

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JACOBY JAMAR GREGORY,

APPELLANT

APPELLATE CASE NO 2016-001533

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SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Where did it go?

2 A Like you said, the street is relative small, so
3 the street loops. When you go that way, it loops back to
4 Wall Street. So, he looped back to Wall Street.

5 Q All right. And so he left. Then what did
6 everybody do?

7 A You know, like talking amongst ourselves just
8 saying he took it too far. He's going too far. He's
9 going too much. This was all about fighting and now he's
10 doing fake drivebys.

11 Q Was it as casual conversation as you're doing
12 now?

13 A Not casual.

14 Q It was much more animated, wasn't it?

15 A Yes.

16 Q In fact, people were mad?

17 A That's correct.

18 Q I mean, Stacy Sullivan was particularly mad
19 because this whole thing started with his baby momma being
20 pushed to the ground, right?

21 A Correct.

22 Q And he remained extraordinarily mad throughout
23 this whole thing, correct?

24 A Correct.

25 Q You, obviously, were mad because you had been

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 threatened with death?

2 A Correct.

3 Q So, you had a great deal of anger about this
4 situation?

5 A Correct.

6 Q And probably more than anybody, you were scared
7 by this fake driveby that occurred, would that be fair to
8 say?

9 A Correct.

10 Q And so -- and there was a consensus, it seems,
11 that he had taken it too far?

12 A Correct.

13 Q And when all this is going on, Jacoby is still
14 not present, is he?

15 A No.

16 Q Jacoby is still at work, right?

17 A Correct.

18 Q But it seems like all y'all hang out, you text,
19 you call, it seems to me that y'all keep pretty much in
20 constant contact. Is that about the way things are
21 carried on?

22 A Correct.

23 Q I mean, you communicated through -- even through
24 Facebook and things like that, right?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q And because, as you discussed earlier, as far as
2 Barry's death, you said you knew that within 10 to 15
3 minutes of it happening, right?

4 A Correct.

5 Q Because people you knew immediately started
6 texting, calling, all that stuff was going on?

7 A Correct.

8 Q And that's how things were going when this fake
9 driveby occurred?

10 A Correct.

11 Q So, by the time Jacoby got there, he knew what
12 had happened?

13 A Correct.

14 Q And he asked y'all when he got there to kind of
15 fill him in on what's going on?

16 A I believe he was already filled in.

17 Q But again, he wasn't part of any of this, right?

18 A Not at the time.

19 Q He, you said, began to have some discussions
20 with Barry Norman, is that right?

21 A Correct.

22 Q And he and Barry are actually pretty good
23 friends, right -- or were pretty good friends, I should
24 say?

25 A Is that your opinion or you asking me a

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 question?

2 Q I'm asking you. I don't really have an opinion
3 on it. I'm asking you.

4 A I don't think he knew Barry more than three
5 months.

6 Q Well, let's go back to the Clarion Hotel. Are
7 you aware that Jacoby had actually rented the room?

8 MS. PAOLETTI: Objection, Your Honor.

9 THE COURT: On what basis?

10 MS. PAOLETTI: I --

11 THE COURT: He just asked him whether or not he
12 knew something.

13 MS. PAOLETTI: Yes, sir.

14 THE COURT: That doesn't mean it's true.

15 MS. PAOLETTI: Yes, sir.

16 BY MR. CHAMBERS:

17 Q Are you aware that Jacoby actually rented the
18 room that Barry was staying in at the Clarion?

19 A Not aware of it. I was not aware.

20 Q But there was nothing to lead you to believe,
21 certainly, that there was -- that they didn't like each
22 other, right?

23 A Correct.

24 Q Okay. And you already said that when these
25 discussions that he was having throughout his time with

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Barry, he was kind of acting as a mediator?

2 A Correct.

3 Q I mean, he was trying to take the violence down
4 a few steps and, basically, do it kind of the
5 old-fashioned way where you just get together and have a
6 fist fight and get it over with?

7 A Correct.

8 Q And that way, nobody's going to be mad at each
9 other anymore; is that right?

10 A Correct.

11 Q Kind of like what happened, I guess to a lesser
12 degree, at the Clarion when there was that fight and then
13 they kind of huffed it out and made up and everything was
14 okay?

15 A Correct.

16 Q It would be fair to say that that's what Jacoby
17 was trying to accomplish with Barry?

18 A Correct.

19 Q And that continued throughout the evening, is
20 that right?

21 A Correct.

22 Q And you had already indicated that Jacoby came
23 straight from work?

24 A Yeah.

25 Q I mean, he didn't go home, take a shower, change

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 clothes, right?

2 A Correct.

3 Q He was wearing what he wears to work?

4 A Correct.

5 Q And that's what you described to me as black
6 steel-toed work boots, right?

7 A From my understanding. I don't know what he had
8 on his feet. But, usually, when I see him from work, he
9 has like some steel-toed boots kind of.

10 Q Yeah, that would make sense if you were working
11 with steel, would that not be fair to say?

12 A Yeah.

13 Q And he had on the dark pants?

14 A Correct.

15 Q So, dressed like somebody who has been working
16 at a job like that?

17 A Correct.

18 Q Okay. And you said for sure that it was dark
19 when Jacoby got there, when he came?

20 A (The witness nods.) Correct.

21 Q You don't have any doubt about that, right?

22 A Correct.

23 Q At some point, you and Jacoby went somewhere
24 with James Williams; is that right?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q James was there at Bop's?

2 A Correct.

3 Q What had James been doing at Bop's during all of
4 this -- I mean, was he there for everything?

5 A For everything.

6 Q So, what had James been doing during that time,
7 do you know?

8 A Mainly, he was sitting in his car listening to a
9 Drake CD.

10 Q So, from the time that this first altercation
11 occurred until after the fake driveby, which is over, you
12 know, a pretty good little of bit of time, James Williams
13 was sitting in his car listening to Drake?

14 A Correct.

15 Q Did he ever get out of the car?

16 A Yes.

17 Q And what prompted you and Jacoby to get in the
18 car with him?

19 A Well, we decided to ride to the store!

20 Q Just ride to the store?

21 A To the Exxon.

22 Q Was James going there to pick something up and
23 he let y'all know that?

24 A Well, I decided I needed something from the
25 store. And he willing say he would take me and that's

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 when Jacoby say he'll ride with us.

2 Q What did you need from the store?

3 A Something to drink.

4 Q That was your reason for going, you were going
5 to get something to drink?

6 A Snack.

7 Q Do you remember Jacoby talking to James about
8 going to the Pizza Hut?

9 A No.

10 Q There is a Pizza Hut right there next to that
11 Exxon on North Main Street, isn't there?

12 A Correct.

13 Q So, you have no recollection about Jacoby
14 talking about going to the Pizza Hut?

15 A To get what, a pizza?

16 Q Yeah, a pizza. That's what they sell, right?

17 A I don't know.

18 Q But you don't recollect it?

19 A I don't recollect.

20 Q Do you recollect Jacoby getting out of the car
21 and going to the Pizza Hut only to find that it was
22 closed?

23 A Yeah, I do remember he got out of the car and
24 did something. I don't know what he did, though.

25 Q And as you've already indicated, Jacoby had come

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 straight from work, right?

2 A Uh-huh.

3 Q So, it might be reasonable to assume that he
4 would be hungry and want something to eat at that time?

5 A Possible.

6 Q All right. And if I heard you correctly when
7 you were talking to the solicitor, while you were there,
8 Landis Franklin drives up?

9 A Correct.

10 Q You had not talked to Landis Franklin before
11 then, had you?

12 A Yeah.

13 Q When did you talk to Landis?

14 A Me and Landis talk at Bop's house about going to
15 Cream.

16 Q Oh, okay. So, you were going to the club
17 together?

18 A Yeah.

19 Q Is that why you thought he was there, for y'all
20 to go to the club?

21 A Yeah.

22 Q But I thought you went to the store to get a
23 drink?

24 A I did, and a snack.

25 Q So, the plan was that you were going to get a

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 drink and a snack and that Landis was then going to come
2 by and pick you up there?

3 A No, the plan wasn't to pick me up at Exxon. It
4 just happened he stay right around the corner from the
5 Exxon.

6 Q How did he know you were there?

7 A That, I do not know. I do not know. Maybe he
8 might have been on his way back to Bop's house and seen us
9 parked at Exxon.

10 Q So, he was going to stop and when he stopped.
11 Did he say, Hey, let's go on to Club Cream?

12 A He didn't say nothing. I just got in the car
13 and I figured we been talking about it anyways, that's
14 where the location was.

15 Q So, Landis Franklin pulls in at the Exxon
16 unexpectedly while you're there to get a drink and a
17 snack?

18 A Correct.

19 Q And even though y'all had talked about going to
20 Club Cream before, you, without any discussion, get in the
21 car with him with the expectation that you were then going
22 to go to Club Cream?

23 A Correct.

24 Q Okay. And Smitty was in the car with him?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Okay. And was Smitty in the front passenger
2 seat?

3 A Correct.

4 Q Now, you also had Jacoby. And I believe you
5 indicated that Jacoby also got in the car?

6 A Correct.

7 Q Now, you said on the way over that while you
8 didn't remember any discussion about Pizza Hut, you did
9 tell the solicitor that you remember Jacoby, again, trying
10 to be the mediator with Barry talking about setting up
11 some kind of fistfight?

12 A Correct.

13 Q But when you got in the car with Landis, it was
14 to go to Club Cream?

15 A Correct, that could have been the location,
16 yeah.

17 Q But Jacoby also got in the car with you?

18 A Correct.

19 Q Was Jacoby going to go to Club Cream?

20 A He could wear his work clothes. Basically, what
21 I'm doing is freelancing. I'm just getting in the car
22 because I'm not the driver. If I was the driver, we would
23 go straight to Cream. But I'm in somebody's else's car,
24 so I have to abide by their rules wherever they're going.
25 But the destination was supposed to be Cream.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q All right. But you didn't discuss that except
2 earlier when you discussed going?

3 A Correct. And I seen Landis had changed his
4 clothes when he came to pick me up, but I also saw that
5 Smitty had on basketball shorts, so I knew he wasn't going
6 to the club. But it is possible to go to the club with
7 your work clothes on, sir, and get a drink on a Tuesday.

8 Q Well, I understand that's possible, but I'm just
9 asking if you got in the car?

10 A Correct.

11 Q All right. But he -- he wasn't discussing going
12 to Club Cream either, though, was he?

13 A Who.

14 Q Jacoby?

15 A I believe he was freelancing, too. He was going
16 to go wherever we was going to go.

17 Q So, basically, y'all were in the car with James,
18 but without -- I guess some sort of unspoken
19 communication, y'all get into the car with Landis where
20 you're just going to go whenever he takes you because it's
21 the driver's rules?

22 A Yes, sir.

23 Q Okay. Once you got in the car, though, I mean,
24 did you have -- did you ever gather any understanding from
25 where it is you were going to go?

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 A No understanding at all.

2 Q So, basically, I'm in this car and wherever this
3 car takes me, I will go?

4 A Correct. Because I know we not fixing to drive
5 to Mexico, sir.

6 Q I get that. Okay. So, where did you go?

7 A We went back towards Bop's house, back down on
8 Woodside, basically, in the direction going towards --
9 back to Bop house, but we never made it on Woodside.

10 Q Is that an easy way to get there?

11 A Yes, sir.

12 Q I mean, where Bop's house is on Bates Street is
13 probably less than a mile from Woodside Avenue, right? I
14 mean, in fact, you turn on Woodside from Bates Street,
15 right?

16 A Correct.

17 Q And then down the area of Third and Fourth
18 Street is less than a mile, would that be correct?

19 A Correct.

20 Q And the Exxon on North Main is also very close
21 to those two locations, right?

22 A North Main?

23 Q The Exxon where all of you were, it's also very
24 close, correct?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Now, do you have any recollection of while you
2 were at the Exxon on North Main, while James Williams was
3 there, that Bop and Jerell pulled up behind James?

4 A No, I didn't have no aware of that.

5 Q So, if that happened, you don't know anything
6 about it?

7 A Correct.

8 Q Did you tell James bye or anything?

9 A Yeah, because he had my phone.

10 Q Did you get your phone back from him?

11 A Yes, sir. I didn't tell him bye, but I got my
12 phone back from him.

13 Q Did you tell him, Hey, I'm not riding back with
14 you?

15 A Talking about when I left from the Exxon?

16 Q Yeah.

17 A Did I tell him what?

18 Q Did you just say anything to him about hey, man,
19 I appreciate the ride, but I'm not going back with you,
20 I'm getting in the car with Landis?

21 A No. Only thing I did was get my phone back and
22 said all right.

23 Q Okay. So, y'all started back down Woodside, and
24 then what happened?

25 A The music was kind of up a little bit --

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Were y'all talking?

2 A No, it was no talking. The music was up, not
3 too loud, but slightly, you know, medium. And I'm just
4 staring out the left side window because I'm sitting
5 behind the driver's seat. I'm just looking and playing on
6 my phone and stuff. And then the music come down a little
7 bit. It was like well --

8 Jacoby Gregory tell me Barry back there, we
9 fixing to go out, plus I been on the phone with him and he
10 saying we going to meet and squash -- meet to talk and
11 squash it out or whatever, like that. That conversation
12 was brief.

13 I said, All right, cool. Like I said, I
14 was freelancing. I said, Cool to Coby, squash it,
15 whatever.

16 So, that's when Landis said, Well, y'all
17 want to get dropped off right here because I got to run to
18 Bop house to drop Smitty off so we can go to the club? By
19 the time y'all done with whatever y'all doing, I'll be
20 back to pick y'all up.

21 Q So, if I understand what you're saying
22 correctly, there was never any plan between you and Jacoby
23 or anybody else to go over to that area of Woodside
24 Avenue?

25 A No, never no plan.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q That was just a random occurrence?

2 A Random occurrence.

3 Q And were you all aware of the fact that Barry
4 Norman would be over in that area?

5 A I did not know. I did not know truthfully.

6 Q Do you know either James Wright or Joshua
7 Kilgore?

8 A Not at all.

9 Q Did you have any idea that they been or were
10 with Barry Norman that day?

11 A Yeah. It was something said to me after the
12 fake driveby. After the fake driveby, somebody released
13 their names saying this is possibly people that he with
14 right now.

15 Q But at any rate, I don't want to just keep going
16 over this, but I want to make sure I'm clear on it. We
17 get this trip to the store to get a Coke and a snack, and
18 then you jump in the car with Landis Franklin to go
19 wherever he's going. But there was never a plan to go
20 over to this area of Woodside to confront Barry Norman?

21 A No.

22 Q Okay. Because had there been some kind of plan
23 to go that way -- I mean, for example, Jacoby had his own
24 car that he could drive, correct?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q But this was just a random thing and y'all told
2 Landis to let y'all out?

3 A Correct.

4 Q And he let you out where?

5 A At Woodside Apartments.

6 Q So, did you actually get out on Woodside?

7 A Yes.

8 Q And Woodside is where you could see Barry
9 Norman -- he was standing, is that correct?

10 A Could we see Barry Norman --

11 Q I'm talking about you. I mean, y'all said
12 that -- one of you spotted Barry Norman, so where was he
13 spotted?

14 A I believe on Third Street where he was standing.

15 Q But was it on the corner of Third and Woodside
16 or was it somewhere else on Third?

17 A Probably to the corner of Third. I wasn't the
18 one that spotted him, so I couldn't say, sir.

19 Q Did y'all drive by Third or were you coming down
20 by Fourth?

21 A We drive past Third.

22 Q So, you drove past it some, right?

23 A Correct.

24 Q And those are -- and which side were you sitting
25 on, were you sitting on the driver's side or the passenger

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 side?

2 A I was sitting behind the driver.

3 Q All right. So, you drove past. And those are
4 very short blocks out there, right?

5 A Correct.

6 Q So, you pass Third Street and you got out right
7 there at Fourth Street, is that right?

8 A No, we got out at Woodside Apartments.

9 Q Well, Woodside Apartments are just past Fourth
10 Street, right?

11 A But it's not Fourth Street.

12 Q I mean, there's that field that you talked about
13 earlier and then there's the Woodside Apartments.

14 A Pretty big field, sir.

15 Q I understand, but there is a field and there's
16 Woodside Apartments?

17 A Correct.

18 Q Is this whole street's not very long, right?

19 A Correct.

20 Q But at any rate, just randomly, you two get out
21 there because you said Jacoby spotted Barry Norman?

22 A It wasn't just about Jacoby spotting him. Like
23 I said, they was talking. He was the mediator talking
24 back and forth on the phone with Barry Norman or whatever.
25 And so it was like you said, it wasn't just like a plan to

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 go and do that, but it was something other than going to
2 club, too. It was told to me from Jacoby Gregory that at
3 some point in time, we might be able to just squash this
4 and let it alone.

5 Q Well, I understand that. But according to you,
6 I mean, nobody had ever communicated anything to Landis
7 Franklin. I mean, Landis was going -- you don't even know
8 where and you just got in the car with him and started to
9 drive and it just happened to be that he drove down
10 Woodside Avenue? I mean, that's what you testified to
11 just now. Am I right?

12 A Correct.

13 Q Okay. So, I mean, it's not like Jacoby said
14 hey, I've been talking to Barry, we're going to squash
15 this thing. Let's go over to Woodside Avenue because
16 Barry's going to be there, let's get over there. That was
17 not the case, was it?

18 A That was not the case.

19 Q No, you happened to be going down there and
20 that's when you say that you and Jacoby decided to get out
21 of the car, am I right?

22 A Just like -- what you saying now?

23 Q In other words --

24 MS. PAOLETTI: Your Honor, if he could answer
25 the question.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 THE COURT: Let him fully answer the question.

2 Go ahead, explain your answer.

3 THE WITNESS: I'm trying to get him to explain
4 the question again, sir.

5 THE COURT: Well, reask the question.

6 BY MR. CHAMBERS:

7 Q So, in other words, when the two of you -- as
8 all of you were driving down the street, at some point,
9 somebody asked Landis to the stop car?

10 A Correct.

11 Q That wasn't a planned thing?

12 A Nothing was planned, no.

13 Q So, then the two of you then got out, right?

14 A Correct.

15 Q So, you indicated, if I remember, that during
16 this entire time, that Jacoby was wearing the .45 and the
17 holster on his hip?

18 A Correct.

19 Q So, anybody that was around him would have seen
20 him wearing that gun?

21 A Correct.

22 Q Anybody that had been in contact with him -- he
23 had it on when he got there to Bop's house, right?

24 A Correct.

25 Q Had it on the entire time when he got in the car

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 with James Williams?

2 A Correct.

3 Q Had it on when he got in the car with Landis?

4 A Correct.

5 Q Had it the whole time?

6 A Correct.

7 Q I believe you said that -- was he wearing the
8 black hoodie that you ended up wearing or did he give it
9 to you before you got in the car with James?

10 A He gave it to me before we got in the car with
11 James.

12 Q So, you were already wearing the black hoodie,
13 right?

14 A Correct.

15 Q And your testimony today is that he was wearing
16 a white T-shirt.

17 A I believe.

18 Q Did he have it tucked into his pants?

19 A I don't know how he wore it, sir.

20 Q And when you get out, you thought y'all were
21 just going to go talk to him, right?

22 A Yes, sir.

23 Q But he's --

24 A Or fight.

25 Q Okay. But you said that right after getting

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 out, that for the first time, Jacoby produces for you a
2 9mm pistol?

3 A Correct.

4 Q Where was the pistol?

5 A Under his -- like in his pants area.

6 Q So, you're saying he had a gun on his hip in a
7 holster, 9mm stuck in his belt?

8 A And the two phones and keys, also.

9 Q Okay. Two phones and keys. And all of this to
10 ride with James Williams to get a drink and a snack?

11 A For me, it was.

12 Q Well, y'all hadn't talked about doing anything
13 else?

14 A Other than going out.

15 Q So, that's when you say that y'all started
16 walking down the street, and if I remember correctly,
17 you're walking in the direction from Fourth toward Third
18 Street on Woodside?

19 A Correct.

20 Q And if I remember correctly, if you're facing
21 that way with Fourth Street at your back, Third Street in
22 front of you, you were walking -- the sidewalk on the left
23 is where Jacoby was walking?

24 A Correct.

25 Q Okay. And that is a narrow sidewalk, is that

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 correct?

2 A Correct.

3 Q And then there's a small grassy area to the left
4 of that sidewalk?

5 A Correct.

6 Q And then there is the street that is to the
7 right of that sidewalk?

8 A Correct.

9 Q There's not a lot of traffic up and down that
10 street, is that correct?

11 A Correct.

12 Q And so, he's walking down this narrow sidewalk
13 and I believe you said that Barry Norman, after this other
14 heavysset fellow had looked down the street and pointed at
15 the two of you, that Barry Norman turned and was walking
16 toward the two of you and he was on the sidewalk?

17 A Correct.

18 Q Do you remember testifying to that a little
19 earlier?

20 A Yes.

21 Q So, when you said that, that is true testimony
22 and that is correct?

23 A Correct.

24 Q And he's looking right at the two you, right?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Does it appear that there was some concern that
2 the two of you were walking that way because somebody had
3 pointed at the two of you?

4 A Correct.

5 Q You said that you were walking out in the middle
6 of the street?

7 A Correct.

8 Q So, while Jacoby would have been facing Barry
9 the way that I'm facing you now, you would have been out
10 to Barry's left?

11 A Correct.

12 Q And as you walk down the street, you remain at
13 Barry's left?

14 A Correct.

15 Q With Barry always looking straight ahead in the
16 direction of Jacoby?

17 A Correct.

18 Q Had he turned to look at you, then the right
19 side of his head would have been facing Jacoby on the
20 sidewalk, am I correct?

21 A Could have been, yeah, depending on the angle of
22 his body.

23 Q Did you see him turn and look at you?

24 A No, I never seen if he turned and looked at me
25 or not. My focus was the guy in the dreads.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Were you -- where were you -- I know you were in
2 the road, but where were you in relation to Jacoby? In
3 other words, were you parallel to each other, in other
4 words, kind of side by side? Were you behind him? Were
5 you in front of him?

6 A Parallel.

7 Q So, you were pretty much even with him?

8 A Yeah.

9 Q All right. And were you even with him when you
10 heard shots?

11 A Yes.

12 Q So, you were standing even with him. And you
13 said that when you heard his shots, you then took the 9mm
14 and, for some reason, shot into the ground?

15 A Not directly into the ground, sir.

16 Q What did you do?

17 A I did -- it was like this type angle. Like, it
18 wasn't just directly into the ground, like, aiming for the
19 ground. It was kind of towards his direction, but not his
20 direction. It was like you shoot at somebody's foot type
21 thing. Basically, if I would have hit something, it would
22 have been a tire or a car or something.

23 Q So, why were you doing that?

24 A Like I said, I had nothing protecting me, sir.
25 like I said, I was in the middle of the street and nothing

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 was behind me, nothing to protect if anyone would have
2 ever shot.

3 Q And then you said you fired a shot as you took
4 off running?

5 A Correct.

6 Q Now, do you recall that you gave a statement to
7 the police prior to your testimony today?

8 A Correct.

9 Q And you gave that statement to the police on
10 October the 11th of 2013, is that accurate?

11 A Correct.

12 Q And this was after you had gone to Syracuse, New
13 York?

14 A Correct.

15 Q Now, you went to Syracuse knowing that you had
16 been involved in this shooting, correct?

17 A Correct.

18 Q And by the time that you returned, Jacoby had
19 been arrested?

20 A Correct.

21 Q And during this entire time, you talked about
22 you had a couple of conversations with Jacoby, but much
23 like you discussed earlier, you were in constant contact
24 with various friends and family members, correct?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q I mean, lots of texting, phone calls. I mean,
2 you pretty much knew everything that was going on here
3 in -- back in Fountain Inn, right?

4 A Not relative to the case.

5 Q But you knew that Jacoby had been arrested?

6 A That's all.

7 Q Could it be that you came back after he was
8 arrested because at that point, you figured I'm in the
9 clear. I can go back because they arrested him for it,
10 they didn't get me?

11 A We were never in the clear, sir. We had gotten
12 into an altercation over there earlier that day.
13 Eventually, they was going to find out who did this.
14 There was no running from it.

15 Q Well, you ran from it?

16 A No, I went to go see my children, sir.

17 Q And then when you came back, the U. S. Marshal
18 had to come down and arrest you?

19 A Because of cases between the lawyer and Fountain
20 Inn Police Department.

21 Q Well, I mean, you gave a statement with a
22 lawyer. You couldn't have just gone and turned yourself
23 in?

24 A No, no, sir. I gave that statement after I was
25 arrested.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q Okay.

2 A And can I also make a comment?

3 Q Sure.

4 A One night before -- when I got arrested for
5 that, I did not know what gun killed Barry Norman at all
6 when I gave my statement. And when I went and told
7 Detective Peden where I was standing when the shots was
8 fired, I did not tell him that I had the 9mm at the time
9 due to me not having an attorney, but I told him exactly
10 where I was standing at when those shots was fired what
11 put me in that position of the 9mm where it was discharged
12 out. No, I wasn't truthful about me having the 9mm at the
13 time, but that's because I didn't have an attorney
14 present, but I did tell him when I was standing at when
15 shots was fired. And I did not know the murder weapon at
16 the time at all.

17 Q Well, you keep talking about the fact that you
18 lied because you didn't have a lawyer. I mean, they told
19 you didn't have to talk at all, didn't they?

20 A No, I didn't lie, sir, I just told half the
21 truth.

22 Q Okay. Well, let me ask you this, if you said in
23 your statement, he, talking about Barry Norman, reaches as
24 if he had gun pulled and then Coby began firing shots, is
25 that what you're referring to as only telling half the

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 truth?

2 A No, my half the truth is when I didn't implicate
3 me having a 9mm when shots was fired, sir.

4 Q But you did tell the police that you saw Barry
5 reaching for what you thought might be a gun; is that
6 correct?

7 A No, I was referring to the dreaded larger
8 figure. Maybe I wrote it kind of space -- I was talking
9 about the larger figure with the dreads that had pointed.

10 Q So, it would appear that you were trying to
11 indicate to the police then that anything that happened at
12 that point was self-defense?

13 A No. No, sir. I was simply stating the truth of
14 what happened.

15 Q So did you see somebody going for a gun?

16 A No, but I seen him walking towards us and I seen
17 whoever it was point in our direction and I immediately
18 heard shots firing.

19 Q Do you remember telling the police when you
20 talked to them back on October the 11th that Coby was
21 wearing a red hoodie?

22 A I said that?

23 Q You did say that? I'm asking you, did you say
24 that?

25 A I don't recall saying that he had a red hoodie

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 on.

2 Q It is possible that you said he was wearing a
3 red hoodie?

4 A It is possible that I could have said he had a
5 red shirt or white shirt or blue shirt.

6 Q But you're saying today that he was wearing a
7 white T-shirt?

8 A Yes.

9 Q And you don't know whether it was tucked in or
10 hanging out?

11 A It was -- he don't wear his shirt tucked in,
12 sir, at all.

13 Q You said when -- you testified a few minutes ago
14 when I asked you that you had actually gotten the hoodie
15 from Jacoby before you went to the store with James?

