 SOLICITOR BARNETTE: Your Honor, on that one he's
8 pleading to voluntary manslaughter on count one. I just
9 wanted to make sure that's clear for the record.

10 THE COURT: Yes, sir. On count one of that
11 indictment, you are offering to plead to the lesser
12 included offense of voluntary manslaughter to count one.
13 It is a lesser included offense. It is violent. It is
14 most serious. And you, your lawyer, and the government
15 negotiated a sentence of 25 years concurrent. Do you
16 understand what I told you as to count one?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: As to count two of the same
19 indictment, the weapon, you are offering to plead as
20 indicted. It is non-violent by definition. It carries
21 with it up to five years, and you have negotiated a
22 five-year sentence. Is that your understanding?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: On the indictment 2019-GS-11-00693,
25 the government says that you did, in Cherokee County,

1 South Carolina, on or about October 2 of 2018, discharge
2 or cause to be discharged unlawfully, a firearm at or
3 into a dwelling while occupied by persons in violation
4 of South Carolina law.

5 That matter was sent to the grand jury, and on
6 April 25, 2019, the grand jury returned a true billed
7 indictment. It is my understanding you are pleading as
8 indicted. It is non-violent by definition. It carries
9 -- does that carry up to ten years, Solicitor?

10 SOLICITOR BARNETTE: That's correct, Your Honor.
11 The discharge of a weapon is ten years.

12 THE COURT: It carries up to ten years. And you
13 and your lawyer and the government negotiated a sentence
14 of ten years to run concurrent. Is that your
15 understanding?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: On the indictment 2019-GS-11-00692,
18 the government says that you did, in Cherokee County,
19 South Carolina, on or about October 2 of 2018, with the
20 intent to kill -- attempt to kill the victim, Danielle
21 Smith, with malice aforethought by shooting at her in
22 violation of state law. That matter was sent to the
23 grand jury and a true billed indictment returned.

24 It's my understanding that attempted murder is --
25 is that 0 to 30, Solicitor?

1 SOLICITOR BARNETTE: That's correct, Your Honor.

2 THE COURT: It's 0 to 30, but you and your lawyer
3 and the government have negotiated a sentence of 25
4 years concurrent. It is violent and it is most serious.
5 Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Sir, you have the right to a trial by
8 jury on each of these indictments. You have the right
9 to call and confront witnesses. You have the right to
10 remain silent. Do you understand all of your rights?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you waive and give up those
13 rights?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Yes? Was that a yes?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay, thank you. Sir, how do you
18 offer to plead to 2019-00692, guilty or not guilty?

19 THE DEFENDANT: Oh, guilty.

20 THE COURT: 2019-00693, guilty or not guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: As to the manslaughter and the
23 indictment in count one of 2019-0690, as to the
24 manslaughter, do you plead guilty or not guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: And as to count two of 2019-0690,
2 known as A, as in apple, how do you plead to the weapon,
3 guilty or not guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: And do you plead guilty to all of
6 these indictments because you are guilty of all of the
7 offenses? I can't hear you, sir.

8 THE DEFENDANT: Can you say it again?

9 THE COURT: Yes, sir. Are you pleading guilty
10 because you are guilty?

11 THE DEFENDANT: I'm pleading guilty because I
12 feel I couldn't win in trial.

13 THE COURT: Because what now?

14 THE DEFENDANT: That I couldn't win in trial.

15 THE COURT: Well, let me ask you this, are you
16 entering a plea under North Carolina versus Alford?

17 MS. RACINE: We have not discussed that, Your
18 Honor.

19 THE COURT: Okay.

20 MS. RACINE: If the Court would like, I'd be
21 happy to call the jail and talk to Mr. Rogers about this
22 or...

23 THE COURT: Yeah, let's call. Do you have a
24 number over there Tracy?

25 MS. RACINE: I can call. Yes, I'll call. I've

1 got the control room number, I'll call there.

2 THE COURT: Okay. We're gonna stand down. Sir,
3 your lawyer is gonna call you, sir. She and you need to
4 have a talk, okay?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: We'll just stand by.

7 MS. RACINE: All right.

8 (Recess was had from 9:45 - 9:51 a.m.)

9 THE COURT: Did she go over the discovery
10 materials with you?

11 THE DEFENDANT: Yes, sir.

12 COURT REPORTER: Judge, I couldn't hear the last
13 questions, it cut out.

14 THE COURT: Okay. I'm gonna ask you those
15 questions again, similar question. You're pleading
16 under North Carolina versus Alford, correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And you're doing so freely and
19 intelligently and voluntarily, correct?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. And did anyone force you
22 or threaten you to make you do this?

23 THE DEFENDANT: No, sir.

24 THE COURT: And isn't it true if the solicitor
25 puts forth the evidence before a jury, there is a

1 substantial likelihood you would be convicted?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And is it also true that you are
4 receiving a benefit by pleading under North Carolina
5 versus Alford?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And has Ms. Racine shared discovery
8 materials with you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Has she done everything she can to
11 help you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you satisfied with her services?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. I'm gonna let the solicitor
16 speak, sir, and then I'll come back to you.

17 Solicitor, you have the floor.

18 SOLICITOR BARNETTE: The facts of the case, I'd
19 like to move -- and we had a trial in this case October
20 7th through the 9th in 2018. I'd like to move all the
21 evidence. There was 48 exhibits, and I've included two
22 more exhibits, 49, which is the rights of Investigator
23 Brandon Gardener, his write-up. It consists of nine
24 pages. And as well as number 50, which is a disk of the
25 transcript of the trial, the record of, the record of

1 the trial. I'd like to move all that forward as
2 evidence in this case and make it a part of the facts in
3 the case. All this, everything from the trial,
4 everything from the exhibits, everything including the
5 48 that was introduced at trial and the 49th and 50th
6 exhibit we're introducing with this plea just announced.
7 And I don't think the defense has any objection to that.

8 THE COURT: Okay. Ms. Racine?

9 MS. RACINE: No objections, Your Honor.

10 THE COURT: Without objection, 1-50 are admitted.

11 (State's Exhibit 1, Exhibits 1-50 and all Trial
12 Records of Case, was marked for identification.)

13 (State's Exhibit 1 was entered into the record.)

14 Okay, Solicitor?

15 SOLICITOR BARNETTE: Yes, sir, Your Honor. And,
16 Your Honor, just for the record, Russ Racine is also an
17 attorney of record on this, but he's also been on the
18 webex the whole time.

19 THE COURT: Yes, he has. Good to see you again,
20 Mr. Racine.

21 Okay. Solicitor?

22 SOLICITOR BARNETTE: Okay. Thank you, Your
23 Honor. This occurred on October 2nd, 2018, Your Honor.
24 The Cherokee County Sheriff's Office was notified of a
25 shooting at 1521 Pleasant School Road in Cherokee

1 County, Your Honor. And, Your Honor, for purposes of
2 this case, I'm assuming that you have jurisdiction for
3 this case hearing for Cherokee County? I just want to
4 make sure that's a part of the record from that
5 standpoint.

6 THE COURT: Well, let the record show that we
7 requested a special term of court and was granted that
8 by court administration and they assigned a court
9 reporter and she is with us.

10 SOLICITOR BARNETTE: Yes, sir. Thank you, Your
11 Honor. I just wanted to make sure the record was
12 covered on that.

13 And then, Your Honor, when they arrived, Overton
14 Good was laying just inside the front door with what
15 appeared to be a gunshot wound, Your Honor. Ms.
16 Danielle Smith, his girlfriend, was also in the
17 residence at the time, Your Honor. And she told him --
18 she actually called 9-1-1, Your Honor. On the 9-1-1
19 call you can actually hear the dogs.

20 And she -- and he mentioned to her that Jefferies
21 was one of the two individuals that approached the
22 trailer. When talking to Ms. Smith, the investigators
23 found out that they had just come back from Indiana the
24 previous day, had been gone for a week. When they woke
25 up on the morning of October 2nd, 2018, it's around 8:25

1 a.m, they were sitting in the living room and she heard
2 a vehicle pulled up. When she looked outside the
3 window, she saw a gray car that was parked in the
4 driveway next door.

5 Two black males exited the vehicle, Your Honor.
6 She saw they were looking at the house. When they came
7 up, they knocked on the front door. Overton opened the
8 door and quickly shouted oh, boy. She saw an arm and
9 somebody wearing a red jacket, but holding a pink gun
10 through the door, Your Honor.

11 Overton was able to shut the door, and that's
12 when she called 9-1-1, Your Honor. And, like I said,
13 that was entered during the trial and it's part of the
14 exhibits that the State entered with this plea. She --
15 he mentioned one of the guys was Jefferies. She was
16 able to I.D. Mr. Rogers, as one of the other individuals
17 that was involved with this, Your Honor.

