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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DELMAR RACORY SANDERS,

APPELLANT

APPELLATE CASE NO. 2022-001243

RECORD ON APPEAL

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VOLUME II

PAGES 501-911

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

COURT’S EXHIBIT #3 (DEFENDANT’S INTERVIEW)

1 A. I had to stop immediately. They wanted
2 to drive. They were demanding to drive. I
3 stopped the car.

4 Q. You said, "I felt like my life was in
5 danger."

6 A. Correct.

7 Q. This was -- so the end of your direct
8 with your attorney, you said, "I felt like my
9 life was in danger, I didn't have a gun to
10 defend myself."

11 A. Correct.

12 Q. You were the only person in possession
13 of a gun that night, weren't you?

14 A. After I grabbed it, yes.

15 Q. After you grabbed it?

16 A. Yes.

17 Q. Deonne had no weapon on him, did he?

18 A. It was in his grasp.

19 Q. No, no, no. After you had the gun in
20 your hand, Deonne did not have a gun near him,
21 accessible to him, on him, anywhere, did he?

22 A. Of course not, if I took it from him.

23 Q. Rhonda did not either, she was trying
24 to flee.

25 MR. PAULK: Objection, calls for

1 speculation.

2 THE COURT: Overruled.

3 BY MS. JONES:

4 Q. Rhonda didn't have a gun on her either,
5 did she?

6 A. I'm not sure.

7 Q. And she was trying to flee, when you
8 tried to kill her?

9 A. I wasn't trying to kill her.

10 Q. Okay. You fired a warning shot at her
11 from about this far away?

12 A. Uh-huh.

13 Q. And you made contact, you hit her,
14 didn't you?

15 A. I'm sure I did, that's what they're
16 saying.

17 Q. Okay. You're shooting a gun at
18 somebody from a mere three feet away? What
19 other intent did you have than to kill her?

20 A. Well, the lights was on, I saw her. If
21 I wanted to kill her, I could have killed her.
22 Like you said, three feet away.

23 Q. Three feet away when you shot her?

24 A. Three feet away, I could have killed
25 her, if I wanted to, easily.

1 Q. And Deonne was unarmed when you killed
2 him, wasn't he?

3 A. He was.

4 Q. Thank you. No further questions.

5 THE COURT: Any redirect?

6 MR. PAULK: A very brief redirect, Your
7 Honor.

8 THE COURT: Yes, sir.

9 ***

10 REDIRECT EXAMINATION

11 BY MR. PAULK:

12 Q. Mr. Sanders, Ms. Jones just asked you
13 why you didn't call the police whenever you were
14 afraid of them shooting?

15 A. She did.

16 Q. Somebody's got on you, or you think
17 somebody's has a gun on you, would you call the
18 police in front of those people?

19 A. Of course not, that's how you die.

20 MR. PAULK: No further questions, Your
21 Honor.

22 THE COURT: Any recross?

23 MS. JONES: No, sir.

24 THE COURT: All right.

25 Mr. Sanders, you can step down.

1 MR. PAULK: Your Honor, the defense now
2 calls Ms. Demetra Garvin to the stand.

3 MS. JONES: Your Honor, may we approach?

4 THE COURT: Yes, ma'am.

5 (Bench conference.)

6 * * *

7 DEMETRA BLACKLEY GARVIN, M.D.,

8 * * *

9 being first duly sworn, testified as
10 follows:

11 ***

12 DIRECT EXAMINATION

13 BY MR. PAULK:

14 Q. Good afternoon, Dr. Garvin, how are you
15 doing today?

16 A. Very well, thank you.

17 Q. How was your drive down from Columbia
18 this morning?

19 A. Good. It was early in the morning so
20 it was good --

21 Q. Yes, ma'am.

22 A. -- but thank you.

23 Q. Yes, ma'am. Ms. Garvin -- or Dr.
24 Garvin, where do you work at?

25 A. I work for -- as Director of Forensic

1 Services for Forensic Science Network, which is
2 a consulting concern in Columbia, South
3 Carolina.

4 Q. Okay. And how long have you worked
5 there?

6 A. Well, full-time since 2016.

7 Q. Okay, and what did you do before that?

8 A. So after obtaining an undergraduate and
9 a graduate degree, I went to work for the South
10 Carolina Law Enforcement Division in --

11 Q. What --

12 A. -- Columbia, better known as SLED.

13 Q. And what was your undergraduate and
14 graduate degrees in?

15 A. Undergraduate degree in biology from
16 Furman University, and a graduate degree in
17 clinical pharmacy from the University of South
18 Carolina College of Pharmacy, I'm a registered
19 pharmacist, as well.

20 Q. Thank you, ma'am. And you were saying
21 that you used to work for SLED?

22 A. Yes, I was at SLED, South Carolina Law
23 Enforcement Division in Columbia in the Forensic
24 Laboratory for 16 years, as a staff
25 toxicologist, and also as a drug chemist. And

1 in 2000 -- so I was there from 1984 until 2000,
2 and then in 2000 I moved over to direct the
3 Forensic Services Laboratory for Sheriff Lott at
4 the Richland County Sheriff's Department in
5 Columbia.

6 Q. All right, Dr. Garvin, do you have any
7 licenses or certifications that would aid you in
8 reviewing toxicology results?

9 A. So I have -- I'm a registered
10 pharmacist in South Carolina. I'm also Board
11 certified in forensic toxicology with the
12 American Board of Forensic Toxicology.

13 Q. And about how long have you been
14 reviewing toxicology reports?

15 A. Oh, my entire career, almost 30 years.

16 Q. Have you ever been qualified as an
17 expert before in a case?

18 A. Yes, sir.

19 Q. About how many times?

20 A. I've testified over 250 times. I
21 really don't keep track anymore --

22 Q. Yes, ma'am.

23 A. -- but over 250.

24 MR. PAULK: Your Honor, at this time the
25 defense would move to qualify Dr. Garvin as an

1 expert witness in toxicology.

2 THE COURT: Forensic toxicology?

3 MR. PAULK: Yes, Your Honor.

4 THE COURT: Ms. Jones?

5 MS. JONES: No objection.

6 THE COURT: All right, I find that Ms. --
7 or, sorry, Dr. Garvin's testimony is necessary
8 to assist the jury in resolving facts or
9 questions. I find that she is qualified in the
10 area of forensic toxicology, and the substance
11 or science behind her testimony is reliable.
12 Ladies and gentlemen, the same as before, this
13 is expert opinion testimony.

14 We don't -- every witness can't do that,
15 but based upon her qualifications, I find that
16 she is an expert in this field, and that, you
17 know, the same instructions I gave you earlier
18 apply.

19 BY MR. PAULK:

20 Q. Dr. Garvin, do you know Dr. Presnell?

21 A. Yes.

22 Q. And did Dr. Presnell ask you to review
23 the toxicology report in this case?

24 A. Actually, the Coroner, the Beaufort
25 County Coroner did, by virtue of the

1 relationship that Forensic Science Network has
2 with the Coroner's Office in death
3 investigations and toxicology.

4 Q. Okay.

5 MR. PAULK: Your Honor, may I approach?

6 THE COURT: Sure.

7 BY MR. PAULK:

8 Q. Dr. Garvin, do you recognize the
9 document that I've just handed you, the EMS
10 report?

11 MS. JONES: Your Honor, I would object to
12 the admission of this document.

13 (Bench conference.)

14 BY MR. PAULK:

15 Q. Dr. Garvin, do you recognize the
16 document that I've just handed you?

17 A. Yes.

18 Q. Did you author this report?

19 A. Did I author it?

20 Q. Yes.

21 A. The requisition form, which is the
22 first document that you presented to me, I did
23 not author, but I use it in the course of my
24 work. And the report I did author the summary
25 and interpretation, yes.

1 Q. Can you direct me to the summary and
2 interpretation, Dr. Garvin?

3 A. Yes, that would be on page five of five
4 of the toxicology report, and it bears my
5 digital signature.

6 Q. Thank you, Dr. Garvin.

7 MR. PAULK: Your Honor, at this time, the
8 defense would move into evidence the analysis
9 summary and reporting minutes and the opinion
10 that was offered by Dr. Garvin, on page five of
11 the EMS report.

12 MS. JONES: No objection to page five.

13 THE COURT: All right, page five of the
14 summary and interpretation that was offered by
15 Dr. Garvin is turned into evidence as defense 3.

16 BY MR. PAULK:

17 Q. And, Dr. Garvin, in offering your
18 report, did you review the remainder --

19 COURT REPORTER: Hold on one second.

20 MR. PAULK: My apologies, Madam Court
21 Reporter.

22 BY MR. PAULK:

23 Q. Dr. Garvin, did you rely on the
24 remainder of this report for your opinion and
25 summary?

1 A. Not just the remainder of the report,
2 but the information that was obtained from the
3 requisition form, which is a part of our process
4 at Forensic Science Network, in addition to
5 ensuring that the appropriate testing was
6 instituted within the laboratory, and as well as
7 the data.

8 Q. Okay, so in this report can you talk a
9 little bit about the requisition form, and what
10 all this entails?

11 A. Yes. So the Beaufort County Coroner
12 uses Forensic Science Network to assist his
13 office with the -- at the time of this case, and
14 still today.

15 The Beaufort County Coroner uses Forensic
16 Science Network to assist him with toxicology-
17 related aspects of his death -- his office's
18 death investigations. And what that means is,
19 whether or not he authorizes an autopsy, and in
20 this case an autopsy was authorized. Specimens
21 are collected, the -- some preliminary
22 information is provided to us about the nature
23 of the death, demographic information, the types
24 of specimens, so that we can assist and oversee
25 proper testing, whether the test panel is

1 properly ordered for a particular specimen,
2 whether supplemental or additional testing is
3 warranted, and we follow that process throughout
4 the testing to the report, when a report, it
5 might not be final report, but when a report is
6 issued.

7 And then we evaluate the data, the
8 resulting toxicology data in the context of our
9 understanding of the case, that may reflects to
10 conversations with Pathology, if an autopsy is
11 authorized, additional conversations with the
12 Coroner or Deputy Coroner, very case specific.
13 And then, at that point, we then -- and in this
14 case I would then set out to develop a summary,
15 based on the knowledge at that time, that I have
16 at that time, and issue the report.

17 Q. Okay. And to be clear, the autopsy
18 that you reviewed, and the information that you
19 reviewed was for the decedent, Mr. Deonne
20 McLendon?

21 A. So I did not review the autopsy report
22 in this case, but it was for Deonne McLendon,
23 that's correct.

24 Q. Did you review the toxicology report?

25 A. Oh, yes.

1 Q. Okay. And after reviewing the
2 toxicology, what conclusions did you come to?

3 A. Well, I developed a summary about the
4 findings, and presented those on page five of
5 the report, and signed the summary, based on the
6 information that I had at the time. Would you
7 like me to read that into the record?

8 Q. Yes, sir. Yes, ma'am.

9 A. So the specimen that was drawn in this
10 case was cardiac blood, which is blood taken
11 from the heart at autopsy, and an analysis for
12 therapeutic and abused drugs and alcohols was
13 performed in this case, on one of the two
14 cardiac blood specimens that were submitted to
15 the laboratory.

16 Based on testing, and at the completion of
17 testing, the results were reported as follows:
18 "The cardiac blood sample was found to contain
19 0.01 percent blood ethanol or drinking alcohol,
20 that is alcohol that is contained in beer or
21 wine, whiskey, distilled spirits, by example.
22 The specimen also contained cocaine,
23 benzoylecgonine, which is an inactive metabolite
24 and hydrolysis product of cocaine.
25 Cocaethylene, which is an active metabolite of

1 cocaine, as well as Delta 9
2 tetrahydrocannabinol, or Delta 9 THC, which is
3 the primary psychoactive constituent in
4 marijuana, by example. It's two primary
5 metabolites, 11 hydroxy Delta 9 THC, which is an
6 active metabolite or breakdown product, as well
7 as Delta 9 Carboxy THC, which is inactive.

8 And there was the presumptive presence of
9 Naloxone. Naloxone is otherwise known as
10 Narcan. It is an opioid antagonist, competitive
11 antagonist that is used to reverse opioid
12 toxicity, if it is suspected, as well as the
13 presumptive presence of both caffeine and
14 codeine.

15 Caffeine is, as we all know, it's a
16 stimulant. Pretty ubiquitous in everybody from
17 Coca-Cola to coffee, by example. And cotinine
18 is the metabolite of nicotine."

19 Q. How long does cocaine survive in
20 someone's system, when it's tested?

21 A. So the presence of cocaine is dictated
22 by in blood, and my comments are specific to
23 blood, since we don't have any other body fluids
24 or tissues that were tested in this particular
25 instance. The presence of cocaine in the blood

1 is driven by a number of factors, to include the
2 dose, the route of administration, the
3 individual's period of survival, and the methods
4 of specimen collection and storage.

5 Q. So you mentioned dosage and route of
6 administration. What do those two things mean?

7 A. So dose, as we say in forensic
8 toxicology, the dose mix, the poison.

9 Anything can be poisonous, anything can be
10 toxic, if enough of it is consumed. So dose
11 refers to the amount of substance that an
12 individual would administer or be administered.
13 The route of administration speaks to how the
14 substance, in this case cocaine, would be
15 introduced into the body.

16 And specific to cocaine, cocaine can be
17 administered by a number of routes, virtually,
18 any route that you could name, topical and
19 intravenous administration into muscular,
20 ocular, rectal, oral, just about, again, any
21 route of administration you could imagine.

22 Q. What are two of the most common routes
23 of administration for cocaine use that you
24 generally see?

25 A. I would say, based on my experience --

1 MS. JONES: Objection.

2 BY WITNESS:

3 A. -- in --

4 THE COURT: Hold on a second, we have an
5 objection, Doctor.

6 WITNESS: Pardon me.

7 MS. JONES: I don't see the relevance here.

8 THE COURT: I'll overrule it. Answer the
9 question.

10 BY WITNESS:

11 A. Well, cocaine has a medicinal
12 indication. It can be used in clinical
13 medicine, as a local anesthetic in a
14 vasoconstrictor.

15 So the routes of administration there are
16 most often topically; but if we're talking about
17 recreational use, in other words, use that is
18 not associated with a legitimate patient-
19 physician, or patient-prescriber relationship,
20 as it were, the most common routes that we see
21 forensically are intravenous, smoking, and
22 insufflation or snorting.

23 Q. But you can't tell if a toxicology
24 report, from looking at the presence of cocaine,
25 whether or not -- the route of administration?

1 You don't know the route of administration?

2 A. I can't tell the route of
3 administration.

4 Q. Okay.

5 A. We can't tell the dose.

6 Q. Okay. What are some of the differences
7 between the route of administration, when you're
8 snorting it, versus when you're smoking cocaine?

9 A. Could you be more specific? I'm not
10 sure I understand the question.

11 Q. Sure. Does the user achieve the same
12 effect as quickly, if cocaine is snorted versus
13 if it is smoked?

14 A. So cocaine undergoes a rapid
15 absorption, when it is administered by any
16 route, but there are some nuances. There are
17 some slight differences. Typically, when a user
18 smokes the drug, otherwise known as crack-
19 cocaine, that has the fastest onset of action,
20 because it reaches the brain in the fastest
21 period of time.

22 That is quickly followed by intravenous
23 administration, a few seconds, which is actually
24 a few seconds, literally, behind smoking, and
25 then that would be followed by snorting or

1 insufflation, which would then be followed by
2 oral administration, which is not commonly used.

3 Q. If effects are felt faster, would you
4 say that they are more reinforcing.

5 A. Yes, that's true.

6 Q. Could you explain that to the jury,
7 please?

8 A. So the speed with which the user
9 attains the desired effect, which with cocaine
10 is euphoria, and a sense of wellbeing, increased
11 energy, there could be increased sexual arousal,
12 all of the effects, the so-called good effects
13 or benefits of using the drug recreationally, if
14 you will.

15 The faster those effects can be attained,
16 the more reinforcing the drug is for the user,
17 and the more likely the user will want to use
18 again.

19 Q. Could you describe for the jury some of
20 the physical -- I guess the word I'm looking for
21 is the physical effects that a person who has
22 been smoking crack for multiple days would be
23 feeling, or would undergo, if someone had been
24 on a crack binge?

25 A. So use of cocaine produces

1 physiological, so physical effects, as well as
2 psychological effects, and those two types of
3 effects, if you will, are driven by the dose,
4 the route of administration, how long the
5 individual -- what their relationship with the
6 drug is.

7 Are they a first time user, had they been
8 using for hours, days, months, weeks, years?
9 And, typically, with -- and when we use the term
10 binge, that, in my experience and understanding
11 and training, refers to an individual who can
12 use larger doses over a short period of time, or
13 many doses over a longer period of time; and by
14 longer period, that might means hours, it might
15 mean days. That each of those scenarios can be
16 described as binge use.

17 Q. What are some of the physical effects
18 that would manifest themselves in someone who
19 has been binge using cocaine?

20 A. Well, certainly, you know --

21 Q. I'm sorry to cut you off, specifically,
22 crack cocaine.

23 A. Which would be the smokable form of the
24 drug. So, initially, of course, the user's
25 going to feel that sense of wellbeing,

1 heightened energy, euphoria.

2 They may have difficulty sleeping, because
3 they are charged up, the cocaine is a central
4 nervous stimulant. They may be restless, they
5 may be talkative, they may have heightened
6 sexual arousal. And then with increasing use,
7 whether that's with a dose over a short period
8 of time, or multiple doses over a longer period
9 of time, they can develop anti-sexual behavior,
10 they can become irritable, they're not going to
11 be able to sleep, they have -- they can develop
12 paranoia, delusions, aggression.

13 Q. Okay. Some of those last few physical
14 manifestations that you referenced, can those
15 physical manifestations still be present in
16 powdered cocaine use?

17 A. Yes, because it's all about the dose,
18 yes.

19 Q. Okay. If someone were to, for example,
20 have three to four bumps of powdered cocaine and
21 snort it, what physical manifestations, if any,
22 would you expect them to exhibit?

23 A. Well, without knowing more about the
24 person's usage pattern before, that's difficult
25 to say. It's possible they would exhibit

1 similar effects, again, because it's dose
2 driven, but it's also possible that not everyone
3 exhibits all of those effects.

4 Q. Okay. What does the presence of
5 cocaine in a blood sample tell you about how
6 long before death the drug was ingested?

7 A. So we typically say that -- and I
8 indicated this in my narrative, in my summary,
9 that the average -- when we talk about -- pardon
10 me, when we talk about how long a particular
11 drug remains in the systemic circulation, in the
12 blood, we often use the term half-life, which
13 refers to how long it takes for that drug to
14 remain in the circulation before 50 percent of
15 it is removed.

16 And, generally, it takes about five half-
17 lives for a drug to remain in the systemic
18 circulation before it is no longer there, before
19 it has disappeared, and that half-life is
20 specific to the drug. With cocaine, and I
21 indicated this in my summary, the average half-
22 life, to make it easy, is about an hour. It
23 could be a little bit more, it could be a little
24 bit less.

25 So if we take five half-lives, and we

1 multiply it by one, we come up with five hours.
2 And so being able to see parent cocaine in the
3 blood is suggestive to me, that the individual
4 was using the drug within five hours before
5 death, and it could be less, certainly.

6 Q. Does the amount of cocaine that is
7 present in the toxicology report, does it give
8 any indication of recency or primacy of drug
9 use?

10 A. So I would say that the concentration
11 of cocaine that was reported in the blood
12 collected from Mr. McLendon, was reported at 300
13 nanograms per mil, and that is, again, based on
14 my education, training and experience,
15 indicative of what we would refer to as
16 concentrations that we see with recreational use
17 of the drug.

18 And to put that into perspective,
19 individuals who overdose on cocaine, who die
20 from a direct -- as a direct result of
21 administering or being administered too much of
22 the drug. Usually, we see concentrations north
23 of or higher than 1,000 nanograms per mil.
24 There are some exceptions, but 1,000 nanograms
25 per mil is generally what I would communicate to

1 a Pathologist, or to a Coroner, if they were
2 concerned about overdose.

3 And then to put that into perspective,
4 again, we have instances, where individuals
5 insert large amounts of cocaine, either by
6 swallowing, body packing, body stuffing,
7 inserting the drug rectally; and if the
8 container breaks and that individual dies of a
9 massive intoxication, we can develop -- that
10 individual can develop concentrations of higher
11 than 20,000 nanograms per mil and above. So
12 just to kind of provide some comparative values,
13 if you will, some comparative concentrations,
14 but the concentration here, to me, is indicative
15 of what we tend to see with recreational use,
16 which is anywhere from, you know, less than ten
17 nanograms per mil to close to 1,000 nanograms
18 per mil.