16 A Correct.

17 Q Do you recall that when the solicitor was asking
18 you questions that you actually said to her that Jacoby
19 had the 9mm in the hoodie pocket and gave it to you and
20 that he was wearing --

21 A I --

22 Q -- the .45 in a holster?

23 A I did make that mistake, sir. I made that
24 mistake when I said that.

25 Q So, he took the 9mm out of the hoodie that you

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 said you were wearing?

2 A No, sir, he had the 9mm under his shirt area,
3 but I got the time frames mixed up because so many things
4 happened through all this stuff. I can't pinpoint every
5 single detail.

6 Q Well, I understand, but, I mean, that's a
7 pretty big detail. He took a 9mm out of the pocket of the
8 hoodie and gave it to you, yet, you were wearing the
9 hoodie?

10 A That what I said, I was wrong, sir.

11 Q In what respect were you wrong?

12 A Because he did not have the hoodie on at all. I
13 had the hoodie on.

14 Q So, what part -- are you saying it's wrong that
15 he took the 9mm out of the hoodie pocket?

16 A Correct.

17 Q You're having trouble remembering this stuff,
18 aren't you?

19 A Not really, it's just a lot of stuff.

20 Q Okay. Then you -- let's see, you said that --
21 did he ever say anything to you about what he wanted you
22 to do with this gun when he handed it to you?

23 A Yeah, he told me to take it just in case. Like,
24 basically, just take it just in -- he said, Take it just
25 in case because Barry said he might have a gun, but, most

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 likely, we'll be talking it out.

2 Q Do you remember him telling the police that he
3 told you to stash it somewhere?

4 A Oh, you're talking about after the shooting now,
5 sir.

6 Q Well, you didn't stash it somewhere after the
7 shooting when y'all were running away?

8 A Yeah, when we was running. When he gave me the
9 .45, I was like, What am I going to do with this?
10 Because --

11 He was like, Just put it somewhere. Just
12 put it somewhere. Like fast talking me.

13 Q But when you testified today, you said that he
14 asked for your help and he just handed you something?

15 A No, I said earlier he handed me the gun.

16 Q By the way, I do want to backtrack. I hate to
17 get out of order here, but you indicated something earlier
18 about when Jacoby was talking to his -- was talking to
19 Barry that he made some comment about how he had already
20 lost a sister and he didn't want to lose you; is that
21 right?

22 A Yes, sir.

23 Q What happened to his sister?

24 A I don't know.

25 Q I mean, she didn't meet with foul play? Did she

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 just die --

2 A I believe health issue.

3 Q Health issue. Okay, so you did know, a health
4 issue?

5 A That's all I know.

6 Q All right. Now, the 9mm, I heard you say at
7 some point that -- I mean, was this Jacoby's 9mm?

8 A No, sir.

9 Q He got it from Hood?

10 A Jerell.

11 Q How would you know that?

12 A Because right -- Hood kind of pulled right
13 around the same time Coby pulled up to the scene. So, he
14 was late to the altercation and things like that. Hood
15 had got beat up by some boys in Gray Court prior to that
16 and he had just purchased that gun and was showing it to
17 us that day after he had -- when he pulled up after the
18 altercation and all that. He had pulled up and showed us
19 the gun, like, Oh, I just got this. I normally don't
20 carry a gun, but I got it in case the Gray Court boys jump
21 me.

22 That's about like that. So, that's how I
23 know whose gun it was.

24 Q Do you remember telling the police when you
25 talked to them when you finally came -- they got you on

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 the 11th, that instead of being parallel, that you were
2 actually walking ahead of Jacoby as y'all went down the
3 street?

4 A Yes, sir, I made that mistake.

5 Q So, that was a mistake. What you're saying
6 today is now the truth?

7 A Correct.

8 Q Did that have anything to do with the fact that
9 looking at the discovery you found out that the 9mm shell
10 casings were not in front of the .45 caliber shell
11 casings?

12 A I never got discovery on that behalf, sir.

13 Q You have looked at all the discovery in this
14 case, right?

15 A Actually, be honest with you, I only got
16 statements, sir. I never got to see any ballistics or
17 anything about pictures of the shell casings. I was in
18 the blind for three years.

19 Q So, you pled guilty to manslaughter without
20 having review any of the discovery in the case?

21 A Correct, sir.

22 Q Okay. All right. So, as I understand your
23 testimony today is that after this shooting occurred, the
24 two of you started running. It looked like you were the
25 faster one of the two because you were way out ahead,

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 right?

2 A Not way out, but I was in front.

3 Q And that is even as you said, you were even able
4 to go full speed because you had a 9mm tucked in the front
5 of your pants?

6 A Correct.

7 Q What kind of pants were you wearing?

8 A To be honest with you, I can't even -- they was
9 kind of so tight in the front, I didn't even need a belt.
10 I didn't have a belt on. That's how good it was to my --
11 but I had the same kind of pants as he would have, the
12 pants with the pockets by the knees.

13 Q Okay. And yet, he got out at that scene,
14 apparently, planning on or, at least, having some idea
15 that y'all were going to be involved in a shooting. And
16 you said he had one gun strapped on his hip and he had two
17 phones strapped on his hip and he had keys hanging on his
18 hip?

19 A Correct.

20 Q And he then shoots somebody, according to you,
21 and starts to run away. And because he's got all that
22 stuff, he needs your help?

23 A Correct.

24 Q All right. So, what you're saying is at some
25 point, you're ahead of him and that you turn around and

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 come back?

2 A Correct.

3 Q All right. It wasn't that he dropped something,
4 went some distance and then turned around to come back to
5 get it himself, right? In other words, you came back?

6 A Yeah, I did. I came back to him.

7 Q Okay. He told you he was about to drop
8 something?

9 A Yeah, that what he yelled out to me to get me to
10 come back, yes.

11 Q So, you came back?

12 A Correct.

13 Q And of all the things that he could have handed
14 you, he handed you the .45?

15 A Yes, instead of putting it in his holster, he
16 handed me the .45.

17 Q So, you're wearing his black hoodie?

18 A Correct.

19 Q And you're carrying his .45?

20 A Correct.

21 Q And y'all take off running as the video shows
22 and you're out ahead of him and he's somewhere behind you?

23 A Correct, playing on the phone or doing something
24 with his phone.

25 Q And then that's you that we see who comes

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 through, pulls off the hoodie, throws it over the fence,
2 and then it looks as though you walked around the fence,
3 reach into your pants and sort of lean over and lay down
4 the .45; is that right?

5 A No. I didn't reach in my pants to get the .45.

6 Q Well, where did you get it?

7 A (There was no response.)

8 Q I mean, because, listen, it would be unlikely
9 that you would be able, while holding a .45 pistol --

10 MS. PAOLETTI: Your Honor, I object.

11 THE COURT: Ask the question. This is not
12 closing arguments.

13 MR. CHAMBERS: Okay.

14 BY MR. CHAMBERS:

15 Q Were you holding the gun when you took off the
16 hoodie?

17 A My mind was racing, I don't know.

18 Q Pardon me?

19 A My mind was racing, I don't know where -- I
20 could have had it in my -- I was rotating it from hand to
21 hand or what, but my mind was racing, sir.

22 Q This is the gun that we're talking about, right?

23 A Correct.

24 Q That's a fairly -- I mean, that's a good sized
25 pistol?

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 A Correct.

2 Q So, when you run up and you pull that hoodie
3 over and you throw it, you didn't have that .45 in your
4 hand, did you?

5 A I don't know if I had it in my hand or what, if
6 I had it on my side or what, I don't know what.

7 Q But then you just told -- on your side, when
8 would you have put it on your side?

9 A Like in the side area, right there in my side
10 area.

11 Q So, what I initially said to you is right then,
12 you did reach into your pants when you knelt down to put
13 the .45 down?

14 A Possible.

15 Q So, you decide to lay down the .45, the one that
16 belonged to Jacoby?

17 A Correct. The main thing that had dropped into
18 my mind is -- where this place took -- where this took
19 place at, the police station is right around the corner
20 and I'm thinking if they pull up right now and me with two
21 guns, it's going to look bad, real bad. So, I was
22 thinking discharge the gun he gave me, sir. The 9mm was
23 secure in my front area. That's all I was thinking.

24 Q So, you're telling me that your decision was to
25 lay down the .45 that belonged to Jacoby, but to continue

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 on with the 9mm that you had stuck in your pants?

2 A No, the .45 -- take a step. The .45 was in my
3 hand, sir. I never put it out of my hand. The .45 was in
4 my hand. When I took my hoodie off, I threw it in the
5 other hand. Had the .45 in my hand the whole time.

6 Q So, you were able to hold that .45 in your
7 hands --

8 A And slip the hoodie off.

9 THE COURT: We've been over this. This is asked
10 and answered.

11 MR. CHAMBERS: Your Honor, I understand, but
12 this is a murder case and I am trying to
13 cross-examine this witness on things that are wrong.

14 THE COURT: I know, Mr. Chambers. Move along.

15 BY MR. CHAMBERS:

16 Q So, after you laid down the .45, that's when we
17 see you running the rest of the way?

18 A Correct.

19 Q And Jacoby is behind you the entire time?

20 A Correct.

21 Q But that person that we see on the back, you're
22 saying that was Jacoby?

23 A Correct.

24 Q That wasn't anybody else?

25 A Correct.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q The -- you're positive that the shirt that
2 Jacoby was wearing was a white shirt?

3 A White or off gray. I know I keep changing
4 colors so much, but I didn't care what color shirt it was.

5 Q No chance that it was an orange or red shirt?

6 A No, no way it was orange or red.

7 Q Okay. You kept the 9mm with you, correct?

8 A Correct.

9 Q You did not dispose of it along the route as you
10 had claimed?

11 A In the video and things like that, no, I never.

12 Q But you did tell the police -- well, actually,
13 at some point later -- you gave that first statement that
14 we've already talked about, right?

15 A Correct.

16 Q And you later went in and spoke to the solicitor
17 in this case, is that correct?

18 A Correct.

19 Q Is that when you indicated for the first time to
20 anybody that you had the 9mm handgun?

21 A Correct.

22 Q And that is also when you told them that you had
23 dropped it along the route that night; is that correct?

24 A Correct.

25 Q That was not true, was it?

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 A Why would you say that?

2 Q Well, because did you not testify just a little
3 bit earlier that you got in your car and drove somewhere
4 and discarded the gun?

5 A Correct.

6 Q So, that is not on the route where you were
7 running away --

8 A No. No.

9 Q -- after the shooting?

10 A No, I never dislodged the gun after the
11 shooting, the 9mm.

12 Q But you did indicate that to law enforcement,
13 correct?

14 A Correct.

15 Q So, when you told them that you dropped it along
16 the way, you were not telling the truth?

17 A Why would you say that?

18 Q Okay. I'll move along.

19 THE COURT: Wait a minute. Wait a minute. You
20 just answer questions. He ask you a yes or no
21 question, you say yes or no. And then you can
22 explain your answer, but don't you ask questions.

23 And we are not going to go ask the same
24 questions repeatedly, Mr. Chambers. I'm not going to
25 tell you again.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 MR. CHAMBERS: Just trying to get some
2 clarification from the witness, Your Honor.

3 BY MR. CHAMBERS:

4 Q So, when the solicitor indicated to you -- oh,
5 I'm sorry, let me ask you this, when you went in and you
6 first went to talk to the police and you gave this first
7 statement we talked about --

8 A From my understanding, I only wrote one
9 statement.

10 Q Well, that was the one -- you went in to talk to
11 the police on the 11th, correct?

12 A Correct.

13 Q You started writing a statement that you tore
14 up, is that correct?

15 A Just one page, sir.

16 Q You tore up one page. You then gave them
17 another statement after you made some phone calls?

18 A Correct, one phone call.

19 Q You called your --

20 A Uncle.

21 Q Uncle. Do you also remember calling a female
22 from the jail?

23 A My grandmother.

24 Q Your grandmother. So, you called your uncle and
25 your grandmother, so that's two calls?

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 A Correct.

2 Q And I believe your grandmother is the one that
3 told you to just tell the truth?

4 A It was my uncle. I called my grandmother to get
5 my uncle number, that's why I said one call, sir. But she
6 gave me my uncle number and I called him and he told me to
7 tell the truth.

8 Q But as we discussed, you really didn't tell the
9 truth to the police, did you?

10 A I told half the truth, sir.

11 Q Half the truth. And as you've already
12 indicated, after you went to New York, you continued to
13 get updates and information from people, all these friends
14 that you called and texted and all those things that y'all
15 do?

16 A Nothing about the --

17 THE COURT: Mr. Chambers, your own question
18 indicates that you've already gone over that
19 material. So, move on to something new.

20 BY MR. CHAMBERS:

21 Q You also did that while you were in jail, is
22 that correct?

23 A Correct.

24 Q Do you ever go by the name Willie One Shot?

25 A No. No, sir. I'm sorry.

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 Q You ever refer to yourself as a 44 King?

2 A No, sir.

3 Q Do you ever remember having a discussion with
4 anybody about telling a different version of this in
5 exchange for money?

6 A No, sir.

7 Q You don't have any recollection about saying
8 that you would take \$2,500 to basically take this charge?

9 MS. PAOLETTI: Your Honor, I object.

10 THE WITNESS: If --

11 THE COURT: Wait a minute. Wait a minute.

12 MS. PAOLETTI: I don't know where this is coming
13 from.

14 THE WITNESS: If you can --

15 THE COURT: Wait, wait, wait. There's an
16 objection.

17 THE WITNESS: I'm sorry, sir.

18 THE COURT: Where is this going, Mr. Chambers?
19 Are you going to -- are you trying to impeach him?
20 Are you going to build a foundation under this?

21 MR. CHAMBERS: I'm just trying -- I'm asking him
22 the question along the lines of impeachment. I just
23 want to see what he says, Your Honor.

24 THE COURT: Well, we're not going to go -- if
25 you've got something to back it up, ask the question,

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 but you better have a foundation if you're going to
2 ask that kind of question.

3 THE WITNESS: Sir?

4 THE COURT: We can't talk. Do you need a break,
5 is that what you need?

6 THE WITNESS: No, sir.

7 THE COURT: Okay.

8 BY MR. CHAMBERS:

9 Q I realize this is a photocopy, but does that
10 appear to be your handwriting?

11 A That is not my handwriting, sir.

12 Q All right, sir, after talking -- oh, one other
13 thing. While -- during the course of this trial, have you
14 been communicating with people about what's been
15 transpiring here in court?

16 A Due to this trial you talking about?

17 Q During this trial?

18 A Yeah, correct.

19 Q You have?

20 A Yes.

21 Q Among those people, someone named Poo, who is
22 Terrell Cook?

23 A Correct.

24 Q So, people have been informing you while this is
25 going on as to what's been testified to in trial and how

SHAWNDELL CLEMONS-CROSS BY MR. CHAMBERS

1 things have gone?

2 A Nothing was said about who testified, anything
3 of that nature. Only thing was said on the phone was
4 Coby's making a fool of himself up there.

5 Q So, you have had communications?

6 A That's it.

7 Q Were there some friends of yours in here a
8 little earlier that y'all were making hand gestures and
9 stuff back and forth to each other --

10 MS. PAOLETTI: Your Honor, I object to that.

11 THE COURT: Wait a minute. I sustain the
12 objection.

13 MS. PAOLETTI: Your Honor, I ask that be
14 stricken.

15 THE COURT: Yeah, I'm going to instruct the jury
16 to ignore that last question and comment.

17 BY MR. CHAMBERS:

18 Q So, at the end of the day, after everything
19 we've talked about, what you've testified to here today is
20 what you swear is the absolute truth?

21 A Absolute truth.

22 MR. CHAMBERS: Thank you very much.

23 MS. PAOLETTI: Your Honor, I don't have any
24 redirect examination.

25 THE COURT: All right. We're going to take a

1 short break, ladies and gentlemen. We'll get right
2 back with you. Please don't discuss the case.

3 (WHEREUPON, the jury left open court at
4 approximately 4:21 p.m.)

5 THE COURT: All right, Mr. Clemons, you can step
6 down. Thank you.

7 All right. What else does the State have?

8 MS. PAOLETTI: That's it, Judge.

9 THE COURT: All right. Okay. State rests.
10 Is the Defense going to put anything up?

11 MR. CHAMBERS: We are, Your Honor. First, for
12 the record, I'd like to make a motion for a directed
13 verdict.

14 THE COURT: Based on what?

15 MR. CHAMBERS: Well, first of all, I'm required
16 to do it in order to preserve things for appeal, but
17 beyond that, I would say that they haven't presented
18 evidence sufficient to send this to the jury at this
19 point.

20 THE COURT: Okay. Denied.

21 MR. CHAMBERS: Thank you, Your Honor.

22 THE COURT: All right. Mr. Gregory, the time
23 has come, have you made a decision about whether or
24 not you're going to testify?

25 MR. GREGORY: Yes, Your Honor.

1 THE COURT: What is that decision?

2 MR. GREGORY: I will, Your Honor.

3 THE COURT: All right. Do you want to ask me
4 any questions about it? Anything I can answer for
5 you?

6 MR. GREGORY: No, Your Honor.

7 THE COURT: Is this your free and voluntary
8 choice?

9 MR. GREGORY: Yes, Your Honor.

10 THE COURT: All right. How much do y'all intend
11 to put up?

12 MR. CHAMBERS: Your Honor, I have, counting
13 Mr. Gregory, probably four witnesses. I expect three
14 of them will be very short witnesses.

15 THE COURT: Can you do those today?

16 MR. CHAMBERS: I'm not sure they're all here. I
17 know some of them are here. We can go ahead and get
18 started if you can give me just a few minutes.

19 THE COURT: Okay. Yeah, we'll take a short
20 break.

21 (WHEREUPON, a short break was taken.)

22 (WHEREUPON, the jury came into open court at
23 approximately 4:37 p.m.)

24 THE COURT: Anything further from the State?

25 MS. PAOLETTI: Your Honor, that's the State's

1 case.

2 THE COURT: All right.

3 Mr. Chambers, call your first witness.

4 MR. CHAMBERS: Your Honor, I call Jacoby
5 Gregory.

6 JACOBY GREGORY, after being duly
7 sworn, testified as follows:

8 THE CLERK: Please have a seat. State your full
9 name for the record.

10 THE WITNESS: Jacoby Jamar Gregory.

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION

13 BY MR. CHAMBERS:

14 Q Jacoby, how old are you?

15 A Twenty-seven.

16 Q Where are you from?

17 A Greenville, South Carolina.

18 Q All right. Have you lived in this area your
19 whole life?

20 A No, sir.

21 Q Where have you lived?

22 A Syracuse, New York.

23 Q When did you live in Syracuse?

24 A My childhood years.

25 Q So, when did you move here?

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

- 1 A December 24, 2008.
- 2 Q You lived here since then?
- 3 A Yes, sir.
- 4 Q Ever resided in Fountain Inn?
- 5 A Yes, sir.
- 6 Q What's your level of education?
- 7 A I'm Associate Degree in Building Construction
- 8 Technology. Well, actually a diploma. I'm actually going
- 9 back to school at this time to obtain my real estate.
- 10 Q At the time that -- the killing of Barry Norman
- 11 happened, where were you living?
- 12 A Boyd Street, Fountain Inn, South Carolina.
- 13 Q Okay. And with whom were you living with at
- 14 that time?
- 15 A My sister.
- 16 Q What's her name?
- 17 A Natisha Stoddard.
- 18 Q And that's in Fountain Inn?
- 19 A Yes, sir.
- 20 Q Were you working at the time?
- 21 A Yes, sir.
- 22 Q Where were you working?
- 23 A CMC Steel.
- 24 Q Where is that business located?
- 25 A That's in Taylors, South Carolina.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 Q What kind of business is that?

2 A Pretty much in a nutshell we fabricate pipe fit
3 steel. Our biggest contract known to the public would be
4 Boeing. At that time we had a big contract with Boeing.
5 So, that's what we did.

6 Q Okay. So, at your job what sorts of things do
7 you do?

8 A I was a novice welder and pipefitter. I welded
9 the beams, painted the beams, loaded the beams that were
10 beside the crane onto the trucks, semis on inventory. And
11 that's pretty much it.

12 Q How long had you had that job when all this
13 occurred?

14 A Months.

15 Q Okay. And what were your hours that you were
16 working?

17 A 5:30 to 6:00 a.m.

18 Q So, 5:30 p.m. to 6:00 a.m.?

19 A Yes, sir.

20 Q And what was your normal work attire?

21 A Steel toe metatarsal boots, not regular normal
22 steel toes. Metatarsal boots, flame retardant jeans, due
23 to the fact that I didn't have -- at that time I had cargo
24 flame retardant jeans on. My undergarment would be a navy
25 blue flame retardant pullover clothes shirt. And my

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 overgarment would be a flame retardant button up shirt
2 with two pockets on it. One with my name tag and the
3 other with the place of business.

4 Q Are there rules about whether your shirt is to
5 be tucked in or out?

6 A There's a lot of clothing rules. Like I said, I
7 deal with steel and welding. All the clothes have to be
8 fitted, tucked in, no loose hair, nothing that can burn,
9 basically, that's why everything had to be flame
10 retardant. And yes, it had to be tucked in.

11 Q Do you -- I mean, you know all the people that
12 we've talked about in this case, is that correct?

13 A Yes, sir.

14 Q I'm not going to over all the names but you know
15 all those people?

16 A Yes, sir.

17 Q All right. I want to go back, was there a
18 party, as we've heard and discussed, at the Clarion Inn on
19 Augusta Road in Greenville?

20 A Yes, sir.

21 Q And when did that party occur?

22 A I'm not familiar on the dates but I can say
23 Friday and Saturday, was the weekend.

24 Q And what was the purpose of the party?

25 A It was the celebration of Bop's 21st birthday.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 Q Were you involved in arranging the party or
2 securing the rooms or anything like that?

3 A I booked every room.

4 Q So, you're the one who called and booked the
5 rooms originally in your name?

6 A Every one of them.

7 Q How many rooms did you get?

8 A Three.

9 Q Where were these rooms located?

10 A The fifth floor of the Clarion Hotel.

11 Q Was Barry Norman there?

12 A Yes, sir.

13 Q Did you secure a room for him?

14 A Yes, sir.

15 Q So, his was one of the three rooms?

16 A Yes, sir.

17 Q Was this a block of rooms or were they separate
18 rooms?

19 A Well, I originally got the two rooms for me and
20 Bop and Vegas and so on and so forth. Barry was never
21 invited. After the club he got my number through
22 Facebook, called and asked me about the rooms.

23 I then asked him does he have the money to
24 pay for it?

25 He told me, Yes.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 I booked the room in his name. When he got
2 there, he gave his ID, got the room. So, his room was on
3 the corner of the same floor of our hotel.

4 Q When you say he wasn't initially invited when
5 you met him at the club, what club are you talking about?
6 Where did that happen?

7 A We went to Club -- Club Aquarius. He was
8 invited to Club Aquarius, just not the hotel.

9 Q Where is Club Aquarius?

10 A Pleasantburg Drive.

11 Q So, a group of you who were staying at the
12 Clarion go there?

13 A Yes, sir.

14 Q Were you planning to meet him there or you just
15 happened to meet him?

16 A Yeah, Barry actually left Bop's house with us.

17 Q And so, that's when the arrangement was made
18 that he would go back and he would have one of those
19 rooms?

20 A No.

21 Q No?

22 A No, the arrangement was made -- actually, when I
23 was at the Clarion, he was leaving Crocks and he hit me on
24 Facebook -- well, he messaged me on Facebook and asked me
25 for my number. I gave him my number and he asked me about

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 the room, how much it cost and I secured a room for him.

2 Q All right. At some point y'all went back to the
3 hotel?

4 A Yes, sir.

5 Q Rather than me try to lead you through it, why
6 don't you just tell the jury from that point on what
7 happened.

8 A Well, that night was calm. It was Friday night.
9 We left the Club Aquarius. Like I said, Barry got a room
10 with us. I was in a room, myself. It was my own room was
11 me, Vegas, Taylor Bovain, Tiajuana Davenport, some fat guy
12 I'm not sure of his name. And next door to us, adjoining
13 room, was Bop Thomas and Landis Franklin and some
14 girlfriend of Bop's and some girlfriend of Landis'. And
15 the next morning Smitty popped up. Nobody invited Smitty.
16 He was very angry at Barry. Because Barry, I guess, told
17 Smitty he didn't have enough money to get the room or
18 something, I don't know. Smitty wanted to fight Barry
19 right when he got to the hotel. I'm not sure how he got
20 there.

21 Basically, some girls left to go get some
22 money or something like that. We are at the hotel
23 drinking, smoking already. Smitty, he didn't approach
24 Barry or nothing violent at this time. Later on in the
25 evening, I say maybe about 7:00 o'clock, I had continued

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 drinking, I felt a little bit over-tipsy edge. When I get
2 like that I usually get away from my pistol. Especially,
3 when I'm around a lot of people.

4 Q Let me slow you down right there. Were you at
5 that time a gun owner?

6 A Yes, sir.

7 Q And did you own a Springfield .45 GAP pistol
8 like this one?

9 A Yes, sir.

10 Q Did you at that point, did you have a concealed
11 weapons permit?

12 A Yes, sir.

13 Q And when you would normally -- with that
14 concealed weapons permit, would you normally carry your
15 weapon with you?

16 A Yes, sir.

17 Q And how would you carry it?

18 A Depends on which weapon I have. All my weapons
19 have holsters. And that particular weapon had a
20 Springfield XD 45, had a right-side holster attached to
21 my -- I had to loop it through my belt.

22 Q Is that a hobby of yours?

23 A Guns?

24 Q Yes.

25 A I don't really have time for hobbies but.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 Q Would you go to the range and shoot and do those
2 things?

3 A No, I can't really see.

4 Q But at any rate, you had that and you had your
5 holster?

6 A Uh-huh.

7 Q And you said you started to feel like you were
8 getting a little too drunk?

9 A Yes, sir.

10 Q So, tell us then what happened.

11 A Barry was in my room with me. And some -- I
12 forgot her name, I think her name was Kia. And I looked
13 over at Barry and I said, excuse my language, Dammit, I
14 got to put this fucking pistol up.

15 And he was like, What you going to do with
16 it?

17 I said, I don't know, I got to put it up, I
18 got to put it somewhere.

19 And he was like -- a few minutes went by, I
20 say maybe two minutes. And he leaned down and was like,
21 Hey man, you can put it in my room, ain't nobody in my
22 room.

23 And nobody was in Barry room. So, um---

24 Q Now, was Barry somebody that you knew well? Did
25 you trust him?

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 A I trusted him only for the fact that he didn't
2 get into a lot of trouble. And he wasn't in the mix.
3 When I say in the mix, he wasn't in the -- he wasn't -- he
4 wasn't a bad person. He wasn't always in peoples' faces,
5 people wasn't always in his face. I knew I didn't have to
6 worry about it if it was in his room. So, I made a
7 basically a executive decision to put it there.