18 As he was calling 9-1-1, Your Honor, the
19 gunshots, like I said, you could actually hear them. It
20 was four or five gunshots and Mr. Good was hit during
21 that time.

22 Investigators then went up and located Ms. Good.
23 She's actually on the plea with us, Caroline Good, Your
24 Honor. Her and her husband lives, I think, four doors
25 up from there, Your Honor.

1 Before the shooting, they saw there was a car in
2 their driveway. They saw two individuals get in there.
3 She was able to I.D. Mr. Jefferies later. She saw him
4 back out of the driveway, go into the road. Was driving
5 down the road, she got out and saw them actually -- saw
6 Mr. Jefferies was the shooter and Mr. Rogers was the
7 driver. Saw Mr. Jefferies shoot out the window at the
8 trailer where her son was at with Ms. Smith.

9 Investigators started working the case, Your
10 Honor. They found Mr. Jefferies first. The gray car
11 was actually his mother's car. Actually got a statement
12 from him. He involved himself as the shooter, involved
13 Mr. Rogers as the driver of the vehicle, Your Honor, in
14 this case at some point of working it through.

15 He actually said it was reversed in the
16 beginning, but later on it was verified that he was the
17 shooter and Rogers was the driver, even though he
18 identified at first differently.

19 Through the investigation, Your Honor, we found
20 the gun. The gun -- well, they found the shell casings,
21 and they also got a print off the front of the door,
22 which was Mr. Jefferies print in this case, Your Honor.
23 Mr. Rogers did -- was found later. Did give a statement
24 stating that he was there, but he did not know that Mr.
25 Jefferies was gonna shoot at the time, basically.

1 Obviously the evidence shows differently than
2 that. In the jury trial that we had in October of 2019,
3 in this case Mr. Rogers was convicted of burglary first
4 and attempted armed robbery by the jury. We had a hung
5 jury on these four charges, Your Honor, and was getting
6 ready to try them on Monday from there.

7 I talked to Ms. Good and she was in a -- her
8 family is in agreement on doing this, Your Honor. Knows
9 it's a 25-year negotiated sentence and reduce the murder
10 to voluntary manslaughter in the case, Your Honor, run
11 it concurrent with the present charges he's got. He's
12 been in jail for, I believe -- Ms. Racine and Mr. Racine
13 can correct me if I'm wrong, but I believe it's 1,148
14 days. Since October 2nd, 2018, that he could get credit
15 for.

16 MS. RACINE: That's correct.

17 SOLICITOR BARNETTE: And I believe that's it for
18 me, Your Honor. And Ms. Good is on here, and she's
19 welcome to speak, but I don't think she's wanting to
20 speak, but obviously wanted to be present for the plea.

21 THE COURT: Okay. Mr. Rogers, did you hear what
22 the solicitor told me? I think he's muted. I couldn't
23 hear you, sir.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. I'm not gonna ask you if

1 that's true because you're pleading under North Carolina
2 versus Alford, but I'm gonna ask you if it's accurate?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. And the solicitor would be
5 able to share those facts to a jury, correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. The Court accepts your
8 pleas under North Carolina versus Alford as being
9 freely, intelligently, and voluntarily given with the
10 sound advice of an excellent lawyer, actually two
11 lawyers.

12 All right. Who wants to speak, Mr. Racine, Ms.
13 Racine?

14 MS. RACINE: I'll speak, Your Honor.

15 THE COURT: Okay.

16 MS. RACINE: Just briefly, Your Honor. I've met
17 with Mr. Rogers several times. He's only been back in
18 Cherokee County since the eighth. I've come down there
19 several times, met with him. Russ has been with me a
20 couple of times as well, Your Honor. We talked about
21 all the details in this case, a possible defense, mere
22 presence, one hand of all. We've gone over all possible
23 scenarios and I think this is the best possible outcome.
24 And I think Mr. Rogers reluctantly agrees with me on
25 that one. I just ask that you would accept this

1 negotiation.

2 THE COURT: Thank you. Anything from Mr. Racine?

3 MR. RACINE: No, Your Honor.

4 THE COURT: Okay. Very good. Sir, would you
5 like to speak?

6 THE DEFENDANT: Don't I get like ten days to
7 appeal, something like that?

8 THE COURT: Yes, sir. Yes, sir. You can appeal
9 by filing a Notice of Appeal and appeal within ten days.
10 I think you've got to file that with the clerk of court
11 in Cherokee County and also file it with the appellate
12 court.

13 THE DEFENDANT: All right.

14 THE COURT: Do you want your lawyer to come and
15 talk with you about that?

16 THE DEFENDANT: I do.

17 THE COURT: Okay. I'll make sure she makes a
18 phone call or comes to see you or something and they'll
19 talk to you about that, okay?

20 THE DEFENDANT: All right, thank you.

21 THE COURT: Okay. Ms. Good, Caroline Good. If
22 you could unmute her, Sarah. Thank you. Ms. Good,
23 you're not required to speak, but if you would like to,
24 I'm happy to hear from you.

25 MS. GOOD: Well, Your Honor, like you said, it's

1 been over 1,000 days. We wanted to get this all behind
2 us and just trust in the justice system that we can get
3 somewhat justice for Overton's life being taken away.
4 Thank you.

5 THE COURT: Thank you, Ms. Good. And will you
6 tell me your name for the record, please?

7 MS. GOOD: Caroline Good.

8 THE COURT: Thank you, Ms. Good. I'm sorry for
9 your loss.

10 MS. GOOD: Thank you.

11 THE COURT: Okay. Give me just a minute.
12 Anything from anyone else? Solicitor?

13 SOLICITOR BARNETTE: Your Honor, I just wanted to
14 make sure that part of the record of the case is
15 actually the trial, the trial transcript, the exhibits.
16 All that's been entered in. The testimony. And part of
17 the facts I presented as well under the Alford plea,
18 Your Honor. Make sure it's part of the record.

19 THE COURT: It's all part of the record, yes,
20 sir.

21 SOLICITOR BARNETTE: Thank you.

22 THE COURT: Give me a minute. On the indictment
23 2019-GS-11-00692, the negotiated 25 years, concurrent,
24 credit for 1,148 days.

25 2019-GS-11-00690, that's the voluntary

1 manslaughter, negotiated 25 years, concurrent, credit
2 for 1,148 days.

3 On 2019-GS-11-00690 count two, that's the weapon,
4 negotiated five years, concurrent, credit for 1,148
5 days.

6 2019-GS-11-00693, that is the discharging a
7 weapon into a dwelling, ten years negotiated,
8 concurrent, 1,148 days.

9 Sir, your lawyer's gonna talk with you on the
10 phone, I suppose here in a moment, about the appellate
11 process. Do you understand?

12 THE DEFENDANT: All right.

13 THE COURT: All right. Very best of luck to you,
14 sir. Anything else, Solicitor?

15 SOLICITOR BARNETTE: No, sir. Thank you, Your
16 Honor.

17 THE COURT: Thank you.

18 MS. RACINE: Thank you, Your Honor.

19 (Court concluded at 10:06 a.m.)

20

21 --- THIS ENDS REQUESTED TRANSCRIPT ---

22

23

24

25

1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability the foregoing is a true, accurate,
7 and complete transcript of record of all the proceedings
8 and evidence introduced in the hearing and/or trial of
9 the captioned case, relative to appeal, in the Court of
10 General Sessions for Cherokee County, South Carolina, on
11 the 23rd day of November, 2021.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.
14
15
16
17

18 s/Julie A. Cendroski
19 Julie A. Cendroski
20 Circuit Court Reporter III
21 Seventh Judicial Circuit
22
23
24
25

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2018A1110100997

2018A1110101003

ACTION OF GRAND JURY

[Stamp]

[Signature]

Foreperson of Grand Jury

Date: 4-25-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00690

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

April 25 2019 TERM

THE STATE

v.

SHAUN ROGERS, JR.

Indictment for

MURDER (Count 1)

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

POSSESSION OF FIREARM
DURING COMMISSION OF A VIOLENT
CRIME (Count 2)

SC Code: 16-23-490

CDR Code: 549

Class FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 APR 25 AM 10:57

BRANDY W. MCBE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on April 25 2019, the
 Grand Jurors of Cherokee County present upon their oath:

COUNT ONE - MURDER

That the Defendant, Shaun Rogers, Jr., did in Cherokee County on or about October 2, 2018, feloniously, willfully, and with malice aforethought, kill one Overton Good, by shooting him with a firearm, and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

**COUNT TWO - POSSESSION OF FIREARM DURING COMMISSION
 OF A VIOLENT CRIME**

That the Defendant, Shaun Rogers, Jr., did in Cherokee County on or about October 2, 2018, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such
 case made and provided.


 SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2018A1110101005

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 4-25-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00692

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

April 25 2019 TERM

THE STATE

v.

SHAUN ROGERS, JR.

Indictment for

ATTEMPTED MURDER

SC Code 16-03-0029

CDR Code 3410

Class FEL-A

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 APR 25 AM 10:57

BRANDY W. MCDEE

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on April 25 2019, the
Grand Jurors of Cherokee County present upon their oath:

ATTEMPTED MURDER

That the Defendant, Shaun Rogers, Jr., did in Cherokee County on or about October 2, 2018, with intent to kill, attempted to kill the victim, Danielle Smith, with malice aforethought, expressed or implied, by shooting at her, in violation of Section 16-3-0029, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2018A1110101006

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury

Date: 4-25-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00693

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

April 25 2019 TERM

THE STATE

v.

SHAUN ROGERS, JR.

Indictment for

DISCHARGING FIREARM
INTO DWELLING

SC Code: 16-23-440(A)

CDR Code: 0052

Class FEL/E

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 APR 25 AM 10: 57

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

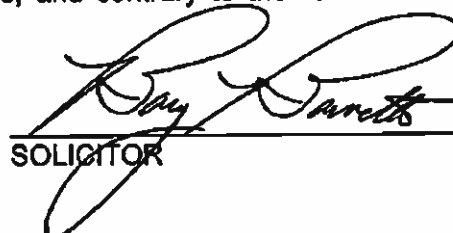
INDICTMENT

At a Court of General Sessions, convened on April 25 2019, the
Grand Jurors of Cherokee County present upon their oath:

DISCHARGING A FIREARM INTO A DWELLING

That the Defendant, Shaun Rogers, Jr., did in Cherokee County on or about October 2, 2018, discharge or cause to be discharged unlawfully a firearm at or into a dwelling while occupied by persons, in violation of §16-23-440(A) of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

DOCKET NO. **19-GS-11-00691**

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

366

The State of South Carolina

2019 APR 25 AM 10:57

County of Cherokee

BRANDY W. MCREE

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

April 25 2019 **TERM**

2018A1110101004

THE STATE

v.

ACTION OF GRAND JURY

TRUE BILL

SHAUN ROGERS, JR.

Foreperson of Grand Jury

Date: 4-25-19

VERDICT

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-330 (B)

CDR Code: 26

Class FEL/C

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA }
COUNTY OF CHEROKEE }

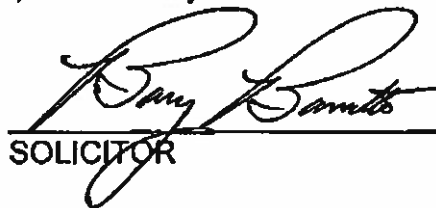
INDICTMENT

At a Court of General Sessions, convened on April 25 2019 the
Grand Jurors of Cherokee County present upon their oath:

ATTEMPTED ARMED ROBBERY

That the Defendant, Shaun Rogers, Jr., did in Cherokee County on or about October 2, 2018, while armed with a deadly weapon, feloniously attempt to take, by means of force or intimidation, goods or monies from the person or presence of Overton Good, in violation of §16-11-330 (B), CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2018A1110101007

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury

Date: 4-25-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00694

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

April 25 2019 TERM

THE STATE

v.

SHAUN ROGERS, JR.

Indictment for

BURGLARY FIRST DEGREE
(DWELLING)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 APR 25 AM 10:57

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on April 25 2019, the Grand Jurors of Cherokee County present upon their oath:

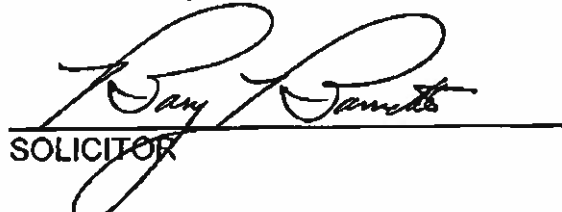
BURGLARY FIRST DEGREE (DWELLING)

That the Defendant, Shaun Rogers, Jr., did in Cherokee County on or about October 2, 2018 willfully and intentionally enter a dwelling occupied by Overton Good located at 1521 Pleasant School Road, Gaffney, South Carolina without consent and with intent to commit a crime therein, and either in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

- (1) was armed with a deadly weapon or explosive, and/or
- (2) caused physical injury to any person who was not a participant in the crime, and/or
- (3) used or threatened the use of a dangerous instrument, and/or
- (4) displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm, and/or
- (5) entered the dwelling during the nighttime.

all in violation of Section 16-11-0311 of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

STATE

VS.

Shaun Rogers Jr

AKA:

Race: BLACK Sex: M Age: 21

DOB: [REDACTED] SS# [REDACTED]

Address: 213 Oakview Dr

City, State, Zip: Gaffney, SC 29341-3744

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS1100690

A/W#: 2018A1110100997

Date of Offense: 10/2/2018

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Manslaughter / Voluntary manslaughter - COUNT ONE

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ 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. 25 YEARS CONCURRENT (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Barnette, Barry J SCB13039 SC Bar# Tracy D. Racine SCB68415 SC Bar#
BARNETTE, BARRY J Defendant Racine, Tracy D. Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,

for a determinate term of 25 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: —

☒ 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.
1148 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 § 16-25-85 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

STATE

VS.

Shaun Rogers Jr

AKA:

Race: BLACK Sex: M Age: 21DOB: [REDACTED] SS# [REDACTED]Address: 213 Oakview DrCity, State, Zip: Gaffney, SC 29341-3744DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS1100692A/W#: 2018A1110101005Date of Offense: 10/2/2018S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Assault / Attempted Murderin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. 25 YEARS CONCURRENT (def.'s Initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:BARRY J BARNETTE
BARNETTE, BARRY JSCB13039
SC Bar#Shaun Rogers Jr
Defendant
Tracy D. Racine
Racine, Tracy D.
Attorney for Defendant
SCB68415
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/years/Time Served ☐ Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ — provided that upon the service of — days/months/years/Time Served and or payment of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: —☒ 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.1148 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.

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

STATE

VS.

Shaun Rogers Jr

AKA:

Race: BLACK Sex: M Age: 21DOB: [REDACTED] SS# [REDACTED]Address: 213 Oakview DrCity, State, Zip: Gaffney, SC 29341-3744DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS1100693A/W#: 2018A1110101008Date of Offense: 10/2/2018S.C. Code § : 16-23-0440(A)CDR Code #: 0052

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Weapons / Discharging firearms into a dwellingin violation of § 16-23-0440(A) of the S.C. Code of Laws, bearing CDR Code # 0052☒ 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. 10 YEARS CONCURRENT (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST.BARNETTE, BARRY J

SCB13039

SC Bar#

Defendant

Racine, Tracy D
Attorney for Defendant

SCB68415

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ — provided that upon the service of — days/months/years/Time Served and or payment of \$ — ; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: —☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.
1198 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.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Cherokee

VS.

Shaun Rogers Jr

AKA:

Race: BLACK Sex: M Age: 19

DOB: [REDACTED] SS# [REDACTED]

Address: 213 Oakview Dr

City, State, Zip: Gaffney, SC 29341-3744

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Attempted armed, or allegedly armed, robbery

INDICTMENT/CASE#: 2019GS1100691

A/W#: 2018A1110101004

Date of Offense: 10/2/2018

S.C. Code § : 16-11-0330(B)

CDR Code #: 0026

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature]

SCB13039

SC Bar#

Defendant

[Signature]
Schultz, B. Joshua
Attorney for Defendant

SCB74518

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; ~~the balance is suspended with probation for~~
~~months/years~~ and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§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	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$

TOTAL \$ Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Presiding Judge

Judge Code: 2253Sentence Date: 10/9/19

374

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
STATE VS.
Shaun Rogers Jr
AKA:
Race: BLACK Sex: M Age: 19
DOB: SS#
Address: 213 Oakview Dr
City, State, Zip: Gaffney, SC 29341-3744
DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS1100694
A/W#: 2018A1110101007
Date of Offense: 10/2/2018
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree (1st)

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTORNEY: BARNETTE, BARRY SCB13039 SC Bar# Defendant Schultz, E. Joshua SCB74518 SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:
☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§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	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$

TOTAL \$

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. ☐
May serve W/E beginning
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk: Brenda McBea
Court Reporter: Brenda McBea

Presiding Judge: Judge Code: 2053
Sentence Date: 10/9/19

COUNTY OF CherokeeShaun Rogers Jr.

Plaintiff(s)

vs.