19 Q. Okay. You also noted that there was
20 cocaethylene present in your summary. Could you
21 tell the jury a little bit about cocaethylene,
22 and what that tells us?

23 A. So cocaethylene is a metabolite, or a
24 breakdown product that is formed, when cocaine
25 and alcohol ethanol, drinking alcohol are

1 present together in the body. We refer to it as
2 a transesterification product.

3 So the two compounds come together, if you
4 will, and this new compound cocaethylene is
5 formed. What's interesting about cocaethylene
6 is -- there's several things, number one, it
7 tell us that at some point prior to death, that
8 individual consumed alcohol with cocaine, in
9 close proximity to cocaine. And it also tells
10 us it's actually an active metabolite, so it --
11 and it's equally active to cocaine, so it
12 contributes pharmacologically, just like cocaine
13 would, in terms of its effects. And then,
14 thirdly, it actually has a longer half-life than
15 cocaine, so it tends to hang around in the
16 circulation longer than parent cocaine would.

17 And sometimes we see it in the absence of
18 cocaine, but we will see cocaethylene instead of
19 cocaine.

20 Q. So from reviewing this report, you can
21 confidently say that the decedent was using
22 cocaine within at least three to five hours of
23 his death; would you agree with that statement?

24 A. I would say it's some point less than
25 five hours, yes, sir.

1 MR. PAULK: A moment of the Court's
2 indulgence, Your Honor. Your Honor, I have no
3 further questions for this witness.

4 THE COURT: All right.

5 MR. PAULK: Thank you Dr. Garvin.

6 THE COURT: Ms. Jones?

7 MS. JONES: Thank you, Your Honor, briefly.

8 ***

9 CROSS-EXAMINATION

10 BY MS. JONES:

11 Q. Dr. Garvin, so based on what you just
12 said, the effects that one feels from ingesting
13 cocaine is person-specific? It depends on the
14 person, doesn't it?

15 A. I'm sorry, could you ask the question
16 again?

17 Q. Absolutely.

18 A. I apologize.

19 Q. Cocaine affects every individual person
20 differently?

21 A. Not exactly. So cocaine's a central
22 nervous system stimulant. It's never going to
23 be a depressant. There are aspects of the drug,
24 like with any drug, that are going to be the
25 same with everyone. So, again, by example,

1 cocaine's a central nervous system stimulant,
2 it's going to increase heart rate, increase
3 respiration, increase body temperature,
4 vasoconstrict, be a local anesthetic, those
5 kinds of things are going to be the same with
6 everyone. Produce a euphoria when it's
7 administered recreationally, by whatever route
8 of administration that is. When it comes to
9 other effects, specifically, psychological
10 effects, there are -- there's a laundry list, if
11 you will, of -- and I mentioned many of them
12 earlier in my testimony, of effects that cocaine
13 use can cause in an individual, but it doesn't
14 mean that every individual will exhibit those.

15 Q. Okay, thank you. So not everyone will
16 exhibit all of the same effects?

17 A. Correct.

18 Q. Okay. So you have no way to tell me
19 exactly what effects Deonne McLendon exhibited?

20 A. Not without being provided that
21 information.

22 Q. Or Delmar Sanders?

23 A. Correct.

24 Q. Or Rhonda Randall?

25 A. Correct.

1 Q. Thank you.

2 THE COURT: Any recross -- or redirect?

3 Sorry.

4 MR. PAULK: No redirect, Your Honor. May
5 Dr. Garvin be released from her subpoena?

6 THE COURT: Yes, ma'am, you are excused.

7 WITNESS: Thank you, sir.

8 THE COURT: Have a safe trip back.

9 WITNESS: Oh, thank you.

10 MR. PAULK: Your Honor, the defense next
11 calls Ernest Williams to the stand.

12 THE COURT: I think we've got a request for
13 a short break.

14 MR. PAULK: Sure.

15 THE COURT: So let's take about -- we've
16 been going about an hour, let's take about ten
17 minutes. Everybody just getting back from
18 lunch.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: All right, ladies and
21 gentlemen, we're gonna take about a ten-minute
22 break. Please do not discuss the case.

23 (Jury exits the courtroom.)

24 THE BAILIFF: The jury's cleared, Your
25 Honor.

1 THE COURT: All right, we'll be in recess
2 until -- let's just say until 3:45.

3 MS. JONES: Thank you.

4 MR. PAULK: Thank you, Your Honor.

5 (Recess.)

6 THE BAILIFF: All rise, the Court's back in
7 session.

8 THE COURT: Please be seated. Do you'all
9 have anything for me, or we need the jury?

10 MS. JONES: No, Your Honor, I would ask
11 that we proffer the testimony of Mr. Williams,
12 who is his next witness. I think some of it may
13 be irrelevant, may be inadmissible.

14 THE COURT: All right.

15 MR. PAULK: I'm certainly fine with
16 proffering it, Your Honor. Another thing that I
17 wanted to bring up to the Court's attention,
18 during the lunchbreak I had my investigator,
19 with the permission of the Sheriff's Office, go
20 to the Beaufort County impound lot and take
21 photos of the Dodge Durango, along with a tape
22 measure to show how tall the hood is.

23 How would Your Honor like me to proceed in
24 getting these pictures in front of the jury, or
25 getting these pictures, specifically, in front

1 of Investigator Tunis?

2 I'm happy to recall him. Do I need -- the
3 issue is, my investigator, due to my fault, was
4 not listed on my witness list. He wasn't my
5 lead investigator, he wouldn't have been subject
6 to the sequestration motion, since he was not
7 the lead investigator for this case, but he has
8 been here during this case.

9 I understand the jury was not voir dired
10 about whether not they know him, and to that it
11 may be an issue. I'm not sure how to proceed,
12 and I'm asking for Your Honor's guidance.

13 THE COURT: Well, I can't tell you how to
14 try your case. What's your position, Ms. Jones?

15 MS. JONES: Now, he's been in the
16 courtroom. I think somebody would have said if
17 they knew him or not. I'm not concerned about
18 that. Put him up to enter the pictures.

19 THE COURT: Okay.

20 MR. PAULK: Okay.

21 THE COURT: You know, whatever you need to
22 do to try your case.

23 MR. PAULK: Okay, thank you, Your Honor.

24 THE COURT: All right.

25 MR. PAULK: The defense next calls Ernest

1 Williams.

2 THE COURT: Okay. Well, do you'all --

3 MR. PAULK: We've got to proffer it.

4 THE COURT: Yeah, no, he's going to proffer
5 it.

6 Do you want to give me -- can you'all give
7 me a two-minute skinny and we'll see?

8 MR. PAULK: Your Honor, Mr. Williams --
9 we're going to go through his whole testimony
10 for sure. I think that what Ms. Jones is
11 concerned about is, there's community
12 reputations versus his personal knowledge or
13 reputation. Mr. Williams is married to Ms.
14 Randall, has been for quite some time. Common
15 law marriage, it was a religious marriage.
16 I don't believe that there was ever any
17 formal marriage certificate. They lived
18 together for some amount of time. He has full
19 custody of their joint child that they have
20 together, and I believe that he would testify to
21 her character.

22 THE COURT: In the community?

23 MR. PAULK: Well, I mean if he knows her,
24 then he knows this community, then it would be
25 her reputation in that community of it.

1 THE COURT: All right, what's your position
2 on that, Ms. Jones?

3 MS. JONES: I think he's gonna just say his
4 personal opinion of her. I also think that
5 anything regarding their relationship, his
6 having custody of the children is irrelevant.

7 MR. PAULK: I think it goes to show that
8 there's a relationship that is like a marriage.

9 MS. JONES: No, no, that's highly
10 inappropriate, Your Honor.

11 THE COURT: Yeah, I'm not sure that comes
12 in. All right, I guess let's see what he's got
13 to say.

14 MR. BAILIFF: Your Honor, I think you're
15 ready for the witness?

16 THE COURT: Yes, sir.

17 * * *

18 ERNEST J. WILLIAMS

19 * * *

20 being first duly sworn, testified as
21 follows:

22 ***

23 DIRECT EXAMINATION

24 BY MR. PAULK:

25 Q. Good afternoon, Mr. Williams.

1 A. Good afternoon.

2 Q. My name is Seth Paulk, and I represent
3 Mr. Delmar Sanders. Do you know Ms. Rhonda
4 Randall?

5 A. Yes.

6 Q. How do you know Ms. Rhonda Randall?

7 A. We've got a kid together. I was
8 married to her for maybe a year, a little
9 better.

10 Q. And who has custody of that child?

11 A. I do, technically.

12 Q. Do you know Ms. Randall's reputation in
13 the community?

14 A. As far as I know between me and her,
15 yes. In the community, yes, I do.

16 Q. And as to her reputation in the
17 community, what is it?

18 A. Well, she's a drug addict, and you know
19 a drug addict's reputation. You know, I know
20 most people who've got drug addicts in their
21 family, or they know drug addicts, they know
22 what they do.

23 They're main cause -- their main objective
24 is to stay high, and anything -- whatever comes
25 with that. All -- everything -- all kind of

1 stuff comes with that.

2 Q. Do you know Ms. Randall to have a
3 reputation for prostitution?

4 A. Yes.

5 Q. And is that reputation generally known
6 in the community?

7 A. Yes.

8 Q. Do you know Ms. Randall to have a
9 reputation to rob people?

10 A. That goes with the territory of being a
11 drug addict, but I've never -- I cannot say that
12 I've ever seen her rob anybody, or have any
13 knowledge of her robbing anybody; but that goes
14 with the territory of being a drug addict.

15 Q. Okay.

16 MR. PAULK: A moment of the Court's
17 indulgence?

18 BY MR. PAULK:

19 Q. Mr. Williams, has Ms. Randall ever done
20 anything to harm you?

21 A. Physically, yes.

22 Q. And what was that?

23 A. She stole my car, and when I came to
24 the point of calling the police to get -- to
25 bring the car back, she came back with the car,

1 and ended up calling the police, telling the
2 police I attacked her, and she actually attacked
3 me.

4 Q. So she filed a false police report?

5 A. Yes. And she has stolen from me before
6 too, so it's not like she's not a thief.

7 Q. Does Ms. Randall have a reputation in
8 the community for telling the truth?

9 A. No. The average person I know would
10 tell you that she's a liar, she'll lie.

11 Q. And that's her reputation in the
12 community?

13 A. That's the reputation, she will lie.
14 She's a liar.

15 MR. PAULK: Your Honor, I understand that I
16 touched on a couple of things that were probably
17 gonna be objected to for specific instances of
18 conduct, but I believe that the rest of his
19 testimony would be proper in front of the jury.

20 THE COURT: Ms. Jones?

21 MS. JONES: Well, can I ask a question of
22 this witness?

23 THE COURT: Sure.

24 ***

25 CROSS-EXAMINATION

1 BY MS. JONES:

2 Q. When you say reputation in the
3 community, what community are you talking about?

4 A. My understanding from his question is
5 reputation in the community meaning where she
6 live at, her surroundings.

7 Q. Would that just be you and your
8 household?

9 A. No.

10 Q. Okay, so --

11 A. That would be just about any place
12 she'll go at.

13 Q. Anyplace she goes, so everybody in your
14 community?

15 A. Everybody in her -- in the community
16 where she resides at, they know that she will
17 steal, she will lie, and she will do all kind of
18 stuff.

19 Q. Okay, and what community is that?

20 A. That's my community, and any community
21 that she lives in. That'll be --

22 Q. Okay.

23 A. -- Beaufort, Savannah, Ridgeland,
24 Hilton Head, Bluffton.

25 Q. Okay, what is --

1 A. All those communities.

2 Q. What is your community?

3 A. My community is Savannah, Bluffton,
4 Hilton Head, Hardeeville, Beaufort, all that's
5 my community.

6 Q. Okay.

7 A. I live in Ridgeland. I'm from Hilton
8 Head.

9 Q. Okay.

10 MS. JONES: Your Honor, I have no other
11 questions for him. I certainly --

12 BY WITNESS:

13 A. But we lived in Savannah before also.

14 Q. Okay. Perfect, thank you, Mr.
15 Williams.

16 A. Uh-huh.

17 MS. JONES: I don't have any more questions
18 for him. I certainly think that a lot of what
19 he just said is objectionable.

20 THE COURT: All right, I am looking at Rule
21 608, and as I see it, it has -- it's fairly
22 limited to character for truthfulness or
23 untruthfulness. He went into several and
24 specific instances of conduct that are or appear
25 to be prohibited under 608B.

1 So I believe about the only testimony that
2 is admissible is the last thing he said, that in
3 their community she does not have a very good
4 character for truthfulness. As far as the other
5 stuff, I think we need to stay away from it
6 under Rule 608.

7 MR. PAULK: Thank you, Your Honor. To
8 establish how Mr. Williams knows Ms. Randall, am
9 I allowed to ask background questions, how he
10 knows her, how long they've been involved?

11 THE COURT: How he knows her, all that
12 stuff, but I don't want to hear anything about
13 prostitution, robbing, drug addict, thief,
14 harmed him, stole his car, anything like that.
15 He can tell how he knows her, and under --

16 MR. PAULK: Her character.

17 THE COURT: -- as I read Rule 608 that's
18 all that is supposed to come in.

19 MR. PAULK: Thank you.

20 MS. JONES: Or the custody issue.

21 THE COURT: Or the custody, yeah. I didn't
22 make a note of that.

23 MS. JONES: I mean I would ask, Your Honor,
24 that it just be limited to that they were
25 married at some time, and I think that prevents

1 any issues that -- because as we saw, Mr.
2 Williams likes to talk.

3 THE COURT: Yeah, I mean he was called here
4 to testify, so --

5 MS. JONES: And I'm happy for Mr. Paulk to
6 lead him, if that would prevent those issues
7 coming up.

8 THE COURT: Okay.

9 MR. PAULK: Your Honor, just to make sure
10 that we don't do anything improper to cause a
11 mistrial at this late stage, are there specific
12 questions that you want me to ask this witness?

13 THE COURT: I think you can ask him about
14 the background, how he knows her, and then,
15 specifically, ask about her reputation for
16 truthfulness.

17 MR. PAULK: Yes, Your Honor.

18 THE COURT: And, Mr. Williams, we have -- I
19 know you're not a lawyer, but we have specific
20 rules that we have to follow for evidence coming
21 in.

22 So I'm gonna ask you to limit your
23 testimony, based on our rules, to how you know
24 Ms. Randall, and the questions he asks you only
25 about her truthfulness. Don't go into any

1 specific bad or even good things that she's
2 done, okay?

3 Do you understand that?

4 WITNESS: I understand.

5 THE COURT: All right.

6 MR. PAULK: Thank you, Your Honor.

7 MS. JONES: And, again, so we don't mess
8 anything up, since we're going into 608A, I'm
9 then gonna go into 608A too. I think I have
10 free rein to ask him.

11 THE COURT: About truthfulness?

12 MS. JONES: Does he know that she gave the
13 statement multiple times in this case?

14 THE COURT: Okay. Yeah, I mean I think you
15 can do that.

16 MS. JONES: Thank you.

17 THE COURT: As long as his testimony is
18 limited solely to the background, and then the
19 evidence of truthfulness, either way.

20 MR. PAULK: Thank you, Your Honor.

21 THE COURT: All right. All right, yeah,
22 get them, sorry.

23 THE BAILIFF: The jury's entering the
24 courtroom, Your Honor.

25 (The jury enters the courtroom.)

1 ***

2 PROCEEDINGS CONTINUED

3 THE COURT: Thank you. Welcome back,
4 ladies and gentlemen. We have a witness on the
5 stand, and just so you know, it may look a
6 little different, he's already been sworn in.
7 And rather than repeating the process, once you
8 guys got in, I was just gonna let you know he's
9 already been sworn by the Clerk, just like any
10 other witness.

11 You just aren't gonna see it, because we're
12 trying to save a little time for you.

13 ***

14 DIRECT EXAMINATION

15 BY MR. PAULK:

16 Q. Good afternoon, could you state your
17 name for the jury, please, sir?

18 A. Ernest J. Williams.

19 Q. Mr. Williams, do you know Ms. Rhonda
20 Randall?

21 A. Yes.

22 Q. How do you know Ms. Rhonda Randall?

23 A. We was married for several years.

24 Q. Do you know her general reputation?

25 A. We have a son together also, a five-

1 year-old son together.

2 Q. Do you know her general reputation for
3 truthfulness in your community?

4 A. Yes.

5 Q. And what is that reputation?

6 A. Not truthful.

7 Q. Not truthful, as in --

8 MS. JONES: Your Honor, I believe he's
9 asked the question.

10 THE COURT: Uh-huh.

11 MR. PAULK: Okay.

12 MS. JONES: He's asked and answered the
13 question.

14 BY MR. PAULK:

15 Q. What community is that?

16 A. The community of Hilton Head, Beaufort,
17 Savannah, Ridgeland, all those communities,
18 surrounding communities.

19 MR. PAULK: Thank you, Your Honor, I have
20 no further questions for this witness.

21 THE COURT: Yes, sir.

22 Cross-examination?

23 MS. JONES: Thank you, Your Honor.

24 ***

25 CROSS-EXAMINATION

1 BY MS. JONES:

2 Q. Mr. Williams, you've been convicted of
3 some theft crimes, haven't you?

4 A. No.

5 Q. You didn't --

6 A. No, burglary.

7 Q. Oh, I'm sorry.

8 A. Yeah, theft.

9 Q. Okay, so you were convicted of
10 burglary?

11 A. Well, you have something up there
12 earlier said I was shoplifting, I never
13 shoplift.

14 Q. Okay.

15 A. Maybe 30 years ago burglary.

16 Q. Okay.

17 A. Which I was innocent anyway, but they
18 found me guilty.

19 Q. Touche, Mr. Williams.

20 So you just testified to Ms. Randall's
21 character. Do you know that she told the same
22 story to three different Beaufort County
23 Deputies?

24 MR. PAULK: Objection, Your Honor. May we
25 approach?

1 (Bench conference.)

2 BY MS. JONES:

3 Q. Mr. Williams, do you know Ms. Randall
4 gave the same story to three separate Beaufort
5 County Deputies?

6 A. What story?

7 Q. About why we're here today.

8 A. Which story --

9 Q. Did you know?

10 A. Which story you mean? I don't
11 understand.

12 Q. No, I'm just asking you, did you know
13 that she had done that?

14 A. Done what?

15 Q. That --

16 A. Give the same story -- what you mean
17 same story?

18 Q. Okay.

19 A. Explain to me.

20 Q. Did you know that she -- I get to ask
21 the questions, Mr. Williams. Did you also know
22 that she gave that same story two times, under
23 oath, in this courtroom?

24 A. I'm asking you what story are you
25 talking about? I wasn't here.

1 MS. JONES: I have no further questions,
2 thank you, Your Honor.

3 THE COURT: Anything on redirect?

4 MR. PAULK: No, Your Honor. Please excuse
5 this witness --

6 THE COURT: All right, Mr. Williams --

7 MR. PAULK: -- from his subpoena.

8 THE COURT: You are excused, and you are
9 released from your subpoena.

10 WITNESS: Thank you.

11 THE COURT: Enjoy the rest of your day.

12 WITNESS: Thank you.

13 THE COURT: Call your next witness, please.

14 MR. PAULK: Your Honor, defense would call
15 Investigator Tim Ball with the Beaufort County
16 Public Defender's Office.

17 * * *

18 TIMOTHY BALL

19 * * *

20 being first duly sworn, testified as
21 follows:

22 ***

23 DIRECT EXAMINATION

24 BY MR. PAULK:

25 Q. Good morning, Mr. Ball, how are you

1 today?

2 A. I'm well.

3 Q. Afternoon, excuse me.

4 A. Yeah.

5 MR. PAULK: Your Honor, may I approach the
6 witness?

7 THE COURT: Absolutely.

8 (Court Reporter marks Defendant's Exhibit
9 Number 4, DVD, as attached hereto.)

10 BY MR. PAULK:

11 Q. Mr. Ball, do you recognize what I've
12 just handed you?

13 A. I do.

14 Q. And what have I just handed you?

15 A. It's a CD with photographs on it.

16 Q. And is that a fair and accurate
17 representation of that disk?

18 A. It is.

19 Q. Did you put the photographs on that
20 disk?

21 A. I did.

22 MR. PAULK: Your Honor, defense at this
23 time would move this disk into evidence, and
24 would request to publish these images to the
25 jury?

1 MS. JONES: Your Honor, I've never seen
2 these images.

3 MR. PAULK: I, of course, am happy to show
4 them to the Solicitor before they're admitted.

5 THE COURT: I certainly think she's
6 entitled to see them before --

7 MR. PAULK: Yes, Your Honor.

8 THE COURT: -- they're published.

9 MS. JONES: I have no objection, Your
10 Honor.

11 THE COURT: Thank you. Photos, or CD, or
12 DVD, whatever it is, will be admitted as
13 Defendant's 4.

14 (Defendant's Exhibit 4 was entered into
15 evidence.)