8 Q So, you put it in his room?

9 A Yes, sir.

10 Q So, then tell us what happened after that.

11 A It was safely behind the mattress, the headboard
12 of his room. Like I said, everybody was in my room. As
13 the hours went on, the night progressed, more people came
14 to the hotel. It was about 100 people there. Needless to
15 say, Smitty wanted to show out. I wasn't in the room when
16 he began the initial fight. I just got the word that
17 everybody had migrated to Smitty's room -- Barry's room
18 because Smitty was trying to fight Barry.

19 When I got to Barry's room, Barry was the
20 one that opened the door. And from what I seen, the room
21 was packed with people. My first instinct, I kind of
22 shouldered up -- my first instinct was to get my gun. So,
23 I kind of shimmied over there without anybody kind of
24 seeing me. But I shimmied over to the bed, stand at the
25 head of the bed where a girl was sitting, actually.

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1 Either Taylor or Tia -- or I meant, Tiajuana or Tia. And
2 I sat down. And Smitty pushed Barry and Barry beat Smitty
3 up. I mean, it wasn't no push fight, Barry beat him up.

4 Q Barry was a, as we've heard earlier, Barry was a
5 large fellow?

6 A He was the same size as Smitty. I mean, yes.

7 Q Smitty's a big fella too?

8 A Yeah.

9 Q All right. So, go ahead with what you were
10 saying.

11 A As they were fighting, I think one of the girls,
12 I'm not sure which one, I don't want to recollect the
13 wrong name, but attempted to jump on Barry. And at that
14 time, she jumped up past me, off the bed and on to the
15 floor. When she did so, I grabbed the pistol, put it in
16 my pocket. When I put in my pocket, I kind of shimmied
17 out the room again. When I got to the hallway, I put it
18 in my holster, took the elevator down to my car. Keyless
19 entry to my car. Nobody was outside. I put it --
20 actually, I cut the light off in my truck. Because I have
21 keyless entry, all the lights come on in my truck. I cut
22 the light off in my truck, put the gun into -- inside the
23 console, shut the console, locked my car back, went back
24 upstairs like nothing happened. Nobody seen me, I guess.
25 And that was that.

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1 The next morning we eating breakfast, Barry
2 didn't come down for breakfast. Well, actually, it was a
3 fight with some girls. And that's why Taylor and Tia was
4 moved to Barry's room with Barry. And like three other
5 dudes. And some girls were moved to my room with me. We
6 ate breakfast that next morning and we checked out around
7 11:30, I want to say. When we checked out, Barry came to
8 my car door, he asked me did I have the thing?

9 I said, Yeah, why?

10 He said, It's missing, it's missing.

11 I was like, It's right here, I got it.

12 He was like, Okay, okay, man, I ain't
13 trying to play you or nothing. I'm saying, let me see it.

14 I showed him. You know what I'm saying?
15 In the console.

16 In the car with me was Savage, Mojo, Bop,
17 Vegas, one of Vegas' girlfriends, I'm not sure her name.
18 In Barry's car was Barry, Smitty, Tia, Taylor, Tiajuana --
19 no -- yeah, Tiajuana was in my car with me, I'm sorry.
20 And they roll back to Bop's house and we roll back. I
21 dropped the girl off, Vegas' female friend. And I went to
22 Bop's house. When I went to Bop's house, Barry rolled up
23 a blunt, smoked a blunt with all of us. But at the time
24 we were in my car. We wasn't windows rolled down like
25 that, we just had the doors opened listening to music. I

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1 was in the driver's seat, Shawndell was in -- Vegas was in
2 my passenger seat. Smitty was in my backseat. Barry was,
3 basically, in my door way. He had some left over vodka
4 and we were drinking it. It was real hot outside. And I
5 just remember Barry saying he had to go somewhere and do
6 something, tend to somebody, I can't remember, but he
7 left. And when he left Smitty just kept going on and on
8 about how he was still mad at Barry. He wasn't happy with
9 the outcome. I don't really, you know, get into -- I
10 don't really care.

11 Q What day was this?

12 A This was Sunday. Sunday around 1:00 or 2:00.
13 Like I said, we were listening to music. I got about --
14 like I said, it was hot. We were in the car, we were
15 drinking vodka. I got out of the car and sat on the porch
16 at Bop's house. When I sat on the porch, Vegas got in my
17 driver's side, Smitty got in my passenger side and they
18 shut back doors. I wasn't paying attention to what they
19 were doing or what not. Like I said, Vegas rolled back to
20 Fountain Inn with me, he asked me to drive my truck to his
21 grandma's house, which is -- I guess to switch clothes,
22 get clothes, I'm not sure.

23 I said, Yeah, go ahead.

24 He got out the car, went to his car. Got
25 something, a book bag, I think out of his car. He came

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1 back in my car, started my truck up -- I mean, not his
2 car, damn. He got in -- I don't know somebody Pollo, I'm
3 not sure whose it was, he got a book bag, I want to say it
4 was Terrell's or Pollo's, I'm not sure. He got a book
5 bag, got out of his car, got in my car and took off. He
6 was gone, I don't know how, long not though. As I said, I
7 was drinking so time kind of escapes me.

8 He came back. Like I said, we was still
9 listening to music in the driveway. My kid's mom called
10 me and said she was at my house. I forget what time this
11 was but I did leave Bop's house and went to my house to be
12 many my kid's mom and my son. I played with my son all
13 night. The next morning -- she stayed the night at my
14 house. The next morning I was supposed to go to work. I
15 got dressed. I was out of work for five days for inflamed
16 prostate. They gave me antibiotics and a painkiller. I
17 was supposed to go back Tuesday. But I called my
18 supervisor--

19 Q Let me ask this, you would normally have been
20 off on the weekend?

21 A Yes.

22 Q So, those -- those were days you would have
23 normally been off, that Saturday and Sunday?

24 A Yes, Saturday and Sunday would have normally
25 been off.

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1 Q Okay. But prior to that week you had missed
2 some work?

3 A Yes, the five days.

4 Q Now, were you -- by the time Monday rolled
5 around, were you feeling okay?

6 A I was feeling okay Sunday. Really, I mean, like
7 I said, they gave me antibiotics and painkillers so it
8 wasn't a big deal.

9 Q All right. So, then what happened on Monday?

10 A I was on the highway, I called my supervisor to
11 let him know that I was on my way in, that my doctor's
12 note actually said that I couldn't come back to work until
13 Tuesday but I felt fine and I wanted to come to work. He
14 informed me that it was against policy and I could not
15 come to work. And that they had to agree to -- they had
16 to adhere to my doctor's note because if something was to
17 happen to me they would be liable.

18 I said, Okay.

19 He said, Just wait until tomorrow and come
20 in.

21 I said, No problem.

22 So, I got off the exit, somewhere around
23 Hillcrest High and turned around. And on my way home, I
24 realized, Damn, I have my pistol on me. I cannot -- it's
25 against policy to bring a pistol -- to bring any firearms

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1 on work premisses. So, that was a big no no for me
2 anyway. Pistol permit or not. So, when I looked in the
3 console I didn't see it. It kind of, you know, I didn't
4 panic but I thought, Damn, what the hell did I do with it?

5 So, I went home, pulled up at my front
6 door, I parked my car. I got out, went in the house, I
7 looked in the place where I usually keep it. Which -- I
8 looked in the place which I usually keep it, it wasn't
9 there. I asked my sister and her boyfriend. I think they
10 were like half way asleep or something, I'm not sure, they
11 were in their room. I asked them from my room, Hey, did
12 y'all see my gun?

13 No.

14 The reason I asked them was because they
15 had access to my truck. I leave my keys on my dresser and
16 sometimes they might drive off and go to the store or go
17 to the club. And I know that Sunday night is fight
18 night -- one of the bike nights at JJ -- at one of the
19 local bars. And they like to just sometimes take my truck
20 and go out. So, that's why I asked them had they seen my
21 gun?

22 They said, No.

23 So, at this time I kind of begin to panic a
24 little bit. I'm tearing stuff up. I'm trying to retrace
25 my steps on where, you know, I could have possibly put it.

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1 At that time I said well my baby mother. So, I text her
2 and asked her, Have you seen my gun? She never text me
3 back. When she never text me back, basically I told -- I
4 left and I think somewhere around the time, a few hours
5 later she text me back and she said the last time she seen
6 it was at the hotel room.

7 And I text her back, I didn't want anybody
8 to know -- she probably knows but I didn't want anybody to
9 know that I didn't have a weapon on me. I didn't care who
10 it was. The only person that I was comfortable with that
11 knowing would be like my sister. Because if someone was
12 in the house, she would know that she could have any
13 protection. But other than that, I wouldn't let anybody
14 know when I didn't have a weapon. So, I told my kids mom
15 that I grabbed the other one. I'm pretty much sure she
16 knows the truth. But I left it alone.

17 Q When you say left it alone, what do you mean by
18 that?

19 A I didn't pressure. I didn't call the police.
20 The reason I didn't call the police because like I said, I
21 didn't want somebody in my family, which would be my
22 sister, her boyfriend or my kids mom to be caught with it.
23 Or myself to be caught with a weapon and have to go
24 through the process of it being stolen. Especially, me.
25 Well, why did you put your gun stolen when it's right

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 here. And it was just a big issue. But later on that
2 night I did end up calling the Greenville County Sheriff's
3 Department and try to report it. And it was like a
4 automated service, I couldn't do it.

5 So, that Tuesday came around--

6 Q Well, let me ask you something. I may be
7 jumping a head of you. But you indicated on some phone
8 calls we heard earlier, that you had called the hotel.
9 Did you call the hotel looking for the gun?

10 A Yes, sir.

11 Q But why did you call the hotel if you knew where
12 the gun was?

13 A Just to make sure. Like I said, I was
14 backtracking. I knew for a fact that the gun was in my
15 console but just backtracking.

16 Q Did you ever say, as we heard on that phone,
17 that the gun had been -- that Barry had it?

18 A When Barry had it? I said--

19 Q When it was in Barry's room?

20 A Yeah, I said that was the last time I seen it.
21 The reason I said that is because like I said, I had been
22 drinking. And even though I know for a fact -- well, I
23 want to say 100 percent fact that I saw the gun in the
24 console. I was on Xanax and I was on weed and liquor so I
25 didn't want to say that I was just, you know, imagining

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1 it. So, just like I said, I just retraced my steps. Just
2 to cover all basis. I just retraced -- I did call the
3 Clarion, I think on Tuesday morning or Tuesday afternoon.
4 I did call the Clarion and ask then about it. I did call
5 the Greenville County Sheriff's Department Monday night
6 and Tuesday afternoon. After I called the Clarion, I
7 asked them. And we were trying to report it stolen, got
8 that same message.

9 That Tuesday I actually, got transferred
10 from Greenville County either Sheriff's Department or the
11 Greenville City Police to the Simpsonville Police
12 Department. And the Simpsonville Police Department gave
13 me, I think like, a different number for Greenville
14 County. And I just kept getting the run around so I
15 didn't call again.

16 Q Did you ever find that .45?

17 A No, sir.

18 Q All right. So, now I want to move to
19 October 1st. Did you go to work that day?

20 A I went to work, yes.

21 Q What time did you go?

22 A I got there maybe 5:00 something, 5:20 something
23 I clocked in at 5:24, something like that.

24 Q P.M.?

25 A Yes, sir.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 Q And you were supposed to be there at 5:30, so
2 you were a few minutes early?

3 A Yes, sir.

4 Q Okay. You said you were supposed to be at work,
5 tell the jury, -- go through what you did and what
6 happened?

7 A Well, like I said, my doctor's not cleared me to
8 come to work Tuesday. I stopped -- before I went to work
9 I stopped at my sister's -- well, my father's car lot and
10 was talking to my sister and I had my doctor's note. She
11 was making fun of me because of the illness.

12 Q Enlarged prostate?

13 A Yeah.

14 Q Okay.

15 A So, I had that doctor's note there. Tiajuana
16 called me and asked me to come pick her up from school.
17 Which wasn't out of the blue. So, at the time, like I
18 said, I was getting ready to go to work. I told her no, I
19 couldn't pick her up. You know, she didn't have another
20 ride.

21 And her exact words was, Barry came and
22 picked up Taylor and Tia but left me here.

23 I said, Man, what the hell? So, I was
24 like, Man, where you at?

25 She was like, I'm outside.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 I said, I'll be there in a minute.

2 So, when I got there she actually had lied
3 to me and Taylor and Tia were still with her.

4 Q When you said pick her up from school, what
5 school are you talking about?

6 A Hillcrest High.

7 Q So, she's in high school?

8 A Uh-huh.

9 Q So, you went and picked her up?

10 A Uh-huh.

11 Q About what time was that?

12 A I forget what time they got out of school.

13 2:45, 3:40 -- three something, 3:15, 3:45, something like
14 that.

15 Q All right. You picked her up, just take it from
16 there.

17 A I cursed her out for lying to me first. Then
18 she asked to hear a song from [indiscernible]. Every time
19 she gets in my car she asks to hear the song, so I played
20 the song. Then I called Barry. Then when I called Barry
21 he rang through my car phone. And I was talking to him,
22 she was trying to curse him out and all that. And I was
23 like, Barry, man, the girl pregnant. You know you wrong
24 for that, man, she pregnant, don't do her like that.

25 He was like, Man, fuck her, fuck her. You

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1 need to stay away from her, she on house arrest, you get
2 caught with her in the car, something like that.

3 So, I just like, Man, all that's
4 irrelevant. You wrong for the B, you now know that.

5 And he was like, Man, whatever, Coby, where
6 you at?

7 I said, About to go to work.

8 He said, All right, Man.

9 And that was that. I -- I believe he
10 called me back and we talked about something, I'm not
11 sure. It might have been the girls again, I'm not sure.
12 But when he called me back I was dropping them off at
13 Tia's house. Got on the highway, went to work.

14 I got a call, actually, in my meeting. We
15 have about a 15 minute meeting before work. I got a call
16 in the meeting from Vegas that interrupted my meeting. I
17 silenced the phone. I keep my cigarettes in my right
18 pocket, my work pocket I keep my iPhone because I didn't
19 have a -- I have didn't have the holster at work, I have
20 Otter Box for my phones, I didn't keep my holster at work
21 with me. So, I keep it right here. At that time Vegas
22 called me, I silenced the phone. Outside the meeting, I
23 walked from the, not the restroom, the break area to my
24 area and I called Vegas back. And he was at home. He had
25 said that something about Smitty called him saying

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1 Barry -- Smitty called him said Barry said that Vegas had
2 slept with Tiajuana at the hotel.

3 And I said, You did.

4 He was like, So what?

5 So, I didn't understand what the issue was.

6 And he just kept saying, Man, we about to
7 meet up the Bop's house, Barry's going to get his walking
8 papers.

9 Q Jacoby, did you remember what time you got that
10 call?

11 A Right after my meeting. Like I said, we have
12 about a 15, 20 minute meeting.

13 Q Is that first thing?

14 A Yes.

15 Q All right. So, it was in the -- right after you
16 got there?

17 A Yeah.

18 Q Okay.

19 A So, I like I said, I actually was on the phone
20 with him all the way up until, I guess, Barry pulled up.
21 Because his words to me -- no, not when Barry pulled up,
22 he called me back. And when he called me back I was -- I
23 think I was taking off my mask or putting it on or
24 something that.

25 Q What mask are you talking about?

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1 A Oh, my ventilation mask.

2 Q For what? I mean. . .

3 A I spray paint, spray paint the beams.

4 Q Something you wear when you paint?

5 A Just one of my masks, yes. I have a ventilation
6 mask, a granger mask, a welding mask. I can't remember if
7 I was taking it off or putting it on, my ventilation mask,
8 but when he called me, I picked up the phone, you know, I
9 answered it. And I did something with the mask. Took a
10 few second for me to talk to him. I started talking to
11 him and that's when he told me he was at Bop's house with
12 the girls and that Barry was about to pull up. Around he
13 eating something. And he was just talking to me casually,
14 you know, just having a regular conversation. We had
15 actually got off the Barry situation and I was outside
16 just talking to him.

17 He -- he was like -- he started laughing.
18 I think he said, This Barry right here or something like
19 that, I can't remember. He started laughing though. He
20 just hehe, hehe, hehe.

21 And like I said, I was just quiet on the
22 phone listening to him. He was like, It's about to go
23 down, it's about to go down.

24 So, I was like, Call me back.

25 He like, All right.

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1 So, I hung up and I went back to work. I
2 didn't have a beam to spray at the time. I think I went
3 to the second building and started talking to my uncle,
4 who's also a supervisor. He was busy. I went back to my
5 side of -- my side of the building. I wasn't doing too
6 much. Then maybe about between maybe 25, 30 minutes past
7 between the call from Vegas me walking around the
8 warehouse, I found a beam. I found a beam or a beam came
9 to me. I laid it down on the platform, I put my mask back
10 on and I started to spray.

11 At this time, I got another call from
12 Barry. Well, I got the first call from Barry in my
13 pocket. I felt the phone ring, seen the flash. So, I
14 silenced it, picked it up. I didn't take my mask off. I
15 answered it, I put the gun down and I walked -- I kept
16 yelling but I'm pretty sure he didn't hear me on the
17 phone --

18 Q You're talking about a paint gun?

19 A Yeah, of course, I was at work. Put the paint
20 gun down, with the nozzle, the spray pain nozzle down. I
21 ran outside, I took my mask off. And he was ecstatic on
22 the phone, just yelling.

23 I was like, Calm down, calm down. What
24 happened?

25 He was like, I just got jumped. I just got

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1 jumped.

2 And I was like, By who?

3 And he was like -- jumped me at Bop house.

4 So, I was being funny, like I was trying to
5 just really -- really just make a joke out of it and I
6 said, You mean you got jumped by some bitches?

7 And he was like, Man, shut up, man, calm
8 down, I got jumped by some niggers at Bop house.

9 Till this day I don't know who exactly
10 really jumped him because they all. ...

11 Q But you weren't there?

12 A No, I was at work.

13 Q Okay.

14 A Some 30 something, 40 minutes away. But anyway,
15 he was on the phone with me for a minute. I will say that
16 he went to somebody's house and he kept asking them for a
17 gun.

18 Q How do you know that?

19 A Because I was on the phone with him. It was
20 like a three minute conversation. And he was yelling.
21 And he said -- he had told me that Vague [verbatim] bust
22 his windows out.

23 I said, Who?

24 And he said, Vegas.

25 And at first I didn't believe him. But I

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1 was like, Vegas bust your windows out?

2 He was like, Yeah.

3 In a way I kind of felt some kind of way
4 like Vegas is stupid. But in a way I didn't believe
5 Barry. So, Barry, like I say, whoever he was around, he
6 just kept saying, you got a gun? Let me get a gun, let me
7 get a gun.

8 And I was like, What you need a gun for?

9 And he was like, I'm about to go spray the
10 house up.

11 And I was like, Who's at the house?

12 He was like, Man, [indiscernible].

13 And I was like, All right, man.

14 He was like, Man, I'll call you back.

15 I said, All right.

16 So, I text Vegas and I asked him did he
17 bust the windows out.

18 Q Let me ask you this, when you and Barry talk a
19 lot, is it common that the two of you talk to each other
20 and communicate? Were you friends all that well?

21 A He had just got my number that weekend.

22 Q All right.

23 A So, other than that it was Facebook. He might
24 comment on one of my post, like my status. I might
25 comment on one of his post. But other than that, if we

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1 seen each other in the streets, at the club, at Bop's
2 house. Neither one of us really chilled at Bop's house
3 unless it was like the weekend. And usually he had a
4 bottle, I had a bottle. We'd drink, have a few shots
5 together and that's that. Like I say, he was around my
6 age -- well, he is my age. So, that's kind of one of the
7 only reasons why I linked up with him because they're not
8 my age.

9 Q So, you hung up the phone and then what
10 happened?

11 A I hung up the phone. I text Vegas and I asked
12 him about it. Did you bust Barry windows out?

13 He said, Yeah. He said something else.

14 And I was like, Well, he's talking about
15 shooting the house up. And I said, LOL, he ain't got no
16 windows though.

17 Q Trying to be funny again?

18 A Yeah, I really just was laughing about the whole
19 time. But anyway, right after that text message, my
20 supervisor called my name over the loud speaker and I went
21 to his office. And he asked me for my doctor's note.

22 And I said, Damn, I forgot it.

23 And he was like, Well, you can't be here.
24 He asked me do I want to go get it or come back with it?

25 And I was like, I'll just bring it

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1 tomorrow.

2 And he was like, All right.

3 So, I left. Actually, I waited about five
4 minutes because I had to take off all my gear and
5 everything. I went to -- I went to my uncle's office and
6 I told him I was leaving.

7 He said, Okay. He asked me why?

8 I told him why.

9 He was like, You shouldn't have came in
10 anyway.

11 So, I left. When I left my normal ritual,
12 remote, open my door, start my car, get a cigarette, put
13 my phone clip back on. Sit outside the car, smoke a
14 cigarette, leave.

15 Q You said phone clip?

16 A Yes, sir.

17 Q How many phones did you have with you?

18 A Two phones.

19 Q Okay.

20 A Like I said, I have -- as you see, a iPhone and
21 a Nokia. The iPhone is pretty big so I can't keep both
22 the phones on the holster at one time, so I keep one phone
23 right here and I keep the other phone right here or right
24 here. Depends if I have my gun. And I don't have my gun
25 at work so I keep both the phones right there. When I'm

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1 at work, the iPhone is in the holster. When I'm, you
2 know, on break or on going out to get something to eat, I
3 keep the holster -- I mean, I keep the phone in the
4 holster right next to the Nokia. Like I said--

5 Q Did you change clothes before leaving work?

6 A No. I didn't have the time, really. I had a
7 hoodie -- I had a black Champion hoodie in my car. And I
8 had Vegas' clothes in my car, too. Vegas had some -- I
9 forget. He worked at Faurecia, he had some Faurecia, yeah
10 that was in my trunk.

11 Q Do you know -- I mean -- I mean, these are
12 pretty common, they sell more than one. Does that appear
13 to be your black Champion hoodie?

14 A Yes, sir.

15 Q All right.

16 A I didn't put the hoodie on then. I didn't put
17 the hoodie on until I got to Bop's house. One the way to
18 Bop's house I called Smitty. I called Barry. And I think
19 that was the only calls.

20 Q Why were you're going to Bop's house?

21 A Like I said, a free day, didn't have to go to
22 work. I didn't want to mess with my dad at his job.

23 Q You heard about all the trouble that was going
24 on?

25 A Uh-huh.

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1 Q Was that your motivation for going over?

2 A Really to be funny. You know, just to make
3 jokes about it. I was bored, really. That's it.

4 Q Did you take this as a serious situation before
5 you got there?

6 A Honestly, it had nothing to do with me. So, I
7 didn't care. I mean, just to be honest. I know what
8 happened was wrong, as far as they beating him up or
9 whatever, but it didn't have nothing to do with me.

10 Q What about your cousin?

11 A It didn't have nothing to do with me. He
12 shouldn't have busted his windows.

13 Q I thought he was your little cousin and you
14 looked out for him?

15 A Shouldn't busted his windows.

16 Q All right, go ahead. So, you headed over to
17 Bop's house, what happened?

18 A Yeah, headed over to Bop's house. I pulled in
19 the backyard, so my car could be nose faced. I reached in
20 the back seat--

21 Q I'm not sure I know what you mean, nose faced?

22 A Nose face the street.

23 Q In other words you backed in?

24 A No, I pulled in the backyard so the nose on --
25 the front of my car would be facing the street.

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1 Q Okay.

2 A So, I was in his driveway, nose of my car was
3 facing the street. I sat in my car with it running. I
4 put the hoodie on -- I got in the backseat, put the hoodie
5 on--

6 Q Did you have any kind of a weapon?

7 A Like I said, the only weapon I had was gone.

8 Q Okay.

9 A So, I got out the car. As soon as I got out of
10 the car -- oh wait, on my way to Bop's house I got a call
11 from Smitty on my iPhone telling me, Bring all the guns,
12 bring all the guns. Barry just came by with a gun out, he
13 tried to play us, bring all the guns.

14 I look at my phone, I don't even like
15 Smitty like that so I hung up on him. I put the phone
16 down, kept on driving. I called -- what's his name?
17 Vegas, What happened?

18 Man, this nigga just came out with a gun
19 out, he came out with a gun on us.

20 I said, What happened? Y'all ran?

21 Yeah, that was some scary ass niggers.

22 So, I hung up, I called Barry. And I was
23 like, Barry, what happened?

24 And he said, Man, I just went by there,
25 man, they scattered like roaches, man, they were some

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1 bitches.

2 I said, Listen, man, they real but you
3 fucking with them right now. What's going on, man? Like,
4 what can we do to sum up this?

5 He was like, Man, fuck that. Man, fuck
6 that.

7 I said, Look, man, what can you do to solve
8 this? I said, How about you fight all of them one on one.

9 He said he would fight all them one on one.

10 So, when I went over my whole -- and after
11 I got there my whole initiation -- my whole initial reason
12 for being there was to get them to fight one on one, all
13 of them. So, when I got out the car -- when I tried to
14 lock my car but I hadn't shut the door yet, I had my keys
15 in my hands, and Landis and Smitty ran up to my car and
16 searching for my car -- searching all through my car. I
17 was just looking at them. And I look at Bop and Vegas and
18 I was like, Barry said he just want to fight y'all one on
19 one.

20 And Smitty, I can't remember if he was on
21 the backside of my passenger or the front side of my
22 passenger, but he ran around the car and pushed me. And
23 when he pushed me, I kind of -- I didn't fall -- I didn't
24 fall but I like stumbled back to the corner panel of my
25 car.

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1 And he was real mad like, Man, what the
2 fuck you talking about? Who side's you on? Who side's
3 you on? And then he was like, Man, you act like -- and he
4 just came out with a gun out. That this in -- word go.

5 I'm like, Bro, I ain't nobody side to be
6 real with you but he just want to fight. Just fight the
7 man one on one. Y'all -- fight them one on one.

8 He was like, Fuck you, fuck that, fuck
9 that.

10 So, Smitty really was mad at me a little
11 bit, everybody was letting it go.

12 Q I just want to pause right now. Obviously,
13 you're fairly well educated but I hear a lot of what we
14 would refer to as street vernacular, is that just how you
15 and your friends talk to each other?

16 A That's just how -- yeah -- how re-enacting it to
17 you, that's how we was talking.

18 Q Is that normal?

19 A To talk like that?

20 Q Yeah.

21 A Yeah.

22 Q All right, go ahead, continue with what you were
23 talking about.

24 A I started -- Bop had a bottle of vodka in the
25 house and I had started to drink. So, I took my hoodie

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1 off and gave it to Taylor, she was cold.

2 Q Is that Taylor Bovain?

3 A Yeah, Taylor Bovain. Smitty kept pulling me to
4 the side, he kept asking me about a gun. Like I said, I
5 don't tell nobody, I ain't going to tell them my business,
6 I just kept saying, I ain't got no gun, I ain't give you
7 no, I ain't give you no gun. And he just kept getting
8 madder and madder. Landis ain't really had too much to
9 say. Vegas really was -- I could see in Vegas face, you
10 know, I know that, I could see in his face it was
11 disturbed him but he wasn't really just angry. I could
12 see it in his face though. Bop was pretty mad because I
13 guess it happened at his house or whatever.