The State of South Carolina

Defendant(s)

Submitted By: Shaun Rogers Jr.
Address: Lee Correctional Inst. WISACKY
Hwy. 29010, Bishopville SC.IN THE COURT OF COMMON PLEAS ³⁷⁵

CIVIL ACTION COVERSHEET

-CP-

22CP-110282

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

☐ Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ General (130) ☐ Breach of Contract (140) ☐ Fraud/Bad Faith (150) ☐ Failure to Deliver/ Warranty (160) ☐ Employment Discrim (170) ☐ Employment (180) ☐ Other (199)	☐ Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20 -NI- ☐ Notice/ File Med Mal (230) ☐ Other (299)	☐ Torts - Personal Injury ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Assault/Battery (370) ☐ Slander/Label (380) ☐ Other (399)	☐ Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)

- ☒ Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599)

- ☐ Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899)

- ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approval (780)
☐ Other (799)

- ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999)

- ☐ Special/Complex/Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Sexual Predator (510)
☐ Permanent Restraining Order (680)
- ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Pre-Suit Discovery (670)

Submitting Party Signature: Shaun Rogers Jr.Date: 4/15/22

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

SCCA/234(03/2016)

STATE OF SOUTH CAROLINA

County of CherokeeShawn Rogers Jr

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

22CP-110282

APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correction
2. Name and location of Court which imposed sentence Cherokee County
General Sessions
3. Name(s) of co-defendant(s) (if any) Jermaine Jeffries
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2019-GS-11-00690A, 2019-GS-11-0069,
 - (b) 2019-GS-11-00692, 2019-GS-11,00693

5. The date upon which sentence was imposed and the terms of the sentence:

(a) November 23, 2021

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ☒

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Denied

ii. _____

iii. _____

(c) the date of each such result:

i. March 25, 2022

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c)

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Involuntary Guilty Plea
 (b) Ineffective Counsel
 (c) Violation of Constitutional Rights

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Alford Plea was involuntarily given
 (b) Counsel failed to investigate
 (c) Prosecutor misconduct

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A
 ii. _____
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

i. N/A
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A
(b) _____
(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes
(b) your trial, if any? No
(c) your sentencing? Yes
(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Tracy Racine

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Guilty Plea and Sentencing

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application:

Vacate Guilty Plea

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of Cherokee)

VERIFICATION

I, Shaun Rogers Jr, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Shaun Rogers Jr

SWORN to and subscribed before me this 7 day of April, 2022.

Debra Eastley
Notary Public

(L.S.)

My Commission Expires: 3/3/2024

FILED IN OFFICE OF
CLERK OF COURT
JUL 22 2022
BENJAMIN H. ROBBE

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Shaun Rogers Jr., hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Shaun Rogers Jr.
Applicant

SWORN or affirmed to and subscribed before me this
day of April, 2022.

Debra Eastman
Notary Public

My Commission Expires: 3/3/2026

FILED IN OFFICE OF
CLERK OF COURT
CHANCELLERY
2022 APR 22 11:31
BRANDY-MOORE

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Shaun Rogers, Jr., #381643,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2022-CP-11-00282

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

FILED IN THE OFFICE
CLERK OF COURT
22 AUG 18 A 10:36
ANDY W. MCDEE
CHEROKEE COUNTY, SC

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on April 22, 2022, by Shaun Rogers, Jr. (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its April 2019 term, the Cherokee County Grand Jury indicted Applicant for murder (count one) and possession of a firearm during commission of a violent crime (count two) (2019-GS-11-00690), attempted murder (2019-GS-11-00692) and discharging a firearm into a dwelling (2019-GS-11-00693). Applicant was represented by Tracy and Russ Racine, Esquires. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office prosecuted the case. On November 23, 2021, Applicant appeared before the Honorable R. Keith Kelly, circuit court judge, and entered an *Alford* plea to the lesser-included offense of voluntary manslaughter and a negotiated twenty-five years, a ~~negotiated five-year sentence for weapons possession, a negotiated ten-year sentence for~~ discharging a firearm into a dwelling, and a negotiated twenty-five year sentence for attempted

murder. Judge Kelly accepted the plea and sentenced Applicant in accordance with the negotiations.

Applicant filed a timely notice of appeal on December 10, 2021. The South Carolina Court of Appeals dismissed the appeal for failure provide a sufficient explanation pursuant to Rule 203(d)(1)(B)(iv), SCACR. The remittitur was issued on March 25, 2022.

II. Statement of Facts

When the police arrived on scene, they found Overton Good laying just inside the front door with what appeared to be a gunshot wound. (Tr. 12). His girlfriend was in the residence at the time. (Tr. 12). She called 911 and dogs were heard in the background of the call. (Tr. 12). She told the police she saw two black men pull up in a gray car, exit the car, and approach the house. (Tr. 12-13). She saw an arm of someone wearing a red jacket and holding a pink gun. (Tr. 13). Overton shut the door and the girlfriend called the police. (Tr. 13). Overton identified Applicant's co-defendant and the girlfriend identified Applicant. (Tr. 13). Four or five shots were fired, and Overton was hit. (Tr. 13). The girlfriend identified the co-defendant as the shooter and Applicant as the driver. (Tr. 14).

III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. Involuntary guilty plea.
 - a. *Alford* plea was involuntarily given.
2. Ineffective Counsel.
 - a. Counsel failed to investigate.
3. Violation of constitutional rights.
4. Prosecutor misconduct.

Attached to and incorporated herein are Applicant's Cherokee County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and

the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

IV. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. See *Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense ~~counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989).~~ To show deficiency, the applicant must prove by a preponderance of the

evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded "'strong presumption' of reasonableness that the defendant must overcome"); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694.

The court makes this determination based upon the totality of the evidence. *Id.* at 695.

Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable."

Harrington v. Richter, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Invalid Plea

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000).

A plea is not knowing or voluntary if a defendant “lacks knowledge of material evidence in the prosecution’s possession.” *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant’s knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant’s counsel, or both.” *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). “[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

Respondent contends that the plea was entered freely, knowingly, intelligently, and voluntarily. Applicant confirmed he understood the counts, elements, sentencing ranges, negotiations, and violent and most serious distinctions, if applicable. (Tr. 4-7). Applicant confirmed he knew he was waiving his rights to a jury trial, to call and confront witnesses, and to remain silent. (Tr. 7). Applicant stated Counsel reviewed all discovery materials with him. (Tr. 9). Applicant stated he was pleading under *Alford* freely and voluntarily. (Tr. 9). He stated no one threatened or coerced him into pleading. (Tr. 9-10). Applicant expressed he was satisfied with Counsel and that she did everything she could to help him. (Tr. 10). After the State recited the facts of the case, Applicant stated that the facts were accurate and could be shared with a jury. (Tr. 15-16). Thus, based upon the plea colloquy, Respondent contends that the plea was

entered freely, knowingly, intelligently, and voluntarily and cannot be withdrawn now.

Failure to Investigate

Applicant claims Counsel was ineffective for failure to investigate. *Strickland* makes clear that defense counsel “has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim’s validity is evaluated for “reasonableness [under] all the circumstances” with “a heavy measure of deference to counsel’s judgments” applied. *Id.* At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Additionally, whether Applicant was prejudiced by Counsel’s failure to investigate is contingent on whether the evidence presented would have led Counsel to change his recommendation regarding the plea. *Stalk v. State*, 383 S.C. 559, 562, 681 S.E.2d 592, 594 (2009).

Applicant fails to state what Counsel failed to investigate, why he was deficient for failing to investigate, or how it would have changed the recommendation as to the plea. Respondent contends the allegation likely lacks merit. Still, a more definite statement is needed followed by an evidentiary hearing to fully resolve the matter.

Prosecutorial Misconduct

Applicant alleges prosecutorial misconduct. Courts have recognized that prosecutors have many powers within the criminal justice system. Included in this, is “discretion in choosing how to proceed with a case, including whether to prosecute in the first place and whether he brings it to trial or offers a plea bargain.” *State v. Langford*, 400 S.C. 421, 435 n. 6, 735 S.E.2d 471, 479 n. 6 (2012). Additionally, prosecutors can use “punishment of the offender” as a proper

motivation behind their behaviors and punitive motivations do not render otherwise lawful activity unlawful. *State v. Blakely*, 402 S.C. 650, 658, 742 S.E.2d 29, 33 (2013) (citing *State v. Fletcher*, 322 S.C. 256, 260, 471 S.E.2d 702, 704 (Ct.App.1996)).

However, a conviction will be reversed if the applicant can show prosecutorial vindictiveness, in that “the prosecutor acted with genuine animus toward the defendant” and “the defendant would not have been prosecuted but for that animus.” *State v. Odon*, 412 S.C. 253, 263, 772 S.E.2d 149, 154 (2015) (quoting *United States v. Wilson*, 262 F.3d 305, 314 (2001)) (quotations omitted). Otherwise, a “prosecutor’s charging decision is presumptively lawful.” *Id.* at 263-64 (quoting *United States v. Goodwin*, 457 U.S. 368, 384 n. 19 (2015)). The case in which an applicant can overcome the presumptive validity of the prosecutor’s actions is rare. *Id.* at 264 (quoting *Goodwin*, 457 U.S. at 384 n. 19).