16 MR. PAULK: And request to publish to the
17 jury, Your Honor?

18 THE COURT: Sure.

19 BY MR. PAULK:

20 Q. Ladies and gentlemen, I'm gonna show
21 you what these pictures are, and then I'm gonna
22 bring this laptop back over here, and let Mr.
23 Sanders -- Mr. Ball explain these pictures and
24 show.

25 Mr. Ball, could you explain to the jury the

1 photos that I just showed them?

2 A. Yeah, I took a series of seven
3 photographs of Mr. Sanders' Dodge Durango at the
4 impound lot, approximately, two hours ago. And
5 we used a tape measure to show the heights of
6 the hood and the grill from the ground up.

7 Q. Thank you, Mr. Ball. Mr. Ball, could
8 you tell the Court how tall you are?

9 A. Approximately, 5'6".

10 Q. And while you were looking at the Dodge
11 Durango -- oh, do you mind stepping down from
12 the witness stand for a moment? About where did
13 the hood of the Dodge Durango come to you?

14 A. Come right here.

15 MR. PAULK: No further questions, Your
16 Honor.

17 THE COURT: Ms. Jones?

18 MS. JONES: I have nothing for this
19 witness. Thank you, Your Honor.

20 THE COURT: All right, Mr. Ball, you're
21 excused back to the back of the courtroom.

22 MR. PAULK: Thank you, Your Honor. Your
23 Honor, the defense next calls Corporal Garcia.

24 * * *

25 CRAIG GARCIA

1 * * *

2 being first duly sworn, testified as
3 follows:

4 ***

5 DIRECT EXAMINATION

6 BY MR. PAULK:

7 Q. Good afternoon, Corporal Garcia.
8 How you doing today?

9 A. I'm doing well, sir.

10 Q. Did you complete a crime scene sketch
11 in conjunction with this incident?

12 A. I did.

13 MR. PAULK: Your Honor, may I approach the
14 witness?

15 THE COURT: You may.

16 (Court Reporter marks Defendant's Exhibit
17 Number 5, Crime Scene Sketch, as attached
18 hereto.)

19 (Court Reporter marks Defendant's Exhibit
20 Number 6, Crime Scene Sketch, as attached
21 hereto.)

22 BY MR. PAULK:

23 Q. Corporal Garcia, I'm handing you two
24 separate sketches, or I'm handing you a
25 document. Would you mind taking a look at it?

1 A. Yes, sir.

2 Q. Could you tell the jury what I've just
3 handed you?

4 A. So these are the crime scene sketches.
5 One is a key, it tells you what everything is,
6 with measurements. That is a small sketch of
7 the crime scene. This is a larger sketch, with
8 measurements to where the body was, and then it
9 has the placard markings on it, and then this is
10 the key of the draft of the placards, what was
11 at each placard.

12 And this is another drawing of the crime
13 scene used -- I used Think Map to use this one,
14 because it had roads and features. And then
15 this is the key, it has my name, the date, case
16 number, what the call was. It also has the
17 placards, and then the three reference points
18 and their distances.

19 Q. Are those a fair and accurate
20 representation of the sketches that you created
21 in conjunction with this case?

22 A. Yes, sir.

23 MR. PAULK: Your Honor, at this time
24 defense would move crime scene sketches 1 and 2
25 into evidence.

1 THE COURT: Would be Defendant's 5 and 6.

2 COURT REPORTER: Yes, sir.

3 THE COURT: Any objection, Ms. Jones?

4 MS. JONES: No objection.

5 THE COURT: All right, the crime scene
6 sketches will be admitted as defense Exhibits 5
7 and 6.

8 MR. PAULK: Thank you, Madam Court
9 Reporter.

10 (Defendant's Exhibits 5 and 6 admitted into
11 evidence.)

12 BY MR. PAULK:

13 Q. Corporal Garcia, could you, I guess,
14 explain these sketches to the jury?

15 Could you explain the distances and how
16 they -- what the distances are -- between the
17 distance of each item from your fixed locations?

18 MR. PAULK: And if we can -- Your Honor,
19 permission to publish to the jury, if we can put
20 this up on the overhead, if that would be
21 permissible.

22 THE COURT: However you want to do it.

23 MR. PAULK: That way the jury can see
24 what's going on.

25 BY MR. PAULK:

1 Q. I'm going to pull them up over here,
2 and look at it over here, and tell them what's
3 going on.

4 A. Okay.

5 Q. And you just direct me how you need to,
6 because I'm not exactly sure what I'm looking
7 at.

8 A. All right. Can you move it up? There
9 you go.

10 Q. Yes, sir, and we're working on figuring
11 out the zoom and everything else.

12 MR. PAULK: You might need to zoom out a
13 little bit. Okay.

14 BY MR. SMTH:

15 Q. Can I --

16 Q. Yes, sir, I'm --

17 THE COURT: If you want to rotate it.

18 BY WITNESS:

19 A. Yeah, so I can see - no, no, no, just
20 so I can see the bottom.

21 Q. Okay.

22 A. And you can flip it back the other way,
23 but I need to see the bottom. I don't
24 necessarily -- there you go.

25 Q. Okay. So, Corporal Garcia, what are we

1 looking at?

2 A. So what we're looking at is, [REDACTED] Stanley
3 Farm Road is the house. Stanley Farm Road is
4 the road that connects from Roseida Road to
5 Laurel Bay Road, and then the dirt road is
6 called Deloach Ave. It's actually the access
7 point to the houses, there's houses on that
8 frontage road, so it's Deloach Road, or, excuse
9 me, Deloach Avenue is the dirt road. And then
10 there was a ditch, it was a 14-foot buffer, from
11 the edge of the road to the fence line, and you
12 can see that, where it says 14 feet, four
13 inches, it goes to the edge of the road.

14 So my points, yes, so my measuring points,
15 when we draw a crime scene sketch, the house
16 isn't gonna move, so we can use the corner of
17 the house, which is C. There -- A is a
18 telephone pole, and B is a telephone pole.
19 Those aren't gonna move unless they're broken or
20 cut in half.

21 So we use those as reference points. Then
22 we measure from C, to where the body lay, and
23 got that distance, A to the body, and got that
24 distance, and then B to the body, and got that
25 distance, so you can triangulate it.

1 So if they wanted to recreate this crime
2 scene, they could go to this location, go to C,
3 measure 69 feet, nine inches, off the corner of
4 the house, go to A, which is in the corner of
5 where the two roads meet, go 96.8 inches, and go
6 to B, and go 60 feet, one inch, triangulate
7 those, and that would be where the body laid.
8 The numbers one, two, three, four, five, six,
9 seven and eight, those were the evidence
10 placards with the evidence. One -- placard one
11 -- when I draw my crime scene sketches, I always
12 use placard one, would be the body, and then we
13 would go out from that. And then whatever the
14 evidence was, then we would mark those, and then
15 we photograph everything; but you can take that
16 -- the triangulation, and you can go and set
17 that crime scene up on that road, X amount of
18 feet off that fence, because I want to say,
19 excuse me, because my glasses are old, three
20 feet, six inches off of the fence. The fence
21 isn't gonna move, so you can go to that fence,
22 and come three feet, six inches off that fence,
23 and that's where the body was.

24 And then I measured, like I said at the
25 very beginning, from the fence line to the road,

1 to give you that distance. Because there's like
2 a little bitty ditch there, and then on the
3 other side of the road, it's called easement,
4 the -- from where your property line is in the
5 road, we call that easement, and it was in the
6 easement.

7 And then there was some bushes and stuff
8 and where he rested, and I just didn't put the
9 bushes up there.

10 Q. Thank you, Corporal Garcia. And this
11 would --

12 A. Uh-huh.

13 Q. -- be the --

14 A. That would be the key.

15 Q. Okay.

16 A. Once again, number one was the victim,
17 and then two, three, four, five, six, seven and
18 eight were the different objects that were
19 around it.

20 Q. Are there any substantial differences
21 between the two?

22 A. One is a rough draft --

23 Q. Okay.

24 A. -- and then one is a final copy.

25 Q. Okay.

1 A. So that one would be the final copy,
2 because it's got the distances, where it says
3 measurement points, you've got the body's number
4 one, and then from marker A is 96 feet, eight
5 inches, from B, which is the other pole, is 60
6 feet, one inch, and from the corner of the
7 house, C, is 69 feet, and you can triangulate
8 that.

9 And then up at the top it says A, power
10 pole, it's got the pole number, B, power pole,
11 it's got that pole number, and then C is the
12 house with the address, and then each of the
13 placards it has its name, and what exactly it
14 was in detail.

15 So you can go and say, "I need power pole
16 A, pole 57250, and you can -- you could find
17 that pole, because it's got a big 'ole -- it's
18 got a placard on it that says, you know, the
19 older ones say SE&G, the new ones may say
20 Dominion, but it's got that stamped on it.

21 So when you triangulate your crime scene,
22 you're gonna use three fixed points, that we
23 know aren't gonna move.

24 Q. Corporal Garcia, did you note any of
25 the distances of the placards from the body, as

1 a fixed point?

2 A. I did not, because I drew this after-
3 the-fact, so I did not measure those items like
4 I did the body.

5 Q. Okay.

6 MR. PAULK: No further questions for this
7 witness, Your Honor.

8 MS. JONES: No cross-examination.

9 THE COURT: Thank you. Corporal Garcia, I
10 think you are excused.

11 MR. PAULK: May this witness be released
12 from subpoena, Your Honor?

13 THE COURT: Absolutely.

14 MR. PAULK: Your Honor, defense next calls
15 Mr. Keith Johnson.

16 MS. JONES: And, Your Honor, if we could
17 approach prior to this witness?

18 (Bench conference.)

19 THE COURT: Ladies and gentlemen, we've got
20 a matter of law we need to take up outside of
21 your presence, so we'll get back with you as
22 soon as we can. Please don't discuss the case.

23 (Jury exits the courtroom.)

24 THE COURT: Ms. Jones, do you have a copy
25 of that case you referenced for me?

1 MS. JONES: I do, Your Honor.

2 THE BAILIFF: The jury's cleared, Your
3 Honor.

4 THE COURT: Thank you.

5 * * *

6 DONALD K. JOHNSON

7 * * *

8 being first duly sworn, testified as
9 follows:

10 ***

11 DIRECT EXAMINATION

12 BY MR. PAULK:

13 Q. Good afternoon, Mr. Johnson, how are
14 you doing today?

15 A. I'm good, sir.

16 Q. Mr. Johnson, where do you currently
17 work?

18 A. I'm self-employed.

19 Q. And what are you self-employed doing?

20 A. I'm a private investigator, consultant,
21 doing business as K. Johnson Consultant.

22 Q. Prior to venturing out and starting
23 your own business, what kind of work did you do?

24 A. I was a Police Officer, I was a SLED
25 agent.

1 Q. What did you do at SLED?

2 A. I was at SLED 37 years. The first 22
3 years I worked Narcotics. The last 15 years I
4 worked Fugitives.

5 Q. In your 22 years of narcotics
6 investigation, did you have the opportunity to
7 observe persons under the influence of drugs?

8 A. Many times.

9 Q. Did you have occasion to observe
10 persons under the influence of crack cocaine?

11 A. I did, many times.

12 Q. Did you have occasion to observe
13 persons under the influence of powdered cocaine?

14 A. I have, yes.

15 Q. Do you have an estimate of the number
16 of times that you have observed the actions of
17 persons under the influence of either powdered
18 or crack cocaine?

19 A. I couldn't begin to guess -- I guess
20 thousands.

21 Q. Do you believe that your observations
22 and experience, as a Narcotics Officer, would
23 allow you to testify, as to the general habits
24 and practices of abusers of crack cocaine and
25 powdered cocaine?

1 A. I do, sir.

2 Q. Do you have any special certifications
3 or skills that would qualify you as an expert,
4 to testify as to the habits of persons who use
5 cracked or powdered cocaine?

6 A. I do not.

7 Q. Were you certified by the South
8 Carolina Criminal Justice Academy, as a basic in
9 firearms instructor?

10 A. I was.

11 Q. Do you maintain that certification?

12 A. I have not. I have not maintained that
13 firearm certification.

14 Q. When was the last time that you were
15 certified?

16 A. It would have been 2016.

17 Q. Is there any other relevant work
18 experience that you wish to reference, as to
19 drugs, specifically, crack cocaine and powdered
20 cocaine?

21 A. Other than as in my CV?

22 Q. Other than -- or in addition to your
23 CV, it says here that you were a supervisor for
24 the Narcotics Division for SLED; isn't that
25 correct?

1 A. I was.

2 Q. And how long were you in that
3 supervisory position?

4 A. From '93 until 2002.

5 Q. I'm showing here that you also received
6 two FBI Directors commendations. Could you talk
7 about those a little bit?

8 A. Yes, sir. The first one was for -- I
9 was assigned to the FBI Violent Crime Task
10 Force. We worked a bank robbery crew for 22
11 months, from early 2000 to 2002. We cleared --
12 it was a six-man bank robbery crew.

13 We cleared six bank robberies, 44 robberies
14 of businesses, I think 12 or 15 robberies of
15 individuals, and eight kidnappings, all done by
16 that same six-man bank robbery crew. The second
17 one was a -- it was the kidnapping abduction of
18 a young Hispanic male, that was over a narcotics
19 deal.

20 It was drug traffickers; they were all
21 Hispanic. I think it was a cartel-related crime
22 out of Mexico. I was able to develop a
23 confidential informant, who provided the
24 information of where the young man had been --
25 was being held. He was held in North Carolina.

1 We provided that information to the FBI, to the
2 HRT Team, and they did an entry, and they were
3 able to get him back.

4 Q. Speaking of confidential informants, in
5 your experience and training as a Narcotics
6 Officer, did you have the occasion to work with
7 confidential informants?

8 A. Daily.

9 Q. Were the confidential informants
10 persons who used illicit drugs?

11 A. Usually always.

12 Q. Did some of the confidential informants
13 use crack cocaine, or powdered cocaine?

14 A. Yes.

15 Q. Did you have occasion to observe their
16 habits and mannerisms?

17 A. I did.

18 Q. Do you believe that you can make
19 generalizations about the habits and mannerisms
20 of other crack and powdered cocaine users, based
21 on your training and experience?

22 A. Generally, sir, I think I can.

23 MR. PAULK: Your Honor, at this time I'd
24 move to qualify Mr. Keith Johnson, as an expert
25 in drugs and vice, as well as firearms.

1 THE COURT: I'm not prepared to qualify him
2 yet. We'll do that in front of the jury. Let's
3 just see what you got, but I'm well aware of his
4 qualifications.

5 BY MR. PAULK:

6 Q. Mr. Johnson, did you have the occasion
7 to review some of the evidence in the case of
8 Mr. Delmar Sanders?

9 A. I did.

10 Q. And based on your review of that
11 evidence, did you form some opinions?

12 A. I did.

13 Q. Let's talk generally a little bit about
14 the habits and practices of persons who use
15 crack cocaine and powdered cocaine.

16 What are some of the generalizations that
17 you would attribute to crack and powdered
18 cocaine users?

19 A. To give some context, let me explain
20 this. When I first started working Narcotics in
21 the early '80s, we were still being taught that
22 cocaine was not psychologically addictive.
23 While it was you could develop a psychological
24 dependency on cocaine, or powdered cocaine, it
25 was not physiologically addictive, only

1 psychologically so.

2 We now know that was incorrect. With the
3 advent of crack cocaine, when heated, still to
4 this day, cocaine's still the most powerful
5 stimulant known to man, when heated. There's
6 certain demographic that uses powdered cocaine,
7 and there's a different demographic that uses
8 crack cocaine, it's two different animals, for
9 want of a better description. Use of crack
10 cocaine is all consuming.

11 It's -- they're either using crack cocaine,
12 thinking about using crack cocaine, figuring out
13 how to use crack cocaine, it's completely all
14 consuming. That was the basic difference
15 between powdered cocaine and crack cocaine.

16 Q. Did you also have occasion to observe
17 instances of solicitation and prostitution
18 during your experience as a SLED Narcotics
19 Officer?

20 A. Absolutely.

21 Q. Would you comment on your opinion about
22 the relationship between crack cocaine, powdered
23 cocaine, and solicitation?

24 A. I have never seen anyone addicted to
25 powdered cocaine that would prostitute

1 themselves. Crack cocaine was different, it was
2 almost -- it was the go to, whether it be men or
3 women. Prostitution by crack cocaine users was
4 a common theme. And homeless invariably led to
5 that, if you stayed on it long enough.

6 Q. And along with the practices of
7 solicitation to feed crack addiction, is it also
8 a common practice of persons who are addicted to
9 crack cocaine who do solicit themselves, is it a
10 common practice for them to rob people?

11 A. Yes. Either through armed robbery, or
12 just taking a wallet, but robbery was a common
13 theme also. It's just an opportunity. And the
14 reason being is, in that demographic, in that
15 world, the customer, the John, for more of a
16 better description, can't report it.

17 He's already involved in an illicit crime,
18 so if he gets robbed, he's not gonna report it,
19 so it was common.

20 Q. Would you comment about the opinions
21 that you formed after reviewing the evidence in
22 this case?

23 A. In my opinion, Mr. Sanders' rendition
24 of the events to that and what happened that
25 night was plausible as ones, that the lady the

1 eyewitness put out. It was as plausible that he
2 was gonna be robbed by the gentleman with her
3 and her, as it was that he just randomly shot
4 these people. To me, in my mind, it was more
5 so.

6 Q. And why is that?

7 A. He had no motive. What was his motive?

8 MR. PAULK: Your Honor, that's basically
9 the extent of my questions.

10 THE COURT: Okay, Ms. Jones?

11 MS. JONES: Your Honor, I have no questions
12 for Mr. Johnson, but I certainly object to his
13 testimony.

14 THE COURT: Mr. Paulk, first, I don't --
15 like I said, I know Mr. Johnson well, and have
16 no question, as to his qualifications in the
17 areas; however, can you point me to any case,
18 where we've allowed an expert to, essentially,
19 as I'm hearing, come in and, essentially, vouch
20 for either witness? Because that's what it
21 sounds like he's doing.

22 I know this other case deals more with
23 profiling, that was Agent -- I think it was Paul
24 Larosa, who I'm sure Mr. Johnson knows well, but
25 he didn't -- he seemed to be getting close to

1 the profiling line, but didn't go there. Never
2 offered any opinion on any of the defendants, or
3 the victim, or anybody, and our court was very
4 clear that -- or the Supreme Court, and this is
5 recent, this is 2020, Justice James was pretty
6 clear that we weren't gonna be -- or South
7 Carolina was in no way approving criminal
8 profiling, and this sort of seems to me just to
9 be the same as profiling, just from the other
10 side.

11 That he is, Mr. Johnson -- you've asked Mr.
12 Johnson to give his opinion, as to how all these
13 dynamics work, and it's almost a reverse
14 profiling. Do you see what I'm saying?

15 MR. PAULK: Yes, Your Honor.

16 THE COURT: It would be the same, and I
17 know you would be objecting, if Ms. Jones had
18 called somebody from SLED, to come in and say,
19 "I know all about drug dealers, and I know about
20 people that use cocaine, and I don't believe a
21 thing that Mr. Sanders says."

22 MR. PAULK: Your Honor, if we can restrain
23 Mr. Johnson's opinions, as to generalizations,
24 would that be appropriate and would please the
25 Court?

1 THE COURT: I just -- I don't -- do you
2 have any authority you can provide me? Because
3 as I've told you from day one, I do not in any
4 manner want to inhibit this man's right to a
5 defense, but we've got to do it within the
6 bounds of evidence.

7 MR. PAULK: Yes, Your Honor.

8 BY THE COURT:

9 Q. Mr. Johnson, have you been qualified as
10 an expert in this specific area in any court in
11 South Carolina?

12 A. No, sir.

13 THE COURT: Because I think we are,
14 essentially, inviting him into -- and, again, I
15 know Mr. Johnson well, and I know his
16 qualifications, and he's good at what he does,
17 but I don't think we have any specific authority
18 that allows any expert.

19 Because, you know, we have the CSC experts
20 in the chrome cases, that said that the State
21 can't bring somebody in to vouch for the
22 credibility of victims.

23 So I think, you know, we've got to play it
24 even-handed, it's got to work both ways. And it
25 seems like what you're trying to illicit from

1 Mr. Johnson is, basically, vouching for Mr.
2 Sanders' credibility.

3 MR. PAULK: Your Honor, I'm happy to stay
4 away from any line of questioning that touches
5 on Mr. Johnson's opinions in this specific case.
6 I'm happy to stick to his observations and
7 experiences and training as a SLED operative and
8 a Narcotics Officer for over 37 years.