14 So, everybody -- like I said, when I got
15 there everybody was coming up to me telling me what was
16 going on, what happened. I was asking questions and
17 getting everybody side of the story and where this person
18 was at when this happened and what did -- you know, asking
19 everybody questions. They say Barry was calling their
20 phones, I didn't hear nobody talking to Barry. I don't
21 know.

22 Q Did you continue to talk to Barry or text with
23 Barry or anything?

24 A I called Barry back. I text him and told him to
25 go ahead and give Vegas the -- actually no, I called him

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1 one more time and he answered the phone and he was like,
2 Be real, Jacoby, I take Vegas.

3 And I was like, You want to get it with
4 Vegas?

5 And he was like, Yeah, I'll fight Vegas and
6 that's that because he smashed my windows.

7 And I was like, All right--

8 So, I hung up and I told--

9 Q What was that last thing you said, Bet?

10 A Yeah.

11 Q What does that mean?

12 A It means, one, yeah, okay, good to go.

13 So, that was the plan. Vegas was supposed
14 to fight Barry one on one and they was supposed to kill
15 it. So, when I told Vegas, I said--

16 Q You said, Kill it. I'm not sure I know what
17 you're talking about.

18 A Supposed to quash the beef, there's supposed to
19 be no more problem.

20 Q Okay.

21 A So, I told Vegas and he was like -- at first he
22 was kind of ify and he was like, all right, okay.

23 So, I text Barry and I said, Give --
24 fair -- but I do know that Barry's phone was dying so he
25 never text me back. I did try calling him a few times, he

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1 didn't answer the phone. Like I said, Vegas said that he
2 had Barry had called his phone. But to the best of my
3 knowledge, Barry didn't have Vegas' number because Barry
4 would call me and ask to speak to Vegas a few times. And
5 I gave him the phone. None of these -- one of the calls
6 was on speaker phone and I'll get to that. The -- Barry
7 called me asked where I was at? I lied and told him I was
8 walking the football field with Taylor.

9 He said, Good. And he was like, Well, tell
10 Taylor that I'm about to drop her shoes off at Pam house.

11 And I said, Okay. And I was like, Whoa,
12 whoa, whoa, what you going to Pamela's?

13 He was like, Yes.

14 I said, With who?

15 He said, By myself.

16 I said, Barry, look, I'm about to bring
17 Vegas up there. You and Vegas going to fight, nobody
18 around, nobody no the outcome, y'all dead it.

19 He was like, You ain't got to say no more.

20 So, I went back to Vegas and told him, you
21 know, what the plan was.

22 And he was like, All right, bet, bet, bet.

23 So, we got out the car. When we got out of
24 the car, James walked up and Vegas --

25 Q You got out of what car, your car?

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1 A Out of my truck, yeah. And James walked up--

2 Q That's where y'all were -- where were you
3 planning on going when you--

4 A To Pam's house.

5 Q All right.

6 A And vegas said that he didn't want nobody to
7 know where we were going and what we were doing. So, when
8 James opened up my door and asked me where we were going--

9 Q Who is James?

10 A James Williams. He was looking at Vegas when he
11 said it but, you know, I answered. I was like, I guess no
12 where now. I looked at Vegas and Vegas opened the door
13 and got out the car. I don't know why we didn't make an
14 effort to get in the car leave but we didn't. Shortly
15 after that, I say 30 minutes after that, Taylor's mom came
16 speeding down the street.

17 Q Is that Taylor Bovain?

18 A Yeah, Taylor Bovain's mom, Pamela Suber, she
19 came speeding up the street in her truck and came to an
20 abrupt stop. And she jumped out, she told the girls to
21 get in her car. And everybody's like, what was going on?
22 Because that's unlike her. Usually, when she comes,
23 she'll pull up, and I guess she'll play around, I don't
24 know, but this was unlike her. So, everybody asking
25 questions and everything.

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1 And then she said that, Barry said he's
2 going to kill Vegas.

3 And I just looked at Pam and I was like,
4 For real?

5 And she was like, Yeah. So, she was like
6 get in the car, y'all get in the car, get in the car.

7 So, the girls left. She didn't get
8 Tiajuana at first. So, Smitty was kind of mad about that,
9 that she didn't get Tiajuana. So, I gave him my phone, he
10 called Pam back. Pam came to pick up Tiajuana and all the
11 girls now were gone. This was -- this had to be like 10
12 something, 10:20. So, now it's dudes out there, nothing
13 but dudes, guys.

14 So, at this time Barry called my phone
15 around 10:20 something. He asked to speak to Vegas. So,
16 I gave Vegas the phone. When Vegas got on the phone, he
17 snatched his neck back, he put the phone on speaker phone
18 and all I heard Barry say, I'm going to kill you, boy, I'm
19 going to kill you.

20 And I looked at Barry -- and I looked at
21 Vegas and Vegas was like, Keep it in the streets, homeboy
22 and hung up the phone. And I snatched the phone back.

23 I was like, You're a fucking clown. As
24 soon as -- almost like a soon as I said that, I was
25 putting the phone back in the hostler and it rang again,

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1 it was Barry.

2 I picked the phone up and I was like, Bro,
3 what the hell is wrong with you?

4 He was like, Man, fuck that. Fuck that,
5 man. That motherfucker smashed my windows, I'm going to
6 kill that nigger.

7 I said, Bro, that's my little cousin, what
8 the fuck is wrong with you?

9 He said, Man, don't be around today, man,
10 don't be around. You ain't got nothing to do with this.

11 I said, Barry, chill the fuck out, man,
12 just chill the fuck out. Just calm down. Calm down,
13 Barry, just chill the fuck out.

14 He was like, Coby, man, shut up, you ain't
15 got nothing to do with this shit, man. Bye. And he hung
16 up on me.

17 And I kept trying to call him back, he
18 wouldn't never pick up the phone. He did call me back
19 around 10, like 10 minutes, 15 minutes later.

20 And he was like, You still over there?

21 I said, Yeah.

22 He was like, Well don't be around at
23 11 o'clock because I'm coming to shoot the house up.

24 And I just bust out laughing. I was like,
25 Man, you scheduling driveby's?

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1 And he was like, Man -- he called me Kevin
2 Hart. He was like, Man, Kevin Hart, man, you always
3 motherfucking playing, man, I'm telling you, man, don't be
4 around at 11 o'clock.

5 I said, Yo -- just chill the fuck out.

6 He was like, Man -- but that's Bop's
7 mother.

8 Q Okay.

9 A He was like, Dude you better go, you better
10 leave.

11 I was like, Man, you're fucked -- I think I
12 said you're a terrorist or something like that. You're a
13 terrorist, something I said like that.

14 He was like, Whatever.

15 I was like, All right, I let everybody
16 know. And we hung up.

17 So, I really was like I said I told
18 everybody that was there, Barry scheduled a driveby so
19 y'all don't be here at 10:59 because he coming at
20 11 o'clock to shoot up the house.

21 And everybody was like -- well really Bop
22 was the maddest. Everybody else was kind of just think I
23 was playing.

24 But Bop kind of angry about it like, Man,
25 what the hell you keep setting times up to come to my

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1 house, man? My mother in bed sick -- it's --

2 So, Vegas at this time -- well I skipped a
3 part. When I gave -- when Taylor left, she gave me my
4 hoodie back and I put it in my truck. And when I put it
5 in my truck, I locked my door. When I locked my door,
6 Vegas asked to get my hoodie because he said it was cold.
7 When I opened up the door, he grabbed my hoodie.

8 So, at this time, Landis -- I seen James
9 and Vegas get in the car. I said, Where y'all about to
10 go?

11 He was like, To the store.

12 Q What time was that, do you know?

13 A This was right around the phone call time.
14 Right at the phone call time. The last time he called me
15 and told me to be there at 11 o'clock, this was right
16 then. So, like I said, my times might be a little off,
17 give me like 20, 30 minute interval, somewhere around
18 10:30, 10:20, somewhere around there.

19 Q Okay.

20 A So, I seen James and Vegas get in the car. And
21 I said, Well shit, where y'all about to go?

22 He said, I'm going to the store.

23 And James said something about getting some
24 cigarettes or something.

25 And I said, Well, let me go too, I'm trying

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1 to get away from all this bullshit.

2 He was like, Come on.

3 So, I got in. Vegas was real quiet. And I
4 just kept looking back at him, because I was in the front
5 seat, I just kept looking back at him, like -- like I
6 could tell something was wrong. Like he was real quiet.
7 Usually Vegas be more -- he's the life of the party. He
8 be making people laugh more than me. Like, he's just --
9 he's a jumpy one. And I could tell that he just -- he had
10 his hand in his hoodie and his phone, he kept messing with
11 his phone. He was doing -- squishing up his face. I
12 could tell that something was bothering him but I didn't
13 pay no attention to it. It is what it is, it's not my
14 problem.

15 So, we pull at the Exxon.

16 Q How far is that from Bop's house?

17 A Around the corner. Like. . .

18 Q A couple minutes in a car?

19 A Yeah.

20 Q All right.

21 A Yes, sir.

22 Q All right.

23 A We pulled up at the Exxon, to the sign, and I
24 been trying to get with this girl that worked at Pizza Hut
25 for some time. But I'm always at work at the time she's

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1 at work. So, now that I'm off, I went over there to
2 holler at her. My excuse was to buy a little -- at the
3 time they had like \$8.00 medium pizzas or something like
4 that. That was going to be my excuse to go in there to
5 talk to her. So, I went in there, they were closing,
6 something like that. Something, I can't remember, but
7 something happened. I can't remember if they were closing
8 or if it was going to take too long for a pizza or
9 something like that. So, I walked out.

10 Oh, before I left Vegas gave James his
11 phone and they was asking me for my phone. So, I unlocked
12 it for him and gave him the phone. When I came back,
13 Landis was pulling up and Vegas was giving me back my
14 phone. He had called Landis. James was on phone with his
15 baby mother. So, Vegas -- actually, Smitty was talking to
16 Landis in the car or whatever--

17 Q Was Smitty with Landis?

18 A Yeah. And they don't normally -- nobody likes
19 Smitty. So, for him to be with Landis was out of the
20 ordinary. But like I said, I didn't. . .

21 Q Was Landis driving?

22 A Yeah, Landis was driving his mother's BMW truck.

23 Q Where was Smitty?

24 A In the passenger seat.

25 Q Front passenger seat?

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1 A Yes, sir.

2 Q All right. So, he pulled up, then what
3 happened?

4 A He pulled up, they were talking. I opened up
5 the passenger door and I was like, I said -- I can't
6 remember what exact words I said but it was something to
7 the point of, What y'all doing here? What y'all got going
8 on? Or something. And Smitty just looked, just gave me
9 this evil look. I just looked back at him and gave him a
10 bird and I shut the door.

11 And Smitty opened the door back up and was
12 like, Give -- hold things, hold things. James get -- and
13 Vegas said, James got my phone. He just kept yelling at
14 James to give him his phone.

15 I'm like, James, drop me off at my truck,
16 man.

17 And he was like, I'm not going back, I'm
18 going to my baby mother house.

19 I said, Man, what the fuck?

20 So, I looked at -- told -- drop me off at
21 my truck.

22 He was like, Come on.

23 So, I got in the backseat and we were still
24 waiting on James to give Vegas back his phone. And Smitty
25 just kept spazzing out. About spazzing I mean, yelling,

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1 like kind of going crazy at James. And James, hurried up
2 on the phone, give the phone back to Vegas. Vegas got to
3 the other side of the car. We got in the car, we take
4 off. I had just gotten on the phone--

5 Q Did anybody else that you know pull into the
6 station while you were there?

7 A Not while we was there, no. Not that I was
8 paying attention, not that I seen. But I had to get off
9 the phone, the iPhone with my kids mom. So, it had to be
10 around like 10:40 that I was talking to be her. As soon
11 as I hung up the phone with her -- it might have been the
12 reason I hung up the phone her. Vegas had tapped me and I
13 was like, Hey man, call Barry and let's get this shit
14 settled right fast. So, I was like, Call to fight.

15 He was like, Yeah, just call him and see if
16 we can meet up right quick before we go to the club.

17 So, they were getting ready to go -- to the
18 best of my knowledge, Smitty wasn't going. Smitty don't
19 never have no money. So, I guess Smitty wasn't never
20 going to the club but Landis was supposedly going to Club
21 Cream. And Vegas said he was supposed to go to but
22 neither one of them was dressed to go to the club or
23 driving the right car for Landis to go to the club.

24 But I was like, All right, I'll call Barry.
25 I said, Hey, man, where you at?

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1 He was like, Why?

2 I said, Man, I got Vegas right here, man,
3 they're about to go to the club, you wanna go to the club?

4 He was like, Hell no, I don't want to go to
5 the club with them.

6 I said, You want to go to the club with me?

7 He was like, Nah, I don't want to go to the
8 fucking club with you Coby.

9 I was like, Damn, fuck you. You mad at me
10 too?

11 He was like, Man, shut the fuck up, man,
12 what, what, what?

13 I said, You -- you want to fight Vegas?

14 And he was like, Yeah, I'll fight him,
15 what's up?

16 I said, Oh shit, where you at?

17 He said, I'm at Tiger house, I'm at Tiger
18 house.

19 I said, All right, man, we'll be there in a
20 minute. And I hung up.

21 So, I told Landis they were at Tiger house.

22 And Landis said, okay. He said, I don't
23 know who Tiger is or where Tiger lives.

24 So, we going down -- we passing -- we going
25 down Woodside, we passing the baseball field.

1 And Smitty kept saying, Pull over, pull
2 over.
3 I was like, Take me to my fucking truck.
4 So, Landis was like, Hold the fuck up -- so
5 he took me to my truck. He pulled onto Woodside, on Bates
6 Street, pulled into the driveway. His lights shined on
7 the front of my car. I got out the car. As soon as I got
8 out of the car, shut the door and they pulled off and left
9 the same way they came. I--
10 Q Let me stop you there. Who is they? Who was in
11 the car?
12 A Barry -- I meant -- sorry. Smitty, Landis and
13 Vegas. They left the same way they came.
14 I opened my car, went in my pocket, grabbed
15 one cigarette. When I opened up my car, my lighter was in
16 my little compartment. I grabbed the lighter, lit the
17 cigarette, took a puff, started the car. And I was going
18 to call Landis to go to the club. I go to the club, you
19 owe me \$15.00 for the room, pay my way. As I'm calling
20 Landis, like I said, my car phone picks up. So, I shut
21 the door, you know, I'm holding the phone to my ear but
22 I'm hearing him talking through the car phone. So, I look
23 at the phone, the bluetooth was on. I disabled the
24 bluetooth and I started talking to Landis.
25 I was like, What's up, man, you going to

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 Club Cream?

2 He was like, Yeah.

3 I said, Fuck no, I'm going with you, man,
4 you're going to pay my way?

5 He was like, No, I ain't paying my own way.

6 And I was like, Well, who paying your way?

7 He said, I don't know yet.

8 I was like, When you leaving?

9 He said, Call me right back.

10 I said, Where y'all at?

11 He said, We right here, man, just call me
12 right back.

13 I said, All right, bet. So, I hung up.

14 As soon as I hung up the phone with him, my
15 sister called my iPhone. So, I put my phone, my Nokia
16 back on the holster, picked up my iPhone, answered the
17 phone from my sister. She asked where I was at? I told
18 her.

19 And she said, Was I aware that -- daddy --

20 I told her, Yeah. She asked me something,
21 did I want her to grab it and take it home with her? Or
22 did I want her to leave it something, something, something
23 about the Nokia.

24 And I told her, I get it tomorrow.

25 I hung up the phone with her. And almost

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1 immediately after hanging up the phone with her, I heard
2 boom, boom, boom, boom, boom, boom, boom, boom, boom, pop,
3 pop, pop, pop. And my heart dropped. Because the first
4 thing that came to my mind was Barry done shot my cousin.
5 So, I was just sitting there and I my phone rang. And
6 that scared me a little bit. It was Taylor. I picked up
7 the phone, it was Taylor. And the phone, the phone hung
8 up, I lost service. So, I got to the car. When I got to
9 the car, the phone rang again. This time I hit the car
10 phone, to answer the phone through the car phone, I said,
11 What's up? It was Landis.

12 He was like, Where you at? He was calm, he
13 wasn't yelling, he was just Landis. He said, Where you
14 at?

15 I was like, Sitting at Bop house.

16 He said, Hey man, come over here right now?

17 What's going on, man? What's up, man? I
18 just heard gunshots. What the fuck happened?

19 He said, We got to shooting.

20 I said, We who?

21 He said, Man, all of us, we got to
22 shooting, it was a shootout, what's up, man? Where you
23 at?

24 I said, Man, I'm at Bop's house.

25 He said, Man, come down here and come pick

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1 us up.

2 I said, Where y'all at?

3 He said, Where Bop use to work at.

4 I said, I don't know where Bop use to work
5 at.

6 He said, Just come around, you'll see us.

7 I said, All right.

8 So, I hung up the phone, I put the car in
9 gear. And I got to the edge of the driveway and something
10 in my mind just like, don't fuck with it. So, I made a
11 left, cut through Bojangles' parking lot -- well, I made a
12 left, made a right through Bojangles' parking lot. Went
13 to the stop, made a left to the light, made a right. And
14 Taylor kept calling my phone back to back to back.

15 And on my way home is woods, like a wooded
16 area. Everybody's phone lose service in this area, no
17 matter who you got. I had Sprint, my sister's T-Mobile
18 service. And phone just kept losing service in that area.
19 So, when I pulled up at home, Taylor was still calling the
20 phone, the phone was still hanging up on us. So, when I
21 finally sat down in one spot, we talked. And talked about
22 20 minutes. But I had called Vegas from my iPhone, I also
23 called my kids mom from my house phone.

24 I called Vegas from my iPhone and I asked
25 him, What happened?

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1 And he sound like he was in a tunnel. He
2 was in his car. I could tell he was in his car because
3 his car real loud. He was breathing a little hard but he
4 was calm. And he was like, We got in a shootout.

5 I was like, Who?

6 He was like, We did.

7 I was like, Why? What happened?

8 He was like, Man, where you at?

9 I was like, Home.

10 And he was like, Oh, shit, let me call you
11 back.

12 And I was like -- where y'all got the guns
13 from?

14 He was like, I had your gun.

15 I said, Where you get my gun from?

16 He was like, I grabbed it when I grabbed
17 the hoodie.

18 Which I knew was a lie but I didn't say
19 nothing about it. So, I was like, Where you going? You
20 going by Bop house?

21 He was like, Yeah.

22 I was like, All right, call me when you get
23 there.

24 So, at the time, we didn't know Barry was
25 there or nothing like that. So, I called Barry -- I text

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1 Barry phone and said something to the effect of, You
2 dead-ass wrong for doing that -- talking about 11 o'clock,
3 something like that. I never got a text back. So, Taylor
4 clicked over and was on the phone with Smitty. When she
5 clicked back over she was real irate.

6 She was like, Coby, what just happened?
7 What just happened? What just happened?

8 I was like, What you talking about?

9 And she was like, Smitty just said it just
10 went down, it just went down.

11 And I was like--

12 Q Let me stop you there because you're getting off
13 into a lot of ancillary conversations. So, you had that
14 last conversation with Vegas, did you remain at your
15 sister's house?

16 A No.

17 Q What did you do?

18 A When I found out that Barry had got shot, I got
19 a text from Landis. I was scared--

20 Q Did you walk into your sister's house?

21 A Oh, yeah, yeah. I was on the couch watching TV
22 in my basketball shorts.

23 Q All right. So, how long -- I mean, about what
24 time did you get to your sister's house?

25 A I say like around 10:50, 10:50, 10:40 something.

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1 Q All right. And that was after hearing these
2 shots?

3 A Yes, sir.

4 Q And that was after having these conversations
5 that you just had?

6 A Yes, sir.

7 Q So, you went in and you changed?

8 A Yes, this is a ritual. I go in, take whatever
9 clothes I got off, put my basketball shorts on, wash my
10 face, wash my hands. That's what I was doing. Taylor
11 just kept calling and calling me back to back to back.

12 Q What -- did you do anything other than all this
13 constant phone talk that was going on?

14 A No. Sat on the couch with my sister's
15 boyfriend. We watched a Eli Manning interview. But I
16 wasn't really interested because I'm not a Eli Manning
17 fan.

18 Q Did you remain there at her house the rest of
19 the night?

20 A No, sir.

21 Q What did you do?

22 A Once I got the news, I got scared and thought
23 that they were going to start retaliating. And--

24 Q They being who?

25 A Whoever -- whoever did the shootout. Like I

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1 said, I didn't find out yet who was there. They just told
2 me it was a shootout. So, I got in the car.

3 Q Why did you think somebody would retaliate
4 against you?

5 A Because I was on the phone with Barry at 10:29.
6 So, you know, kind of common sense that I was the last
7 person on the phone with him.

8 Q All right.

9 A So, I didn't want anything to be said about me
10 or nothing like that. So, I got scared. I thought they
11 were going to, you know, retaliate some way, some how.
12 And you know, everybody knows my truck. So, I was like
13 everybody knows -- my truck and try to retaliate me. So,
14 I got in my car, seen my nextdoor neighbor, I waived at
15 her, and I left. I picked up my home boy, he was walking
16 home from work. I dropped him off at home. We sat in the
17 driveway, smoked a cigarette. I cut him short, told him
18 about what happened. Also, text my kids mom and told her
19 that Dale [verbatim] had told me that he, you know, used
20 my gun and that my fingerprints was on the shells. And I
21 was scared. And that if anything was to happen, I love
22 you. And basically trying to get my mind together about
23 this gun.

24 But I went -- I called my girlfriend at the
25 time and told her I was coming to her house but I never

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1 went to her house, I have went to Taylor's house. And
2 when I got to her house--

3 Q Taylor Bovain?

4 A Yes, I went to Taylor Bovain's house.

5 When I got to her house, Vegas called me,
6 asked me where I was at? I told him. He came there. We
7 kind of had -- it was him, Tara and his girlfriend, Kia.
8 And we kind of had a talk about him killing himself. Like
9 he wanted to kill himself. Saying that he was going to
10 drive off a bridge. And he wanted to shoot himself. And
11 he just left jail, he wasn't going back. So, it was a bit
12 of time we just talked about trying to get him to calm
13 down. And after he calmed down I asked him where my gun
14 at?

15 And he says, It's safe, I go it.

16 So, I asked him, What happened?

17 He wouldn't ever tell me. He just kept
18 saying, They got to shooting, they got to shooting.

19 So, I asked him again, Where my gun at?

20 He was like, I left it at the -- I left it
21 at the -- I left it the -- something he said, I left it
22 somewhere.

23 And I was like, Um, you going to go back
24 and get it?

25 He was like, No.

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1 And we turned to the news and it had an
2 all-out man hunt, they had dogs and choppers and
3 everything. So, we started crying and everything. And I
4 put my head in my hands and he text me.

5 He said, 315.

6 And I just looked at him, I was like,
7 Yeah -- need to leave. So--

8	Q	What's 315 mean?
---	---	------------------

9 A That's the area code of Syracuse, New York.

10	Q	Okay.
----	---	-------

11 A So, I just kept pressuring him to go get my gun.
12 And I let him know the importance of it. I was like, Bro,
13 like, I need you to go get my gun, I need you to go get my
14 gun. If you don't get my gun, man, like, they're going to
15 try to put me in this shit, motherfucker. People already
16 calling me--

17 Q Let me stop you right here. I understand that's
18 how y'all talk to each other. I've probably let you go
19 longer than you needed to, but let's tone down the
20 profanity.

21 A I'm sorry. I told him -- I told him to go get
22 my gun.

23 And he just kept saying, No, no, no, no.
24 He wun't [verbatim] going to get it.

25 So, he left around 4:00 in the morning.

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1 And I called him around 6:00. We met up at the Exxon on
2 418. I got in his car. And that's when he took me to the
3 crime scene, he told me where he was standing, he told me
4 where Barry was standing, he told me what happened. He
5 told me -- he kind of went around the corner and showed me
6 where he put the gun.

7 And when I looked, I said first, There's a
8 camera right there. Go get my gun, man.

9 He was like, No, man, I'm scared, I'm
10 scared.

11 I was like, Just put your hoodie on and act
12 like you're going to pay a bill or something and just grab
13 the gun.

14 He was like, No, man, no.

15 I just got scared at that time. I was
16 like, Bro, man, you just killed somebody, man. The gun is
17 going to come back to me as my gun, man. Think about
18 this, man, you're going to put me in this.

19 And he just like, Man, I'll get it later,
20 I'll get it later.

21 I said, All right.

22 We pulled off, he dropped me back off at my
23 truck. I went to my girlfriend's at the time house. I
24 told her about what happened, you know. I just kind of
25 stressing out about it. Put some pictures up on Facebook.

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1 Said a couple things. At that time, I was talking to
2 Shantea about whether or not I should go into the--

3 Q Okay, well, let's not -- I don't want to get to
4 far out there. You told us about what happened with
5 Vegas. Did you ever go back home that night?

6 A The night of the crime?

7 Q Yeah.

8 A No.

9 Q You stayed out all night long?

10 A Yes, sir.

11 Q So, the next day on October the 2nd, what did
12 you do?

13 A I called into the police station and that's when
14 I told them -- well, Vegas called my earlier that morning
15 and when I said, Hello.

16 He said, They found the gun, I'm gone.

17 I said, You gone?

18 And he was like, Yeah, I'm gone.

19 I said, Bro, you're to going leave me with
20 this shit? You're going to leave me with this?

21 Sorry.

22 And he was like, I ain't got no choice.

23 And I just sighed. I kind of started to
24 shed a couple of tears. And I was like, Man, I'm going to
25 call my gun in stolen. I'm going to tell them my gun's

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 stolen.

2 And he was like, What?

3 And I said, I about to -- I ain't got no
4 choice about, bro. I'm about to tell them -- I got to
5 tell them the gun --

6 He was like, Man, you do that I'm going to
7 tell them you did it because my fingerprints on it.

8 I said, Bro, what's wrong with you?

9 He said, Man, I got to got. He hung up.

10 And I called the Fountain Inn Police
11 Department, I told them that I believe my gun might been
12 used in a crime. I didn't tell them that my cousin stole
13 the gun, I just told them that I figured that my gun was
14 used in a crime. He asked me to come in. I told him that
15 I would be in at that time. I got in the shower, I looked
16 at the time, it was time for me to go to work. So, I
17 didn't call in. I couldn't miss anymore days. He called
18 me back and left a message and I called him back. At that
19 time he asked me why didn't I come in or whatnot. And I
20 told him that -- told him that I would come in the next
21 day.

22 And the next day, which was a third -- I
23 had heard so many people went into the police station and
24 was telling these different stories and was saying all
25 these different things --

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 THE COURT: All right, we're done with the
2 narrative. You're going to have to ask questions,
3 okay.

4 BY MR. CHAMBERS:

5 Q All right. Did you go into the police station
6 on October 3rd?

7 A Yes, I did.

8 Q Was that at the invitation of the police?

9 A No, sir.

10 Q Did you show up down there?

11 A Yes, sir.

12 Q Did you meet with the police officer?

13 A Yes, sir.

14 Q Who did you meet with?

15 A Detective Scott Hawkins and Chief Morton.

16 Q All right. Did you give a statement?

17 A Yes, I did, sir.

18 Q Did you give a written statement?

19 A Yes, I did, sir.

20 Q Did they go over your rights with you before you
21 gave that statement?

22 A No.

23 Q You just went in there voluntarily and gave a
24 statement?

25 A No, the -- Scott Hawkins told me that I was free

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 to go and the chief. And when I was walking out, Scott
2 stopped me and said he needed me to write a statement.