Applicant has stated with no specificity why he believes prosecutorial misconduct occurred. Respondent contends that this allegation likely lacks merit but requests a more definite statement and that an evidentiary hearing be held to fully resolve the matter.

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant’s allegations. Applicant alleges that plea counsel was constitutionally ineffective, the plea was involuntary, and prosecutorial misconduct occurs. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.”

Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to

relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

VI. Other Allegations Denied

Each and every other allegation in Applicant’s PCR application not explicitly admitted, qualified, or explain in this return is hereby denied by the Respondent.

VII. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant’s court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no

right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases.”); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-0386

8/16, 2022

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Shaun Rogers, #381643

Applicant,

v.

State of South Carolina

Respondent,

) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL
) CIRCUIT

) Case No.: 2022-CP-11-00282

) Certificate of Service by Mail

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney Wade Richey, Esquire
Richey & Richey, PA
33 Market Point Dr, Greenville, SC 29607
Post Office Box 10916
Greenville, SC 29603-0916

DATED this 16th day of August 2022.



Jordan Hickman Legal Assistant
For Respondent

FILED IN THE OFFICE
CLERK OF COURT
2022 AUG 18 A 10:36
BRADY W. MOORE
CHEROKEE COUNTY, SC

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	2022-CP-11-282
	)	
	)	
	)	
	)	
SHAUN ROGERS, JR.,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
	)	

October 18, 2022
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE BRIAN M. GIBBONS, JUDGE.

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

CHELSEY MARTO, ESQ.
Assistant Attorney General

RODNEY RICHEY, ESQ.
Attorney for the Applicant

AMBER PAYNE, CVR
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness

(AW) - Denotes Applicant's Witness

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INDEXEXHIBITS

There were no exhibits entered during this hearing.

P R O C E E D I N G S

(Whereupon, the hearing began at
10:20 a.m.)

THE COURT: All right. Madam A.G., if you'll
introduce the case.

MS. MARTO: Yes. Good morning, Your Honor. We are
here today in the case of "Shaun Rogers vs. The
State of South Carolina," 2022-CP-11-282. He's
presently confined in the South Carolina Department
of Corrections. In April 2019, he was indicted for
murder and possession of a firearm, attempted
murder, and discharging a firearm into a dwelling.
He was represented by Trace (as spoken) and Russ
Racine and prosecuted by Barry Barnette.

November 23rd, 2021, he appeared before Judge
Kelly and entered an Alford plea to the lesser
included offense of voluntary manslaughter.
Negotiated 25-year sentence; a negotiated five-year
sentence for the weapons possession charge, a
negotiated ten for discharging a firearm, and a
negotiated 25 for attempted murder. Judge Kelly
accepted the plea and imposed the sentence in
accordance with the negotiations.

THE COURT: All concurrent?

MS. MARTO: Yes, Your Honor.

1 THE COURT: So it's a 25-year concurrent sentence?

2 MS. MARTO: Yes, Your Honor.

3 THE COURT: All right. Gotcha. Go ahead. Sorry.

4 MS. MARTO: He -- he filed a timely notice of
5 appeal, and it was dismissed for failure to provide
6 a sufficient explanation. The remittitur was issued
7 March 25th, 2022. This application was filed April
8 22, 2022, and the return made August 16, 2022.

9 And with that, I'll turn it over to Mr. Richey.

10 THE COURT: All right. Mr. Richey, anything I need
11 to know before we proceed?

12 MR. RICHEY: No, Your Honor. We call Mr. Rogers.

13 THE COURT: (To the applicant) All right. Sir,
14 come on up here.

15 THE APPLICANT: Yes, sir.

16 THE COURT: All right. Sir, you can be seated.

17 (WHEREUPON, the applicant was sworn.)

18 THE COURT: All right. Thank you. Just make sure
19 you speak loudly, so my court reporter can pick up
20 everything you say, okay?

21 THE APPLICANT: All right.

22 THE COURT: Thank you, sir. All right. Mr. Richey,
23 your witness.

24 MR. RICHEY: Thank you.

25 DIRECT EXAMINATION OF SHAUN ROGERS, JR.

1 BY MR. RICHEY:

2 Q Mr. Rogers, can you state your name, please?

3 A Shaun Rogers, Jr.

4 Q And you're in the Department of Corrections?

5 A Yes, sir.

6 Q And -- and are you in for the charges that they (as
7 spoken) just told the Judge?

8 A Yes, sir.

9 Q Okay. You filed an application for post-conviction
10 relief because it's your position that the lawyers did
11 not represent you effectively --

12 A Yes, sir.

13 Q -- is that correct?

14 A Yes, sir.

15 Q And -- and you're asking this Court to vacate the
16 sentences that you have and give you a new trial,
17 correct?

18 A Yes, sir.

19 Q And this -- this all arose out of one incident; is that
20 correct?

21 A Yes, sir.

22 Q That you went to trial on?

23 A Yes, sir.

24 Q Okay. You went to trial. Who -- who represented you at
25 trial?

1 A Joshua Schultz.

2 Q And at that trial, you were convicted of attempted
3 robbery and burglary, first; is that correct?

4 A Yes, sir.

5 Q And that's all part of this whole situation, right?

6 A Yes, sir.

7 Q And you received a 20-year sentence after the jury
8 convicted you, correct?

9 A Yes, sir.

10 Q And then you came back and pled to these remaining
11 charges and got 25 then?

12 A Yes, sir.

13 Q Okay. It's your position that the -- the lawyers did not
14 effectively represent you because you wanted a 20-year
15 concurrent sentence?

16 A Yes, sir.

17 Q And did you talk to them about that?

18 A Yes. I did.

19 Q Okay. And what were those conversations that you had
20 with them?

21 A She told me -- I had asked the -- I had asked
22 the -- asked the solicitor why was he -- why he's still
23 trying to give me more time. And she said that she
24 didn't know. And that the only thing that he was going
25 to do was 25, and there was nothing else.

1 Q Okay. And you believe they should have took more action
2 to get you the -- the lesser sentence; is that --

3 A Yes.

4 Q -- correct?

5 A Yes, sir.

6 Q Okay. And did you express to your lawyers that you
7 wanted to go to trial?

8 A Yes, sir.

9 Q Tell me what you said to them.

10 A I had -- I told her that I wanted to go to trial and she
11 asked me why, and I said, "Because I'm not guilty for
12 what I did."

13 And she's like -- she said she understand that, but
14 why do I want to go to trial? She
15 said -- she said because -- she said -- this is verbatim.
16 She said, "If you go to trial, is" -- she said -- she
17 know -- she said she not -- know for a fact -- she said,
18 "But if you go to trial, it's nine times out of ten,
19 you're gonna get a life sentence."

20 And I was like, "How do you know that?"

21 She was like, "Just" -- she said --

22 I'm like, "You've only had my case for like two
23 months -- like a month and a half," I said, "How do you
24 know all that?"

25 She was like, "I just" -- she was like,

1 "The -- the way the case looking is no other way." She's
2 like -- she's like, "You're gonna get a life sentence.
3 You're gonna get a life sentence."

4 Q Okay. And was -- and -- and was she referring to the
5 murder part of it?

6 A Yes, sir.

7 Q Okay. So she said that if you go to trial again and get
8 convicted, you'd be facing a life sentence?

9 A Yes, sir.

10 Q Okay. Is that what you wanted to do?

11 A No, sir. Oh, to go to trial?

12 Q Yeah.

13 A Oh, yes, sir.

14 Q Okay. So you -- you disregarded what she said, and said,
15 "Hey. I'm willing to go the whole route, and get a life
16 sentence"?

17 A Yes, sir.

18 Q Okay. All right. And so, do you believe that your plea
19 was voluntary?

20 A No.

21 Q Huh?

22 A No, sir.

23 Q It -- it wasn't freely given?

24 A No.

25 Q Why wasn't it freely given?

1 A Because I kept telling her that I didn't want to do it,
2 and she kept -- she kept pressing me to do it. Pressing
3 me to do it, and I kept telling her I didn't want to.
4 She kept telling me, "Well" -- she's like, "Well, if you
5 go to trial, you're just gonna get a life sentence.
6 You're just going to get a life sentence anyway."

7 I'm like -- and I asked her -- I'm like, "You
8 supposed to be my lawyer. You're talking to me like
9 you're the solicitor." And she just -- she didn't care.