9 I think that what Mr. Johnson can
10 illustrate to the jury, and what I'm asking him
11 to illustrate to the jury is, not that
12 necessarily these are the actions that happened,
13 but, Your Honor, the people that are sitting on
14 that jury are 9:00 to 5:00 working folks, they
15 don't know anything about this world.

16 This is completely foreign to them, and I'm
17 trying to illustrate to them things that occur
18 every day in the world of criminal justice that
19 we work in. I think that we take it for
20 granted, and assume that everybody knows that
21 this kind of stuff happens. If everybody knew
22 that this kind of stuff happened, they'd be
23 hiding under the bed with an arsenal full of
24 firearms.

25 I think that what Mr. Johnson's testimony

1 goes to show is, not that it's more, and I'll
2 stay away, I will not ask him if he thinks it's
3 more probable that Mr. Sanders did this, or Ms.
4 Randall did this, or Mr. McLendon did this, I
5 want the jury to know the facts of the dirty
6 underbelly of what goes on with drug addicts and
7 prostitutes.

8 THE COURT: Ms. Jones?

9 MS. JONES: Your Honor, I still just don't
10 think that's appropriate. I think that that is
11 invading the province of the jury, they should
12 be able to draw their own conclusions from the
13 evidence. He, essentially, is a blind expert,
14 who has read a report, and I don't know even by
15 limiting those questions, it's going to be
16 implied, what he's saying is going to be implied
17 that he believes Delmar Sanders over he believes
18 Rhonda Randall, and that's wholly inappropriate.

19 THE COURT: Do you have any authority for
20 me, where similar type evidence has been --
21 because, again, I know Mr. Johnson's
22 qualifications, and he's seen it all twice, or
23 three times probably, but I don't know that
24 admitting evidence, that we don't know for sure
25 is in the record, or that's not in the record,

1 is appropriate under these circumstances.
2 Because you'll be eliciting testimony from him
3 that may or may not -- if you had laid -- if you
4 were able to lay a foundation, that, yeah,
5 Rhonda Randall, you know, was trying to steal
6 his wallet, and maybe he was testifying that his
7 actions, based on that -- based on her trying to
8 steal the wallet, there was some sort of
9 foundation for it, but I don't think a trial is
10 just for, as you're saying, educating the jurors
11 on all the underbellies of our criminal world.
12 If you have some specific evidence for him, as
13 far as the firearm is concerned --

14 MR. PAULK: I do, Your Honor.

15 THE COURT: -- I'm happy to entertain that,
16 but I just -- unless absence some authority,
17 that it's okay just to, you know, try to educate
18 the jury on how bad the world it is, I just
19 don't think that's what a trial's for. We're
20 here about what he did or did not do --

21 MR. PAULK: Yes, Your Honor.

22 THE COURT: -- not about all the crazy, and
23 I've sat down with him and heard the stories,
24 about all the crazy stuff he's seen in 30 plus
25 years as a SLED agent.

1 MR. PAULK: Yes, Your Honor.

2 THE COURT: But if you have specific
3 factual things, that he can testify to, or even
4 opinion testimony on things that are in the
5 record, and in evidence, and that are gonna be
6 material to your defense, I'm definitely not
7 gonna stop that.

8 I mean you have a -- or he has a
9 constitutional right to present a defense, and I
10 don't want to impede that --

11 MR. PAULK: Yes, Your Honor.

12 THE COURT: -- in the least, but it's got
13 to be admissible.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: I can't just open the door,
16 just because he has a constitutional right to a
17 defense.

18 MR. PAULK: Yes, Your Honor. When I
19 initially contacted Mr. Johnson, I was seeking
20 an expert that could illustrate to the jury the
21 differences between powdered cocaine and crack
22 cocaine. That is the purpose with which I would
23 ask that his testimony be presented.

24 Your Honor, I believe that we have -- it's
25 4:45, I can call a different witness, if you

1 give me tonight to research, and we can address
2 this issue tomorrow, and if there's no
3 authority, then I concede.

4 THE COURT: Is that okay with you?

5 MS. JONES: Your Honor, that's fine with
6 me, but I think --

7 THE COURT: I don't want Mr. Johnson to be
8 stranded down here in Beaufort overnight, unless
9 he just wants to be, but --

10 WITNESS: I've got a little house right
11 down the road, Your Honor.

12 MS. JONES: Your Honor, I think that
13 testimony would be cumulative, if it's gonna be
14 limited to crack versus powder. Dr. Garvin went
15 into great detail about the differences between
16 crack and powdered and the effects that it has
17 on people, and it's addiction.

18 THE COURT: Well, I'm -- I'll allow it.
19 I'll listen to that, and you do some research on
20 that, but I'll -- again, I'm not trying to tell
21 him how to try his case. I do agree it could be
22 somewhat cumulative, but it's not my job to tell
23 him how to do it.

24 MR. PAULK: And, Your Honor, just in
25 response to that, the testimony that I would

1 attempt to illicit from Mr. Johnson is not
2 psychological or pharmacological in nature, it
3 is necessarily anecdotal in nature, and
4 generalizations about his observations of crack
5 cocaine users and powdered cocaine users,
6 generally.

7 MS. JONES: And, Your Honor, I think that
8 goes to --

9 THE COURT: I think it goes back to what we
10 initially discussed. I mean we're not here,
11 again, as an educational session, we're here to
12 let those 12 folks over there decide what
13 happened that night.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: And if there are specific
16 things in evidence, that he is qualified to
17 opine on, I'm happy to listen to him all day.
18 We've got -- I'm here until Friday, so -- but I
19 think it's got to be something that is specific
20 in the case.

21 MR. PAULK: Yes, Your Honor.

22 THE COURT: Because, again, we can't create
23 hypothetical scenarios that may or may not
24 exist. Everything Mr. Johnson might testify to
25 in his experience, may have been present here,

1 but we don't have any kind of foundation for it.

2 I mean --

3 MR. PAULK: Your Honor --

4 THE COURT: And I say this in trying to be
5 fair, again, you wouldn't want the State putting
6 up somebody like that, saying, "Here's all the
7 ugly things that happen in drug dealing,"
8 because it would severely prejudice him, if they
9 put up somebody like Mr. Johnson that says,
10 "Here's," or bring in some of these
11 investigators to say, "Here's all the dirty
12 things that go on downtown after 2:00 a.m. in
13 downtown Beaufort that you don't know about, and
14 it's all -- it could be related, it could have
15 been what he was doing, we're not sure."

16 So I think that goes both ways. I mean --

17 MR. PAULK: Yes, Your Honor.

18 THE COURT: -- I know you certainly
19 wouldn't want them to be testifying to that --

20 MR. PAULK: I understand.

21 THE COURT: -- in their case in chief --

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: -- as to hypotheticals, and I
24 think we just got to stay away from
25 hypotheticals. If there anything you have,

1 again, that Mr. Johnson can offer expert opinion
2 on that's in the record, I'm more than happy to
3 hear it, because I know his qualifications, and
4 he's been around. Like I said, he knows the
5 business.

6 MR. PAULK: Yes, Your Honor.

7 THE COURT: So if there's anything you have
8 that he can offer an opinion, that can help the
9 jury decide this case --

10 MR. PAULK: Yes, Your Honor.

11 THE COURT: -- then I'm happy to let it in.

12 MR. PAULK: Your Honor, I'm happy to work
13 on that tonight, and I'll report back to you in
14 the morning. At this time, the defense would
15 call Investigator Byrd.

16 THE COURT: Okay.

17 MS. JONES: I did have on more thing about
18 Mr. Johnson.

19 THE COURT: Okay.

20 MS. JONES: Mr. Paulk mentioned that he
21 would like to, sorry, he would like to qualify
22 him as an expert in firearms. I would object to
23 that qualification. I believe he testified that
24 he hadn't been certified since 2016.

25 He didn't analyze anything in this case,

1 and I don't know if somebody that hasn't been
2 qualified in six years has the requisite
3 expertise. Again, I don't know what he would
4 testify to.

5 MR. PAULK: Your Honor if you want me to go
6 ahead and proffer that testimony?

7 THE COURT: Yeah, go ahead.

8 BY MR. PAULK:

9 Q. Mr. Johnson, are you familiar with
10 different calibers of weapons?

11 A. I am.

12 Q. Are you familiar with the 380 caliber?

13 A. I am.

14 Q. Could you describe what 380 caliber is?

15 A. 380 has got the same diameter as a .9
16 millimeter. It's shorter, but the same
17 diameter.

18 You can usually distinguish between the
19 two, where a 380 will generally weigh 90 to 100
20 grains, where a .9 millimeter projectile
21 generally will start at 115 grains. So it's a
22 .9 millimeter short.

23 Q. Okay. And in this case there was a
24 projectile recovered, correct?

25 A. There weas.

1 Q. There was a projectile? Okay.

2 A. Yeah.

3 Q. Did you have an opportunity to examine
4 pictures of that projectile?

5 A. I read a report, and I saw photographs
6 of it.

7 Q. Okay. Based on your review of that
8 report, was that projectile a 380, or a .9
9 millimeter?

10 A. In my opinion, it was a 380, but the
11 report doesn't show the weight of the
12 projectile. That would be the only way I'd know
13 for certain.

14 Q. If you were provided a digital scale
15 and the bullet, which has been entered into
16 evidence, would it be able to be weighed?

17 A. That would be -- yeah.

18 Q. You think --

19 A. That would be simple. If it weighs 90
20 to 100 grains, you can -- it's gonna be a 380.

21 Q. Is a 380 smaller than a .9 millimeter?

22 A. It is, it moves slower and with less
23 mass.

24 Q. And, certainly, different caliber
25 handguns can be different sizes, but generally

1 speaking, is the 380 caliber handgun a smaller
2 handgun physically than a .9 millimeter?

3 A. Much so. It's generally described as a
4 micro-compact.

5 Q. And is a micro-compact something that
6 could fit inside of a pocket easily?

7 A. Easily.

8 MR. PAULK: That would be my questions for
9 Mr. Johnson.

10 THE COURT: Do you have any questions?

11 MS. JONES: No, I don't have any questions.

12 THE COURT: Okay, based upon what defense
13 he's trying to raise, I think, assuming, I would
14 find him qualified. I think that testimony will
15 be admissible, based upon --

16 COURT REPORTER: I'm sorry, I didn't hear
17 you, Your Honor.

18 THE COURT: I think that testimony would be
19 admissible, based upon his defense that he's
20 setting forth thus far. That's, you know,
21 they've raised issues about the size of the gun,
22 and how the gun could be concealed, and he
23 didn't see it, and there's a question of whether
24 or not it could fit in her purse, so I'll allow
25 that testimony.

1 MS. JONES: Okay.

2 MR. PAULK: Your Honor, the only thing,
3 just going back to our prior issue, when I said
4 I was going to research it tonight, there is
5 testimony from Ms. Randall, that she did take
6 Deonne's wallet off of his body.

7 THE COURT: At his request, to get all the
8 drugs and everything off of him. I don't think
9 that was --

10 MR. PAULK: Okay.

11 THE COURT: So if you'all want to work on
12 that tonight, again, I'm all ears tomorrow
13 morning on it.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: But I think his testimony about
16 the gun is material to your defense, as far as
17 someone being able to identify and describe the
18 type of firearm that you claim it is, so I do
19 think that's material and relevant to your
20 defense.

21 MR. PAULK: Thank you, Your Honor.

22 THE COURT: All right, we're gonna call one
23 more. You've got one more quick one?

24 MR. PAULK: Yes, sir.

25 THE COURT: I don't want to -- since we've

1 got to be here tomorrow anyway, there's no need
2 to keep them too late.

3 MR. PAULK: No, sir, five minutes.

4 THE COURT: Okay. Who do you have now, Mr.
5 Paulk?

6 MR. PAULK: Investigator Robert Byrd from
7 the Beaufort County Sheriff's Office.

8 THE COURT: Are they getting the jury?

9 THE BAILIFF: Yes, sir.

10 (Court Reporter marks Defendant's Exhibit
11 Number 7, Photograph, as attached hereto.)

12 (Court Reporter marks Defendant's Exhibit
13 Number 8, Photograph, as attached hereto.)

14 THE BAILIFF: The jury's entering the
15 courtroom, Your Honor.

16 (The jury enters the courtroom.)

17 ***

18 PROCEEDINGS CONTINUED

19 THE COURT: Thank you, sir. All right,
20 ladies and gentlemen, welcome back. They tell
21 me we have one more short witness, and then
22 we're gonna go ahead and adjourn for the day,
23 since we're gonna need to be here tomorrow.

24 MR. PAULK: Your Honor, the defense calls
25 Investigator Robert Byrd.

* * *

ROBERT BYRD

* * *

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PAULK:

Q. Good afternoon, Investigator Byrd, how are you?

A. Good afternoon.

Q. Did you take some pictures at the Beaufort Memorial Hospital in the incident of Mr. Deonne McLendon and Ms. Rhonda Randall?

A. I did.

MR. PAULK: Your Honor, permission to approach?

THE COURT: Sure.

BY MR. PAULK:

Q. Investigator Byrd, I've pre-marked two photographs.

Do you recognize these pictures?

A. I do.

Q. Are they a fair and accurate representation of the pictures that you took?

1 A. They are.

2 Q. And could you tell the jury what these
3 two pictures are?

4 A. Picture labeled as Exhibit 9, that's
5 Ms. Randall's purse. It was at Beaufort
6 Memorial Hospital. And the picture labeled as
7 Exhibit 8 is an image of Mr. Deonne McLendon's
8 driver's license.

9 Q. And is that a driver's license or --

10 A. Or identification card.

11 Q. -- is that an identification card?
12 Okay.

13 Now, what's the difference between a
14 driver's license and identification card,
15 Investigator Byrd?

16 A. One permits someone to drive legally
17 upon the highways in the State of South
18 Carolina, and an identification card is to
19 identify someone. It has a DL number, which is
20 short for driver's license number.

21 Q. Okay.

22 MR. PAULK: Your Honor, permission to
23 publish to the jury?

24 THE COURT: Do you have any objections of
25 them being admitted into evidence?

1 MS. JONES: No objection.
2 THE COURT: Those are the --
3 COURT REPORTER: 7 and 8.
4 THE COURT: -- 7 and 8 --
5 WITNESS: 8 and 9.
6 MR. PAULK: That's a seven?
7 COURT REPORTER: Yes, sir.
8 THE COURT: 7 and 8?
9 COURT REPORTER: That's a 7.
10 THE COURT: Okay, so 7 is the ID?
11 MR. PAULK: 7 is the purse, Your Honor.
12 THE COURT: Oh, okay. And then 8 is the
13 ID, very good.
14 MR. PAULK: Yes, Your Honor.
15 THE COURT: Admitted without objection.
16 (Defendant's Exhibit 9 was admitted into
17 evidence.)
18 BY MR. PAULK:
19 Q. Investigator Byrd, could you identify
20 for the jury which portion of this
21 identification card is such, and not a driver's
22 license? Can you point out the difference
23 between a driver's license and an ID card?
24 A. Okay, at the top, ID, Identification
25 Card.

1 Q. Okay. And you stated this was a fair
2 and accurate representation of Ms. Randall's
3 purse on the night of the incident?

4 A. Yes, sir.

5 MR. PAULK: No further questions, Your
6 Honor.

7 MS. JONES: I have no questions for
8 Investigator Byrd.

9 MR. PAULK: Your Honor, may Mr. Byrd be
10 released from his subpoena?

11 THE COURT: Absolutely.

12 WITNESS: Thank you, Your Honor.

13 THE COURT: Thank you for being here.
14 Well, that was really quick. Do you have
15 another short one?

16 MR. PAULK: I don't believe so, Your Honor.

17 THE COURT: Okay. All right, well, ladies
18 and gentlemen, we're gonna adjourn for the day.
19 I'm trying to figure out tomorrow's schedule.
20 We're gonna have another witness.

21 We're gonna have to have some discussions
22 about it, so why don't we do 9:45 again
23 tomorrow. You'all are released for the day.

24 Again, don't discuss anything about the
25 case with your family, friends, anybody, or

1 amongst yourselves. Don't do any research. No
2 Googling, anything like that about any of these
3 issues, or the specific facts in this case, and
4 we'll see you all back here at 9:45.

5 (The jury exits the courtroom.)

6 THE BAILIFF: The jury's cleared, Your
7 Honor.

8 THE COURT: Thank you. Anybody got
9 anything before we adjourn today?

10 MS. JONES: I just have some scheduling
11 questions, because I do have other matters
12 tomorrow afternoon and Friday morning.

13 Do you think we'll close tomorrow?

14 THE COURT: I don't believe you're gonna
15 have other matters tomorrow afternoon.

16 MS. JONES: I don't think I am either.

17 MR. PAULK: I believe we can close
18 tomorrow.

19 MS. JONES: Okay.

20 THE COURT: You think you can get wrapped
21 up before lunch?

22 MR. PAULK: Maybe.

23 THE COURT: And then we can look at the
24 charge over lunch, then you guys could argue,
25 and then we'd charge, and give them the case

1 tomorrow afternoon? Does that sound reasonable?

2 Because we pretty much have the charge
3 prepared. Are you gonna be asking for a
4 manslaughter charge?

5 MR. PAULK: Yes, Your Honor.

6 THE COURT: You guys --

7 MS. JONES: I'm objecting to a manslaughter
8 charge.

9 THE COURT: Well, because he took the
10 stand, I think he probably has enough in to get
11 the charge, but I'd be happy to be heard on it.

12 MS. JONES: I can argue now, or do you want
13 me to --

14 THE COURT: Yeah, go ahead.

15 MS. JONES: Yeah, okay, absolutely, Your
16 Honor.

17 MR. PAULK: Your Honor, I'm not sure if I'm
18 prepared at this time to argue.

19 THE COURT: Okay, well, let's address it in
20 the morning then.

21 MS. JONES: Okay.

22 THE COURT: That way everybody's prepared.

23 MS. JONES: Thank you.

24 THE COURT: And we'll be a little more
25 prepared too.

1 MR. PAULK: Thank you, Your Honor.

2 THE COURT: And I know you're gonna be
3 wanting a self-defense charge.

4 MR. PAULK: Yes, Your Honor.

5 MS. JONES: I'm objecting to a self-defense
6 charge.

7 THE COURT: I figured as much. Anything
8 else?

9 MS. JONES: Voluntary intoxication charge.

10 THE COURT: Yep, I think we have that in
11 there, don't we?

12 MS. JONES: Yes.

13 THE COURT: And anything else --

14 MR. PAULK: Your Honor, --

15 THE COURT: -- outside of the normal?

16 MR. PAULK: on appearances, but that goes
17 along with self-defense, if we can get him a
18 self-defense, I think that we'd get that.

19 THE COURT: Yeah, you had those things you
20 emailed me would all be in the self-defense
21 charge.

22 MR. PAULK: Okay. Unless I just find
23 something tonight, and if I do, I'll be sure to
24 send it to your Clerk as soon as I --

25 THE COURT: Okay.

1 MR. PAULK: -- come up with it.

2 THE COURT: Just if there's anything
3 different that you'all want, let me know.

4 MR. PAULK: Yes, Your Honor.

5 THE COURT: Because we'll have -- I mean
6 I'll say we'll have it pretty well done. And I
7 will tell you, I mean based upon his testimony,
8 I'm inclined to at least charge the jury on
9 manslaughter and self-defense.

10 Certainly, we'll hear from everybody in the
11 morning. All right?

12 MS. JONES: I'm planning to argue that
13 tomorrow, Your Honor.

14 THE COURT: Okay, thank you.

15 MR. PAULK: Thank you, Your Honor.

16 (At 5:14 p.m. the proceedings were
17 continued to be resumed the following day
18 without interruption.)

19 ***

20 END OF VOLUME III

21

22

.....

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOR THE 14th JUDICIAL CIRCUIT
2021-GS-07-01219 - 01221

State of South Carolina,

Plaintiff,

vs.

Delmar R. Sanders,

TRANSCRIPT OF JURY TRIAL
VOLUME IV
PAGES 588 - 771

Defendant.

August 25, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Heath P. Taylor, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

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PROCEEDINGS

* * *

THURSDAY, AUGUST 25, 2022

BEAUFORT, SOUTH CAROLINA

(The following proceedings were heard in open court. All parties were present.)

THE COURT: Good morning.

MS. JONES: Good morning.

COURT REPORTER: Good morning.

THE BAILIFF: Judge, we don't have the Defendant here yet.

THE COURT: All right.

THE BAILIFF: They're getting him right now.

THE COURT: Well, we will wait until he's up here. All right, everybody ready?

MR. PAULK: Yes, Your Honor.