3 And I told him I had to go to work.

4 And he said, If you don't write a
5 statement -- no, you can't go to work if you're in jail.

6 I said, What do you mean?

7 He was like, If you don't write a
8 statement, I'm going to take you to jail for something
9 about interfering with police or obstruction of justice
10 or--

11 Q You did write the statement?

12 A Yes, I did write a statement, yes, sir.

13 Q And the police now have that statement?

14 A Yes, sir.

15 Q What did you tell them? Briefly, because I know
16 you've gone through everything that happened. But what
17 did you tell them--

18 MS. PAOLETTI: Your Honor, I object to that.

19 THE COURT: Yeah.

20 How you going to introduce his statement,
21 Mr. Chambers?

22 MR. CHAMBERS: I just wanted to ask him what he
23 told them.

24 THE COURT: Well, he's already told the whole
25 story. If there's something else he hasn't told with

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 respect to what happened, he can do that.

2 MR. CHAMBERS: Okay.

3 BY MR. CHAMBERS:

4 Q Okay. All right. Were you arrested that day?

5 A Yes, I was.

6 Q All right. What was the charge?

7 A Murder and possession of a weapon during a
8 violent crime.

9 Q Did you at some point make bond?

10 A Yes, I did.

11 Q All right. And you were out on bond for some
12 time?

13 A Yes, I was.

14 Q Did you go back to jail?

15 A Yes, I did.

16 Q When did you go back to jail?

17 A February 3rd, 2014.

18 Q Was that for the house arrest violation that
19 we've heard about?

20 A Yes, sir, it was.

21 Q Did -- while you were there, did you make phone
22 calls? And I'm not going to get into all the phone calls,
23 but I want-- did you make phone calls to people from the
24 jail?

25 A Yes, I did.

JACOBY GREGORY-DIRECT BY MR. CHAMBERS

1 Q When you made those calls, were you aware that
2 those were monitored and taped?

3 A Yes, I was.

4 Q Were you aware that the police and other people
5 like that would likely have access to those calls?

6 A Yes, I was.

7 Q And you heard some specific calls that were
8 played by the solicitor in this case, that were made to
9 Landis Franklin, did you make those calls?

10 A Yes, I did.

11 Q Were you intending to threaten Landis Franklin
12 when you made those calls?

13 A By all means, no.

14 Q Okay. Had there been a lot of discussion, as
15 we've heard from Mr. Clemons when he was here, among
16 everybody about this case and what was going on with this
17 case?

18 A Yes, it was.

19 Q Okay. Were you aware of all those
20 conversations?

21 A Not everyone of them but they would sometimes
22 come back to me.

23 Q But was there a lot of information that was
24 getting back to you?

25 A Yes.

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 Q And were those the kinds of things that you
2 would call and talk to Landis Franklin about, as we've
3 heard on those phone conversations?

4 A Yes.

5 Q Those four calls that we heard, were those all
6 of the calls that you made to Landis Franklin?

7 A No.

8 Q But there were other times when you did talk to
9 Landis Franklin?

10 A Two more.

11 Q All right. And did you also talk to various
12 other people while you were there?

13 A Not in Fountain Inn.

14 Q I mean, while you were in jail?

15 A Oh, yes, sir.

16 Q This is what we're talking about.

17 A Yes, sir.

18 Q All right.

19 All right, Jacoby, I believe that we have
20 covered everything so I will now turn it over and ask that
21 you answer any questions that the Solicitor has.

22 THE WITNESS: Yes, sir.

23 CROSS-EXAMINATION

24 BY MS. PAOLETTI:

25 Q Mr. Gregory, you've got a lot of information

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 about what happened to Barry Norman, don't you?

2 A Yes, ma'am.

3 Q How long have you been talking?

4 A I haven't been checking.

5 Q You gave a two page statement to law
6 enforcement?

7 A Yes, ma'am.

8 Q How many letters do you think you have written
9 me?

10 A A lot.

11 Q How many letters you think you've written to the
12 Fountain Inn police?

13 A About the murder?

14 Q Anything.

15 A About anything?

16 Q Yeah. Ten?

17 A No.

18 Q How many have you written me, 10?

19 A Maybe.

20 Q More?

21 A I don't know.

22 Q You been sitting down at the detention center;
23 isn't that right?

24 A Trying to talk to you.

25 Q That's right, you wanted to sit down and meet we

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 me?

2 A Yes.

3 Q And did your lawyer tell you that I was more
4 than happy to meet with you?

5 A No.

6 Q Did it ever occur to you, as you were sweating
7 it about your prints being on these shells, did it ever
8 occur to you to tell somebody the truth?

9 A I didn't know the truth until I came -- you
10 talking about who was there?

11 Q The truth.

12 A You talking about --

13 Q Read your statement, Mr. Gregory.

14 A Yes, ma'am.

15 Q Is there -- what is the truth in this statement?

16 A I just told it.

17 Q The story you just told?

18 A Yes.

19 Q Okay. Show me in this statement where you say
20 anything about what happened before Tuesday, October 1st?

21 A Before Tuesday, October 1st? I say right here.

22 On October 1st, I was--

23 Q Before Tuesday, October 1st?

24 A This statement, I don't think I did.

25 Q No, you didn't, did you? But you called

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 Fountain Inn police to tell them about what happened?

2 A Yes.

3 Q Before that weekend, right?

4 A They asked me not to speak about it, they just
5 wanted to know about October 1st.

6 Q They asked you not to talk about the party?

7 A When I wrote my statement, forcefully, they
8 asked me, Just tell us what happened on October 1st.

9 Q Mr. Gregory, were you under arrest when you gave
10 this statement?

11 A Obviously, I was. I wasn't. . .

12 Q Were you in handcuffs?

13 A No.

14 Q Had anybody said, Mr. Gregory, you're under
15 arrest for the murder of Barry Norman?

16 A After that statement, yes.

17 Q No, when you gave this statement?

18 A As soon as I signed it, yes.

19 Q You walked into Fountain Inn police?

20 A Yes.

21 Q Of your own freewill?

22 A Yes, ma'am.

23 Q And sat down?

24 A Yes, ma'am.

25 Q And wrote this statement?

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 A No, not on my freewill.

2 Q Okay.

3 A Like I said, he forced me.

4 Q You didn't want to write a statement?

5 A Yes, ma'am.

6 Q But you went down and you talked to them and you
7 told them--

8 A Yes, ma'am.

9 Q -- about what happened?

10 A Yes, ma'am.

11 Q Did it occur to you at that time to tell the
12 truth that you just told this jury.

13 A I did not know who was there at the time. Like
14 I said--

15 Q Didn't know who was where at the time?

16 A At the crime. They--

17 Q You just told this jury that you knew--

18 A I didn't find out until I came to jail. You
19 would have known that from the letters that I wrote you to
20 try to talk to you and tell you.

21 Q Mr. Gregory, you'll forgive me if I don't take,
22 what you write to me as truth for me to follow up with.
23 You sent text messages around the time of this incident,
24 didn't you?

25 A Yes, ma'am.

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 Q Whose phone number is -9413? And I know you
2 know them all.

3 A Taylor's number. Taylor Bovain.

4 Q Taylor?

5 A Yes, ma'am.

6 Q And she was your girlfriend?

7 A No, ma'am. Something -- no, ma'am.

8 Q To Taylor then, I got to find out what they
9 said. I hope they didn't say what I was wearing.

10 A The reason I said that because I know Fountain
11 Inn Police Department. I know once they said something
12 about he was wearing this, he was wearing that, that's it.
13 I know how the Fountain Inn Police Department works. And
14 I texted her about Smitty.

15 Q You don't have a record?

16 A No.

17 Q Who is -- oh, still Taylor -9413?

18 A Yes.

19 Q Tell him don't say nothing to nobody because
20 nobody know nothing. He was with Sosa, Landis, going to
21 Crocks.

22 A That's what Landis told me to text her.

23 Q That's what Landis told you to text Taylor?

24 A No, Landis told me to tell Smitty, because
25 Smitty wasn't picking up the phone for me --

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 Q I thought you didn't like Smitty? Why you
2 covering for Smitty now?

3 A Landis told me to tell that to Smitty.

4 Q So, you're taking orders from --

5 A The one --

6 Q Landis now? You're taking orders from Landis
7 now?

8 A I ain't taking orders, he asked me to do
9 something.

10 Q And you told Landis, Smitty don't know what
11 happened, Smitty wasn't there.

12 Isn't that what you told Landis on those
13 phone calls from the detention center?

14 A I told Landis, Smitty don't know what happened,
15 Smitty wun't there.

16 Q Yes, sir, you did. You clearly did not want
17 Landis here today or all week?

18 A No, actually I do.

19 Q You do?

20 A Like I said, I care about Landis. Not to the
21 point where I love him but I was just warning him. As far
22 as threatening him, I can care less if he came or not.
23 And I told him that in that conversation. I also had two
24 more conversations with him. I don't know why you didn't
25 play those ones to where he admitted to what he did. So,

JACOBY GREGORY-CROSS BY MS. PAOLETTI

1 why didn't you play those ones?

2 Q Well, your lawyer has them.

3 A Do you have them?

4 THE COURT: No, you don't get to ask questions.

5 THE WITNESS: Oh, I'm sorry.

6 BY MS. PAOLETTI:

7 Q Mr. Gregory, this is your gun?

8 A Yes, ma'am, it is.

9 Q And these are your phones?

10 A Yes, ma'am.

11 Q Nobody ever stole your phones, did they? They
12 were on your person the entire time that we're talking
13 about?

14 A Yes, ma'am.

15 MS. PAOLETTI: I don't have anything else.

16 THE COURT: All right, any redirect?

17 MR. CHAMBERS: No, Your Honor.

18 THE COURT: All right, you may stand down.

19 All right, ladies and gentlemen of the jury,
20 we're going to break for the evening. We've been
21 going for three days. And as I told you, and maybe
22 I'm wrong, but I think it's human nature, the more
23 you know, the more you want to know. And the more
24 you want to seek advice and help from whoever you
25 trust. You can't do it. Y'all have sacrificed an

1 awful lot up this point. And if it's violated, then
2 we have to start all over. So, keep it to yourself,
3 don't do any research, don't visit the scene and
4 we'll see you back at 9:30 in the morning. Okay.

5 (WHEREUPON, the jury left open court at
6 approximately 5:55 p.m.)

7 THE COURT: Do you anticipate you're going put
8 anything else up?

9 MR. CHAMBERS: I don't know, Your Honor.

10 THE COURT: Okay.

11 MR. CHAMBERS: Your Honor --

12 THE COURT: You want jury charges in the
13 morning, have them ready.

14 MR. CHAMBERS: Your Honor, I do, before we
15 break, I do need to put something on the record.

16 THE COURT: Okay.

17 MR. CHAMBERS: Your Honor, as I hope you know, I
18 have the upmost respect for the Court, I truly do.
19 But during most of my client's testimony, I could not
20 help but notice that you were making faces as though
21 you were in complete disbelief. And it was
22 abundantly clear to everyone in the courtroom and
23 most obviously to the jury. It couldn't have been
24 any worst as if you held up a sign that said you
25 didn't believe what my client was saying.

1 THE COURT: That's your opinion, Mr. Chambers.
2 Thank you, very much, I appreciate you saying that.
3 I was surprised at the narrative an experience trial
4 lawyer would allow their client to go through.

5 MR. CHAMBERS: Well, there was no objection to
6 it, Your Honor.

7 THE COURT: All right, well, we'll see you in
8 the morning.

9 (WHEREUPON, the proceedings were concluded for
10 the day to be reconvened on July 14, 2016.)
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1 July 14, 2016

2 THE COURT: All right, ready to go?

3 MR. CHAMBERS: Your Honor, the Defendant is
4 going to rest at this point. I can certainly do that
5 in front of the jury and would do that. I thought
6 for purposes of moving things along, I could go ahead
7 and rest, make the obligatory directed verdict
8 motion, and then we can just have the jury come in
9 and start with argument and charge after I rest.

10 THE COURT: Well, I don't know, do you have any
11 reply?

12 MS. PAOLETTI: No, sir, Judge.

13 THE COURT: Okay.

14 Whatever you want to do. You want to do it in
15 front of the jury?

16 MR. CHAMBERS: Well, I guess I should.

17 THE COURT: It's up to you.

18 MR. CHAMBERS: I'll do it in front of the jury,
19 Your Honor.

20 THE COURT: All right, move directly into
21 closings, but first let's discuss the charge.

22 Y'all have any requests to charge?

23 MS. PAOLETTI: Your Honor, the State request
24 that you charge the law the hand of one is the hand
25 of all. Based on the Defendant's testimony yesterday

1 about, even according to his testimony, his
2 involvement in the shooting, we would request that
3 you charge the jury on that.

4 THE COURT: Okay.

5 MR. CHAMBERS: I don't remember any testimony
6 that he was involved in the shooting, Your Honor. He
7 said he went home.

8 THE COURT: Well, put on the record what it is
9 you think.

10 MS. PAOLETTI: Well, Your Honor, first of all,
11 the Defendant says that he heard the gunshot, so he
12 was certainly not at home -- could not have been at
13 home when the shooting occurred. Additionally, Your
14 Honor, the evidence that was elicited on
15 cross-examination by the Defense was that the
16 co-defendant is trying to put the gun in this
17 Defendant's hands and say that this Defendant was the
18 shooter. When the Defense's position is certainly
19 going to be that the co-defendant was the shooter.

20 Both of these men were charged with murder. The
21 jury needs to understand why two people can be
22 convicted of murder of one victim. And the State
23 intends to inform them of the law on that in its
24 closing. I think it fits the evidence in the case.
25 There's also testimony by the Defense that Landis

1 Franklin was involved somehow, that Stacy Sullivan
2 was involved somehow. Under the facts as the
3 Defendant put them in front of the jury, the way that
4 he articulated it, all of them would be guilty of
5 murder under that theory, Your Honor.

6 THE COURT: All right. I think that entitles
7 you to a charge on the hand of one is the hand of
8 all.

9 Anything else?

10 MS. PAOLETTI: Not from the State, Judge.

11 MR. CHAMBERS: No, Your Honor, no special
12 charge.

13 THE COURT: Well, let me ask you, do you want a
14 charge on an expert witness? James Armstrong.

15 MS. PAOLETTI: Dr. Fulcher?

16 THE COURT: Dr. Fulcher, do you want the charge?

17 MS. PAOLETTI: Yes, sir.

18 THE COURT: Do you want circumstantial evidence?

19 MS. PAOLETTI: Absolutely.

20 THE COURT: Okay. All right. Well, we'll bring
21 them in --

22 MR. CHAMBERS: I'm sorry, Your Honor, I didn't
23 mean to interrupt. I just wanted to say that -- I
24 want to do this procedurally. My understanding about
25 preserving things for appeal is I have to renew my

1 motion for directed verdict, so I'm doing that now.

2 THE COURT: Okay. Yeah, that's fine. Same
3 ruling.

4 Y'all need a minute or are you ready to go?

5 MS. PAOLETTI: State's ready.

6 MR. CHAMBERS: I'm ready, Your Honor.

7 MS. PAOLETTI: Your Honor, the State intends to
8 waive its opening on the law.

9 THE COURT: Okay.

10 (WHEREUPON, the jury came into open court at
11 approximately 9:43 a.m.)

12 THE COURT: All right, Mr. Foreman, ladies and
13 gentlemen of the jury, welcome back. I hope y'all
14 had a pleasant evening.

15 All right, Mr. Chambers.

16 MR. CHAMBERS: Your Honor, at this time, the
17 Defense rests.

18 THE COURT: Okay. Ladies and gentlemen, if you
19 remember in my opening comments to you, I divided the
20 trial into five parts. The first part was the
21 opening statements of the attorneys. The second part
22 is the presentation of the testimony and the
23 evidence. So, we have concluded the second part of
24 the trial. All of the testimony, all of the evidence
25 is now before you. And we're going to move now into

1 the closing arguments of these attorneys. So, I ask
2 you -- you've paid close attention so far, I ask you
3 to continue to do so to these closing arguments.

4 All right.

5 MR. CHAMBERS: May it please the Court?

6 THE COURT: Yes, sir.

7 CLOSING STATEMENT

8 MR. CHAMBERS: Solicitor. Ladies and gentlemen,
9 it has seemed like a long few days. I'm sure it
10 seems that way to you. I've seen all of you over
11 here paying very close attention, taking notes. And
12 it requires a lot of focus and I've seen that from
13 all of you.

14 At the outset, I want to say that regardless of
15 what led up to this shooting, who may have been
16 involved in this shooting, it is nothing short of
17 tragic. It's the kind of thing that we hear about
18 almost every single day now it seems. And the real
19 tragedy about this is Barry Norman is dead and it was
20 so avoidable. I mean, this whole thing started over
21 something that was relatively silly in a lot ways.
22 It could have been solved by simply calling the
23 police and filing a report instead of all this back
24 and forth over social media and over phones and texts
25 and all the things that led up to it. I mean, it

1 just should have never happened. And it's sad. A
2 young man lost his life. And I don't want anything
3 that I have said or done or that my client has said
4 or done as we've gone through this trial to diminish
5 that in any way. But this trial is about whether or
6 not Jacoby Gregory is responsible for the death of
7 Barry Norman. And our assertion has been and
8 continues to be that he was not. That he was not
9 present when Barry Norman was shot and that he didn't
10 have anything to do with Barry Norman being shot and
11 killed.

12 Now, there are certain things that we know in
13 this case. They seem to have been agreed upon by
14 everybody. They don't seem to be in dispute. We
15 know that there was a weekend party that went on for
16 several days at the Clarion Inn on Augusta Road in
17 Greenville. We know that all of these names, all of
18 these people that we've heard about were present for,
19 at least, part of the time when all this was going
20 on. We know that there was an altercation between
21 Stacy Sullivan, who everybody seems to refer to as
22 Smitty, and Barry Norman. It didn't seem to be
23 extraordinarily serious, but there was, at least,
24 some display of bad blood when the two of them. They
25 apparently hugged it out, made up and then they went

1 on partying, everything was okay.

2 We also know because it doesn't seem to be any
3 dispute by anybody, that following that Barry Norman
4 became upset because there was some chatter about
5 somebody having slept with somebody and, you know,
6 they were upset. For whatever reason, he drives over
7 on that fateful day, that Tuesday, October 1st, in --
8 I think he's driving his car and he has Stacy
9 Sullivan with him and one other girl with him. He
10 gets over there and there's -- there are some
11 differences, depending on who you talk to about
12 exactly how it transpired and what happened, but it
13 seems to be undisputed that Barry Norman at some
14 point knocked Tiajuana Davenport to the ground. It
15 seems to not be in dispute that she was significantly
16 pregnant, seven or eight months. Everybody seems to
17 agree that Stacy Sullivan was her baby daddy, as
18 everybody refers to him, and that he was very upset
19 by that. And that he, along with some other
20 individuals, then, essentially -- some people say
21 attacked Barry Norman, some people say just got Barry
22 Norman off of Tiajuana, but there was an altercation
23 and nobody disputes that.

24 We know that Shawndell Clemons actually took a
25 tire iron and knocked the windows out of Barry

1 Norman's car. And you can see that in the evidence
2 that was submitted to you by the solicitor. All of
3 that is agreed upon.

4 It's also agreed upon that Jacoby Gregory was
5 not present for either of those events. We know it's
6 agreed upon that there was no animosity displayed at
7 the party between Jacoby and Barry. We know that
8 Jacoby was not present when this incident with
9 Tiajuana Davenport happened. We also know that there
10 was this -- well, what, I guess, I refer to as the
11 fake driveby, where Barry Norman said I'm coming back
12 over there and, in fact, he went back over there in
13 his car. One witness said that it was clear that it
14 was a cell phone. Other people said that it appeared
15 like it was a gun. The clear intention seemed to be
16 make people believe that he had a gun to scare them.
17 We know that happened. We also know that Jacoby
18 Gregory was not present.

19 Now, we know from his own testimony and from
20 others that, like they seem to do -- and this seems
21 to be a continuing theme throughout this whole case.
22 This whole group of people that know each other and
23 are friends with each other are constantly, it seems,
24 in contact with each other. It would drive me crazy,
25 personally, if I were to get that much information

1 from people and that many contacts and stuff, but
2 that seems to be what they do. So, clearly, he knew
3 about what had happened when he got over there.

4 There were no witnesses that testified to you
5 that when he got there, he was particularly mad about
6 anything. He wanted to know what was going on. The
7 people that you continued to hear were upset, Stacy
8 Sullivan was described as being very upset because
9 this involved his baby momma. And, of course,
10 Shawndell Clemons, who was upset enough that he
11 knocked the windows out of Barry Norman's car. Which
12 brings us back to something that I was talking about
13 at the very outset of this case, and that is motive.

14 Now, the solicitor posited to you when she got
15 up and gave her opening statement that the motive was
16 you're not going to kill my little cousin. That he
17 was looking out for Shawndell. But the facts, as
18 you've heard them, sort of belie that contention.
19 You heard throughout this that -- and you even heard
20 this from Shawndell Clemons that Barry at all -- I
21 mean, Jacoby at all times talking to Barry seemed to
22 be the mediator. That he was trying to work this
23 thing out. That he was trying to get this thing
24 settled in the old-fashioned way, to get together and
25 fistfight. Other than Shawndell Clemons, you never

1 heard anything about him having a gun, wearing a gun,
2 a gun being present. You didn't hear that from
3 anybody other than Shawndell Clemons when he said
4 that he was wearing his gun on his hip. We'll talk a
5 lot more about that later. But of all the people out
6 there, Jacoby's the one who seemed to have no motive.
7 He wasn't involved in any of the altercations that
8 led up to this. And his phone conversations with
9 Barry throughout this time were trying to reconcile
10 this, to mediate it.

11 All right. So, as we also discussed at the
12 outset, the State has the burden of proof. His Honor
13 is going to charge you on that a little bit later. A
14 that proof is proof beyond a reasonable doubt. Proof
15 that leaves you firmly convinced. Another way of
16 saying that proof that leaves you definitely sure.
17 Proof that when you leave here, you will be
18 comfortable with that verdict and you will not have
19 any doubts about it. When you have doubts, folks,
20 that is reasonable doubt. If you're not convinced of
21 something, that is reasonable doubt. And reasonable
22 doubt has to go in favor of Jacoby Gregory because he
23 is the one that is accused.

24 Now, there are few things in life worst than
25 being falsely accused of something. And Jacoby has

1 maintained and we have maintained that he has been
2 falsely accused in this case. Now, just because a
3 false accusation has been made doesn't mean that the
4 person making it doesn't believe it. There is no
5 doubt in my mind that the Fountain Inn Police
6 Department and the solicitor believe that Jacoby
7 Gregory was involved in the killing of Barry Norman.
8 They believe it. The problem is, folks, that it is
9 not supported by the evidence in this case. There is
10 a lack of evidence in many areas. And there is
11 actually evidence in this case that I would argue to
12 you proves conclusively that Jacoby Gregory was not
13 involved.

14 Now, they had almost three years to get ready
15 for trial. They make a choice about who you're going
16 to hear from and what you are going to see. So, what
17 I want to do now is just review a little bit. And I
18 promise I'm going to try not to take too much of your
19 time because it's been a long week. But there is a
20 good bit for me to cover. And I want to go through
21 what they have presented to you in an effort to
22 overcome their burden of proof in this case.

23 The centerpiece of the case was Shawndell
24 Clemons. He was the last witness they put up. He
25 was the last piece of evidence that they wanted to

1 come to you. And Shawndell, as we've already
2 discussed, is someone who had a motive to shoot Barry
3 Norman. Shawndell, we know, is somebody that as he
4 comes in here to testify has pleaded guilty to
5 manslaughter, a reduced charge. And he told you that
6 he had not been sentenced. And the reason for
7 deferring sentence is he's got to come testify first.
8 You can logically conclude that how he testifies is
9 going to go a long way toward the sentence that he
10 ends up getting.

11 He also indicated to you that he had prepared
12 for trial by meeting with the solicitor. And that
13 among other things, they had reviewed the video
14 footage together. So, when he came in here and sat
15 down to testify, he had already very recently seen
16 all of that and knew what was going to be shown and
17 had discussed what his testimony would be. And he
18 knew that he was expected to testify against Jacoby
19 Gregory because his sentence had been deferred. So,
20 you can consider all of that.

21 And you can also consider that as he sat down
22 there to testify, you can consider this for
23 impeachment purposes, that he has been convicted in
24 the past two burglary charges and a grand larceny
25 charge. That is permitted for impeachment only, but

1 you can consider that.

2 As you've heard, he has given by this point,
3 including his testimony here in court, several
4 difference statements. Now, he fled almost
5 immediately and went to Syracuse, New York. You can
6 consider someone fleeing as evidence of their guilt.
7 Now, obviously, he's not on trial. He's pleaded
8 guilty. So, that's not really an issue for you here,
9 but consider the fact that he did run to Syracuse.
10 And while he's in Syracuse, it's easy to conclude
11 that he is, as we've already heard, in contact with
12 all of these folks. I mean, within 10 or 15 minutes,
13 people were getting texts and calls about Barry
14 having been shot. So, we know that there is a
15 tremendous flow of information that goes on around
16 these people. So, he goes to Syracuse and it is easy
17 to conclude that he was in touch with these people
18 during that entire time.

19 He eventually comes back to South Carolina. But
20 he only does so after Jacoby Gregory is arrested on
21 the third. And he did indicate to you not only did
22 he know Jacoby was arrested, but he indicated to you
23 that he had gotten some idea from somebody that
24 Jacoby had identified him as somebody that was
25 involved in this. So, these were all things that he

1 knows when he comes back.

2 Now, he contacted the police, you heard that,
3 and he said that he was going to come in and meet
4 with them, but he didn't. They had to send the U. S.
5 Marshals out to arrest him. When they arrested him,
6 they took him to take a statement from him. And he
7 told you that he began to talk to them. He didn't
8 have a lawyer. He thought he was going to have a
9 lawyer. He didn't have a lawyer. They let him make
10 a couple of phone calls, so he called his uncle. He
11 called his grandmother. And based on talking to
12 those people and everything, he decided to go ahead
13 and give a statement. Said he gave a statement, for
14 whatever reason, tore the first page up. Then he
15 ended up, folks, giving a four-to-five-page
16 statement.

17 Now, in his own words, he only told the half
18 truth. Half truth. He indicated in that initial
19 statement to the police, as you heard, that this was
20 somehow maybe self-defense. That they had gone there
21 and they had seen Barry Norman reach for what they
22 thought was a gun. And that's when he said Jacoby
23 shot him. He indicated and was very certain about it
24 that he didn't have a gun. That the only person who
25 had a gun was Jacoby. So, he gets arrested, he's

1 been arrested, he's given that statement, and then as
2 he testified, he goes on to jail. And as you heard,
3 even in jail, we've got jail phone calls. We've got
4 all kinds of communication and stuff going on.