10 Q Okay. So what coercion that was used by her other than
11 what you just said, is there anything else that she --
12 that they used to coerce you to plead guilty?

13 A She was like, "Oh, yes. This is the best -- this is the
14 best thing for you to do. You got -- you got a long life
15 ahead of you. This is the best thing for you to do," and
16 stuff like that basically.

17 Q Was there any conversation about you getting credit for
18 the time you already been in jail?

19 A Yes, sir. She said -- she said that the only way that I
20 would get credit from the first day I was locked up -- so
21 the point then was that if I was to take the plea -- she
22 said if I was to go to trial, and I was to lose, that I
23 would lose all the time that I had been locked up.

24 Q On the case, itself, do you believe if you went to trial
25 you -- you'd be found not guilty?

1 A Yeah. I don't think I would been found guilty for
2 murder.

3 Q Okay. Do you think you'd be found guilty of manslaughter
4 or anything?

5 A No, sir.

6 Q Did you think you'd be found not guilty on all of it --
7 all the remaining charges --

8 THE COURT: (To the applicant) Speak up, sir.

9 A No, sir.

10 Q -- of all the remaining charges that were left over, it's
11 your position if you ever went to trial, you would've
12 been found not guilty?

13 A Not guilty, yeah. That's what I think.

14 Q Okay. And -- and on this case, essentially, you got a
15 five-year difference; is that correct?

16 A Yes, sir.

17 Q So -- so this new sentence is gonna require you to do,
18 what, about three years more?

19 A Four.

20 Q Four years more?

21 A Four and a half.

22 Q Okay. In the -- in the trial itself, tell me why is it
23 your position that you'd be found -- you wouldn't be
24 found guilty in this case?

25 A You say, "Why I wouldn't"?

1 Q Why you would not.

2 A There's evidence stating that I -- that isn't -- that I'm
3 not the person that did it.

4 Q Right. Okay. But -- and so you believe that evidence in
5 itself will help you get acquitted of all the cases?

6 A Yes, sir.

7 Q Okay. And are you -- are you -- this 20-year-sentence,
8 are you satisfied with that sentence in any way?

9 A No.

10 Q Okay. Okay.

11 MR. RICHEY: (To the applicant) Answer the
12 questions the Attorney General will have for you.

13 CROSS-EXAMINATION OF SHAUN ROGERS, JR.

14 BY MS. MARTO:

15 Q Good morning, sir. So did you state that you decided to
16 plead because Counsel told you you would face life if you
17 went to trial?

18 A Yes. Yes, ma'am.

19 Q Did she think that you would be found guilty or not
20 guilty at trial? Do you recall?

21 A She said that she -- she said that -- it was like a 90
22 percent chance that I was going to be guilty -- found
23 guilty.

24 Q And so she said that the best she could do for you in
25 terms of time was the 25-year sentence?

1 A Yes, ma'am.

2 Q And did you believe her at that time?

3 A No.

4 Q Well, then why did you decide to plead?

5 A Because I felt if I was to go to trial with her, I was
6 going to get a life sentence.

7 Q Okay. So you agreed with Counsel back then that if you
8 went to trial, you'd probably get life?

9 A No. I don't agree -- I don't agree that I would've got
10 life, but I -- I feel that with her as my attorney at the
11 time, that she was just gonna just do whatever she say --
12 get up and say what she say and just sit down and just
13 let it be what it was.

14 Q Did you know the charges you were pleading to, sir?

15 A To -- are you talking about as manslaughter?

16 Q Yeah.

17 A She told me the case what it was.

18 Q Okay. And you knew the evidence in this case, correct?

19 A Yeah.

20 Q And you knew the rights you were waiving by pleading?

21 A I did.

22 MS. MARTO: (To the Court) No further questions.

23 THE COURT: (To Mr. Richey) Redirect?

24 REDIRECT EXAMINATION OF SHAUN ROGERS, JR.

25 BY MR. RICHEY:

1 Q Did -- did the lawyer discuss with you that you could get
2 consecutive time on these cases? Was that any
3 conversation at all?

4 A Consecutive?

5 Q Yes.

6 A I don't even really remember that part.

7 Q The -- the -- you got a 20-year sentence, right?

8 A Uh-huh.

9 Q And you come back with these charges and plead -- and you
10 plead to them. Did the lawyer ever discuss with you, "If
11 you go to trial, and you get convicted of, say,
12 involuntary manslaughter, any other charge that you get
13 would be -- you would get consecutive time to the 20 you
14 got"?

15 A Oh, yes, sir.

16 Q She did?

17 A Uh-huh.

18 Q Huh?

19 A She did.

20 Q Okay. And -- and if you got consecutive time, that you
21 could -- that you could get 30/40 years consecutive, not
22 get a life sentence. Did she discuss any of that with
23 you?

24 A She just kept bringing up life sentence. She just kept
25 making this -- making it known that -- of -- of a life

1 sentence.

2 Q Okay. And she never discussed with you consecutive time?

3 A Not really, no.

4 Q Okay. And do you know what that is?

5 A Just more time.

6 Q Yeah. Consecutive time, do you know what that is?

7 A Like, you'll -- I guess you'll complete one sentence and
8 start the next one.

9 Q Yeah. Okay. All right.

10 MR. RICHEY: (To the Court) Thank you, sir.

11 THE COURT: All right. (To the applicant) Thank
12 you, sir. You can step down.

13 (WHEREUPON, the applicant was excused.)

14 THE COURT: (To Mr. Richey) You can call your next
15 witness.

16 MR. RICHEY: Tracy -- we want to call Tracy first.

17 (WHEREUPON, the witness was sworn.)

18 **DIRECT EXAMINATION OF TRACY RACINE, ESQ.**

19 BY MR. RICHEY:

20 Q Ma'am, can you state your name?

21 A Tracy Racine.

22 Q Did you -- do you recall representing Mr. Rogers?

23 A Yes.

24 Q Okay. And was it for the charges that were outlined by
25 the attorney general?

1 A Yes.

2 Q Okay. And you, in this batch of things, you were the
3 second lawyer in the chain of events --

4 A Yes.

5 Q -- correct? I mean, Joshua Schultz initially tried the
6 case, got some convictions, and you got what was left
7 over -- I'll use that word -- right?

8 A Yes. Yes.

9 Q Okay. And you met with Mr. Rogers and talked to him; is
10 that correct?

11 A Yes.

12 Q Okay. And you heard Mr. Rogers' testimony in this case
13 that he -- it was his position that he would not be found
14 guilty and that you conveyed to him it was your position
15 that he would get a life sentence. Is all that . . .

16 A At first, he didn't want to plead. He -- he did say he
17 thought he could beat the charges, and I explained to him
18 that that's fine. If he wanted a trial, we'd take it to
19 trial, but he would be facing 30 as a floor to life. And
20 then when we got the offer, his ceiling all of a sudden
21 became 30, so I tried to explain that to him. And so, he
22 understood what he was looking at before he decided to
23 accept or reject the deal.

24 Q Did -- did he -- was he emphatic about going to trial?

25 Did he say, "Hey. I want to go to trial. I want to go

1 to trial?" Or was it, "I want to go to trial. We got
2 this offer; I'm gonna take it?"

3 A It started out, "I want to go to trial," and then once we
4 got some new evidence and the offer, he decided to take
5 the deal.

6 Q Okay. And from your review of the case, do you think
7 that he -- the evidence exposed him to a -- to a
8 potential life sentence?

9 A Yes.

10 Q Okay. And do you recall exactly what it was that you
11 felt that would lead him to get convicted?

12 A Well, the victim's mother could identify him, from what I
13 can remember, as being the driver of the car with the
14 co-defendant leaning out shooting. The co-defendant, I
15 spoke with him. He did not want to testify, but he would
16 if he had to. And there was also a video -- or excuse me
17 -- an audio recording from the co-defendant calling his
18 mother and basically saying what happened and saying full
19 well that he knew what he was doing when he was driving
20 that car. And that -- that he knew that there was gonna
21 be the shooting.

22 Q So this was a "hand of one, hand of all" case?

23 A Yes.

24 Q Okay. And so it -- it was -- he could not have been the
25 shooter and still could get the liability of the shooter?

1 A Yes.

2 Q Did you explain that to him?

3 A Yes. We --

4 Q Okay.

5 A -- discussed that.

6 Q And -- and that was -- and that was -- was that the

7 reason why he said, "I didn't shoot the guy"?

8 A Right.

9 Q And did he -- did he request that you go to the

10 solicitor's office and ask them to do a 20-year

11 concurrent sentence?

12 A Yes. He did.

13 Q Okay. And how did that go in your conversation with the

14 prosecutor's office?

15 A I talked to him about it and -- and he said, "No." That

16 25 was the best he was gonna do. Since he was reducing

17 the charge, he would not reduce it any further.