MS. JONES: Yes, sir.

THE COURT: Just I guess some housekeeping. I have already heard from one of the jurors that needs to be out of here, I think has a child with an athletic event, or something at 6 o'clock.

How -- do you think you're gonna finish by lunch?

1 MR. PAULK: I think we'll finish before
2 lunch, Your Honor.

3 THE COURT: All right, well, then how do
4 you'all feel about when we should argue and
5 charge? If we've got somebody that's already
6 got one foot out the door, needing to be
7 somewhere at 6 o'clock, I don't want to give
8 them the case at 4 o'clock.

9 MR. PAULK: No, Your Honor.

10 THE COURT: I would prefer, if you'all are
11 onboard, that if that's the case, let them go
12 after lunch, and tell them to be here early, you
13 know, be ready to go at 9 o'clock in the
14 morning, and we'll argue and charge then, and
15 then just give them the case, and they've got
16 the whole day, nobody's rushed, nobody's
17 thinking about being somewhere else, when they
18 need to be thinking about this case.

19 Does that suit you'all for scheduling
20 purposes?

21 MR. PAULK: And, Your Honor, in full candor
22 to the Court, after reviewing my case last
23 night, and after preparing for different
24 witnesses I was gonna put up this morning, I've
25 released Investigator Duncan from subpoena. I

1 have Ms. Leslie Gerald that's gonna testify to a
2 few facts, she'll be very brief. Mr. Keith
3 Johnson, we're gonna try to get him qualified as
4 a firearms expert, and talk about that for a
5 moment, but those are gonna be my two witnesses
6 for this morning, depending on what time we
7 finish up with that, I don't think it's gonna
8 take very long to finish that up.

9 THE COURT: Okay.

10 MR. PAULK: It's in Your Honor's discretion
11 on when you want to argue and charge those.

12 THE COURT: Well, I mean if you're gonna be
13 that quick, and we can give it to them, then I'd
14 prefer to do that.

15 MR. PAULK: I think we can do that, Your
16 Honor.

17 THE COURT: You know, I'd rather not spend
18 the afternoon spinning our wheels.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: You know, if you're gonna -- if
21 you think you're gonna be done in an hour or so.

22 MR. PAULK: It could even be less than
23 that.

24 THE COURT: Okay. No, then that's good. I
25 was -- I thought you had about five witnesses

1 left, so --

2 MR. PAULK: I thought I did as well. I
3 reviewed what we were going through and --

4 THE COURT: Because if it was gonna be we
5 were gonna go until 12:30 or 1 o'clock, and then
6 come back at 2:30, I didn't want to --

7 MR. PAULK: No, Your Honor.

8 THE COURT: I think -- I'm anticipating,
9 and I've been wrong a hundred times in trial,
10 but I'm anticipating a lengthy deliberation, but
11 you never know.

12 MR. PAULK: Yes, Your Honor.

13 THE COURT: So I didn't want to give them,
14 like I say, give them the case at 3:00 or 4
15 o'clock --

16 MR. PAULK: No, Your Honor.

17 THE COURT: -- knowing one wanted to be
18 somewhere else.

19 MR. PAULK: I anticipate -- I would ask for
20 a short stretch of time just to finalize our
21 closing.

22 THE COURT: Yeah, no, I will give you'all a
23 half an hour or so to --

24 MR. PAULK: Okay.

25 THE COURT: -- sit down with your notes,

1 and get your thoughts together. I'm fine with
2 that, and --

3 MR. PAULK: I think we can get it to the
4 jury before lunch.

5 THE COURT: Okay. All right, then that
6 brings us to the charge.

7 ***

8 CHARGE CONFERENCE

9 THE COURT: I know you said you wanted a
10 manslaughter charge --

11 MR. PAULK: Yes, Your Honor.

12 THE COURT: -- and a self-defense charge.

13 MR. PAULK: Yes, Your Honor.

14 THE COURT: I know the State is opposed to
15 that.

16 MR. PAULK: Yes, Your Honor.

17 THE COURT: I did some homework on that
18 last night myself, and the cases on that are
19 about as clear as mud, as far as when --
20 especially with manslaughter.

21 As I understand the standard, it is to view
22 the light -- or view the evidence in the light
23 most favorable to the defendant, and if there's
24 any evidence whatsoever, then I need to give him
25 the manslaughter charge. After looking at it, I

1 mean I think -- I mean I definitely am inclined
2 to give it -- give him the manslaughter charged,
3 based upon his testimony. Had he not testified,
4 I don't think he would be entitled to one. The
5 same with self-defense.

6 Now, I'll be happy to allow the State to
7 put anything on the record you need to. I know
8 you'all are opposed to that, but I think there
9 is some evidence in the record that supports it.

10 MS. JONES: Your Honor, I would be opposed
11 to both. And when we say manslaughter, we're
12 talking voluntary not involuntary?

13 THE COURT: Yes. Yes.

14 MS. JONES: Okay.

15 THE COURT: I -- yeah, voluntary.

16 MS. JONES: Okay.

17 THE COURT: I apologize.

18 MS. JONES: As Your Honor knows, voluntary
19 requires heat of passion, upon sufficient legal
20 provocation, we have to have both, and words
21 alone are not enough to mitigate it from murder
22 down to manslaughter.

23 The direct quote from Mr. Sanders, when he
24 took the stand yesterday was, "They did not
25 threaten me, they went against my will." He did

1 not want them to drive his car. There was never
2 any threat. There was -- he'd never even said
3 that Deonne pointed the gun at him, he said it
4 was in his lap.

5 I don't see how any of that rises to the
6 level of heat of passion. There's nothing in
7 the record to substantiate that he did not have
8 a cooling off period. That he was so enraged,
9 as to not have the ability to control his
10 actions. There's just nothing to that.

11 If this was a scorned lover situation,
12 which seems to be all in the manslaughter cases
13 seem to rise around that, I think we would
14 absolutely could say that manslaughter would be
15 appropriate; but here I just -- I don't know
16 what evidence is the heat of passion.

17 THE COURT: Again, in taking the evidence
18 in a light most favorable to him, I think there
19 was testimony, at least the way I understood it,
20 is that he saw Mr. McLendon coming around the
21 vehicle, I think his words were something to the
22 effect of sort of freaked out, something like
23 that, and reached in and grabbed the gun, and
24 then it all happened really fast.

25 So I think, again, taking the evidence in a

1 light most favorable to him, that entitles him
2 to the charge, and that -- that's my reasoning,
3 just based on how fast he says it all happened.
4 And, again, if he doesn't testify, I don't think
5 he's entitled to the charge at all.

6 MS. JONES: Okay.

7 THE COURT: But based upon his testimony, I
8 find that there is at least some evidence that
9 entitled him to it.

10 MS. JONES: I am now going to move onto
11 self-defense. I do have some cases I want to
12 provide the defense, as well as Your Honor,
13 regarding the self-defense charge.

14 I do not think self-defense is appropriate
15 here. I do know Your Honor duly finds a matter
16 of law for self-defense was not met. And I just
17 want to go through the factors of self-defense.
18 The Defendant must be without fault in bringing
19 on the difficulty. As you know, 23-31-400, it's
20 unlawful for a person under the influence to use
21 a firearm.

22 In every statement he made he was under the
23 influence. He never denied using cocaine that
24 night. That was the real consistency, I think
25 that was the one thing consistent in all of his

1 statements was, that he was high on cocaine that
2 night, and by law, he is not allowed to have a
3 gun, use a gun, be around a gun when he's high
4 on cocaine.

5 He makes many, many guilty statements that
6 says -- giving rise that he did bring on the
7 difficulty. "I shouldn't have done it. I'm not
8 saying you screwed up, I screwed up. I was
9 thinking the wrong thing, man, if I hadn't have
10 been -- it was a stupid decision. I was under
11 the influence of cocaine. If I wasn't under the
12 influence, this never would have happened. I'm
13 a ticking timebomb."

14 Just over and over and over, it's the
15 ingestion of the cocaine that led to his
16 reaction, that led to him in killing Deonne, I
17 mean but for that. Now, I know he gave
18 different renditions, but in every single
19 statement he's high on cocaine. The varying
20 degrees of how he was, of course, changed, but
21 he admits he was high on cocaine every single
22 time.

23 Secondly, without fault -- my apologies,
24 have actually believed he was in imminent
25 danger. Even if you believe his last statement

1 that he testified to, at the time he gained
2 control of that gun, there's no danger, there's
3 no imminent danger, he has control of that gun,
4 and then he has the wherewithal to raise it and
5 pull the trigger at least twice on Deonne, and
6 then turn it and pull it at least one time on
7 Rhonda.

8 He admitted on the stand that at that time
9 he was the only person in possession of the gun.
10 If he's the only person in possession of the
11 gun, how is there any imminent threat, any
12 danger to -- for death or seriously bodily
13 injury, there just isn't.

14 And that moves into the third prong of
15 reasonableness, would a reasonable man have
16 viewed that he was in imminent danger? No.
17 Because if you are the only person in possession
18 of a weapon in front of two other people, that
19 do not have weapons, how are they a threat to
20 you?

21 How are they going to kill you? How are
22 they going to cause serious bodily injury?
23 They're not, and it's not reasonable to think
24 that they could, because, at the time, as he
25 admitted, he knew he was the only one in

1 possession of a weapon that night. No probable
2 means to escape. He said that his fear started
3 in the parking lot of the Oasis Inn. He could
4 have left, he could have left then. He passed
5 multiple businesses driving out of town, he
6 could have pulled over there.

7 He could have stopped there and asked for
8 help. He had a cell phone there. He was
9 scrolling, looking at his direct deposit. He
10 could have called 911. He could have sent his
11 location to somebody. He could have sent a SOS,
12 you can do that on cell phones these days, but
13 he didn't do any of that, because he never was
14 in fear.

15 He never had the requisite fear necessary
16 for self-defense, and that's why he didn't
17 leave, even though he could have. And the
18 moment that Dionne got out of that front seat,
19 and started to walk around the car, drive off.
20 He could have easily done that, but he didn't,
21 'cause he didn't want to leave his cousin. So
22 what is it?

23 Are you scared, or you don't want to leave
24 your cousin? I don't think he gets to have it
25 both ways. I also want to refer to the Santiago

1 case, Your Honor. That actually is a Court of
2 Appeals case from 2006. I did hand up a copy to
3 Your Honor, as well as Mr. Paulk. The defendant
4 in that case dated the victim's daughter. They
5 broke up, essentially, the parents forced her to
6 break up with him.

7 He went over to collect some of his
8 belongings, and him and the victim, who was the
9 girlfriend's father, start looking for this belt
10 that he's looking for. They argue, the father
11 then takes some of his stuff to the defendant's
12 car. When they open the trunk, the victim sees
13 the defendant's shotgun in the trunk. The
14 defendant then grabs it and shoots the victim
15 multiple times.

16 The defendant claimed self-defense, because
17 he said that because it was in the proximity of
18 both of them, and the victim looked at it, that
19 gave him the fear. That's exactly what we have
20 here. They never -- he never says that Deonne
21 had reached for the gun. He never says that
22 Rhonda reached for the gun. He can see that
23 there's no way the two of them could have -- be
24 passing the gun between the seat and the door.
25 He said, "Yeah, I thought that was weird too,

1 that a gun wouldn't be able to fit through
2 there. And then Deonne comes back the second
3 time, again, believing his final story he said,
4 he never says Deonne reached for the gun, and
5 that's the same thing that we have in Santiago,
6 is that just looking at it is not enough. They
7 did not charge self-defense.

8 The Court of Appeals affirmed that the
9 Court did not need to charge self-defense in
10 that case. It said that the evidence did not
11 support a finding that Santiago was without
12 fault bringing on the difficulty. He had gone
13 with a loaded gun in his car that was observed
14 by the victim.

15 I do still say that that gun was not
16 Deonne's gun that night. I know that the
17 Defendant says it was Deonne's gun, but, again,
18 he's been pretty inconsistent, and that's the
19 only evidence that that was Deonne's gun.
20 Santiago argued that the hostile act occurred
21 when the victim looked at the gun, looked at
22 Santiago, and looked at the gun again. This
23 fair assertion is insufficient to establish a
24 hostile act by the victim. Santiago never
25 claimed that he made a move for the gun before

1 the -- before Santiago took it. That's exactly
2 what we have here. Sanders never says that
3 Deonne reached for the gun, or that Rhonda
4 reached for the gun.

5 He said that Rhonda was propped up with her
6 elbows up in between the two backseats. If her
7 elbows are up, and he even gave us a visual, her
8 elbows are up, and she's propped like this,
9 she's not reaching for a gun. And he just said
10 that Deonne looked at it, and he grabbed it
11 before Deonne could, but according to the
12 Santiago that's not enough for self-defense.
13 That there's no hostile act there, that looking
14 at the gun is not enough, and that's exactly
15 what we have here.

16 It goes onto say that Santiago asserts that
17 he was -- he actually believed he was in
18 imminent danger, but that was not met, because a
19 reasonable prudent person of ordinary fitness
20 and courage would not have feared for his life
21 in that situation, because, at that time,
22 Santiago was the only person in possession of a
23 gun. That's exactly what we have here.

24 At the time that Delmar gained control of
25 that gun, he's the only person in possession of

1 that gun. He's not in actual danger, and no
2 reasonable person could have believed that they
3 were in danger. I don't think he meets any of
4 the self-defense prongs, but, specifically, two
5 and three, I think he falls short on, and I
6 think that because of the Santiago case, the
7 Court does not need to charge self-defense, it's
8 not appropriate, and I would ask that you not
9 charge it.

10 THE COURT: Well, I think much like Mr.
11 Paulk's directed verdict motion, you make a very
12 excellent -- or closing argument, but I believe
13 there is some evidence in the record, that would
14 support a self-defense charge.

15 And it may be that, you know, a jury finds
16 there's appropriate self-defense, with regard to
17 Mr. McLendon, and not with Ms. Randall, because
18 just what you said about her just sitting there.
19 He did testify that -- at least that he felt
20 there was some aggression when he was coming
21 around the front of the car, so I mean I think
22 that gets him there, as far as the charge. You
23 know, the reasonable person is certainly very
24 subjective. He testified that he was afraid.

25 So, again, on -- I find that on all four

1 elements, there is at least some evidence to
2 support a charge on self-defense.

3 MR. PAULK: And, Your Honor, I would just
4 like to correct a small misstatement of fact.
5 Mr. Sanders did testify on direct, that Mr.
6 McLendon came back around to the passenger side
7 of the vehicle, and that he was reaching for the
8 gun, whenever Mr. Sanders reached for the gun.

9 I just want to make sure that we're clear
10 about that, there was direct testimony of that
11 fact.

12 THE COURT: Okay. So at this point we're
13 gonna charge him on voluntary manslaughter. We
14 will charge on self-defense, because there is
15 case law that says they are not mutually
16 exclusive, and you can charge on both of them.
17 Anything else? We do have your voluntary
18 intoxication charge in there.

19 MR. PAULK: And, Your Honor, we would be
20 opposing that voluntary intoxication charge.
21 Mr. Sanders does talk quite a bit during his
22 initial interview with Duncan and Tunis about
23 voluntary intoxication.

24 We have never raised voluntary intoxication
25 as a defense. We have never claimed once that

1 it's okay that he did this, because he was on
2 cocaine, and that he was paranoid. That's not
3 what the argument is.

4 Our argument is, that he was placed in this
5 situation - as he was using cocaine, he was
6 hanging out with these individuals. He was
7 placed in this situation, because of the actions
8 that he was taking, but, certainly, these
9 actions did not occur solely because of the use
10 of cocaine. The actions that he described, the
11 actions that he saw were things that he
12 perceived. They were things that happened.

13 His judgment of how those things happened
14 may have been clouded by the use of drugs, yes,
15 but we're not claiming that the use of drugs was
16 the reason that he pulled the trigger. We are
17 claiming that the reason that he pulled the
18 trigger was, he thought he was being robbed.

19 THE COURT: Well, I certainly appreciate
20 that argument, but at least in his recorded
21 statement, he at least implies that cocaine was
22 a big factor in why he did it, so I think the
23 State is entitled to the voluntary intoxication
24 charge.

25 MR. PAULK: Yes, Your Honor. I would just

1 ask the Court that -- I'm sure that Your Honor
2 is aware of this, but it is improper to charge
3 on flight as evidence of guilt.

4 THE COURT: We are not including flight.

5 MR. PAULK: Okay.

6 THE COURT: We've researched that
7 yesterday, Jessica found the case, and --

8 MR. PAULK: Okay.

9 THE COURT: -- we're not charging that.

10 MR. PAULK: I would ask that --

11 THE COURT: I think now she can certainly
12 argue that --

13 MR. PAULK: Of course, of course.

14 THE COURT: -- but --

15 MR. PAULK: She's entitled to argue it, but
16 it's just not a charge.

17 THE COURT: Yeah, but no charge, you're
18 right.

19 MR. PAULK: We would ask that the
20 protection of the Persons and Property Act be
21 charged. During the stand your ground hearing
22 the Judge is the trier of fact, at the trial the
23 jury is the trier of fact.

24 They've certainly heard testimony that
25 could allow them to believe that Mr. Sanders

1 falls within the qualifications of the
2 protection of the Persons and Property Act
3 to --

4 THE COURT: Well, let me say, I believe
5 there's a case on point that says you're not
6 supposed to --

7 MR. PAULK: Okay.

8 THE COURT: -- charge that.

9 MR. PAULK: That's fine, Your Honor. Isn't
10 that right, Jessica?

11 THE LAW CLERK: I don't know, I would have
12 to research that.

13 THE COURT: I think there was one that
14 Judge Hayes actually charged the act, and they
15 reversed saying, you were not supposed to charge
16 the act.

17 MR. PAULK: Okay.

18 THE LAW CLERK: It's statutory.

19 THE COURT: Yeah.

20 MR. PAULK: That's fine. I would like to
21 bring up State v. Revon (phonetic), I'll hand it
22 up to the Court and Madam Solicitor.

23 State v. Andre (phonetic), basically, goes
24 through the procedures of what we're supposed to
25 do whenever a defendant puts up evidence in his

1 case, and how closings are supposed to go. In
2 their conclusion, the Court says that while they
3 understand that they're not allowed to make
4 rules of procedure, that that's a legislative
5 process, that in this --

6 THE COURT: I know, and I read it last
7 week. What's the argument? I don't -- just --

8 MR. PAULK: I want --

9 THE COURT: -- tell me what your argument
10 is.

11 MR. PAULK: I'm requesting that the State
12 be required to fully close on the facts and the
13 law, that I be allowed to fully close on the
14 facts and the law, and that they be only allowed
15 to rebut things that come up.

16 THE COURT: And that's the way I understand
17 the procedure is, as set forth.

18 Do you have any --

19 MS. JONES: I'm happy to go twice, Your
20 Honor.

21 THE COURT: Okay. Yeah, and you -- the
22 State would fully open on the facts and the law,
23 and then be entitled to a rebuttal after he
24 fully closes on the facts and the law, so we're
25 all clear on that, yeah.

1 MR. PAULK: Yes, sir.

2 THE COURT: I'm familiar with it.

3 MR. PAULK: And that rebuttal is limited to
4 things that I bring up --

5 THE COURT: Right.

6 MR. PAULK: -- in my closing.

7 THE COURT: Not -- basically as Mr. Wise,
8 who I know very well argued, not sandbagging
9 you, so, yeah.

10 MR. PAULK: Your Honor, the only other
11 thing that I would like to just make sure that
12 we have sort of -- I would like to include a
13 copy of the transcript for the stand your ground
14 hearing, as well as the motions that were made
15 as a Court's exhibit, so they can be considered
16 for appeal.

17 THE COURT: Absolutely. If it wasn't
18 already part of the record, definitely will make
19 them Court exhibits, so the folks in Columbia
20 will have it.

21 (Court's Exhibit 7 was entered into
22 evidence.)

23 MS. JONES: And I recall we were talking
24 about the jury charges. I did want to touch on
25 a couple that Mr. Paulk has before trial even

1 started.

2 He asked for the prior difficulties charge.
3 I don't think there is any testimony of any
4 prior difficulties between Mr. McLendon and Mr.
5 Sanders, aside from what happened that night.
6 There was some at the immunity hearing, but
7 nothing came out in testimony with Mr. Sanders
8 yesterday. Same for the victim's propensity for
9 violence.

10 Of course, well, I don't think that the two
11 witnesses that are coming this morning are gonna
12 testify to that. Same for reputation for
13 violence and turbulence, I don't think there was
14 any testimony in the record to any of those.