5 At some point, significantly later, several
6 months later, after he's had an opportunity to look
7 at discovery material in this case, after he's had an
8 opportunity to talk with all the people that provide
9 information and do all these thing, he and his
10 lawyer, as you heard, go in and they meet with the
11 solicitor. And this time, he says that he did have a
12 gun, and he has a 9mm gun. And the reason that's
13 important is because by that point, he knows that
14 they had found 9mm shell casings, so he knows that
15 there was another gun there. So, he is now telling
16 them that he had that and he says that Jacoby gave it
17 to him. He says that when they pulled up at the
18 scene -- well, he says something different, but I'll
19 talk that in mint.

20 Even then, though, folks, he tells the police or
21 tells the solicitor, as you heard, that he dropped
22 that 9mm somewhere on his route. You remember when
23 he was talking about he was running and they went
24 through the field and they went through Holly Oak
25 Chemical and to the gas company and then he went up

1 the street and eventually got picked up, almost at
2 Bop's house based on his testimony, that he dropped
3 that 9mm somewhere along the way. That's what he
4 told the police. But then, folks, when he comes in
5 to testify yesterday, he tells you that he got in his
6 car with it and he drove somewhere like Bryson Road
7 or something, I don't remember exactly, and that he
8 disposed of the gun. At no point is he telling the
9 truth. At no point is he telling the whole truth.
10 In fact, he continues to tell what he refers to as
11 the half truth. It's true that he was there. But
12 can you rely on anything else that he has had to say
13 about that?

14 Now, a couple of things about when they get
15 there. First of all, let's talk about he says -- his
16 testimony yesterday, folks -- and you get to judge
17 the demeanor of witnesses when they testify and the
18 way that they answer questions and the way that they
19 go through it. It was clear that he was having
20 problems. It was clear that he was having a hard
21 time keeping things straight in his head. There's a
22 reason that almost every statement he's made has been
23 inconsistent. It's because he's lying.

24 You know, folks, if you're telling the truth,
25 you don't have to remember anything. It's the

1 easiest thing in the world to tell the truth. But
2 when you are trying to tell a lie, a lie that will
3 match up with something that you wanted to happen,
4 that's when you get all these inconsistencies. And
5 even on the stand he would contradict himself. It
6 happened over and over. There's no way in the world
7 that I can stand here and count to you every
8 inconsistency, every time that he contradicted
9 himself. You sat here, you paid attention, you took
10 notes, you know. And I leave that to you and to your
11 consideration.

12 But there are a few things that really stand
13 out. One is he says that they went with James
14 Williams. And that on the way -- and the reason they
15 were going is he said he wanted to get a Coke and a
16 snack. And his testimony is that on the way over
17 there, there's not a lot of discussion, listening to
18 music, and they get to the Exxon on North Main. And
19 the thing to keep in mind is all these places that we
20 hear about are all within a mile or so of each other.
21 This is not a huge area. This is a very confined
22 area where all these things are happening.

23 They get to the Exxon. And you've got to ask
24 yourself, do I believe this? Do I believe what he
25 told me when he testified yesterday? And there was

1 apparently no discussion going over there about doing
2 harm to anybody. He did say after I started
3 questioning him on it that Jacoby was wearing his gun
4 in his holster on his hip, the holster that he has
5 that is like a police officer's holster. But he
6 didn't say anything about a 9mm or any other gun. He
7 didn't anything about any discussion about what
8 anybody is going to do to Barry Norman.

9 There was discussion and I can't remember if it
10 was in the car or not, but there was certainly
11 discussion off and on about how they were going to
12 set up this fight and, eventually, there was going to
13 be a fight between Shawndell Clemons and Barry
14 Norman. There was that discussion, but there was
15 never any discussion of any kind according to anybody
16 that, and certainly Shawndell Clemons said, they were
17 going to shoot anybody. He says that while they're
18 at the store with James Williams, that Landis
19 Franklin and Smitty, Stacy Sullivan, show up there.

20 Now, there apparently had been talk earlier in
21 the evening that they were going to go to Club Cream.
22 But according to Shawndell Clemons yesterday, he
23 didn't call Landis, he didn't know of anybody else
24 that called Landis. Landis apparently just showed up
25 there. And with no real discussion of any kind, he

1 just gets in the car and Jacoby gets in the car. And
2 he didn't even seem to know where they might be
3 going. He just got -- instead of getting back in
4 James's car, he got in Landis's car. And according
5 to what he said yesterday, I thought we might be
6 going to Club Cream because we talked about it
7 earlier, but no discussion about where we were going.
8 He said I was just kind of trapped at that point. I
9 was going wherever he took me. And again, they're in
10 there and there's, according to him, no discussion,
11 no plan, no nothing to go do harm to Barry Norman or
12 anybody else.

13 According to him, this whole thing happened, it
14 was just sheer happenstance. There was no plan that
15 went into it according to him. He and Jacoby didn't
16 get together and say, you know, we need to figure out
17 where we're going to go, that he's going to be here.
18 We need to know how we're going to get away when it's
19 over. Here's what we're going to do. These are the
20 guns we're going to use. You know, no planning, no
21 discussion. He just gets in a car not knowing where
22 he's going to go and just happened to be that they
23 went down Woodside. And he said that they went down
24 Woodside past Third Street going towards Fourth
25 Street and, apparently, he says that Jacoby said, I

1 see Barry. So, apparently, they just, according to
2 him, told Barry -- or not Barry, but Landis to just
3 let them out. And they got out somewhere up past
4 Fourth Street where the Woodside Apartments are.
5 Again, this is not a -- this is a fairly small area
6 we're talking about.

7 So, they get out. And, apparently, for the
8 first time ever, he says that Jacoby hands him a gun.
9 Now, here's where he crossed himself up on stand and
10 it's important. He had testified earlier -- and,
11 folks, if you have any doubts about any of this --
12 and trust me, I'm not trying to prolong this anymore,
13 but this is important. We have a record over here.
14 We can go back and listen to testimony at any point
15 if that's what you need to do in your deliberations.

16 But early on when I asked -- before we even got
17 to the part about the store, I asked what Jacoby was
18 wearing. He described as he came straight from work
19 and he said that he had steel-toed work boot, that he
20 had on his blue cargo-type pants and that he had on a
21 blue work shirt. He specifically said work shirt.
22 And I'm saying again, if there's some discussion
23 about that, don't take my word for it, go back and
24 listen to the testimony. I don't remember exactly
25 when that came, but it was sometime before the trip

1 to the store. Now, when I started pushing on that,
2 he said, Well, he had on a white T-shirt. He didn't
3 have on his work shirt, he had on a white T-shirt.

4 The other thing that he said, though, which is
5 important is, earlier he had gotten Jacoby's black
6 hoodie and he had put it on. He says initially,
7 until he realizes it's a mistake when they get there,
8 that Jacoby reached into the hoodie pocket and took
9 out the 9mm. When I pointed out to him that he
10 was -- had said that he was wearing the hoodie, he
11 said oh, no, he took it out of his pants and gave it
12 to him. Because he got caught.

13 He then says that they start down the street and
14 that's when he said he saw this husky fellow point at
15 him. All right. He indicates that Jacoby has his
16 .45 and that Jacoby is walking on this narrow
17 sidewalk, which y'all saw in the crime scene footage.
18 He indicates that he, Shawndell Clemons, with the 9mm
19 is walking out in the middle of the street and
20 they're parallel with one another. And they're
21 walking down the street and the guy had pointed at
22 him. He said that Barry Norman had turned and was
23 walking toward them. If you will recall, I ask him
24 several questions about it. I wanted to make sure --
25 I wanted to be as specific as possible with him about

1 what he recollected. Sometimes even when you're
2 trying to put something -- to frame somebody, you
3 tell things that are true, things that you remember
4 from when you were there.

5 So, he's saying he's out in the middle of the
6 road when he has the 9mm. Barry is coming -- walking
7 toward, he says, Jacoby Gregory on the sidewalk.

8 And I said, Is he looking forward? Is he
9 looking at Jacoby?

10 Yes.

11 Are you certain about that?

12 Yes.

13 Here's why that's important, folks. And it is
14 really important. When Dr. Fulcher testified, the
15 man who did the autopsy, he said that Barry Norman
16 was killed by a projectile. We know that that
17 projectile came from a .45 caliber pistol. Number
18 one, that Shawndell Clemons says Jacoby had. We know
19 from Dr. Fulcher that the entry wound was on the left
20 of the forehead. And you can look at the picture,
21 they have the picture. It goes in right here, that's
22 what Dr. Fulcher pointed to. It goes slightly up and
23 to the right. Barry Norman is approximately six-two
24 based on the testimony that we've heard. Shawndell
25 Clemons is approximately five-seven based on what he

1 said. Shawndell Clemons is out in the road to the
2 left of Barry Norman. If what he tells you is true,
3 there is no way that whoever was on the sidewalk,
4 whether it was Jacoby Gregory or anybody else, could
5 have made that shot. It is impossible. Don't forget
6 that. It's impossible.

7 That shot came from the person standing in the
8 middle of the road. And Shawndell Clemons says he
9 was that person. Shawndell Clemons had that .45.
10 There is absolutely no question about it. It is
11 beyond dispute. It is beyond any reasonable
12 argument. And based on the coroner's report -- or
13 the medical examiner's report alone, you know that to
14 be true. You know it to be true.

15 He says that he heard the shots. And then he
16 says, I took the 9mm and I kind of shot into the
17 ground, then I shot again as I was running away.

18 Why does he say that for the first time?
19 Because he knows that they found 9mm shell casings.
20 But again, he says they were parallel to one another.
21 When you look, you will hear that the 9mm shell
22 casings were found behind the 45mm shell casings.
23 That's just how it is. That's what happened. But he
24 had to say that because he knew that's what the
25 evidence in the case was. So, when he came in to

1 testify, that's what he did.

2 He then says that they took off running. And he
3 says he was ahead of Jacoby Gregory. He said Jacoby,
4 who, apparently, had some idea in his mind that he
5 was going to go shoot somebody because he had shown
6 up not only with a .45, but a 9mm, also, had two
7 phones clipped on his belt and keys on his belt.
8 That's a lot. But that's what he said happened. He
9 said they took off running. And he said they started
10 through that field.

11 Now, he indicated -- and I talked about the
12 shirts a little bit. He indicated and was pretty
13 clear that he had on a black hoodie and the black
14 hoodie was Jacoby's. I talked to him about when he
15 talked to the police and he said that he may have
16 said that there was a red hoodie that Jacoby was
17 wearing. He initially -- you heard him, he even said
18 he had on a blue work shirt. Then he said when they
19 were running away, that's when he said he had a white
20 T-shirt. Again, he has to say that because he knows
21 because he's watched the video footage that the other
22 person that was there was wearing, what appears to be
23 anyway, a white T-shirt. It's in black and white, so
24 all we know is it's a light-colored shirt. It could
25 have been some other shade. In fact, it could have

1 been an orange shirt. You can't tell.

2 So, they say they start to run through the field
3 and that -- and by the way, as far as that 9mm goes,
4 he says he even knows where Jacoby got it, that it
5 belonged to somebody named what they call Hood and
6 that's a guy named Jerell. You know, but nobody else
7 seems to know anything about him having gone to this
8 guy Jerell and having secured a 9mm. That's what
9 Shawndell says. Could be that Shawndell got it from
10 Jerell.

11 He testifies about them running through that
12 field. He says he's running ahead. And something
13 really significant about what he says is this, he
14 said that Jacoby yells at him and says, I'm about to
15 drop something.

16 So, he says he then turns around -- and
17 remember, he's ahead of Jacoby. He says he turns
18 around and runs back to Jacoby. And that's when, of
19 all the things that Jacoby could have handed him, he
20 hands him the .45. His gun. He didn't take the gun
21 and put it in his secure holster that he was supposed
22 to be wearing. He didn't hand him anything else that
23 might have been slowing him down. All the things he
24 could hand him, he hands him his .45. You've got to
25 ask yourself, does that make sense to you? Is that

1 something that somebody would do?

2 But more importantly than that, I want you to
3 think about Mr. Yatzeck, the neighbor out there. The
4 one that came out -- and if you see the picture, you
5 know it's a daytime picture. And you see the
6 picture, I mean, he has a clear shot of that field.
7 And he said he clearly saw -- he couldn't make out
8 who it was, but he said he saw two males running
9 through the field. He said one of them was wearing a
10 black hoodie. He said one of them was wearing an
11 orangish shirt. He was certain of that. He said he
12 could see an orangish shirt. He also said that he
13 saw one person running ahead and that person
14 continued to run. But he said he saw the person
15 lagging behind drop something and that person turned
16 around and went back and picked it up.

17 Folks, Mr. Yatzeck's got no reason to lie in
18 this case. No reason at all. He saw what he saw.
19 But Shawndell Clemons has reason to lie because he
20 has to explain somehow how he ended up with the
21 murder weapon, which he says Jacoby Gregory used to
22 kill Barry Norman. And so, that is the explanation
23 that he comes up with. Because, remember, he didn't
24 come back. It was like nine or 10 days later after
25 this happened before they got any kind of statement

1 from him. If you remember, Jacoby came in -- after
2 having called a couple of times, came in on the third
3 and gave a statement and was arrested. He
4 surrendered himself.

5 He then testifies that he -- after getting the
6 gun, he continues to run ahead. And, of course, we
7 can see them on the video. We can see them on the
8 video as they go through Holly Oak Chemical. We had
9 the one witness who said that he saw them running --
10 I mean, first heard the shots. I mean, he -- or when
11 he saw people coming at him after hearing those
12 shots, he ran back to take cover. I don't blame him.
13 But he saw those people running through. And then
14 that's what you see on the video. Okay.

15 And there's some things that are really
16 important about that video. First of all, I want you
17 to look is the times. The times are all over the
18 place. One of them, if I remember correctly, says
19 19:37. One of them says, like, 21:36. Another other
20 one says 10:53 p.m. None of these times are in sync.
21 We've heard a lot of discussion about times and see a
22 lot of different times. The bottom line is none of
23 these times that anybody has presented to you are in
24 any way reliable. And I don't even know that it
25 matters, but I throw that out there for you.

1 But here's what does matter. The man that was
2 there, Mr. Firpo, said that the person in the lead
3 had a gun in his hand. He saw that he had a gun in
4 his hand. I mean, you can see on the video as
5 Shawndell, he identified himself, in the black hoodie
6 when he first comes into view, he's wearing the black
7 hoodie, all right. Now, you can look, I don't know
8 that as he gets up there where he's going to take off
9 the sweatshirt that he has the .45 in his hand, okay.
10 We know that he takes off the sweatshirt. You can
11 watch him do it. He pulls the sweatshirt up with
12 both hands, then he throws it over. There is no way,
13 folks -- and this is the reason I was asking
14 questions about it on the stand. There's no way that
15 he could have taken that sweatshirt off while holding
16 the .45, which is what he said he did.

17 First, he said, Well, maybe I stuck it in my
18 pants. But the last thing he said was, I was holding
19 it and that's what I did.

20 He could not do that. He had it -- he had stuck
21 it down in his pants.

22 Here's why that's important. First of all, it
23 shows he's not telling the truth. But secondly, he
24 walks, not runs, you can see it on the video, over by
25 the fence and he kneels down. He doesn't throw it

1 like he did the sweatshirt. Even through he's on the
2 run, he kneels down. You can't quite see what he's
3 doing, but he kneels down very carefully. So, what
4 he's doing? I think it's reasonable to conclude that
5 he was taking that T-shirt that he was wearing, wads
6 the gun up and he lays it down. You can look at the
7 picture, that gun was just laying there. He didn't
8 throw it. He put it there.

9 Now, he also says he had the 9mm in his pants.
10 And watch him run on that video. Even if he had
11 tight pants, he said, I mean, he's moving. But why
12 would you dispose of one gun and not the other?
13 Well, one reason is it's Jacoby Gregory's gun.
14 You're not worried. You wiped it off. You put it
15 down. His -- Jacoby's sweatshirt's out there, that
16 .45's out there. The 9mm, he apparently keeps, the
17 one that he never told anybody about until months and
18 months and months later. And even then, didn't tell
19 the full truth.

20 But here's the other thing that's really
21 important about that video. I wanted to play it for
22 you, but I decided that I'd just let you watch it on
23 your own when you went back to deliberate. But you
24 see the other person come into view, and that person
25 is on the telephone. The only telephone call that we

1 know for sure that gets made, because we can see it,
2 is the person who is walking and has the phone.

3 Now, this is another one of those incidents
4 where I will tell you there is conclusive evidence
5 that has been presented to you to show you that
6 Jacoby Gregory was not that second person. We know
7 Jacoby came straight from work. We have heard
8 testimony from Shawndell Clemons and Jacoby Gregory
9 that he was wearing his work clothes. Now, at one
10 point, Shawndell said he had on his blue work shirt,
11 but then later, he said he had on a white T-shirt.
12 But he agreed that Jacoby was wearing his black
13 steel-toed work boots. The person you see on the
14 telephone is, first of all, wearing a big, baggy
15 T-shirt. It's one of these T-shirts that I see these
16 young men wearing around town all the time. It looks
17 almost like a dress. It is not a T-shirt that
18 anybody who was working, welding and painting steel
19 would have been wearing. It would be unsafe. You
20 would not be allowed to wear it. So, even if he took
21 off his work shirt that he was wearing when he got
22 over to Bop's house, he wouldn't be wearing some big,
23 blousy white shirt.

24 Even more importantly, folks, and I swear to you
25 I want you to look at this because it is conclusive

1 evidence that he wasn't there. The person in that
2 video was wearing white tennis shoes. It's black and
3 white, but you can tell it's not black work boots.
4 Those white tennis shoes almost shine. Folks, that
5 is not Jacoby Gregory. It was not. The other person
6 we know from Mr. Yatzeck was wearing an orange
7 T-shirt. Do you think he's wear an orange T-shirt to
8 work? The person in that video had on a blousy
9 T-shirt. Do you think he's wearing that to work?
10 The person in that video had white tennis shoes. He
11 certainly wasn't wearing tennis shoes. We know it
12 wasn't him.

13 The other thing is it would take an idiot to
14 have given the .45 to somebody else. And whoever was
15 there, I mean, I know they were a good distance
16 behind, but, surely, he saw what he was doing. He
17 wouldn't just leave the scene. They weren't worried
18 about it because it wasn't their gun. They didn't
19 care. It wasn't their sweatshirt. They didn't care.
20 So, that's the centerpiece, folks, of their case is
21 Shawndell Clemons: So, you've got to then -- if you
22 want to build a solid case, and I would hope that
23 you'd want to build a solid case when you have
24 accused somebody of murder. Then you have to bring
25 in corroborating evidence.

1 You heard from Joshua Kilgore. And he,
2 basically, confirmed things that we already knew. I
3 mean, he didn't know Shawndell. He didn't know
4 Jacoby. And he, basically, told you and -- told you
5 about the scene and what was going on. You heard
6 from Mr. Yatzeck, I've already talked about that. I
7 mean, he's an independent witness in this case. He's
8 just a citizen who came forward and told what he saw.
9 You can certainly rely on what he had to say about
10 what happened in this case. The same thing with
11 Robert Firpo. I mean, he told you which he saw. He
12 certainly has no motive to make anything up in this
13 case.

14 So, that brings us, I guess, to the police
15 investigation, all right. And this is important.
16 This is a murder, all right. They've come out there.
17 These people are trained to do this. So, you hope
18 that they're going to start and they're going to hit
19 the ground running and they're going to do thorough
20 investigation. Folks, this investigation was
21 anything but thorough. This investigation at some
22 point simply became a rush to judgment against Jacoby
23 Gregory.

24 The first officer who arrived out on the scene
25 was Officer Barnes. Now, listen, she's working. She

1 gets a call. She's the closest one there, she
2 responds. She was followed a little bit later by
3 Officer Snelgrove, who we did not hear from in this
4 case. And she gets there and she said there are ,
5 multiple individuals there, a dozen or so, at least.
6 And she obviously has some concern about her own
7 satisfy and she's just trying to maintain until some
8 other people get there. No complaints at all about
9 that. And, frankly, there's no complaints about
10 anything that she did. She did what she was told.

11 One of the things that she was told -- because
12 you heard that Detective Peden, who was the lead
13 investigator in this case, he got there within 10
14 minutes. He was then in charge. And they didn't
15 order any kind of -- he didn't order any kind of a
16 sweep through the neighborhood to go around and talk
17 to various people, didn't think that was necessary.
18 But, apparently, he did have Officer Barnes get names
19 and all contact information from the people that were
20 there. As you heard, I went through each one of them
21 with her, I went through each one of them with
22 Detective Peden. She got -- it was, at least, a
23 dozen names. She didn't follow up with any of them.
24 Detective Peden or other people, apparently, followed
25 through with a couple of them, that's about it.

1 Now, Detective Peden gets there 10 minutes
2 later, now he's in charge. They secure the scene,
3 which, basically, what they secured was Third Street
4 and Fourth Street, not anything beyond that. Not the
5 field across the street, not Holly Oak Chemical, none
6 of that. And they didn't contain anybody there,
7 those people that were there.

8 Now, there's one person that keeps kind of
9 standing out. They talked to a guy from Pike
10 Electric. The guy from Pike Electric said that he
11 saw a young man -- he said he heard shots,
12 immediately comes down off the pole that he's working
13 on. And as he does -- and again, where he is is very
14 close to where all this happens. He sees a young man
15 wearing dark pants and a white T-shirt. You heard
16 that testimony. Detective Peden said that person was
17 later identified as Shamar Luster. Guess what? That
18 fits the description that was given by Shawndell
19 Clemons, white T-shirt, dark pants. He, you've heard
20 testimony, was not known to be friends with Barry
21 Norman or any of those people over there. In fact,
22 he was said to have been involved in the altercation
23 or, at least, was there at the altercation that
24 occurred at Bop's house over on Bates Street. And
25 there he is. That was also one of the 12 names that

1 Officer Barnes took.

2 Folks, nobody followed up with Shamar Luster.
3 To this day, we don't know why Shamar Luster was
4 there. We don't know why he was there immediately
5 after these shots were fired. We don't know why he
6 was still on the scene when the police got there.
7 And we certainly don't know why anybody never thought
8 it was important enough to go talk to him. In fact,
9 why would you not talk to all of these people? Can
10 you have too much information in a case like this?
11 Is that even possible? Would you not want to talk to
12 everybody to find out exactly what happened? They
13 didn't do that. Once they arrested Jacoby Gregory on
14 October 3rd, they honestly had made up their minds
15 that they really weren't going to do anymore.

16 You heard that Mr. Kretschmar, Officer
17 Kretschmar from forensics came out there and was
18 directed to go around and collect evidence. The
19 evidence that he collected had, for the most part,
20 already been marked with those styrofoam cups that
21 you can see. Seven spent cartridges and a cell
22 phone. The cell phone that we found out was Barry
23 Norman's girlfriend's cell phone. And he knew about
24 them locating the gun and the sweatshirt, although he
25 didn't pick those up. Those were found by Chief

1 Morton, the Chief of Police at Fountain Inn Police
2 Department, someone whom you did not hear from. They
3 did not call him as a witness. Okay. He --
4 Kretschmar took DNA swabs all over the place. They
5 took DNA swabs on the .45, they took DNA swabs on the
6 clip that goes in the gun. They took DNA swabs on
7 everything.

8 But then, because they had arrested Jacoby
9 Gregory and they had decided who their shooter was,
10 Detective Peden, the lead investigator, said, I
11 didn't see any need to have it tested. I didn't have
12 it tested.

13 You know the only reason that anybody in this
14 case knows who that gun belonged to is because Jacoby
15 Gregory said that he had a gun like that. And Jacoby
16 testified yesterday that it was his gun. But you
17 know what folks, I mean, we still don't know that
18 conclusively. You heard James Armstrong say that
19 when he ran those tests on ballistics he could not
20 say conclusively that the shells were in that gun --
21 or the shells and cartridges they found came out of
22 that gun. They didn't do a check to see who had sold
23 or bought that gun. They didn't do anything at all
24 to try to trace it. Once they got the phone call
25 about the gun being lost or stolen, they decided

1 that Jacoby Gregory was the killer. And that's all
2 they needed. So, he didn't do any DNA.

3 And I guess the argument is, as he seemed to
4 say, that that wouldn't be important. But wouldn't
5 it be important to know if anybody else had been in
6 possession of that gun other than Jacoby? Frankly,
7 wouldn't it have been important to be able to say
8 conclusively his DNA and only his DNA were on the
9 gun? I don't know. They didn't dust for
10 fingerprints because they said had they done that,
11 that might have damaged their ability to test it for
12 DNA. But we will never know.

13 We know that the only car that they seemed
14 interested in looking for evidence in -- and again,
15 this is Detective Peden making this decision, was
16 Jacoby's. They got his keys, they got a search
17 warrant and they went through his car. And they
18 didn't find anything. They didn't think it was
19 important to look at Landis Franklin's car. They
20 didn't think it was important to look at Shawndell
21 Clemons's car. Could they not have found evidence in
22 those? They didn't check for gunshot residue in any
23 of those cars. Now, I'll give them the benefit of
24 the doubt on that, it doesn't last very long, but, at
25 least, you want to try. More importantly, do you

1 find DNA? What if you look in Landis Franklin's car
2 and you find Jacoby's DNA somewhere in the back seat?
3 I don't know. I mean, maybe they don't amount to
4 something. And I'm sure the solicitor is telling you
5 I'm just trying to put red herrings out there for you
6 to take a look at, but this is a murder
7 investigation. Why would you not do those things?
8 And, honestly, why would you not go back out to the
9 scene the next day when it was daylight -- I mean,
10 you saw how dark it was out there -- and look around
11 to see if there was anything else you could find?
12 They didn't do any of that. They didn't do any of
13 that.

14 Jacoby did take the stand and testify, folks.
15 He didn't have to. His Honor told you at the
16 beginning, we don't have to present anything. You
17 know, the burden of proof is squarely on them. But
18 he took the stand and he testified for a long time.
19 And it was probably more of a narrative than I would
20 typically have in a case, but, you know, he was
21 telling you as he remembered things. You can judge
22 whether or not -- what you thought about his demeanor
23 and those things. But here's the thing, he didn't
24 have to do it. And he knew when he did that, he was
25 subjecting himself to cross-examination from the

1 solicitor. She had the opportunity once he got up
2 there to ask him any questions that she wanted. But
3 she didn't ask a lot of questions.

4 She asked -- first of all, she said something to
5 him about having written a lot of letters. He wrote
6 a lot of letter to me. He wrote a lot of letters to
7 everybody else.

8 He said, Yes, I did.

9 Well, folks, he's sitting in jail accused of
10 something that he didn't do. Put yourself in that
11 position. You're going to want to scream to anybody
12 that will listen to you that you didn't do anything.
13 I mean, you heard those phone calls with Landis
14 Franklin. They want you to believe that he was
15 threatening Landis Franklin, that he didn't want
16 Franklin to come testify, but through all of those
17 conversations, Jacoby is never at any point says he
18 did anything wrong. In fact, says many times that he
19 didn't. He didn't do it. He made statements
20 repeatedly that he didn't shoot anybody, he didn't do
21 anything.