18 Q And in -- and in talking with him, you are aware that he

19 actually went to trial, correct?

20 A Yes.

21 Q So if he wanted to go to trial -- well, let me ask you a

22 question: You went over discovery with him, correct?

23 A Yes.

24 Q Okay. Okay.

25 MR. RICHEY: (To the witness) Answer the questions

1 Attorney General will have.

2 THE COURT: (To the State) All right.

3 CROSS-EXAMINATION OF TRACY RACINE, ESQ.

4 BY MS. MARTO:

5 Q Good morning, ma'am. So you were under the impression
6 that Mr. Rogers knew what he was doing by pleading,
7 correct?

8 A Yes.

9 Q He understood the charges he was pleading to?

10 A Yes. He did.

11 Q And the rights he was waiving?

12 A Yes.

13 Q And he was doing that because he was accepting the
14 benefit of a good plea deal?

15 A Yes.

16 Q He was afraid of life at trial?

17 A Oh, yes.

18 Q And he was afraid he would likely lose at trial; is that
19 correct?

20 A Yes.

21 MS. MARTO: (To the Court) No further questions.

22 THE COURT: All right. Thank you, ma'am. You can
23 step down.

24 (WHEREUPON, the witness was excused.)

25 MR. RICHEY: Defense calls Mr. Racine.

1 THE COURT: Okay.

2 THE COURT REPORTER: I'm sorry. I didn't hear you,
3 Mr. Richey. (To the Court) I didn't hear him.

4 THE COURT: Mr. Racine.

5 MR. RICHEY: Racine.

6 THE COURT REPORTER: Oh, Mr. Racine.

7 MR. RICHEY: Yeah.

8 THE COURT: Yeah.

9 THE COURT REPORTER: Thank you.

10 (WHEREUPON, the witness was sworn.)

11 **DIRECT EXAMINATION OF RUSSELL RACINE, ESQ.**

12 BY MR. RICHEY:

13 Q Can you state your name, please.

14 A Russell Racine.

15 Q And, Mr. Racine, you were co-counsel in this case?

16 A That's correct. I -- or Mr. Rogers engaged me after my
17 wife was appointed.

18 Q Okay. So she was appointed and you got retained?

19 A Yes. I -- when we originally thought that we were going
20 to try this case, I agreed to help my wife, and my law
21 firm agreed to let me represent Mr. Rogers on a pro bono
22 basis.

23 Q Okay. All right. Okay. And so you were brought in for
24 the trial purposes?

25 A Originally, we thought that this would be a trial, and so

1 I agreed to help my wife, yes. And then when we
2 developed the new evidence and realized it should not go
3 to trial, I remained on the case through the plea.

4 Q Okay. And so in terms of discussing the plea and all
5 that was -- did you -- were you a participant in that?

6 A I was.

7 Q Okay. And I think you've been in the courtroom; you've
8 heard the testimony. Did Mr. Rogers want to go to trial?

9 A He did at first until we developed the new evidence, and
10 once we came out with the new evidence, we discussed it
11 with him, and he made the decision not to go to trial.

12 Q And was the new evidence the recording from the co-
13 defendant jail recording?

14 A It was. Originally, the thought was that Mr. Jeffries,
15 his co-defendant, would potentially exonerate him and
16 after we interviewed Mr. Jefferies and obtained the
17 recording that clearly stated that Mr. Rogers knew
18 exactly what was going to happen, we discussed that with
19 Mr. Rogers, and he changed his mind and decided to plead.

20 Q Oh, so the recording is what made this thing go; is that
21 correct? When I say, "make it go," he was, "I'm going to
22 trial. I'm going to trial. I'm going to trial," and
23 y'all present this recording to him, and that was -- had
24 a basis for him withdrawing his request for a jury trial;
25 is that a fair statement?

1 A Somewhat.

2 Q Okay.

3 A Until we obtained the recording and heard what was on it,
4 the only defense he had was I didn't know what was going
5 to happen. The recording destroyed whatever chance that
6 defense would have, and so after that, there was no real
7 defense.

8 Q And do you believe that he was exposed to a life
9 sentence?

10 A Was he facing life? Yes. He was charged with murder,
11 and, I believe, at the time, that carried 30 to life.

12 MR. RICHEY: (To the witness) Thank you. Answer
13 any questions the Attorney General will have.

14 CROSS-EXAMINATION OF RUSSELL RACINE, ESQ.

15 BY MS. MARTO:

16 Q Good morning, sir.

17 A Good morning.

18 Q So it was your understanding Mr. Rogers knew what he was
19 doing by pleading, right?

20 A Yes. He did.

21 Q He understood the charges he was pleading to and the
22 rights he was waiving?

23 A He did.

24 Q And he decided to plead because he was afraid of getting
25 a much harsher sentence at trial?

1 A That's correct.

2 Q And would you consider this a strong case for the State
3 at trial?

4 A Absolutely.

5 MS. MARTO: (To the Court) No further questions.

6 THE COURT: All right. Thank you, sir. You can
7 step down.

8 THE WITNESS: Thank you, Your Honor.

9 (WHEREUPON, the witness was excused.)

10 MR. RICHEY: That --

11 THE COURT: Call your --

12 MR. RICHEY: -- will be all, Your Honor.

13 THE COURT: All right.

14 MS. MARTO: No witnesses, Your Honor.

15 THE COURT: Applicant rests?

16 MR. RICHEY: Yes, sir.

17 THE COURT: Anything -- anything from the State?

18 MS. MARTO: No witnesses, Your Honor.

19 THE COURT: Argument?

20 MR. RICHEY: No. We ask Your Honor to take it under
21 advisement.

22 THE COURT: All right. Thank you.

23 All right. Well, so what's gonna happen, Mr.

24 Rogers, I'm gonna take the matter under advisement.

25 There's a transcript I need to read, look over

1. everything before I issue a decision. After I've
2 deliberated on it for a while, I will let your
3 lawyer know of my decision and at which time he will
4 be in touch with you about that, okay?

5 THE APPLICANT: Yes, sir.

6 THE COURT: Thank you very much. You have a great
7 day.

8 MR. RICHEY: Thank you.

9 MS. MARTO: Thank you, sir.

10 (Whereupon, the within hearing was
11 concluded at 10:39 a.m.)

12 (*This transcript may contain quoted material.
13 Such material is reproduced as read or quoted by the
14 speaker.)

CERTIFICATE

Amber Payne

My commission expires August 12, 2029

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE)

Shaun Rogers, Jr., #381643,
 Applicant,)

v.)

State of South Carolina,
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2022-CP-11-00282

ORDER OF DISMISSAL

FILED IN OFFICE OF
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.
 2023 MAR 13 A 7:43
 BRANDY W. MCBEE

This matter comes before this Court by way of Applicant's post-conviction relief application filed April 22, 2022. Respondent made its return on August 16, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on October 18, 2022, at the Spartanburg County Courthouse. Rodney Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsels Tracy and Russell Racine, Esquires, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its April 2019 term, the Cherokee County Grand Jury indicted Applicant for murder (count one) and possession of a firearm during commission of a violent crime (count two) (2019-GS-11-00690), attempted murder (2019-GS-11-00692) and discharging a firearm into a dwelling (2019-GS-11-00693). Applicant was represented by Tracy and Russ Racine, Esquires. Solicitor Barry Barnette of the

Seventh Circuit Solicitor's Office prosecuted the case. On November 23, 2021, Applicant appeared before the Honorable R. Keith Kelly, circuit court judge, and entered an *Alford* plea to the lesser-included offense of voluntary manslaughter and a negotiated twenty-five years, a negotiated five-year sentence for weapons possession, a negotiated ten-year sentence for discharging a firearm into a dwelling, and a negotiated twenty-five-year sentence for attempted murder. Judge Kelly accepted the plea and sentenced Applicant in accordance with the negotiations.

Applicant filed a timely notice of appeal on December 10, 2021. The South Carolina Court of Appeals dismissed the appeal for failure provide a sufficient explanation pursuant to Rule 203(d)(1)(B)(iv), SCACR. The remittitur was issued on March 25, 2022.

Summary of Relevant Facts

When the police arrived on scene, they found Overton Good laying just inside the front door with what appeared to be a gunshot wound. (Tr. 12). His girlfriend was in the residence at the time. (Tr. 12). She called 911 and dogs were heard in the background of the call. (Tr. 12). She told the police she saw two black men pull up in a gray car, exit the car, and approach the house. (Tr. 12-13). She saw an arm of someone wearing a red jacket and holding a pink gun. (Tr. 13). Overton shut the door and the girlfriend called the police. (Tr. 13). Overton identified Applicant's co-defendant and the girlfriend identified Applicant. (Tr. 13). Four or five shots were fired, and Overton was hit. (Tr. 13). The girlfriend identified the co-defendant as the shooter and Applicant as the driver. (Tr. 14).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Involuntary guilty plea.
 - a. *Alford* plea was involuntarily given.
2. Ineffective Counsel.
 - a. Counsel failed to investigate.
3. Violation of constitutional rights.
4. Prosecutor misconduct.