15 THE COURT: I tend to agree. Mr. Paulk,
16 any position on that?

17 MR. PAULK: Your Honor, Rhonda Randall
18 stated, under cross-examination, that, "Yeah,
19 Deonne was in trouble all the time, he was a bad
20 boy." I think that that goes towards his
21 reputation for violence. That could be
22 construed in many different ways.

23 I certainly understand that we did not
24 elicit testimony about prior difficulties
25 between Mr. Sanders and Mr. McLendon. I would

1 respectfully agree to the Court's decision on
2 that, but I do believe that we should get into
3 the --

4 THE COURT: Well, you know, he was a bad
5 boy could mean a million different things. It
6 was -- the question -- there was never any
7 testimony specific, as to what that meant. I
8 mean bad boy can mean he does drugs every day,
9 or it could mean that he, you know, carries a
10 gun around.

11 I don't think there was any specific
12 evidence as to what bad boy meant, as far as
13 whether it was violence, or drugs, or what, you
14 know, what that meant, so I think I agree with
15 the State on that, those probably need to be
16 removed from the charge.

17 Anything else?

18 MS. JONES: Just regarding the testimony of
19 Mr. Johnson, again, I wanted to clear up his
20 testimony, before he took the stand. I know
21 that we left with Mr. Paulk would be researching
22 that issue.

23 THE COURT: Well, I'll stop you there. I
24 researched that last night too, and off-the-cuff
25 I guess I just got lucky when I cited Cromer

1 yesterday, but I think that does apply, that an
2 expert can't vouch --

3 MS. JONES: Right.

4 THE COURT: -- for a witness.

5 MS. JONES: Thank you, that is my opinion
6 as well, Your Honor.

7 THE COURT: And, you know, like I said
8 yesterday, that cuts both ways. I mean, you
9 know, as a defense lawyer, he would certainly be
10 - in those CSC cases he'd be saying that that
11 forensic expert can't say the kid was credible,
12 and I think that works both ways.

13 MS. JONES: I agree, but I did want to
14 touch on Mr. Johnson being able to be qualified
15 as an expert in firearms, I guess is what he
16 would be qualified in as.

17 MR. PAULK: Your Honor, I did a poor job
18 yesterday of eliciting Mr. Johnson's prior
19 experience, and training experience with
20 firearms.

21 I simply asked him if he was a firearms
22 instructor. I've since learned that being a
23 firearms instructor in South Carolina just means
24 that you go for a week and shoot a thousand
25 rounds and that's about it.

1 I think that the fact that he does not
2 currently have his firearms instructor license
3 should not prevent him from being an expert
4 witness, as to firearms. I can certainly
5 elucidate more testimony during voir dire Mr.
6 Johnson about his training and experience he
7 received in firearms. I believe that the
8 testimony that he proffered yesterday certainly
9 shows his expertise with firearms.

10 He knows the specific grainages (sic) of
11 different calibers of weapons and different
12 projectiles, and I'm happy to elucidate any more
13 testimony that Your Honor needs, as to Mr.
14 Johnson's expertise in firearms.

15 THE COURT: Yeah, I would agree. I mean I
16 don't think to be an expert, you just -- you're
17 qualified as an expert just because you sat
18 through a class. I mean I think the rule
19 envisions, you know, experts being qualified,
20 based upon their experience, in addition to, you
21 know, training and things of that nature.

22 So, you know, if he can demonstrate his
23 breath of experience over 30 plus years as a
24 SLED agent, then I think it's probably
25 appropriate to qualify him in that specific

1 area. Again, we're not --

2 MR. PAULK: In that specific area.

3 THE COURT: -- getting into --

4 MR. PAULK: The only testimony that I will
5 be getting out of Mr. Johnson is strictly what I
6 proffered.

7 THE COURT: We're not getting into drugs
8 and --

9 MR. PAULK: No.

10 THE COURT: -- prostitution and all that
11 stuff. I mean --

12 MR. PAULK: Right.

13 THE COURT: -- but I will -- because you
14 have raised that as a defense, I will -- I
15 believe -- I will allow the testimony related to
16 the gun, and his description of a 380, and what
17 it looks like, and how small it is, and that's
18 as far as we're going.

19 MR. PAULK: Yes, Your Honor.

20 MS. JONES: Okay. Respectfully, I
21 disagree, but thank you, Your Honor, that's all
22 I have.

23 THE COURT: I suspected that, but that's
24 okay.

25 MS. JONES: That's all I have.

1 (Court's Exhibits 8 - 9 admitted into
2 evidence.)

3 MR. PAULK: Nothing further.

4 THE COURT: Anything else?

5 MR. PAULK: No, Your Honor.

6 THE COURT: Want to get the jury?

7 THE BAILIFF: Sure.

8 (The jury's enters the courtroom.)

9 THE BAILIFF: The jury's in the courtroom,
10 Your Honor.

11 THE COURT: Thank you, sir. Good morning,
12 ladies and gentlemen. All right, I understand
13 someone may need to be out of here today. What
14 time?

15 THE JUROR: If I could leave about 5:00,
16 that would be great. We have a game at 6:00.

17 THE COURT: Okay, your children?

18 THE JUROR: I'm a head coach of a middle
19 school team.

20 THE COURT: Okay, a football game?

21 THE JUROR: Yes, sir.

22 THE COURT: All right. Well, we will make
23 sure -- you said 5:30, right, or 5:00?

24 THE JUROR: 5:00 would be great, 5:30 would
25 be pushing it.

1 THE COURT: Okay.

2 Well, we will make sure that happens,
3 because I have boys that play football too, and
4 that's important to me as well, so I want to
5 make sure you spend the time you need to with
6 your family, and all of you. We are going to do
7 our best to get this case to you folks today.

8 If we need to adjourn deliberations at 5:00
9 for, you know, to take care of your personal
10 matters, we will do that; but, again, we're
11 gonna do our best to get this case in your hands
12 today, but we will keep in mind that you need to
13 get out of her for personal reasons at 5:00, and
14 if we have to adjourn and come back tomorrow
15 morning, that's what we want to do, because,
16 again, we want you all to take your job
17 seriously, but don't want you to be worried
18 about being somewhere else.

19 So, again if we need to stop to accommodate
20 that, we will, but like I said we're gonna do
21 our best to have this in your hands today. Mr.
22 Paulk, you ready?

23 MR. PAULK: Yes, Your Honor. The defense
24 calls Leslie Jarrell.

25 * * *

1 LESLIE JARRELL

2 * * *

3 being first duly sworn, testified as
4 follows:

5 ***

6 DIRECT EXAMINATION

7 BY MR. PAULK:

8 Q. Good morning, Ms. Jarrell.

9 A. Good morning.

10 Q. Could you tell the jury where you work?

11 A. Low Country All Works.

12 Q. And what is Low Country All Works?

13 A. We are a site prep company. We used to
14 do tree work, however, we decided to venture
15 more into the site work and preparation for
16 building houses and septic tanks.

17 Q. Okay. And how long -- do you own that
18 business?

19 A. My husband does.

20 Q. How long have you worked for that
21 business?

22 A. Since day one, so 2016.

23 Q. Okay. Was Delmar Sanders employed at
24 Low County All Works?

25 A. Yes, sir.

1 Q. Are you the record custodian for Low
2 Country All Works?

3 A. Yes, sir.

4 Q. Do you process payroll?

5 A. I do, every week.

6 Q. Is there a calendar of -- do you'all
7 keep up with what jobs you do?

8 A. For the most part, yes, sir. I try my
9 best, but between weather and having to
10 reschedule things, because with supplies
11 sometimes it may differ, but I try to keep up
12 with it the best I can.

13 Q. Sure. Do you recall last July on the
14 22nd, do you know what job they were working?

15 A. Not specifically.

16 Q. Okay.

17 A. They were hauling in a bunch of dirt
18 for a house patch.

19 Q. Okay. And was Mr. Sanders at work that
20 day?

21 A. Yes, sir.

22 Q. About what time did they finish up the
23 job that day?

24 A. The dirt pit closes at 4:00, to grade
25 the pad, everything, they should have been back

1 at the yard between 5:00 and 6 o'clock.

2 Q. Okay. And, generally, what time do
3 you'all have your employees show up for work?

4 A. Anywhere between 6:30 and 7:00.

5 Q. Okay, and where do they show up to most
6 of the time?

7 A. Most of the time our yard.

8 Q. Where is you'all's yard?

9 A. My house.

10 Q. Where's your house?

11 A. [REDACTED] Colleton Drive in Greys Hill.

12 Q. Greys Hill, okay.

13 MR. PAULK: Your Honor, may I approach the
14 witness?

15 THE COURT: Yes, sir.

16 (Court Reporter marks Defendant's Exhibit
17 Number 9, Payroll Record, as attached hereto.)

18 ***

19 BY MR. PAULK:

20 Q. Mr. Jarrell, could you tell the jury
21 what I just handed you a copy of?

22 A. This is his pay record.

23 Q. Whose pay record?

24 A. Delmar Sanders.

25 Q. And what does that pay record reflect?

1 What was his last paycheck?

2 A. His last paycheck was direct deposit on
3 July 23rd.

4 Q. And you process payroll, how does that
5 work?

6 A. So, basically, our payroll, our
7 schedule is Friday to Thursday, so at the end of
8 the day on Thursday, I go ahead, hop online,
9 process it, and that way when the guys wake up
10 on Friday morning, it's already in their bank
11 account.

12 I don't have to worry about writing checks,
13 them holding checks, because I had a couple
14 people do that, or them asking to come in late,
15 or leave early to go to the bank to deposit
16 their check.

17 Q. And, of course, you're not the bank, so
18 you can't tell us what time the paycheck goes
19 in, but, generally --

20 A. Anytime after midnight.

21 Q. Okay. That document that I've handed
22 you, is that a fair and accurate representation
23 of Mr. Sanders' payroll record?

24 A. Yes, sir, I printed it directly out of
25 our system.

1 Q. Has it been altered in any way?

2 A. No, sir.

3 MR. PAULK: Your Honor, at this time,
4 defense would move Mr. Sanders' payroll evidence
5 in -- or payroll record into evidence.

6 THE COURT: Any objection?

7 MS. JONES: No objection.

8 THE COURT: All right, Mr. Sanders' payroll
9 record will be Defendant's 9 --

10 THE LAW CLERK: Yes, sir.

11 THE COURT: -- and it is admitted.

12 MR. PAUK: Your Honor, I have no further
13 questions for this witness. I ask that --
14 obviously, after the Solicitor finishes, that
15 she be released from the subpoena.

16 THE COURT: Ms. Jones?

17 ***

18 CROSS-EXAMINATION

19 BY MS. JONES:

20 Q. Good morning, Ms. Jarrell.

21 A. Good morning.

22 Q. How long did Delmar Sanders work for
23 you?

24 A. Maybe two months. Without looking at
25 the thing, I couldn't give you the exact dates.

1 I know he started in -- or ended in -- July 22nd
2 was his last check. I want to say he started
3 the beginning of June, mid of June.

4 Q. So not a year?

5 A. No, ma'am.

6 Q. Okay.

7 A. Oh, no, ma'am.

8 Q. Thank you.

9 THE COURT: Any redirect?

10 MR. PAULK: No, Your Honor.

11 THE COURT: All right, Ms. Jarrell, you are
12 excused.

13 WITNESS: All right, thank you.

14 THE COURT: And she can be released from
15 her subpoena, correct?

16 MR. PAULK: Yes, Your Honor.

17 THE COURT: All right, Mr. Paulk, call your
18 next witness.

19 MR. PAULK: Your Honor, defense calls Keith
20 Johnson. Your Honor, I'm gonna go get the
21 witness.

22 THE COURT: All right.

23 MR. PAULK: He's in the bathroom, Your
24 Honor, he told me he'd be right out.

25 THE COURT: No problem. Counsel, can

1 you'all approach?

2 (Bench conference.)

3 * * *

4 DONALD K. JOHNSON

5 * * *

6 being first duly sworn, testified as
7 follows:

8 ***

9 DIRECT EXAMINATION

10 BY MR. PAULK:

11 Q. Good morning, Mr. Johnson, how are you
12 today?

13 A. Hey, good morning.

14 Q. Where do you work?

15 A. I'm self-employed. I do private
16 investigation consulting.

17 Q. And --

18 MS. JONES: Without objection, I'll
19 stipulate that Mr. Johnson is an expert.

20 THE COURT: Okay.

21 BY MR. PAULK:

22 Q. Mr. Johnson --

23 THE COURT: All right, let me explain what
24 that means. Ladies and gentlemen, you've heard
25 us talk about experts throughout the course of

1 the trial, and I charged you on the purpose of
2 an expert, and how that is to be factored into
3 your deliberations.

4 What just happened here is, the State has
5 stipulated that Mr. Johnson, by virtue of his
6 training and experience, at which I'm sure Mr.
7 Paulk may elaborate on a little bit, but the
8 State has stipulated that is an expert in the
9 field of firearms.

10 So he is gonna give you some testimony on
11 that, and if you want to go into a little bit
12 more, just to give them a little background, but
13 the State agrees that he is an expert in
14 firearms, based upon his training and
15 experience.

16 BY MR. PAULK:

17 Q. Mr. Johnson, before you did private
18 investigations, where did you work?

19 A. The State Law Enforcement Division.

20 Q. And how long were you employed with
21 SLED?

22 A. 37 years.

23 Q. And at your time at SLED, did you
24 receive training in firearms?

25 A. I did.

1 Q. Could you tell us the difference
2 between a 380 caliber bullet and .9 millimeter
3 bullet?

4 A. I can. A 380 bullet is sometimes
5 referred to as a 380 browning, or a 380 ACP, or
6 -- for automatic Colt pistol, and .9 millimeter
7 is a .9 millimeter -- is the diameter. What's
8 the same about them are the diameter, which is
9 .355, as a caliber, to make it a little simpler.
10 The length of the projectile will be shorter
11 than a .9 millimeter. It's a shorter case.
12 It's sometimes referred to as a .9 millimeter
13 short, as opposed to a .9 millimeter. It's less
14 power, it doesn't have the velocity, and it's a
15 winder bullet.

16 Q. Mr. Johnson, did you have an
17 opportunity to review a report, which gave you
18 the dimensions of the projectile in this case?

19 A. I did.

20 Q. And after reviewing that report, did
21 you come to a conclusion about what kind of
22 projectile it was?

23 A. I did.

24 Q. And what was your conclusion?

25 A. In my opinion, it's a 380.

1 Q. Now, could you explain the difference
2 to the jury in the size of the physical handguns
3 that fired these projectiles?

4 A. Sure. Generally speaking, the 380
5 today, what they will refer to as a micro-
6 compact, they're very small, sometimes the size
7 of your hand. As * have progressed, they've
8 become wider and smaller.

9 A 380, because it doesn't generate the case
10 pressure that a .9 millimeter does, can be put
11 on a smaller frame, so they literally shrink it,
12 they're very small. Usually, your hand could
13 cover it.

14 Q. Is, generally, one of these micro-
15 compacts, is that something that could fit
16 inside of a pocket?

17 A. Oh, absolutely.

18 Q. Is it something that could fit inside
19 of a purse?

20 A. Oh, very easily.

21 Q. Mr. Johnson, I'm gonna show you what's
22 been marked, if I can find it, as defense
23 Exhibit 7.

24 A. Yes, sir.

25 Q. Would a micro-compact be able to fit

2 MS. JONES: Your Honor, I'm gonna object to
3 that, there's no dimensions on that, there's no
4 size on that. We don't know how big that purse
5 is. That calls for speculation on the part of
6 this witness.

8 MR. PAULK: No further questions, Your
9 Honor.

12 MS. JONES: Briefly.

14 CROSS-EXAMINATION

16 Q. Are you Mr. Johnson now, or former
17 Agent Johnson?

19 Q. Thank you. I never know what to call
20 you'll, when you'll retire. To really be able
21 to tell what a bullet is, you need to weigh it,
22 don't you?

24 Q. Yeah, and you never weighed this one,
25 did you?

1 A. No, ma'am, and it's not in the report.

2 Q. And 380s, while some of them may be
3 what you referred to as micro-compact, they
4 actually do come in different sizes, don't they?

5 A. That's correct.

6 Q. So they're not all these teeny, teeny,
7 tiny little micro-compact guns?

8 A. Not all.

9 Q. And wouldn't you agree that we'd know a
10 whole lot more about that bullet, and about the
11 gun that fired it, if the Defendant didn't
12 dispose of the gun?

13 A. That'd be speculation on my part, Ms.
14 Jones.

15 Q. Thank you very much.

16 THE COURT: Any redirect?

17 MR. PAULK: No, Your Honor.

18 THE COURT: All right, Mr. Johnson.

19 WITNESS: Yes, Your Honor?

20 THE COURT: You're excused. And he is
21 released from his subpoena?

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: Have a safe trip back to
24 Columbia.

25 WITNESS: Thank you.

1 THE COURT: Mr. Paulk?

2 MR. PAULK: Your Honor, at this time the
3 defense rests.

4 ***

5 DEFENSE RESTS

6 THE COURT: All right, ladies and
7 gentlemen, both sides have now rested their
8 case. We've got a little bit of work to do, to
9 get ready to present the case to you. I have
10 some work, as far as the law is concerned.

11 I'm gonna give them a little time to get
12 their thoughts together, as far as their closing
13 arguments are concerned, so we're gonna take
14 about a half an hour break, so you can check in
15 with work, or home, or whatever you need to do,
16 and we'll try to be back out here and ready to
17 do closing arguments, and charge you folks on
18 the law at let's say 10:45.

19 In the meantime, I think Rick is getting
20 some menus together for you guys to order lunch,
21 so we're gonna all work through lunch, and so
22 you'll take care of all that, and we will see
23 you back about 10:45.

24 Actually, let's say 11:00, because I know
25 you've got some -- a motion, as well.

1 (The jury exits the courtroom.)

2 THE BAILIFF: The jury's cleared, Your
3 Honor.

4 THE COURT: Thank you, sir.

5 MR. PAULK: Your Honor, at this time
6 defense would renew our motion for a directed
7 verdict. As I said yesterday, the State has got
8 the responsibility of proving their case.
9 They've got the responsibility of disproving our
10 case. The State has got to prove to the jury
11 beyond a reasonable doubt, that Mr. Sanders did
12 not act in self-defense.

13 So the first element of self-defense, the
14 Defendant be without fault in bringing on the
15 difficulty. The fault has got to be the
16 approximate cause of the guilt. The unlawful
17 activity which occurs, must be the approximate
18 cause of the shooting, and I don't believe that
19 we have that here.

20 I believe that there's conflicting
21 testimony, as to what the cause of the shooting
22 is. I believe that Mr. Sanders' testimony and
23 the testimony that the jury is entitled to lend
24 their credibility to is, that Mr. Sanders fired
25 that weapon that night, because he was in fear

1 of his life.

2 He fired that weapon -- he fired Mr.
3 McLendon's weapon that night, because Mr.
4 McLendon introduced a firearm into the
5 situation. Mr. Sanders has to believe that he
6 was in imminent danger, that he was actually in
7 imminent danger, that there was a reasonable
8 belief for imminent danger. We've got testimony
9 from Mr. Sanders now. Mr. Sanders clearly, on
10 the stand, under direct testimony, told the jury
11 that he was in fear for his life.

12 That he was in fear of his life, from the
13 time that he started noticing what he called red
14 flags. He started noticing things that weren't
15 quite right. There was supposed to be two
16 girls, there's one girl. They're trying to lure
17 him into the hotel room. He doesn't want to go
18 to the hotel room.

19 They continue to try to get him in there.
20 That seems odd to him, that perks him up. He
21 notices that things aren't quite what they're
22 supposed to be. Mr. Sanders didn't believe that
23 there was a gun in the car that night, until Mr.
24 McLendon presented one, until it was laying on
25 Mr. McLendon's lap, pointed at Mr. Sanders.

1 Mr. Sanders didn't want anybody to go with
2 him to the ATM that night. He explained, while
3 we were watching the Oasis surveillance footage,
4 that he had the doors locked. That he unlocked
5 the door for his cousin, and that then you can
6 see on the video, his cousin reaches back around
7 and unlocks for Rhonda. We can see that she's
8 pulling on the door, she's yanking on the door,
9 it's locked.

10 He didn't want these guests going with him.
11 He didn't want them going with him to the ATM.
12 Your Honor, Mr. Sanders' testimony was that he
13 was coming up with an excuse to get out of
14 there. He was trying to get away.

15 Whenever his unwanted companions joined
16 him, and introduced a firearm into the
17 situation, that is when Mr. Sanders had to take
18 actions into his own hands to protect his own
19 life.

20 Had Mr. Sanders not acted the way that he
21 did that night, he firmly believes that he would
22 not be here today to give his testimony.
23 Perhaps would be representing Mr. McLendon.

24 Your Honor, I think it's fully plausible
25 that is fully plausible that a reasonable person

1 would believe that their life was in imminent
2 danger at this time.