22 I mean, the only thing he said to him relative
23 to coming to court was, You might get charged, too.

24 Landis Franklin was the one driving the car.
25 The fact that they haven't been able to find Landis

1 Franklin cannot be related to Jacoby Gregory. Jacoby
2 Gregory has been in jail. The fact that any other
3 witness was -- did not want to come here and testify
4 cannot be related to Jacoby Gregory. Jacoby Gregory
5 was in jail. Now, granted he got to make phone
6 calls, but guess what? They get to listen to and use
7 every phone calls he makes if they want to. You know
8 from the testimony that you heard that Shawndell
9 Clemons had also been calling Landis Franklin.
10 Landis said so in the conversations.

11 But at any rate, she asked him about the
12 letters.

13 He said, Yeah, I wrote all those letters.

14 She asked him something along the lines of
15 you've got a bad feeling with the Fountain Inn Police
16 Department?

17 Yes, I do.. You know, they accused me of doing
18 something I didn't do. I have a very bad feeling
19 with them.

20 And we know that he gave a statement, came in
21 voluntarily and gave a statement. The one and only
22 thing she asked him about that statement was, In your
23 statement, you don't say anything about the party at
24 the Clarion.

25 And he said, you know, they didn't ask me about

1 that.

2 That wasn't in his statement. Folks, that's not
3 an inconsistency. I mean, first of all, that's
4 something that everybody agrees on. But what they
5 presumably were asking him about what happened that
6 day. And he told them. I mean, if that's the only
7 thing they've got to trip him up with with his
8 statement, then he's in pretty good shape.

9 Now, you are about to go back and deliberate.
10 You are the finders of fact. You know that the
11 burden of proof that you've got to hold them to is
12 proof beyond a reasonable doubt. I trust that you're
13 going to do that, that you will not render a verdict
14 that is not supported by the evidence in this case.

15 As you go back there, I just want to briefly
16 say -- briefly recall, think about all the
17 inconsistencies in their star witness's testimony,
18 Shawndell Clemons. Think about that. Think about
19 the various witnesses, particularly police witnesses,
20 who were not called. You've heard about Scott
21 Hawkins, who was one of the main investigators in
22 this case. Not called. We heard about Chief Keith
23 Morton, who found the gun, involved in this case,
24 chief of police. Not called. The only detective we
25 heard from was Detective Peden. And I'll leave you

1 to judge that investigation. Was it complete? Was
2 it thorough?

3 I also want you to recall the white shoes, the
4 baggy shirt that you see. It's proof conclusively
5 that he was not the person on that video. I want you
6 to recall the angel of that shot. It's proof
7 conclusively that he wasn't there. And finally, when
8 you look at this map that they put into evidence --
9 first of all, I'm not going to concede that, you
10 know, there's any accuracy in it because, as you've
11 heard, the person that introduced it simply operates
12 a computer program. Feeds data into it, gets a
13 report out. There are times and locations on here.
14 You've already heard the times are all over the
15 place.

16 But let's assume for the sake of argument -- and
17 the other thing is, these are approximations. All
18 this stuff happens in very close proximity. But
19 let's assume just for the sake of argument that this
20 is completely accurate. What you will see when you
21 look at this map is that -- and this is actually not
22 the one that's in evidence. It's just my copy, but
23 it's exactly the same -- that right over here is
24 Holly Oak Chemical. There is no call made on that
25 map from Holly Oak Chemical. So, the person that we

1 saw with the white shoes and the big floppy T-shirt
2 talking on the phone is not Jacoby Gregory.

3 Folks, we've reviewed all the evidence in this
4 case. As I said, you're going to go back there and
5 make your decision. You have to ask yourselves, am I
6 firmly convinced that Jacoby Gregory is guilty? And
7 you have to make that decision based on the evidence
8 in this case and nothing else.

9 Now, I'm going to have to go over there and sit
10 down. I say this every time, it's the hardest thing
11 I ever have to do. Because the solicitor because she
12 has the burden of proof -- remember, she got to go
13 first, she also gets to go last. And she's going to
14 say a lot of stuff that I don't agree with and I
15 don't get to stand up and respond because she's got
16 the burden of proof. Those things that I talked to
17 you about, these inconsistencies and those other
18 things that were conclusive evidence that Jacoby
19 Gregory is innocent -- and remember, Jacoby doesn't
20 have to prove anything. There's nothing that she can
21 say that can change those. The record is the record.
22 The evidence is in. You can watch the video. You
23 can listen to the transcripts. You can do whatever
24 you want to do. The one thing that gives me solace
25 as I'm going over to sit down knowing that I have to

1 listen to her give her argument is that I know that
2 my client's fate is in good hands. Because I know
3 that you people took your oath seriously and I know
4 because I've watched you that you are going to
5 consider things openly and honestly.

6 And the last thing I want to say is this, he did
7 use a lot of profanity yesterday and the more he
8 thought about it, it might have been offensive. He
9 was simply trying to recount things the way they
10 happened. He wanted me to be sure to tell the
11 members of the jury that he was very sorry.

12 Thank you, ladies and gentlemen. I appreciate
13 your patience in this case, appreciate your being
14 here. I look forward to your verdict. The proper
15 verdict in this case, I would submit to you, is not
16 guilty. They have not proven their case. Thank you
17 very much.

18 THE COURT: Yes, ma'am.

19 CLOSING STATEMENT

20 MS. PAOLETTI: Thank you, Your Honor, may it
21 please the Court?

22 Mr. Chambers.

23 But what it is is, Vegas, when I first went to
24 jail, Vegas send me a text message and said please
25 don't --

1 MR. CHAMBERS: Objection, Your Honor. This is
2 not a document or anything that was in evidence.

3 MS. PAOLETTI: Your Honor, this is a transcript
4 of the call that's placed in evidence.

5 THE COURT: It's demonstrative. I'm going to
6 allow it. Go ahead.

7 MS. PAOLETTI: And if there is any part of what
8 is written down that you recall differently, we'll
9 play the phone call from the Defendant to make sure
10 that what I'm representing is accurate. We can
11 certainly do that.

12 What it was, like, the whole plan. I'm going to
13 keep this shit one thousand. The whole plan that if
14 I went down first, I was supposed to tell them, I was
15 supposed to throw one of all, Landis. If he went
16 down first, he was supposed to throw one of all.
17 That was the whole plan. Period, point, blank. It
18 was never to throw me. But as far as Smitty, I
19 didn't have no problem with Smitty. They saying I
20 didn't -- I didn't include Smitty's name in none of
21 my shit. Smitty included my name. Smitty wasn't
22 there. Smitty don't know what happened.

23 That's the plan. And the plan is in motion as
24 we're sitting here. And the only question left to
25 answer is, is it going to work? Plan hit a road bump

1 when Shawndell Clemons had sense to talk to his
2 family and heed their advise to tell the truth. And
3 the plan needs to come to an end.

4 Let me say something before I start talking to
5 you about the evidence in this case that proves the
6 Defendant's guilt beyond a reasonable doubt. What
7 Barry Norman did to Tiajuana Davenport was
8 inexcusable. And like Mr. Chambers, I sometimes
9 think what would have happened if somebody had just
10 called the police when that happened. We wouldn't be
11 here. But they didn't and we're all here because,
12 regardless of what he did, we still have the rule of
13 law in this country. While no one would fault
14 Shawndell Clemons or Landis Franklin or Smitty from
15 doing what they did to defend her in any way
16 necessary what unfolded cannot be accepted in an
17 orderly society.

18 Let me take one minute just to address a couple
19 of arguments that the Defense has made to you.
20 Mr. Chambers is a very skilled defense attorney and
21 every time we come in here, he throws everything he
22 has at it. And a lot of his arguments are
23 interesting, but the problem is that his client's own
24 testimony has really handicapped him in this case.
25 And if you'll think about the Defendant's own words,

1 these theories that Landis or Shamar or Smitty or
2 someone else was with Shawndell are completely
3 contradicted by the Defendant's testimony and his
4 phone calls. So, if you want to clear up anything
5 with testimony, I would strongly urge you to listen
6 to what he had to say first.

7 And it occurred to me when Mr. Chambers was
8 speaking to you that his own attorney has asked you
9 not to believe some of the things that he said when
10 he said that that gun was his. His own lawyer said
11 you shouldn't believe it.

12 I want to talk a little bit about the decisions
13 that were made during this investigation. Like
14 Detective Peden told you, there's always more that
15 you can do in a case when you get to look back at the
16 way an investigation unfolded. But what they have to
17 do is make decisions that are based on the evidence
18 that they have at the time, the time and resources
19 that they have as these investigations unfold. They
20 have to use their best judgment and use their
21 discretion.

22 And understanding that -- and this is something
23 I did not have a full appreciation for before I
24 started on this case because most of my cases come
25 from Greenville County, Greenville city. Did you

1 hear how many police officers are on the road in
2 Fountain Inn at night sometimes? Three. Could you
3 imagine what would happen here in Greenville County
4 if we had three officers on the road? Or detective
5 who were working every single kind of investigation?
6 That's what they do.

7 And let me assure you of this, had Fountain Inn
8 Police done every single thing that the defense wants
9 them to have done, we would still be here. If the
10 Defendant's DNA had been found on that gun, we would
11 still be here. If the Defendant's DNA had not been
12 found on that gun, we would still be here. If
13 Shawndell Clemons's DNA had been found on that gun,
14 we would still be here. The Defendant would have an
15 explanation for any part of the investigation that
16 the Defense would have them do in retrospect.

17 Regarding what the Defendant was wearing that
18 night, again, I take you back to the Defendant's
19 words.

20 Text message to Taylor Bovain. I got to find
21 out what they said. I hope they didn't say what I
22 was wearing.

23 If he was not there, why in the world would he
24 care? And I will be frank with you about the
25 Defendant's testimony about what happened after he

1 left work and when he said all this flurry of
2 activity happened when he said he heard the shooting,
3 I would encourage you to go back and listen to what
4 he said about what opportunity he may have had to
5 change his clothes after work. Let me say this,
6 also, the Defense took some real good reviews when
7 recounting to you what some of these witnesses said.
8 The way that I recall Shawndell Clemons's testimony
9 is about what the Defendant would normally wear to
10 work. He did not testify that on that night, he saw
11 the Defendant in his work clothes. But again, I
12 would encourage you to go listen to what the
13 Defendant had to say about what he did after he left
14 work. Because, frankly, it was hard for me to keep
15 it straight.

16 Finally, the location of the victim's wound to
17 the head. There is no evidence that the first shot
18 fired from that .45 caliber is the one that struck
19 the Defendant [sic] in the side of the head. The
20 evidence is that that .45 was fired four times. And
21 I don't like to show these photographs and I'm not
22 going to project it, but you can look at this
23 photograph from State's Exhibit 40 and see the
24 location of that bullet wound. It's on the left-hand
25 side. It's not up here. It's up by the victim's

1 ear. And had he been facing the Defendant head on
2 when the first shot was fired, that's not where you
3 would expect the wound to be. But if from out of the
4 dark down towards Fourth Street shots start ringing
5 off from this direction and the Defendant goes
6 towards his cousin's house to take cover, would you
7 expect a bullet here? I think you would.

8 The location of the shell casings. The
9 testimony from Shawndell Clemons, who was there, was
10 that the Defendant started firing first and that he
11 was firing into the ground as he was trying to run
12 away. And that is the explanation for where the
13 location of the shell casings are. I also encourage
14 you not to believe that the weapons were being held
15 like this, but possibly like this when they were
16 being fired.

17 So, let's talk about the direct evidence that
18 this Defendant murdered Barry Norman. His gun was
19 used to kill Barry. In his own words, he described
20 to Fountain Inn Police the stolen gun being a very
21 rare weapon. And he wants you to believe that the
22 gun had been stolen. And I'll be honest with you,
23 I'm not sure which story about how the weapon got
24 stolen the Defendant is going with here at trial.
25 Again, I would redirect you to his testimony. The

1 best I could understand is that he said Vegas stole
2 it out of his car on September 30th when they were
3 drinking vodka in the car. But then it was stolen
4 from the hotel. Then -- it's difficult to follow.
5 Again, I direct you back to what he had to say about
6 that.

7 He assures Lieutenant Nelson that he's not
8 worried about it because he has other pistols. But
9 then yesterday, he told you that when he texted his
10 child's mother that he had grabbed the other one, he
11 was lying to her because he didn't like people to
12 know that he was going around unarmed. His child's
13 mother. He was concerned about her knowing that he
14 was unarmed. He wants you to think he didn't care
15 about it being stolen, a \$650, according to James
16 Armstrong, very rare gun that uses expensive
17 ammunition.

18 And I still don't -- I'm still not completely
19 sure about what the Defendant's position is on where
20 his .45 went, but we have a .45 caliber pistol, a
21 Springfield XD-45 gap. The bullet taken from Barry
22 Norman's skull is a .45 caliber bullet. And James
23 Armstrong told you that that gun cannot be ruled out
24 as the weapon that fired the bullet from the victim's
25 head. And the shell casings that we, fortunately

1 have, Shawndell Clemons told you it was the
2 Defendant's gun.

3 And his telephone activity places him where the
4 shooting happened and when it happened. And what
5 Mr. Chambers wants you to conclude from the cell
6 phone map that's been placed into evidence is that
7 these points here on the map are the phone calls.
8 And both the Verizon Wireless representative and
9 Sergeant Kelly were very clear to point out this is
10 not phone calls, okay. That -- maybe when I first
11 had a cell phone, that's all you could do on cell
12 phones, but what we know now is that cell phones are
13 constantly sending information. Constantly. This is
14 cell phone activity, not just phone calls. And yes,
15 Holly Oak Chemical, right here about the back of
16 Holly Oak Chemical, where Shawndell says that Landis
17 picked them up, cell activity, 22:53 10:53 p.m.

18 10:48. Do you remember the pangs that the
19 Defense took to establish with Officer Barnes about
20 the estimated time of the incident based on the 911
21 call and pinned her down on her report what time the
22 incident had occurred? 22:48. That's what's on your
23 report? Yes, sir, 22:48. And here's the Defendant,
24 22:48:10 by Third Street. 22:48:25 by Fourth Street.
25 22:53 by Third and Wall Street. And even at 22:59,

1 when all this time, he wants you to believe he was at
2 home, he's still not home. I encourage you to look
3 at this map when you get back there. The Defendant
4 told you or Shawndell Clemons told you that he lived
5 at Boyd Street. Both of them told you they lived at
6 Boyd Street. And that's on this map. All the way
7 over here.

8 Let's talk about the record of the actual phone
9 calls that we do have. Y'all are going to have this
10 back in the back here. And I wish there was an
11 easier way to present this to you. And maybe some of
12 you have seen these before and, thankfully, we have
13 an explantation for them on the front so you can go
14 through and locate these phone calls. Between
15 4:00 p.m. and 11:39, which was the last time that
16 this Defendant was on the phone with Barry Norman,
17 you will count 26 phone calls from this Defendant to
18 Barry Norman. Then after 11:39, right before the
19 shooting, zero phone calls from this Defendant to
20 Barry Norman. And, obviously, zero phone calls from
21 Barry Norman to this Defendant. Then the very next
22 phone call, the very next phone call after the last
23 call to Barry Norman, Landis Franklin for a ride.

24 All right, let's talk about Shawndell Clemons
25 now and why you should believe him. Again, I would

1 encourage you to recall his testimony based on your
2 memory and not the Defense's characterization of what
3 he said. Regardless of what details he initially
4 withheld -- and let me just go ahead and say this.
5 Yeah, he did not tell us that he had the 9mm and that
6 he fired it, but we knew that. We didn't need for
7 him to tell us that after he put himself there at the
8 scene. We knew that we had two guns. So, this was
9 not earthshattering information for him to come
10 forward and tell us that, Oh, I did have the 9mm and
11 I fired it.

12 But what his statement is and what he has done
13 and he -- he's pled guilty. He is looking at up to
14 30 years in jail. And what -- he confessed to his
15 role in the murder. And in life and in the law, when
16 somebody confesses to something, we give that a high
17 degree of reliability because why would somebody lie
18 and incriminate themselves? It does not make sense.
19 You don't lie and put themselves in a spot to go to
20 jail for 30 years.

21 He also told police who had the .45 not knowing
22 that that was the gun that killed the victim. He
23 really wanted to point that out to y'all. And this
24 is why that's important. Whether or not he told us
25 from the beginning he had a 9mm, we knew that. And

1 so, if it had been the 9mm pistol that had killed the
2 victim, it was in his hands. And he did not know
3 that when he told the police who was firing that .45.
4 And he actually tells police that he thinks the
5 Defendant started shooting because Mr. Wright raised
6 his arm. And that's not in dispute. Mr. Kilgore
7 said that the other man standing there pointed down
8 the street. He doesn't say that this Defendant went
9 out there and tried to make him out to be an
10 executioner, that he just walked up and start
11 shooting. He said it was in response to something.

12 He's, of course, hoping to get less than 30
13 years in jail. And you heard him say that he held
14 back the information about the 9mm to try to give
15 himself some leverage because in his 22-year-old
16 mind, he thought he may have been creating something
17 that he knew that he would need because he was
18 confessing to a murder. And he was charged with
19 murder and arrested with murder when he told all
20 that.

21 Let me take the time here to talk about a little
22 bit of South Carolina law that explains why two
23 people, one of whom may have pulled the trigger on
24 the gun that fired the bullet that killed the victim
25 and one didn't can both be charged with the murder of

1 the same person. Judge Miller is going to tell you
2 that the law in South Carolina that two or more
3 people combine together to commit an unlawful act,
4 like an assault, like if I go and fight it out, and
5 in the execution of that act, a homicide is committed
6 by one of the actors as a probably and natural
7 consequence of the acts, all present participating
8 are as guilty as the one who committed the fatal act.
9 Both of them were there. Both of them fired a gun at
10 the victim. And under the law, they both committed
11 murder.

12 Don't think that the State -- that because the
13 State has allowed him to plead to voluntary
14 manslaughter does not believe that Shawndell Clemons
15 committed a murder? Had he not pled guilty and
16 accepted responsibility, he'd be sitting right over
17 there next to the Defendant looking at the exact same
18 charges. And like law enforcement has to exercise
19 their discretion, make judgment calls about what type
20 of investigations they do, who they charge with what
21 based on the information that they have at any time,
22 the State has to exercise discretion, too. And
23 sometimes people are permitted to plead guilty to a
24 reduced crime even though the facts establish they're
25 guilty of what they were originally charged with.

1 But when two defendants are in the same boat and one
2 agrees to accept responsibility and admit what he did
3 was wrong, then we can extend the benefit. If doing
4 that means that everyone who was involved is held
5 accountable, then that is an exercise of discretion
6 that the State is willing and able to make.

7 And be clear -- and Mr. Clemons told
8 Mr. Chambers on cross-examination that the only thing
9 the State required of him was for him to tell the
10 truth. Please don't let the Defense make you think
11 that there is something wrong with sitting down with
12 and going over the evidence with witness. It would
13 be irresponsible for me to come in and present a case
14 to you without knowing what these witnesses would say
15 without telling them to tell the truth.

16 And remember what Shawndell said that the
17 Defendant said before they were getting out, Hey,
18 man, you keep threatening my little cousin, I lost my
19 sister and I'm not going to lose anyone else.

20 If you go listen to those phone calls, you will
21 hear Jacoby Gregory saying to Landis Franklin
22 something about Swear on my sister's grave. He has
23 her name on his car, a memorial. It corroborates
24 what Shawndell Clemons said that this Defendant said
25 in the car that day. It has what we call the ring of

1 truth to it. And Shawndell's testimony corroborates
2 about the pistol evidence, the phone call records,
3 the phone location records and the gun evidence. And
4 more than anything, I want you to recall his demeanor
5 on the stand versus the Defendant's demeanor on the
6 stand. Judge Miller is going to tell you how you can
7 evaluate and the way that you judge the credibility
8 of witnesses. And I ask you to keep that in mind
9 when you're trying to decide why you can believe
10 Shawndell Clemons and what he told you. He also
11 didn't have a convenient excuse for everything the
12 Defense wanted to cross-examine him about.

13 Judge Miller is going to charge you on the law
14 of murder. And I know that it's been a long week. I
15 just want to remind you what I told you about what
16 murder is, it's the killing -- unlawful killing of
17 another person with malice aforethought. Malice is
18 dark heart and bad intensions. This Defendant fired
19 a deadly weapon four times at multiple people in a
20 residential neighborhood area. He refused to let the
21 argument go. He was being encouraged, man, just let
22 it go, quit answering the phone. Twenty-six times,
23 he couldn't quit answering the phone because he
24 wasn't going to let the victim have the last word.
25 He set up a fistfight and then took two guns to it.

1 A tense-charged atmosphere where everybody was on
2 edge and he went to Barry. Barry didn't go to him.
3 He went to him. But peacemaker? The mediator? He
4 has perpetuated this. Everybody else said quit
5 answering the phone. He's a hot head. And I
6 encourage you, listen to him when he doesn't know
7 that you're going to be listening to it and ask
8 yourself, does that sound like a peacemaker?

9 And also malice, the coverup, the lies, the
10 manipulation of this case. Whole separate issue.
11 This is all evidence of malice. And then again,
12 forethought. The Defendant got out of Landis
13 Franklin's car looking for a fight, going to a fight.
14 He had bad intentions for more than just a split
15 second before he started firing that gun. His malice
16 had been building since Barry called him at 4:00
17 o'clock and started threatening his little cousin.
18 He was not going to let it go.

19 The Defendant did not have to testify, but he
20 waived his rights against self-incrimination and
21 confirmed in doing so, I believe, that you can't
22 believe a single thing that comes out of his mouth
23 after he says his name. The plan was to throw
24 somebody else in it. That was the plan. And that's
25 still his plan.

1 I will tell you this, in 16 years of practicing
2 law, I have never had officers have to do more to try
3 and find the witness that they were not able to find
4 in the case of Landis Franklin. I'm sorry, ladies
5 and gentlemen, not a mystery. Because Landis isn't
6 here so the Defendant can now throw him. Landis
7 isn't here to testify about what happened. Landis
8 isn't here for the Defendant to cross-examine him
9 because the Defendant does not want him here. And
10 that is a fair inference that you can draw from the
11 evidence that's in this record because the Defendant
12 is so adamant that he not be here that Landis
13 Franklin has nothing that would be beneficial to this
14 Defendant. And Landis isn't here, you can throw him
15 right next to Smitty. But the Defendant forgot
16 something.

17 As far as Smitty, I didn't have no problem with
18 Smitty. I didn't include Smitty's in none of my
19 shit. Smitty included my name. Smitty wasn't there.
20 Smitty don't know what happened.

21 Play it. Here.

22 (WHEREUPON, a CD was played.)

23 MS. PAOLETTI: That's the plan.

24 I also need to point out all the very convenient
25 explanations that the Defendant offered for the

1 evidence that came in during the State's case. And
2 it was patently obvious that the Defendant sat there
3 from the time we started on Monday and listened to
4 the evidence the State put in and the wheels were
5 turning about what he was going to say to you when he
6 came up to explain away everything. He can't see, so
7 he couldn't have been the one to shoot Barry. You
8 might have missed that. He has a CWP, a holster for
9 every pistol he has. He paid 600 or more for a very
10 rare pistol that he doesn't take to the range to
11 shoot because he doesn't have time.

12 After the evidence of where his cell phone was
13 that night comes in, he has a convenient explanation
14 for why he was in the area that no one has ever heard
15 before yesterday. He testified he was close enough
16 to the scene to hear the shots, although he testified
17 to a number of shots that no one else in the case
18 testified to. Not Mr. Yatzeck, not Josh Kilgore, who
19 was there, Bop. Remember Bop, he said he heard the
20 gunshots. Nobody heard eight to 10 or however many
21 this Defendant said. And the phone calls made from
22 his phones during the daily times of this whole
23 thing, he wants to put the phone in somebody else's
24 hands saying they're making the phone calls. It was
25 just clear that this Defendant crafted his story as

1 the evidence was presented by the State. And he had
2 lot to explain.

3 In conversations with Landis, he's talking to
4 this friend and a witness in this case for the first
5 time in almost two years. And these are some of the
6 things he says.

7 Vegas telling on me.

8 Not, Vegas is going to lie about what I did.

9 Change your statement. You got to change your
10 statement, Landis. You got to change your statement.

11 Not, Landis, tell the truth.

12 I wasn't there, I didn't do it. We had our shit
13 established.

14 Not, I don't know why everybody lied and said I
15 did things I didn't do.

16 So, we're back to the only question left, is the
17 plan going to work? It's your turn to speak the
18 truth. That's what the Latin word veredicto that we
19 get verdict from means, to speak the truth. I think
20 we need that in this courtroom.

21 JURY CHARGE

22 THE COURT: All right, ladies and gentlemen of
23 the jury, during this trial, you and I have certain
24 duties to perform. As the trial judge, it's my
25 responsibility to preside over the trial of the case

1 and rule on the admissibility of the evidence offered
2 during the trial. It's also my duty to charge you
3 the law applicable to the case. And it is your duty
4 as jurors to accept and apply the law as I now state
5 it to you. If you think you have any idea as to what
6 the law is or what the law ought to be and it
7 disagrees with what I now tell you the law is, you
8 have sworn an oath to set aside your own opinion and
9 apply the law precisely as I state it to you.

10 I also remind you that in every case tried in
11 this court before a jury, the jury is the sole and
12 exclusive judge of the facts. A trial judge cannot
13 comment on or have an opinion about the facts, so
14 don't think by anything I said or did throughout the
15 course of the trial I have such an opinion. I do
16 not.

17 I also instruct you that the fact that the
18 Defendant was arrested, charged and indicted in this
19 case is not evidence of guilt, nor does it create any
20 presumption or inference of guilt. These documents
21 are simply the formal written instruments which
22 contain the charge made against the Defendant. They
23 serve as the formal documents by which the case is
24 processed and brought into court.

25 Now, necessarily, you must determine the

1 credibility or believability of the witness who have
2 testified. And it becomes your duty as jurors to
3 evaluate the evidence and determine which evidence
4 convinces you it is true. And in determining the
5 believability of a witness, you may believe one
6 witness over several or several over one. You may
7 believe a part of the testimony of a witness and
8 reject the remaining part. You may believe the
9 testimony of a witness in its entirety or reject that
10 testimony in its entirety. You may consider whether
11 the witness has an interest in the result of the
12 trial, whether the witness is prejudice towards
13 either the State or the Defendant, the opportunity
14 for the witness to have seen the matters and things
15 about which that witness has testified, and the way
16 the witness acts on the witness stand, or what we
17 call a witness's demeanor.

18 Now, you've heard evidence that a witness has a
19 past criminal record. So, a person who has a past
20 criminal record is competent to testify during a
21 trial. And a past record does not affect the ability
22 of that witness to testify. The past record may only
23 be considered by you, if at all, in determining the
24 witness's believability. Remember, you are the sole
25 judges of the facts in this case and of the

1 believability of any and all of the witnesses.