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel.
 - a. Failure to secure a more favorable plea offer.
 - b. Failure to investigate.
2. Invalid Plea.
 - a. Trial tax.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant

Applicant testified that he is presently incarcerated. He stated he filed a PCR application based upon ineffective assistance of counsel claims. He stated he was represented by Joshua Schultz at trial, where he was convicted on some charges, but not others. He stated that he pled to the remaining charges while being represented by the Racines. He stated he wanted a twenty-year concurrent sentence, or he wanted to go to trial. He stated that Counsel told him to plead, or he would receive a life sentence for murder. He stated that Counsel told him that the plea offer was his best option. He stated that Counsel told him that if he went to trial, he would lose all credit for time served. He stated that he did not think he would be found guilty on all charges. He stated that there was evidence showing he did not commit the crime. Applicant wavered when asked if he knew his sentences could be run consecutively.

Tracy Racine

Ms. Racine testified that she represented Applicant after taking the case over for Joshua

Schultz after Applicant's mistrial. She stated she talked to Applicant. She stated he stated he was unwilling to plead at first. She stated that she was fine with proceeding to trial but told him he was looking at thirty years to life imprisonment if he was found guilty. She stated Applicant received a plea offer that cut down the amount of time he had to serve. She stated Applicant ultimately decided to plead guilty. She stated that the evidence was incriminatory and would likely lead to a life sentence. She stated that the victim's family identified Applicant and that Applicant's co-defendant would testify against him at trial. She stated there was a call from co-defendant that indicated Applicant knew what happened. She stated he would be found guilty under hand of one hand of all. She stated she told Applicant that he could be found guilty even if he was not the shooter. She stated that Applicant said he was not the shooter. She stated she asked for a twenty-year sentence, which Solicitor rejected because he was already pleading to a reduced charge. She stated she reviewed discovery with Applicant.

Russell Racine

Mr. Racine testified that he was co-counsel on this case. He stated he was engaged in the case after Ms. Racine was. He stated he represented Applicant pro bono. He stated that Applicant initially wanted to proceed to trial, which is why he was added to the case. He stated he remained on the case through the plea proceedings. He stated that there was a recording of Applicant's co-defendant's statement. He stated that this interview destroyed any trial defense they otherwise may have had. He stated Applicant was facing life imprisonment. He stated that this was a strong case for the State. He stated Applicant understood the charges he was facing and rights he was waiving by entering the plea.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the

testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, direct appeal records, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the

range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.



Involuntary Plea

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made

by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

The Court finds the plea was freely, knowingly, intelligently, and voluntarily entered. Applicant confirmed he understood the counts, elements, sentencing ranges, negotiations, and violent and most serious distinctions, if applicable. (Tr. 4-7). Applicant confirmed he knew he was waiving his rights to a jury trial, to call and confront witnesses, and to remain silent. (Tr. 7). Applicant stated Counsel reviewed all discovery materials with him. (Tr. 9). Applicant stated he was pleading under *Alford* freely and voluntarily. (Tr. 9). He stated no one threatened or coerced him into pleading. (Tr. 9-10). Applicant expressed he was satisfied with Counsel and that she did everything she could to help him. (Tr. 10). After the State recited the facts of the case, Applicant stated that the facts were accurate and could be shared with a jury. (Tr. 15-16). This Court concurs and finds the plea was freely, voluntarily, knowingly, and intelligently entered and cannot be withdrawn now.

Failure to Investigate

Applicant alleges ineffective assistance of counsel for “failure to investigate.” *Strickland* makes clear that defense counsel “has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim’s validity is evaluated for “reasonableness [under] all the



circumstances” with “a heavy measure of deference to counsel’s judgments” applied. *Id.* At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995).

Additionally, whether Applicant was prejudiced by Counsel’s failure to investigate is contingent on whether the evidence presented would have led Counsel to change his recommendation regarding the plea. *Stalk v. State*, 383 S.C. 559, 562, 681 S.E.2d 592, 594 (2009).

Applicant failed to state with any specificity what he wanted Counsel to investigate, how Counsel was unreasonable in failing to investigate this, or how it would impact his decision regarding the plea. Accordingly, Applicant has failed to meet his burden of proof and relief is denied accordingly.

Trial Tax

Applicant claims his plea was coerced because he was afraid if he did not plead and proceeded to trial instead, he would face life imprisonment. Fear of receiving more time if he went to trial is not enough to undermine the validity of the plea. Accordingly, relief is denied on this ground.

Favorable Plea Offer

Applicant claims Counsel was ineffective for failure to secure a twenty-year plea offer. Applicant had no constitutional right to a plea offer. “Prosecutors have broad powers in the plea bargain process[.]” *Reed v. Becka*, 333 S.C. 676, 684, 511 S.E.2d 396, 400 (Ct. App. 1999). *See Collins v. State*, 422 S.C. 250, 261, 810 S.E.2d 871, 877 (2018) (“[T]he decision whether to revive the expired plea offer rested exclusively with the solicitor.”); *State v. Langford*, 400 S.C. 421, 436 n.6, 735 S.E.2d 471, 479 n.6 (2012) (stating “[u]ndoubtedly, the solicitor has discretion in choosing how to proceed with a case, including whether to prosecute in the first place and



whether he brings it to trial or offers a plea bargain”); *see also Weatherford v. Bursey*, 429 U.S. 545, 561 (1977) (finding “there is no constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial”).

“Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety.” *Reed*, 333 S.C. at 684, 511 S.E.2d at 400-01. “The Judicial Branch is not empowered to infringe on the exercise of this prosecutorial discretion; however, on occasion, it is necessary to review and interpret the results of the prosecutor’s actions.” *Id.* Yet, plea offers must be analyzed within the bounds of judicial restraint. *Id.*

“[A] defendant has no constitutional right to plea bargain,” *id.* (citing *State v. Easler*, 322 S.C. 333, 471 S.E.2d 745 (Ct. App. 1996), *aff’d as modified*, 327 S.C. 121, 489 S.E.2d 617 (1997)), and “a trial judge is not required to accept a plea. *Id.* (citing *Santobello v. New York*, 404 U.S. 257 (1971)). “A plea agreement is only an ‘offer’ until the defendant enters a court-approved guilty plea. A defendant accepts the ‘offer’ by pleading guilty. Thus, until formal acceptance of the plea by the court has occurred, the plea binds no one, not the defendant, the State, or the court.” *Id.*, 333 S.C. at 688, 511 S.E.2d at 402 (citing *Harden v. State*, 453 So.2d 550 (Fla. Dist. Ct. App. 1984); *see also State v. Nesbitt*, 411 S.C. 194, 201 n.7, 768 S.E.2d 67, 71 n.7 (2015) (finding that “if the defendant enters into a negotiated plea agreement prior to the court’s acceptance of his guilty plea, that agreement is a mere executory promise that, standing alone, has no constitutional significance, as it binds neither the government nor the defendant.”).

Counsel credibly testified that she requested a twenty-year offer be extended, but the State rejected the offer. The State has no duty to accept Applicant’s counteroffer for a more lenient sentence. Accordingly, relief is denied on this ground.



Conclusion

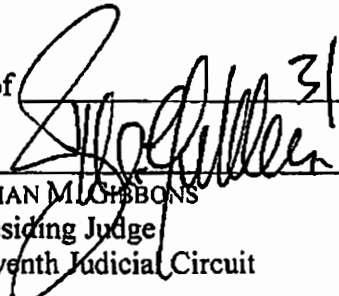
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this _____ day of September ^{3/2}, 2023.


 BRIAN M. GIBBONS
 Presiding Judge
 Seventh Judicial Circuit


 _____, South Carolina.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2022CP1100282

Shaun Rogers Jr		Sate Of South Carolina	

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow) ☐ Statement of Judgment by _____

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

S/ Brian M. Gibbons
Circuit Court Judge

2168
Judge Code

3/13/2023
Date

For Clerk of Court Office Use Only

This judgment was entered on 03/13/23, and a copy mailed first class or placed in the appropriate attorney's box on 03/13/23, to attorneys of record or to parties (when appearing pro se) as follows:

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2023 MAR 14 AM 10:28
BRANDY MOBEE

Rodney Wade Richey PO Box 10916 Greenville, SC
29603-0916

Alan McCrory Wilson S.C. Attorney General's Office PO
Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Brandy W. McBee
Brandy W. McBee, Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