3 I believe that we have shown the four
4 elements necessary to prove self-defense, and
5 it's not our burden to prove self-defense, it's
6 the State's burden to disprove self-defense.
7 Your Honor, Investigator Tunis testified that he
8 was aware that they're all -- when Rhonda
9 testified on direct -- on cross-examination that
10 all of their messages that night they were all
11 on Facebook.

12 She said, "If you want to know what
13 happened, go get the Facebook records." Your
14 Honor, that duty's on the State. They've got to
15 bring those records into court.

16 If they wanted to know what happened that
17 night, they would have got those Facebook
18 records, they would have shown them to the jury,
19 and there would be no question about what
20 happened. They didn't do that. That is a
21 failure of this investigation, Your Honor.

22 Your Honor, Investigator Tunis also
23 testified yesterday that he believed that the
24 cell phone ping happened in Georgia. Your
25 Honor, that cell phone ping came back from that

1 CAD record at 1:49 a.m., a mere 20 minutes after
2 this incident happened.

3 There's no way that Mr. Sanders made it all
4 the way to Georgia in that Dodge Durango.
5 There's no way that that cell phone was in
6 Georgia, just based on the amount of time.
7 Further than that, the address 105 Longstaff
8 Avenue, we can pull it up right here, and I'm
9 requesting that the Court take judicial notice
10 of the fact, 105 Longstaff Avenue, that's on the
11 MCAST Airbase, that's at the Marine Corps.

12 Air Station. That CAD record said that
13 that phone was .63 miles away from that cell
14 phone tower at the time. Your Honor, Beaufort,
15 South Carolina is not .63 miles away from
16 Georgia.

17 Your Honor, it's the State's burden to
18 prove what happened that night, and they have
19 not done that. The facts in this case are as
20 clear as mud. We've got an eyewitness who's
21 told every single officer a different story,
22 who's told the Court a different story every
23 time that she's opened her mouth.

24 And Your Honor can see it. We have Mr.
25 Sanders, who has also told a couple of different

1 stories, but Mr. Sanders' story has been
2 consistent since he spoke with Mr. Duncan and
3 Mr. Tunis in that interview room, that he was
4 afraid for his life, that there was no gun in
5 the car, that when he saw the gun in the car,
6 that's when he knew that things were about to
7 get really serious, when Mr. McLendon had that
8 gun pointed toward him, laying in his lap. Your
9 Honor, the reasonable person standard is a
10 subjective test, not an objective test.

11 A reasonable person is required to put
12 themselves in Mr. Sanders' shoes and view the
13 facts as they were available to him at the time.
14 I believe that a reasonable person, under the
15 influence of cocaine or not, noticing that
16 someone passing something back and forth,
17 hearing something heavy drop in the back, that
18 tried to be lured into a hotel room, would have
19 had the same concerns, and would have had the
20 same apprehension and reasonable belief of
21 imminent danger, an actual belief of imminent
22 danger.

23 Your Honor, I don't believe that the State
24 has proven their case, beyond a reasonable
25 doubt, and I believe that they're required to.

1 And for all those foregoing reasons I would
2 renew my motion for a directed verdict, and that
3 Mr. Sanders be found not guilty.

4 THE COURT: Thank you, Mr. Paulk.

5 For the same reasons I think that I denied
6 the State's request not to charge on self-
7 defense, I think that requires me to deny your
8 motion for a directed verdict. I think there
9 are sufficient facts in this record, the need to
10 be determined by a jury, and that's what we're
11 gonna do.

12 So I have -- you guys should have the
13 charge now, and I'm gonna go back and review it,
14 and let's, you know, plan to be ready at 11:00.
15 I'll give you'all time to get your thoughts
16 together for closings, and we'll get this in the
17 hands of the jury.

18 MR. PAULK: Thank you, Your Honor. As to
19 the matter of judicial notice of the address
20 that was listed in the CAD record --

21 THE COURT: I --

22 MR. PAULK: -- is there any issue with
23 that?

24 THE COURT: -- don't think I can do that
25 now, that everybody's rested.

1 MR. PAULK: Correct, Your Honor.

2 THE COURT: All right, anything else?

3 MS. JONES: Not from the State.

4 THE COURT: All right, we will be at ease
5 until 11:00.

6 (Recess.)

7 THE BAILIFF: All rise, this Court's now
8 back in session.

9 THE COURT: Thank you, please be seated.
10 Counsel, do we have any issues with the charge?

11 MR. PAULK: Your Honor, I believe that I
12 argued that Mr. Sanders was living out of his
13 car at the time. We asked for a castle doctrine
14 charge. I understand if you're not inclined to
15 do that, that's the only thing I didn't see in
16 there.

17 THE COURT: Yeah, I'm not going to
18 charge --

19 MR. PAULK: Okay.

20 THE COURT: -- on the actual statute.

21 MR. PAULK: Yes, Your Honor?

22 THE COURT: Anything, Ms. Jones?

23 MS. JONES: Nothing from the State.

24 THE COURT: All right, one thing we didn't
25 do at the close of evidence was publish the

1 stipulation.

2 I'm going to publish that before I read the
3 charge, if that's okay with you'all. We did
4 change the verdict form. Did you send that to
5 them? Just saw where we had taken something off
6 the bottom. It had to knock on the door, or let
7 us know once you've reached a verdict, and I
8 thought it might confuse them, if we had it on
9 each form. They might reach one verdict, then
10 come knock on the door, before they started
11 deliberating on the other one, so we just took
12 that off altogether, and then I will advise them
13 of that in the charge.

14 I just didn't want them to get one verdict,
15 and come back out, and then go back, you know.
16 So if there's a way to confuse people, it seems
17 to happen sometimes. Those are the verdict
18 form.

19 All right, let's get them in. Or do
20 you'all want me to publish that stipulation,
21 before you do your closings? I think I'll do
22 that as soon as they come back in, because I'll
23 charge, obviously, after closing.

24 THE BAILIFF: The jury's entering the
25 courtroom, Your Honor.

1 THE COURT: Thank you, sir.

2 THE BAILIFF: The jury's seated, Your
3 Honor.

4 THE COURT: Thank you.

5 ***

6 PROCEEDINGS CONTINUED

7 ***

8 THE COURT: All right, ladies and
9 gentlemen, it's almost your turn to get to work.
10 I need to read you what's called a stipulation
11 to DNA evidence. What happened, as you saw
12 throughout the course of the trial, the parties
13 don't always agree on how evidence comes in, but
14 they did agree on this piece of evidence; and in
15 order to save some of your time, they didn't
16 call an extra witness, but I'm gonna read the
17 stipulation to you, and you'll be able to
18 consider it, as you wish, in your deliberations.

19 It says, "The State and Defendant, Delmar
20 Sanders, by and through counsel, M. Seth Paulk,
21 hereby stipulate to the fact that Ms. Rhonda
22 Randall's DNA was present on the mouthpiece of
23 two crack pipes that were found at the crime
24 scene."

25 And that is signed by Mr. Paulk, on behalf

1 of Mr. Sanders, and it is signed by Ms. Jones,
2 on behalf of the State. M

3 Madam Court Reporter, do you want to take
4 that back?

5 COURT REPROTER: Yes, sir, thank you.

6 THE COURT: Thank you. All right, ladies
7 and gentlemen, the parties have presented their
8 evidence in this case. It is now time for the
9 attorneys to make their closing arguments. Just
10 like the opening statements, the arguments of
11 the attorneys are not evidence in this case.
12 Their statements and arguments are meant to help
13 you understand the evidence and apply the law to
14 the evidence.

15 You should disregard any remark, statement
16 or argument which is not supported by the
17 evidence presented during the trial, or the law
18 that I will explain to you after their
19 arguments. Ms. Jones?

20 ***

21 CLOSING ARGUMENT BY MS. JONES

22 MS. JONES: I came before you Tuesday
23 morning, and I told you this was never a case of
24 alibi, because as I said, Deonne McLendon,
25 before he took his last breath, he told us.

1 (Video being played for the jury.)

2 MS. JONES: Delmar, Delmar. We later learn
3 that Delmar is Delmar Sanders, the Defendant
4 seated over there.

5 We learned throughout this trial that July
6 23rd, 2021 is a night that changes the lives of
7 a lot of people. Deonne loses his, Rhonda
8 almost loses hers, and the Defendant is on trial
9 for both.

10 We hear from him, but you also hear from
11 Rhonda. You hear from Rhonda at the very
12 beginning, right before you hear from Deonne.

13 (Video being played for the jury.)

14 MS. JONES: They got out to switch drivers,
15 and the guy just started shooting. That's what
16 she said from day one, and that is what she has
17 consistently said, up until she testified in
18 front of you'all this week.

19 Now, the defense put her ex-husband on the
20 witness stand to try to tell you'all Rhonda's a
21 liar, Rhonda has this reputation in the community
22 for being a liar. He ex-husband, who, when I
23 asked, "Well, did you know that Rhonda gave the
24 same story to three different Beaufort County
25 Deputies? That Rhonda then gave the same story

1 two different times under oath?" He said, "What
2 story? What statement? What are you talking
3 about? What statement?"

4 He had questions for me, because he didn't
5 know a thing about the case. He didn't know
6 about what happened on July 23rd of 2021. Do
7 you know who does? Rhonda, and she told you.

8 Now, the defense is gonna want you to think
9 that she's flawed, because she's a crack addict.
10 I think her addiction is what makes her the most
11 open book that we saw on this witness stand the
12 whole week. She got up on that witness stand,
13 and she told you all of her embarrassing, dirty
14 secrets. She told you, "That, yes, I'm addicted
15 to crack cocaine," she says, "because my child
16 passed, and I relapse some times, and this night
17 was a relapse." She told you that, "Yeah, I
18 would also prostitute myself, because I had to
19 pay my bills.

20 She also talked about her husband, and the
21 history of domestic violence with him. She told
22 you all of the embarrassing details of her most
23 personal life, she had nothing to hide from you.
24 So what did she say about what happened on July
25 23rd? She said that the three of them are

1 together, Deonne, who she called Scooter, the
2 Defendant, who she had just met that night, and
3 her, and they're riding around town and they're
4 all high, every single one of them.

5 She had been up for a couple days. She
6 smokes crack cocaine. Her DNA is on the crack
7 pipes. The two crack pipes that we keep hearing
8 about, she said their hers. She never tried to
9 lie about that. She never tried to her
10 addiction, she is addicted to crack cocaine, and
11 she told you that.

12 No qualms about it, no hiding, no secrets,
13 no deception, nothing, she told you that. She
14 said that Delmar was swerving, and reasonably
15 so, they didn't want to get pulled over by the
16 police, so they want to switch drivers. And you
17 saw Delmar driving, you saw him pull into the
18 Oasis.

19 Look how he pulls into the Oasis Inn. And
20 watch how he pulls into this parking spot.

21 (Video being played for the jury.)

22 MS. JONES: He's thinking about it. No, I
23 don't want to park there, so I'm gonna go
24 forward a little bit. And then when he leaves
25 he goes the wrong way down on that road, down

1 that part of the parking lot.

2 He's already high, he's already under the
3 influence, he's already driving bad, and he's a
4 target for the cops, and they don't want that.
5 They don't want to go to jail that night.

6 So they leave the Oasis Inn, and they need
7 more cocaine. That's what Rhonda tells you,
8 they need more drugs, but to get these drugs
9 they need cash. Well, Delmar had just got his
10 direct deposit, so he's gonna go to the ATM.
11 And he tells you, he gets up on the stand, and
12 he talks about why I won't take anybody to the
13 ATM with me, I'll take my brother, my mama, but
14 I ain't taking my cousin to the ATM, I don't
15 know what he means by all that.

16 He could have gone to the ATM while they
17 were in the hotel. He could have left. He
18 could have gone on with his night, while they
19 were at the hotel, and he didn't, because he
20 wanted to continue to party, continue to get
21 plastered, as he says in his interview, to
22 continue the night. But he passes all the ATM
23 machines, he passes all the businesses, he
24 passes all the gas stations, and he stops at a
25 rural dirt road in Beaufort County, and stops at

1 Stanley Farm and Laurel Bay, where there's
2 nothing around?

3 There's a couple homes, but not anywhere
4 near where he stops. But then he also wanted to
5 stop, because he's so scared of them, they're
6 gonna rob him, he's so scared, so he's gonna
7 pull over here, where he is now alone, with what
8 he wants you to think are his would be robbers,
9 and we'll get to that in a minute, but she says,
10 "Yeah, he pulled over, because they were gonna
11 switch drivers."

12 What is it she said immediately when the
13 police get there, that's what she said on-scene,
14 that's what she said in the hospital, that's
15 what she said on the witness stand, they pulled
16 over to switch drivers. She says there were no
17 threats, there's no danger, the only argument
18 was over who was going to drive. And that is
19 the argument that cost Deonne his life.

20 Deonne gets out of the car, and by the time
21 he gets around in front of the car, she hears
22 shots. It's dark, I mean you see there's no
23 lights there. He shoots Deonne, and then he
24 turns the gun on her. She doesn't even have
25 time to realize that she's being shot until

1 after she's already shot, she told you that.

2 She said, "I hear the shots," and they want
3 to confuse you by saying, "Well," to her, "did
4 you hear a pow, pow, or did you hear a pow, pow,
5 pow? How many did you hear?"

6 Delmar, himself, couldn't tell you how many
7 times he pulled that trigger. He says that he
8 shot Deonne one time, when we know that's a lie,
9 because Deonne was shot twice, one, two.
10 Rhonda's terrified when she realizes that she's
11 been shot. She jumps out of that car, she asks
12 for her cell phone. Delmar says, "No, I'm not
13 giving it to you," and he flees.

14 He takes off and he leaves the State of
15 South Carolina. She's alone, she's in shock,
16 she's hysterical. She has no way to call for
17 help, so she flags down Gerald Moultrie, and he
18 calls 911 for her. And he took the stand,
19 defense brought him to testify. You heard his
20 911 call, and you hear that he doesn't really
21 know what's going on, he just happened upon this
22 hysterical woman in the street.

23 She's saying her friend's been shot, she's
24 asking for help, so he does what he can do, he
25 calls 911. He says, "I don't know what's going

1 on, I'm not getting out of my car, but here's my
2 name, here's my number, you'all can call me, if
3 you need me." They brought him in on the stand
4 to say that she was acting weird, she was acting
5 odd.

6 He doesn't know her. He doesn't know
7 anything about what happened. He wasn't there,
8 but you saw her and right after it happened,
9 right when she's talking to the police, they
10 were switching seats and he started shooting.

11 he told you there was no threats, there was
12 no danger, there was no other gun. She told you
13 there was no other weapon, and she even went so
14 far as to tell you, and this is probably
15 embarrassing for her to tell you, she saw Deonne
16 naked that night in the hotel room, he didn't
17 have anything on him, he was not armed, he had
18 nothing. That was Deonne's gun, that was the
19 Defendant's gun.

20 The defense also brought in this picture of
21 Rhonda's purse, and he tried to get their expert
22 to tell you that a 380 couldn't fit inside this
23 purse. Well, what did their expert tell you?
24 That 380s come in all different sizes, and
25 Delmar, when he took the stand, he wanted you to

1 think that part of his fear was because he
2 thought they were passing something between the
3 seat, from Deonne in the front and Rhonda in the
4 back. But then Delmar even said -- he agreed
5 that a gun couldn't have fit in between the
6 seat, that there's no way they could have been
7 passing a gun back and forth.

8 So what is it? Were you scared? Were they
9 passing a gun? It just doesn't make sense. And
10 then he wants to tell you that he -- the shots
11 he fired were warning shots, that he never
12 intended to kill anybody that night. Well, if
13 you don't intend to kill somebody, why are you
14 going to aim a gun at them and pull the trigger
15 at least two times from mere feet away?

16 What other intent do you have than to kill?
17 And what did he do? He did kill him. If he
18 wants to fire a warning shot, fire a warning
19 shot in the air. You don't fire directly at
20 somebody from a couple feet away. And then the
21 defense brought in this -- I mean they have
22 their investigator come up, and show these
23 pictures of the measurements of the hood. I
24 don't know, was Delmar too short to fire over
25 the hood? Did he not do it, or what? What is

1 that?

2 Smoke and mirrors is what it is. But back
3 to the warning shots, he fired twice at Deonne.
4 He hit him two times. And then he took the gun
5 and he pointed it from just a couple feet away
6 at Rhonda, and that's not a warning shot, ladies
7 and gentlemen, that's a kill shot, it just
8 happened to hit her in the arm; but because he's
9 just a bad shot, that doesn't mean he gets away
10 with attempted murder.

11 You're gonna hear about murder, and what is
12 murder, and what is attempted murder, and you're
13 gonna hear the word malice, and all of that is
14 gonna come from the Judge. So I don't want to
15 talk to you too much about the law, because I
16 don't want to misstate what you're gonna be
17 charged on the law.

18 The Judge is gonna be charging you on the
19 law, but malice can be inferred from all the
20 circumstances that night. And it doesn't have
21 to exist for a significant period of time, you
22 don't have to wait for somebody to kill for it
23 to be murder, a malice can happen in a second.
24 And the moment Delmar grabbed that gun, all he
25 had on his mind and his hear and his hand was

1 malice.

2 This is murder, this is attempted murder,
3 no question. Delmar, Delmar Sanders took that
4 stand, and he gave you a whole new story about
5 what happened that night. Delmar and his list
6 of lies. He has not been consistent about one
7 thing from the moment this happened.

8 The only thing that maybe he's been
9 consistent about is, that he was high on
10 cocaine; but even then he wavered on how much he
11 did, and how high he was. He wasn't swerving
12 because he was high, he was swerving because he
13 was looking in the back. You cannot believe
14 anything he tells you. At best, Delmar, the
15 Defendant, gave you a multiple choice test, and
16 which one is it?

17 And, ladies and gentlemen, the truth is not
18 multiple choice. Let's talk about the
19 Defendant's stories, or the Defendant's lies.
20 At first he tells you about these two guys, they
21 get in the car at the hotel, and that's when he
22 starts to be afraid.

23 We're having some difficulties, of course.
24 But we know from the Oasis Inn video, and we
25 were gonna show it, but we appear to be having

1 some problems, there's no two guys, there's just
2 the three of them. It's always just the three
3 of them.

4 And what I wanted you also to hear with
5 that, when he's telling a story, his lie, about
6 the two men that come into the car, his
7 demeanor. He talks fast, he's ready to go, he's
8 ready to tell you every detail he can possibly
9 tell you, ready to get it out, ready to tell you
10 every lie he can think of for this.

11 And how many times from the witness stand
12 yesterday, he had to be told to slow down?
13 Because that was just another story, another lie
14 coming from the Defendant. He's a liar, who
15 before this interview with Tunis and Duncan, had
16 ten plus hours to come up with this story, to
17 rehearse that first story with the two men.

18 And when that didn't work, he tried to sell
19 another one, and when that didn't work, he tried
20 to sell another one, and when that didn't work,
21 he came up here and gave a totally different
22 story. Delmar Sanders is a liar. He lied to
23 you, he lied to the police, he lied about
24 everything that happened that night, and you
25 cannot trust a liar.

1 Again, at best, he gave you a multiple-
2 choice test, and this is a true or false test.
3 The truth is he's embellished the lies so much
4 that even he doesn't know.

5 So some of these lies, were they passing a
6 gun back and forth, or was it too big to fit
7 through the side? Was he high, or was he in
8 fear? Did he lose his phone that night, or did
9 he call his friends and family after he killed
10 Deonne? Did he need gas, or did have enough to
11 get to Georgia? Did he disarm the gun so a kid
12 wouldn't find it, or did he disarm it and
13 dismantle it, as he said, so it wouldn't go when
14 he threw it out the window.

15 Why throw it out the window anyways? If
16 you're acting in self-defense, if you're
17 justified in killing this man, you're justified
18 in killing -- in trying to kill this woman, why
19 get rid of the evidence? You get rid of the
20 evidence because you're guilty, because you did
21 something wrong. Did he grab the gun on the
22 seat, or did he not grab the gun on the seat?
23 Was he waiting on his direct deposit, or was he
24 gonna have to overdraft his card?

25 Delmar cannot keep up with his lies,

1 because they are so many, that he is just losing
2 track. Was the Oasis Inn the final destination,
3 or did he know he was gonna wait for them?
4 Because if you remember from the video, what
5 does he do when he pulls into the parking lot?
6 He turns his car off. If he was just dropping
7 them off for their rendezvous, why is he gonna
8 stop his car and wait? And whose gun was that,
9 that killed Deonne?