2 Now, the rules of evidence normally do not allow
3 or permit witnesses to testify to opinions or
4 conclusions. An exception to this rule exists for
5 witnesses we call experts. So, a witness, who by
6 education and experience has become expert in some
7 art, science or profession, may give an opinion as to
8 the subject the witness claims to be an expert or has
9 been qualified as an expert in and may also give the
10 reasons for the opinion. And you should consider any
11 expert opinion given by a witness, and like all of
12 the other evidence, give it the weight you think it
13 deserves.

14 Now, there are two types of evidence which are
15 generally presented during a trial, direct evidence
16 and circumstantial evidence. Direct evidence
17 directly proves the existence of a fact and does not
18 require deduction. Circumstantial evidence is proof
19 of a chain of facts and circumstances indicating the
20 existence of a fact. So, crimes may be proven by
21 circumstantial evidence. And the law makes
22 absolutely no distinction between the weight or the
23 value to be given to either direct evidence or
24 circumstantial evidence. However, to the extent that
25 the State relies on circumstantial evidence, all of

1 the circumstances must be consistent with each other
2 and when taken together, point conclusively to the
3 guilt of the accused beyond a reasonable doubt. If
4 these circumstances, under the circumstantial
5 evidence rule, merely portray the Defendant's
6 behavior as suspicious, the proof has failed.

7 The State has the burden of proving the
8 Defendant guilty beyond a reasonable doubt. The
9 burden rests with the State regardless of whether the
10 State relies on direct evidence, circumstantial
11 evidence or some combination of the two.

12 Now, the Defendant has pled not guilty to this
13 two-count indictment. And that plea puts the burden
14 on the State to prove the Defendant guilty. A person
15 charged with committing a criminal offense in South
16 Carolina is never required to prove themselves
17 innocent. So, I charge you that it is a cardinal and
18 important rule of the law that a Defendant in a
19 criminal trial will always be presumed to be innocent
20 of the crime for which an indictment has issued
21 unless guilt has been proven by evidence satisfying
22 you, the jury, of guilt beyond a reasonable doubt.

23 Now reasonable doubt is the kind of doubt which
24 would cause a reasonable person to hesitate to act.
25 And reasonable doubt may arise from the evidence

1 which is in the case or from the lack or absence of
2 evidence in a case. And you, the jury, must
3 determine whether or not reasonable doubt exists as
4 to the guilt of this Defendant. I remind you the
5 State has the burden of proving each and every
6 element of a crime beyond a reasonable doubt.

7 Now, the indictment in this case is a two-count
8 indictment and it alleges two separate offenses.
9 They are murder and possession of a weapon during the
10 commission of a violent crime. Each count of the
11 indictment charges a separate and distinct offense.
12 And you must decide each count separately on the
13 evidence and the law applicable to it uninfluenced by
14 your decision as to any other count in the
15 indictment. The Defendant may be convicted or
16 acquitted on each, any or all of the offenses
17 charged. And you will be asked to write a separate
18 verdict of guilty or not guilty for each count of the
19 indictment.

20 Now, if a crime is committed by two or more
21 people who are acting together in committing a crime,
22 the act of one is the act of all. A person who joins
23 with another to accomplish an illegal purpose is
24 criminally responsible for everything done by the
25 other person which occurs as a natural consequence of

1 the acts done in carrying out the common plan and
2 purpose. For example, two people can be guilty of
3 killing another person when only one of the two had a
4 gun, there was only one bullet and only one of the
5 two fired the shot that caused the death. So if two
6 or more people are together, acting together,
7 assisting each other in committing the offense, the
8 act of one is the act of all, or as it is sometimes
9 said, the hand of one is the hand of all.

10 The first count of the indictment charges the
11 Defendant with murder. The State must prove beyond a
12 reasonable doubt that the Defendant killed another
13 person with malice aforethought. Malice is hatred,
14 ill will or hostility toward another person. It is
15 the intentional doing of a wrongful act without just
16 cause or excuse and with an intent to inflict an
17 injury or under circumstances that the law will infer
18 an evil intent. Malice aforethought does not require
19 that malice exist for any particular length of time
20 before the act is committed. But malice must exist
21 in the mind of the Defendant just before and at the
22 time the act is committed. Therefore, there must be
23 a combination of the previous evil intent and the
24 act.

25 Malice aforethought may be expressed or

1 inferred. And these terms, expressed and inferred,
2 do not mean different kinds of malice, but merely the
3 manner in which malice may be shown to exist. That
4 is either by direct evidence or by inference from the
5 facts and circumstances which are proved. Expressed
6 malice is shown when a person speaks words which
7 express hatred or ill will for another or when the
8 person prepared beforehand to do the act which was
9 later accomplished. Malice may be inferred from
10 conduct showing a total disregard for human life. If
11 facts are proved beyond a reasonable doubt sufficient
12 to raise an inference of malice to your satisfaction,
13 the inference would be simply an evidentiary fact to
14 be considered by you along with the other evidence in
15 the case and you give it the weight that you think it
16 deserves.

17 The Defendant is also charged in count two of
18 the indictment with possession of a weapon during the
19 commission of or attempt to commit a violent crime.
20 The State must prove beyond a reasonable doubt that
21 the Defendant was in possession of a firearm or
22 visibly displayed what appeared to be a firearm
23 during the commission of a violent crime. A firearm
24 means any machine gun, automatic rifle, revolver,
25 pistol or any weapon which will, is designed to or

1 may be readily convert to expel a projectile.

2 In order to find the Defendant guilty of
3 possession of a weapon during the commission of
4 violent crime, you must first find the Defendant
5 guilty of either committing a violent crime or
6 attempting to commit a violent crime. And under our
7 law, murder is violent crime.

8 Now, ladies and gentlemen, there are two
9 possible verdicts which you may reach in this case.
10 There's no significance in the order in which I state
11 them to you, one has to be said first. And they are
12 guilty or not guilty. And it is guilty or not guilty
13 as to each count of the indictment. We've prepared a
14 verdict form which we will send back into the jury
15 room with you. And I think it's self-explanatory.

16 And when you all have reached a verdict, I would
17 ask you, Mr. Foreman, to please indicate
18 appropriately what the verdict is, sign it and we'll
19 receive you back.

20 I want to tell you that all 12 of you must agree
21 on your verdict. It must be a unanimous verdict as
22 to each separate count of the indictment. Your
23 verdict cannot be based on sympathy, passion,
24 prejudice, emotion or any other consideration that is
25 not in evidence in this case. You have no friends to

1 reward and you have no enemies to punish.

2 So, at this time, ladies and gentlemen, I would
3 excuse you all back to your jury room, ask you not do
4 begin your deliberations just yet. I've got to go
5 over my charge on the law to make sure that I didn't
6 misstate something or omit something. So, when the
7 verdict form comes back with the evidence, then you
8 all can begin your deliberations at that time.

9 So, I excuse everyone with the exception of
10 Ms. Carter and Ms. Miller. Okay. Thank you.

11 (WHEREUPON, the jury left open court at
12 approximately 11:31 a.m.)

13 THE COURT: Boy, this is always hard for me
14 whenever we have alternates to tell you that you paid
15 the same sacrifices that each of those other 12 have,
16 you're just as qualified, just as good and I wish I
17 could let y'all participate in the deliberations.
18 You may be happy not to be participating, but in any
19 event, the law doesn't allow but 12. So, I want to
20 thank for your participation this week and sacrifices
21 you've made. I trust that you all will have a deep
22 sense of satisfaction for the work you've performed
23 for the members of Greenville County and I want you
24 to know how deeply we appreciate it.

25 You're free to stay, go, whatever you'd like to

1 do. You're free to talk about it with whoever you
2 want to. If you don't want to talk about it and
3 someone persist and bothers you about that, let the
4 clerk of court's office know and we will fix that
5 because we're not going to have you be intimidated or
6 harassed in any way because of your service. So,
7 thank you very much. Stay, go, whatever you all
8 would like to do.

9 All right, any exceptions or objection to the
10 charge from the State?

11 MS. PAOLETTI: No, sir.

12 THE COURT: From the Defense?

13 MR. CHAMBERS: No, Your Honor.

14 THE COURT: Okay, y'all go through the evidence.

15 (WHEREUPON, deliberations began at approximately
16 11:30 a.m.)

17 (WHEREUPON, court was in recess awaiting a
18 verdict.)

19 THE COURT: All right, we got a document from
20 the jury entitled deliberations questions. Number
21 one, More clarification on James's testimony on
22 clothing that was worn by the Defendant. Two, Want
23 to watch surveillance videos again. Three, coby's
24 testimony review again. Four, Want to look at
25 accused without coat standing in front of the bench

1 to be able to compare his likeness with video. Copy
2 of Judge's instructions. Six, What is Landis
3 Franklin's phone number?

4 Is that in evidence?

5 MS. PAOLETTI: Yes, sir.

6 THE COURT: Okay. Well, any input?

7 MS. PAOLETTI: Your Honor, I know that Landis'
8 phone number came in through Detective Peden.

9 THE COURT: Okay. You.

10 MS. PAOLETTI: We can try to locate that. We
11 can, obviously, play the surveillance videos again.

12 THE COURT: How long are they?

13 MS. PAOLETTI: They're not long at all. It'll
14 probably, I mean, I guess maybe take me five to 10
15 minutes to get through playing all of them again.

16 THE COURT: Coby, who is Coby?

17 MR. CHAMBERS: That's Jacoby Gregory, Your
18 Honor.

19 THE COURT: Bring them back in.

20 Can you start queuing up the --

21 THE CLERK: The CD's in the back.

22 THE COURT: Well, can you all agree on what
23 Landis Franklin's phone number is?

24 MS. PAOLETTI: Sure.

25 THE COURT: Can you agree on what Landis

1 Franklin's phone number is?

2 MR. CHAMBERS: If it's in the testimony.

3 MS. PAOLETTI: It's in the testimony with
4 Detective Peden when he's talking about doing the
5 search for phone calls through the Securus system for
6 that phone number. He testifies that he searched for
7 that phone number.

8 MR. CHAMBERS: Yeah, I mean, whatever's in the
9 transcript, I don't have any problem agreeing to, I
10 just don't know what it is.

11 MS. PAOLETTI: And I can get my notes and see
12 about at which point during his testimony we got into
13 that. If April's going to start --

14 THE COURT: That will be good. I tell you what
15 I'll do. I'm going to bring them back and answer
16 their questions as best I can. James's clothing, is
17 that the co-defendant?

18 MS. PAOLETTI: No, sir, that's James Williams,
19 who -- with the dreadlocks.

20 THE COURT: Okay.

21 THE BAILIFF: Do you want me to bring that piece
22 of evidence or no?

23 THE COURT: Yeah, bring the surveillance disks.

24 (WHEREUPON, the jury came into open court at
25 approximately 1:05 p.m.)

1 THE COURT: All right. Mr. Foreman, ladies and
2 gentlemen of the jury, let me have your questions and
3 go through them one at a time.

4 More clarification on James's testimony on
5 clothing that was worn by Defendant. What we can do
6 for you with that is try to locate that in the
7 recording and play it back for you. It's going to
8 take some time. If you want to watch the
9 surveillance videos again, we'll get those queued up
10 for you. Number three, Coby's testimony review
11 again. I presumed you mean the Defendant, Jacoby
12 Gregory, is that right?

13 MR. FOREMAN: Correct, Your Honor.

14 THE COURT: Okay. I will tell you that we'll
15 play it back for you. It is an hour and a half.

16 Four, you want to look at accused without coat
17 standing in front of the bench to be able to compare
18 his likeness with the video. We cannot do that.
19 That is not something we do. It's not in evidence so
20 we're not putting it in evidence.

21 Three, I have prepared six copies of the
22 instructions, which I'm going to send back to you.
23 It's almost verbatim. I generally read them. There
24 may be a few, just, you know.

25 And five, What is Landis Franklin's phone

1 number? Conferring with the attorneys, we believe
2 that came into evidence in Detective Peden's
3 testimony, we'll try and find that.

4 But this is going to take a little time to do.
5 So, we're going to give you the instructions and
6 we'll try to queue this stuff up for you.

7 MR. FOREMAN: Thank you.

8 THE COURT: Would you like to go ahead and eat
9 your lunch and then come back and get as much of it
10 ready for you as we can?

11 MR. FOREMAN: Please, Your Honor.

12 THE COURT: Okay. All right. Very good. Thank
13 you.

14 (WHEREUPON, the jury came into open court at
15 approximately 1:06 p.m.)

16 (WHEREUPON, Court's Exhibit No. 1 was marked for
17 identification and received into evidence.)

18 (WHEREUPON, deliberations continued.)

19 (WHEREUPON, court was in recess awaiting a
20 verdict.)

21 (WHEREUPON, the jury came into open court at
22 approximately 2:24 p.m.)

23 THE COURT: All right, ladies and gentlemen,
24 first thing I want to tell you is that we were unable
25 to locate any evidence that would include Landis

1 Franklin's phone number. Now, we're going to go
2 right into James Williams's testimony. We think we
3 have located what y'all are interested in.

4 (WHEREUPON, a portion of James Williams's
5 testimony was played.)

6 THE COURT: Okay. Is that all y'all want to
7 hear on that?

8 MR. FOREMAN: Thank you, Your Honor.

9 THE COURT: Now, we'll go to the Defendant's --
10 we're going to wait on the surveillance videos.
11 We'll go to the Defendant's testimony.

12 (WHEREUPON, a portion of Jacoby Gregory's
13 testimony was played.)

14 MS. PAOLETTI: Judge, I think that's what they
15 asked for.

16 THE COURT: Y'all satisfied with that?

17 MR. FOREMAN: Yes, sir, Your Honor.

18 THE COURT: All right.

19 Surveillance videos.

20 (WHEREUPON, the surveillance videos were
21 played.)

22 THE COURT: All right. Anything else? All
23 right. Thank y'all.

24 (WHEREUPON, the jury left open court at
25 approximately 2:47 p.m.)

1 (WHEREUPON, deliberations continued.)

2 THE COURT: All right. Be at ease.

3 (WHEREUPON, court was in recess awaiting a
4 verdict.)

5 (WHEREUPON, Court's Exhibit No. 2 was marked for
6 identification and received into evidence.)

7 THE COURT: All right, next question, Does hand
8 of one apply to both charges?

9 The simple answer is, Yes. Okay.

10 (WHEREUPON, Court's Exhibits Nos. 3 & 4 were
11 marked for identification and received into
12 evidence.)

13 THE COURT: All right.

14 (WHEREUPON, the jury came into open court at
15 approximately 3:45 p.m.)

16 THE COURT: All right, Mr. Foreman, I understand
17 you've reached a verdict?

18 MR. FOREMAN: We have, Your Honor.

19 THE COURT: Would you hand it to the bailiff for
20 me, please?

21 All right. Publish it for us, please.

22 VERDICT

23 THE CLERK: In the case 2014-GS-23-0409, the
24 State vs. Jacoby Jamar Gregory, as to the charge of
25 murder, we, the jury, find the Defendant guilty. As

1 to the charge of possession of a weapon during the
2 commission of a violent, the jury finds the Defendant
3 guilty.

4 THE COURT: All right. If this is your verdict
5 so say you all, please signify by raising your right
6 hand.

7 (WHEREUPON, all members of the jury raised their
8 right hand.)

9 THE COURT: Thank you.

10 Anything further from the jury from the State?

11 MS. PAOLETTI: No, sir, Judge.

12 THE COURT: From the Defense?

13 MR. CHAMBERS: No, sir, Your Honor.

14 THE COURT: All right. Ladies and gentlemen,
15 thank you very much. A long, hard week. And again,
16 I want to express my sincere thanks to you for your
17 hard work and responsibility y'all have shouldered.
18 I hope that when you look back on this, you do so
19 with a deep sense of civic pride. And please know
20 that you have done an invaluable service for the
21 citizens of Greenville County.

22 With that, ladies and gentlemen, you are free to
23 go, stay, whatever you want to do. I will tell you
24 that you are free to talk about it now with anybody
25 you like to. And you're also free not to talk about

1 it. And my point there is if someone contacts you
2 and is bothering you about it, just get their name,
3 report it to the clerk of court's office and we will
4 not allow anyone to be harassed or intimidated
5 because of their service as a juror. So thank you
6 very much.

7 (WHEREUPON, the jury was dismissed.)

8 THE COURT: Any motions?

9 MR. CHAMBERS: Motion for a new trial, Your
10 Honor.

11 THE COURT: Okay. Respectfully, denied.

12 SENTENCING

13 All right. Have any jail days on this
14 Defendant?

15 MS. PAOLETTI: Your Honor, I do not. I don't.

16 THE COURT: They'll just have to figure it out.

17 MS. PAOLETTI: I can get that information or
18 will they calculate it?

19 THE COURT: How long will it take you to
20 calculate?

21 MS. PAOLETTI: It's going to take us a minute,
22 Your Honor. He was incarcerated originally, got out
23 on home incarceration, then back in. So, I can't say
24 continuously since one certain arrest date or
25 anything and I just didn't check that.

1 THE COURT: Okay. All right. I heard you say
2 no criminal history.

3 MS. PAOLETTI: He has no criminal history. He
4 does have some charges pending, forgeries, DUI, and
5 false information to police, Your Honor, that will
6 presumably be dismissed at this point.

7 THE COURT: All right. Anything you want to
8 tell me?

9 MR. CHAMBERS: Your Honor, at this point, I
10 think you've heard it all. I don't think there's
11 anything that I can add.

12 THE COURT: Anything from the victim's family?

13 MS. PAOLETTI: Ms. Norman would like to speak,
14 Your Honor.

15 THE COURT: All right.

16 MS. NORMAN: I'm Cynthia Norman, I'm Barry's
17 mother, Barry Norman's mother. I always believed in
18 the jury system and I want to thank the Fountain Inn
19 Police and the solicitor's office because all I been
20 doing is walking in silence and praying that justice
21 will prevail. Thank you, Your Honor.

22 THE COURT: Yes, ma'am. Thank you.

23 Anything you want to say?

24 MR. GREGORY: Your Honor, I would like to say a
25 few things to the family.

1 THE COURT: Well, you have to say it to me, but
2 they can hear you. Go ahead.

3 MR. GREGORY: I would like to say that this is
4 very unfortunate what happened. Like I said, it's
5 very unfortunate. It did get provoked to the highest
6 degree by whoever did whatever. I apologize on
7 behalf of everyone involved, everyone that had
8 anything to do with anything. Anyone that was there
9 or not. I apologize for making phone calls. I
10 apologize for trying to get things worked out. I
11 apologize on my behalf, like I said. I understand --
12 I was in jail for the birth of my daughter and best
13 of my knowledge, Barry had a daughter on the way. I
14 was out on bail, Barry had his daughter in January
15 and it touched me. I couldn't say anything due to
16 the case or whatever, but I do want to let his family
17 know that I do -- I feel that. Like I said, I was in
18 jail when my daughter was born, so I've never got to
19 touch my daughter either. I have full remorse for
20 what happened.

21 As far as his mother, she says justice prevail.
22 I stand tall in that. Like I said, I believe others
23 should have been charged. They weren't. Justice,
24 you know, should have still been fulfilled. Like I
25 said, I'm sorry. You know, you can't take anything

1 back. My family is also losing, as you see. I just
2 got found guilty of something that, you know...

3 THE COURT: That what?

4 MR. GREGORY: The trial speaks for itself, I
5 guess. I don't want to talk about it, Your Honor. I
6 believe that I was dealing with a stacked deck. I'm
7 not going to talk about that. Like I said, I'm
8 sorry. It is what it is.

9 THE COURT: Stack deck, what do you mean?

10 MR. GREGORY: I mean, the solicitor obviously
11 had a personal feeling towards me and that played a
12 small part in a lot of this. Like I said, my
13 family's losing, too, as you see back there.

14 THE COURT: You think you've been treated
15 unfairly?

16 MR. GREGORY: Very unfairly, Your Honor. Like I
17 said --

18 THE COURT: You want to tell me the specifics of
19 it?

20 MR. GREGORY: My child's momma is back there
21 right there. She was eight and a half months
22 pregnant when Ms. Paoletti called her down to talk
23 about quote, unquote me. She hears my phone calls
24 and she hears that my child's mom -- how she feels,
25 that she's kind of suicidal. Like I said, she was

1 eight and a half months pregnant with my daughter.
2 She told my kid's mom -- and she's out there, she can
3 testify to this, that I will never come home. That
4 she has massive evidence against me. What is my
5 kid's momma going to do? I have other girlfriends,
6 why does she hang in there with me? Why does anybody
7 hang in there with me? You know, when you say
8 something like that to an eight and a half month
9 pregnant, what do you do, you know?

10 So, like I said, I wrote a letter to the bar
11 association on her that she's said numerous times at
12 my bond hearing and to my co-defendant -- she told my
13 co-defendant before this that I was going to get
14 found guilty and -- for my co-defendant to ask me to
15 plead to 10. And I told my lawyer this, that I
16 wasn't going to plead to this, I was totally not
17 guilty. I don't know she knew or he knew that they
18 would found me guilty, especially based on all the
19 evidence, but like I said, I felt like this had a lot
20 to do with Ms. Paoletti, like I said. But my kid's
21 mom, my family, we all filed paperwork.

22 Ms. Paoletti, I guess, felt that was -- I don't
23 know, I don't know how she felt, but, obviously, it
24 was very -- to me, it was very unethical, but she got
25 what she wanted. She got a guilty verdict. I guess

1 that's all that matters at the end of the day. Like
2 I said, Judge Miller, you're the judge. Like I said,
3 I apologize. That's how I felt. I felt like I was
4 dealing with a stacked deck from day one. Once I
5 wrote that letter to the bar association, she got my
6 co-defendant to testify, that was all that she
7 needed.

8 THE COURT: Apparently, yeah.

9 Anything on sentencing, Mr. Chambers?

10 MR. CHAMBERS: No, Your Honor.

11 THE COURT: I don't see this -- this is just a
12 terrible comment on a way of life, but I don't see it
13 as a maximum, but it's extraordinarily serious and
14 it's way too common. Guns.

15 MS. PAOLETTI: Your Honor?

16 THE COURT: Yeah.

17 MS. PAOLETTI: If I could just put on the record
18 in response to that. I think what became obvious
19 during this trial, as evidenced by the number of lay
20 witnesses that we were able to get to come and
21 testify at this trial against the Defendant, that it
22 was the State who was up against the stacked deck.

23 THE COURT: Okay. Well, we don't need to go
24 there. It's just a real unfortunate situation.

25 Forty years on murder, five on the other one

1 consecutive. Good luck.

2 (WHEREUPON, the proceedings were concluded.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 11th-14th day of July, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

February 9, 2017

APRIL P. HERRON, Court Reporter

COURT'S
EXHIBIT NO. 2
IDENTIFICATION/EVIDENCE
DKT.# 27
DATE: 7-14-16

PERGAD 800-631-6388

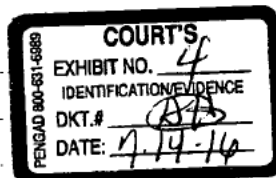
7/14/16

DELIBERATION QUESTIONS

1. MORE CLARIFICATION ON JAME'S TESTIMONY ON CLOTHING THAT WAS WORN BY DEFENDANT.
2. WANT TO WATCH SURVEILLANCE VIDEO'S AGAIN
3. COBY'S TESTIMONY REVIEW AGAIN.
4. WANT TO LOOK AT ^{ACCUSED} ~~WITNESS~~ WITHOUT COAT STANDING IN FRONT OF BENCH TO BE ABLE TO COMPARE HIS ~~TEST~~ LIKENESS WITH VIDEO.
5. COPY OF JUDGE'S INSTRUCTIONS.
6. WHAT IS LANDIS FRANKLIN'S PHONE NUMBER?

Guy E. Lisker MZC #111

PLEASE REVISE REQUEST
FOR JACORY'S TESTIMONY
TO THE PORTION FROM
WHEN LEAVES WORK TIL
TIME HE GOT TO BOB'S
HOUSE



Guy E. Luk SEC
THT

WITNESSES

Joshua Peden *(JP) 9/16/14*

Fountain Inn Police Department

10/4/2013

ARREST WARRANT NUMBER

2013A2320200306-Count I

2013A2320200307-Count II

ACTION OF GRAND JURY

TRUE BILL

Ricky T. Hall

[Signature]
FOREMAN GRAND JURY

[Signature]
Foreperson of Grand Jury

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-

LBP

000409

The State of South Carolina

[Signature]
County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2014

THE STATE

vs.

JACOBY JAMAR GREGORY

✓✓
Indictment for

0116/0549

**MURDER AND
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME**

VIOLATION § 16-03-0010 and § 16-23-0490

[Signature]
**ENTERED
ACCT**

FILED

JAN 24 2014

**Clerk of Court
Greenville County**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 MURDER AND POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **SEP 16 2014** the Grand Jurors of Greenville
 County present upon their oath:

COUNT I - MURDER

That JACOBY JAMAR GREGORY did in Greenville County, on or about the 1st day of October, 2013, unlawfully and with malice aforethought kill BARRY NORMAN by means of shooting him, and that BARRY NORMAN died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JACOBY JAMAR GREGORY did in Greenville County, on or about the 1st day of October, 2013, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Griffith B. Queth
 SOLICITOR

1003310

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
 STATE VS.
Jacoby Jamar Gregory

AKA: _____
 Race: BLACK Sex: M Age: 27

DOB: _____ SS#: _____

Address: Boyd St

City, State, Zip: Fountain Inn, SC 296442406

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder (gs)

INDICTMENT/CASE#: 2014GS2300409

A/W#: 2013A2320200306

Date of Offense: 10/1/2013

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(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.

ATTEST:

Pauletta Leigh B. 69114 SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 40 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 the State Department of Corrections.

☐ 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: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____
 § 14-1-206 (Assessments 107.5 %) _____ \$ _____
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 § 56-5-2995 (DUI Assessment) \$12 \$ _____
 § 56-1-286 (DUI Breath Test) \$25 \$ _____
 Proviso 61.6 (Public Def/Probation) \$500 \$ _____
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 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) \$ 3.75

TOTAL

\$ 129.75

_____ days/hours Public Service Employment
 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 61.6 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 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

2130

7/14/16

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Jacoby Jamar Gregory

AKA:
 Race: BLACK Sex: M Age: 27
 DOB: SS#
 Address: Boyd St.
 City, State, Zip: Fountain Inn, SC 296442406
 DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ 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.

ATTEST: Paolelli, Leigh B. 69114
 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 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 the State Department of Corrections.

☐ 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: \$
 Payment Terms:
☐ Set by SCDPPPS

Recipient:

*Fine: \$
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
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§ 56-1-286 (DUI Breath Test) \$25 \$
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§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 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) \$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk Paul Bardenheiser
 Court Reporter: Hevin
 SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2300409
 A/W#: 2013A2320200307
 Date of Offense: 10/1/2013
 S.C. Code § : 16-23-0490
 CDR Code #: 0549

SENTENCE SHEET

Presiding Judge John W. Will
 Judge Code: 2130
 Sentence Date: 7/14/16

RECEIVED

717

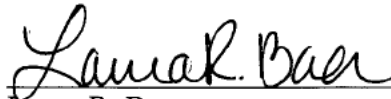
AUG 18 2017

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Laura R. Baer
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of August, 2017.