10 The only evidence that says that it was
11 Deonne's gun comes from the Defendant's mouth,
12 and don't believe a thing he says. I mean I can
13 keep going. His story from yesterday, a story
14 he had over a year to practice, to rehearse, to
15 get right for his big debut. Just another one
16 of his list of lies. He first mentions the
17 bootlegger for the first time yesterday.

18 He talks about hearing a loud object drop
19 on the floor. He talks about not knowing if it
20 was a gun maybe, or if it was maybe some of the
21 tools in the back of his car. He talked about
22 them passing something, but knew that it
23 couldn't have been a gun they were passing back
24 and forth, because the gun wouldn't fit. He
25 can't keep his own story straight, but who kept

1 the story straight? Rhonda. He talks about how
2 he pulled over to talk to them on this rural
3 road, where there's nobody around, but then he
4 also says he pulled over, because he was so
5 afraid.

6 So, again, which is it? Truth isn't
7 multiple choice. Did he pull over because he
8 knew it was a rural road, because he knew they
9 were alone? Because he didn't get that girl he
10 thought he was getting that night. He thought
11 he was getting Lacey, and there was no Lacey at
12 the Oasis Inn for him.

13 There's a gun, was he mad? What's his
14 plan? Nothing makes sense, or nothing makes
15 sense that comes from the mouth of that man over
16 there. That man an admitted liar, who tried to
17 sell you story after story after story. He
18 talks about, when he got on the stand that
19 Deonne had the gun, and he's sitting in the
20 passenger seat, and he had it on his lap, but it
21 wasn't pointed at him, it was pointed towards
22 his direction, and Deonne had his hand on it,
23 and that made him scared.

24 He thought he was being set up. He thought
25 he was being robbed. Well, what does he then

1 say? He then says that Deonne gets out of the
2 passenger seat, walks around and leaves the gun
3 on the seat. Now, if Deonne was gonna rob him,
4 Deonne would have to have been the worst armed
5 robber in history, if he was gonna leave the
6 only weapon that night in that passenger seat.
7 That's not how it happened, because that one
8 also does not make sense.

9 He talks about the gun being under the hood
10 of the car, and he says he didn't want the gun
11 there, because he can't be around guns, 'cause
12 you heard he's a convicted felon, he's not
13 allowed to have a gun in his possession. So he
14 was real concerned about this gun being under
15 the hood, but then he gets to Oasis Inn and
16 allegedly that's their final destination, so if
17 it's Deonne's gun, why doesn't Deonne get it
18 from under the hood of the car?

19 If he's so concerned about the gun being in
20 his car, tell Deonne to get it. He's not
21 concerned about the gun being in his car,
22 because it's his gun. He talks, again,
23 yesterday and I'm trying to keep up with
24 everything he said. He talks about how Deonne
25 leaves the gun in the seat, comes around to

1 confront him.

2 They argue about who's driving, and then he
3 goes back to get the gun. That just doesn't
4 make sense. And what really doesn't make sense
5 about all of that is, why wait until we're in
6 here? He told the police what happened that
7 night. Wouldn't it be real important that, if
8 you are being questioned and interrogated by two
9 investigators for murder, to tell them that,
10 "No, no, no, no, no, this was self-defense
11 you'all. He was gonna shoot me, so it was me or
12 him."

13 Wouldn't that be an important detail to
14 tell them? He didn't say that. He never said
15 that, because that's not what happened. And he
16 just goes on and on and on, a different story
17 after different story after different story. He
18 can't keep up, I'm struggling to keep up, but at
19 the end of the day, the truth isn't multiple
20 choice.

21 The truth remains the same. And if you
22 remember the last thing I asked the Defendant,
23 when he was on that witness stand, I said,
24 "Okay, Mr. Sanders, you shot and killed an
25 unarmed man." And what did he say? He said,

1 "Yes." The moment he has that gun in his hand,
2 any perceived fear, although I don't think he
3 really had fear, I don't think there's any
4 evidence of fear, except for his lies, is gone.

5 He's now in control. He has the weapon.
6 He has the gun. He has the threat, the danger.
7 So what does he do? He shoots and kills an
8 unarmed man. And then he tries to kill Rhonda,
9 as she's fleeing, the only living witness.

10 He didn't expect Deonne to live. He didn't
11 expect Rhonda to live, but they did, and they've
12 both told you what happened that night. The
13 Judge is gonna instruct you on a charge called
14 voluntary manslaughter.

15 This is not voluntary manslaughter. The
16 Judge is gonna tell you that voluntary
17 manslaughter is a killing of another in the heat
18 of passion, with sufficient legal provocation.
19 When we hear heat of passion, we think walking
20 in on your spouse with somebody else. You don't
21 think of an argument over who's going to be
22 driving the car that night. When you think of
23 sufficient legal provocation is somebody
24 pointing a gun at you.

25 You don't think of you snatching the gun

1 and pointing it at them. Where's the heat of
2 passion? Where's the provocation? It's not
3 there, because this is not voluntary
4 manslaughter. The Defendant told you what
5 happened according to him, "They did not
6 threaten me, they went against my will." His
7 manhood had been challenged. He didn't have his
8 girl, Lacey, there for him, and now they're
9 trying to take his car over?

10 Oh, no, no, no, no, he's not having that.
11 And, again, if this was a killing that he could
12 not control, why not tell the police, tell the
13 investigators. He couldn't wait to talk to
14 them. He couldn't wait to tell them his side of
15 the story. Why leave out the most important
16 part? I was defending myself, where I had to do
17 it. It was uncontrollable, and I had to do it.
18 He didn't say any of that.

19 He talks about his high on cocaine, and
20 that's why he did it. You're also gonna be
21 charged with self-defense. And this is not
22 self-defense. In no way, shape or form was
23 Delmar Sanders defending his life that night.
24 And the Judge is going to instruct you on
25 specifically what South Carolina says the law of

1 self-defense is, but, briefly, self-defense is
2 an all-inclusive and law.

3 All four of these have to be met for him to
4 get off on self-defense, all four, without fault
5 in bringing the difficulty. Well, the
6 difficulty is the argument over the swerving
7 from his driving high. He's the one that's
8 causing that difficulty. The whole reason
9 Rhonda's in the car is because she has the
10 driver's license, and she's supposed to be
11 driving. But, nope, he insisted on driving, and
12 you saw him swerve, and you saw him driving in
13 that parking lot. He has to be in imminent,
14 immediate danger of losing his life, or sustain
15 serious bodily injury.

16 Once that gun is in his hand, what danger
17 exists? Once that gun is pointed at Deonne,
18 where's the threat to Delmar? Once that gun is
19 pointed at Rhonda, where's the threat to Delmar?
20 There is no threat, there never was a threat,
21 there never was any danger, much less imminent,
22 immediate death. The only threat that night,
23 the only danger that night, the only guilty
24 person that night is the Defendant.

25 If he wasn't in actual imminent danger,

1 then it had to be one that a reasonable person
2 would have felt the danger. And, again, what
3 reasonable person would fear death or serious
4 bodily injury face-to-face with an unarmed man?
5 Face-to-face with someone you call your friend
6 or cousin. There's no danger there, there's no
7 threat, there's no danger, nothing. This is not
8 self-defense.

9 He wasn't defending anything. He was not
10 defending his life. He was not defending
11 anybody else. He was defending nothing, but
12 maybe his pride. No other means to escape.
13 Leave the Oasis Inn. You were there with your
14 car by yourself, leave. You say that you
15 started getting paranoid and get scared, at that
16 point, because you think they're trying to set
17 you up by her coming in the car, and trying to
18 get you to go inside, leave.

19 Why didn't he leave? He was in control, he
20 was the driver, why not leave? Because he never
21 was in fear. How about when Deonne gets out of
22 the passenger seat, drive off then, why doesn't
23 he do that? Again, because there was no danger,
24 there was no threat, there was no fear. The
25 Judge is also going to instruct you on the law

1 of voluntary intoxication.

2 You saw the interview, and I think we're
3 still having some technical difficulties, but
4 Delmar goes on and on and on about his drug
5 problem. And an addiction is a sad thing. I
6 mean Rhonda told you the horror stories that
7 she's had to live with, with her addiction.
8 Addiction is a sad thing.

9 And he told you, he said, "If it wasn't for
10 the cocaine, I wouldn't be here. If I was just
11 on marijuana, I wouldn't be here." He blames it
12 on the cocaine, but that is not a defense. In
13 South Carolina, if you voluntarily ingest a
14 drug, or drink too much alcohol and you commit a
15 crime, you're just as responsible as if you did
16 it when you were sober.

17 Some of the things the Defendant says, when
18 he's talking to Tunis and Duncan, that shows
19 that he knows what he did was murder. That he
20 knows what he did was not justified. That he
21 knows that what he did was not self-defense.
22 They said, "Just tell us the truth, man." He
23 says, "It's too late. It's too late." He knows
24 he's already lied. He says, "I'm not saying you
25 guys screwed up, I screwed up."

1 If he screwed up, how is it not self-
2 defense? If he's acting in self-defense that's
3 not a mistake. He says -- talking about how it
4 all happened. They said, "Man, just tell us
5 what happened next. Tell us what happened
6 next." He says, "It's going down by making a
7 stupid choice, going down by making a stupid
8 choice, a stupid decision, meaning if I wasn't
9 under the influence, I wouldn't have made that
10 choice. I would have thought rationally.

11 I would not have made that choice." That
12 might have been the truest thing the Defendant
13 said throughout this whole investigation,
14 throughout this whole trial; but, again,
15 voluntary intoxication is not a defense.
16 They're talking about the gun, and they asked
17 him, "Where is it?" He says, "Threw it.

18 I disarmed it, I dismantled it, and I threw
19 it." Why is he throwing a gun, evidence? Why
20 is he hiding evidence, if what he did was
21 justified? He's hiding evidence, because he
22 doesn't expect Deonne to live, he doesn't expect
23 Rhonda to live, and he doesn't want anybody to
24 know that he's the one that did it.

25 He says, "I'm so stupid." He says, "I've

1 been struggling with this drug thing. This has
2 nothing to do with what I did wrong." Again, if
3 you're acting in self-defense, you didn't do
4 anything wrong.

5 He said, "I have no excuses, man. I'm an
6 idiot, and I was doing good, I failed. I failed
7 my Lord, I failed myself, I failed my family, I
8 failed it all. I can tell you one thing though,
9 if it wasn't for that cocaine, man, I wouldn't
10 be here."

11 Yet again, if it wasn't for the cocaine he
12 would not have made the choices he made that
13 night. You heard all about drugs, paranoia, and
14 how when you bring in weapons with that
15 equation, it is a deadly, deadly combination.
16 We don't know the Defendant's true motive here,
17 and we may never know his true motive here,
18 because he gave you a story after story, lie
19 after lie.

20 Was he angry? Was he fed up? Was he
21 jealous? But what we do know is that the moment
22 the Defendant raised that gun and pulled the
23 trigger, not once, but at least twice on Deonne,
24 he had the intent to kill, he had the malice.
25 Malice followed every pull of that trigger, and

1 then it went to Rhonda, and then malice followed
2 and it was pulled to her as well. "I was trying
3 to scare them."

4 You don't try to scare somebody by shooting
5 a gun directly at them, that's how you try to
6 kill somebody, and that's what he did. The
7 truth is not multiple choice. Did he do it?
8 Was he scared? Was he in fear? Was he high on
9 drugs? The truth is easy here, you don't have
10 to come up with lies, when the truth is easy to
11 remember. The truth is that the Defendant was
12 never in any danger that night.

13 There was never a threat to his life. He
14 drove Deonne and Rhonda to a remote area of
15 town, he stopped his car, he got out, armed, and
16 he gunned down Deonne. And then he turns the
17 gun on Rhonda, as she's trying to get out of the
18 backseat, as she's trying to flee. The truth is
19 not multiple choice, as the Defendant has given
20 you multiple, multiple, multiple excuses,
21 multiple stories.

22 The truth is easy to uncover. This isn't
23 self-defense. This isn't voluntary
24 manslaughter. This is murder. This is a drug-
25 fueled murder.

1 And just as Delmar, himself, told you, when
2 he was speaking to Investigator Tunis and
3 Investigator Duncan, "I did something wrong."
4 He said, "I failed. I have no excuses. I have
5 no excuse for this. I have no excuses." He has
6 no excuses, because he's guilty.

7 THE COURT: Mr. Paulk.

8 MR. PAULK: Your Honor, may we approach?

9 THE COURT: Yep.

10 (Bench conference.)

11 THE COURT: All right, Mr. Paulk?

12 MR. PAULK: Thank you, Your Honor.

13 * * *

14 CLOSING ARGUMENT BY MR. PAULK

15 MR. PAULK: Good morning, ladies and
16 gentlemen. When I first spoke with you on
17 Tuesday, I asked you to keep the story of the
18 scorpion and the frog, and I hope that makes a
19 little bit more sense now. And just like
20 scorpion in that story, Mr. McLendon couldn't
21 swim across the river.

22 He didn't have a driver's license. You
23 heard from Investigator Byrd that that
24 identification card, that's all that was. He
25 couldn't drive, he needed a frog. Delmar

1 Sanders on the night of July 22nd into the early
2 morning hours of July 23rd, that was Deonne's
3 frog.

4 There are a couple of differences between
5 the story that I told you in my opening and this
6 one. There wasn't just one scorpion on Mr.
7 Sanders' back, there was two. One of those
8 scorpions had been up from -- depending on which
9 story you believe, she told one, three days,
10 smoking crack, turning tricks, doing whatever
11 she could to get her next fix, crack cocaine.
12 What else would Ms. Randall had done to get her
13 next fix of crack cocaine?

14 Was she setting up somebody to be robbed?
15 Maybe. That's what we're alleging. Ms. Randall
16 told you on that witness stand the first time
17 that she contacted Deonne was at about 10:30
18 that night, and that they talked for two hours
19 on Facebook. She sat up there on that stand,
20 told you and the Court and everybody else, she
21 told officers, she told investigators, all their
22 communications were through Facebook.

23 If we want to know what happened that
24 night, we need to see those conversations. That
25 will prove it right there. We don't have that.

1 That's the State's burden to bring that evidence
2 into this courtroom, and to show it to you, and
3 we don't have it.

4 You heard from Ms. Allyson Moreira, that
5 there were over 30 calls for service to [REDACTED] Place
6 Drive. And you heard from Investigator Byrd
7 that he photographed Mr. McLendon's
8 identification card. And that identification --
9 the picture on that identification card has been
10 submitted into evidence.

11 And all the evidence that's been submitted
12 in this case is gonna go back with you'all to
13 your jury room. You'all are gonna be able to
14 look at it. You're gonna be able to consider
15 it. And I want you to look at it, and I want
16 you to consider it. I want you to look at it
17 all very closely.

18 Let's talk a little bit about Ms. Rhonda
19 Randall, the State's star witness. The person
20 that you're supposed to trust is telling you the
21 truth about what happened on the night of July
22 22nd into the hours -- early morning hours of
23 July 23rd. Every time Ms. Randall opened her
24 mouth and talked to a different officer, or a
25 different person, her story changed.

1 Now, the State wants to tell you that, "Oh,
2 Mr. Sanders' story changed, he lied." He did,
3 he was scared. He thought, I'm not supposed to
4 have a gun, I can't use it, I can't defend
5 myself, if I'm not allowed to have a gun. I
6 can't protect myself, I'm not allowed to have
7 this gun. He thought that he was in the wrong.

8 Ladies and gentlemen, Mr. Sanders isn't a
9 lawyer, he's not the one that gets to decide who
10 was in the wrong. You, the jury, decide who's
11 in the wrong, after the Judge instructs you on
12 the law, and after you hear the facts in this
13 courtroom.

14 Ms. Randall spoke with five different
15 officers in less than 24 hours after this
16 incident occurred; and each time she opened her
17 mouth, different facts came out. Let's go
18 through some of them. She told a couple
19 officers that she got picked up at the hotel, at
20 the Oasis Inn, and that Deonne and Delmar came
21 and picked her up from there. Well, that wasn't
22 true. You watched the video, you saw her get
23 out of the car at the hotel with Mr. Sanders and
24 Mr. McLendon.

25 She told the officers in the hospital that

1 she heard pop, pop, pop, three quick shots in
2 rapid succession. Now, she also tried to tell
3 us a little bit about where Mr. McLendon might
4 have been when this shooting happened. She
5 says, "Well, he was over on the passenger side
6 of the car whenever he got shot." He's over on
7 the passenger side of the car, pop, pop, pop.
8 Mr. Sanders has to do a 90-degree turn, get in
9 between the open car door, the threshold of the
10 -- where the two doors come together.

11 He's got to shoot right in between that
12 little area right there, rapid succession, pop,
13 pop, pop. "Next thing I knew I was hit." Well,
14 then she goes on to tell us, "Well, I didn't
15 actually see where Deonne was at, I was in the
16 process of getting out of the car, and getting
17 my things together. I wasn't paying attention
18 to where he was at. I don't actually know where
19 he was at."

20 You heard Mr. Sanders say that Deonne came
21 around the front of the car, that he was
22 standing in front of him. Ladies and gentlemen,
23 we've got the truth right here. If you shoot
24 somebody right there, they're facing, they're
25 standing in front of you. The car's right here,

1 just imagine this is the driver door.

2 Mr. McLendon's up here in front of it.
3 Pop, pop, pop. Is he gonna turn around 180-
4 degrees with that third successive pop, and just
5 miraculously -- you've heard Ms. Jones say, "He
6 was a bad shot." A bad shot with a twist 180,
7 and fired it off, pop, right between that car,
8 is that plausible? Well, that's not the story
9 she stuck with.

10 She got up her on the stand, and she told
11 you'all, "He only fired twice." That's not
12 true. Ms. Randall also told you that they left
13 the hotel that night to get some more drugs.
14 They were gonna keep partying, that's what she
15 thought was happening.

16 And then she also told you, "I had to get
17 Deonne's wallet off of him and get that dollar
18 bill full of cocaine out of it before the cops
19 get there." Why are they going to get more
20 drugs, if he's got a dollar bill full of cocaine
21 in his wallet? You saw the pictures of it, it's
22 in evidence. There's a crumpled up dollar bill
23 on the side of the road, and you heard from
24 Investigator Tunis that they never test it for
25 cocaine residue.

1 Let's talk about the scene a little bit
2 more. Corporal Garcia came in, talked about a
3 crime scene sketch, you're gonna be able to look
4 at the placards. You're gonna see where
5 everything was, and about how far it was spread
6 around. As Ms. Randall's taking her bag of
7 goodies and throwing them around the crime
8 scene. There's a bag of weed at the head of Mr.
9 McLendon. As he's laying there dying, she throw
10 that bag of weed up there. She throws her crack
11 pipes around the scene. She throws her empty
12 cigarette packs around the scene. The cigarette
13 packs have got steel wool that Mr. Tunis told
14 you, that's what people use to smoke crack.

15 Ms. Rhonda tried to say, "I don't know what
16 steel wool is." They didn't need to leave the
17 hotel room to get more drugs. They left the
18 hotel room, because she couldn't lure Mr.
19 Sanders inside. You saw on the video, where she
20 came back out and Mr. Sanders had his door
21 locked, he didn't want to talk to her. He
22 didn't want to go in the hotel room.

23 She tried to get him into that hotel room,
24 the purposes for which we don't know. It seems
25 to me that if you're gonna rob somebody, you're

1 gonna do it in a pretty safe location. Maybe
2 she was trying to lure him into the hotel room
3 to rob him, that's what Delmar thought.

4 He didn't think it was safe to go to into
5 that hotel room, so he didn't. They decide to
6 leave that hotel room that night, when Mr.
7 Sanders said, "Hey, my direct deposit's hit, I'm
8 gonna go to the ATM. I'll get some cash for us,
9 and we'll go get some more drugs." He was
10 trying to get out of there. He was telling them
11 whatever they wanted to hear, so that he could
12 go home, so that he could get away from the
13 situation, so that he could get up and get ready
14 for work at 6:30 in the morning.

15 And we brought in the boss, "Yeah, that's
16 what time they're supposed to be there." We
17 brought in the boss and showed you his direct
18 deposit, that's in evidence. You're gonna get
19 to look at it. He had a direct deposit July
20 23rd sometime after midnight. He wasn't lying
21 about that. But as soon as they thought that
22 they could get a little bit of cash from him, or
23 maybe they could steal his car, they could hit a
24 lick on it. Deonne hops in the car, and you see
25 Rhonda pulling on that back door on that

1 surveillance video, the door's locked.

2 Delmar told you he didn't hit the power
3 lock, he didn't want her getting in that car,
4 but Deonne reached back, let her in the car,
5 more than companions. Rhonda told us where to
6 look, if we want to know what happened, "Go to
7 Facebook, that's where we talked the whole
8 time." They've got to show you that. They knew
9 about it, they didn't show it to you. They're
10 not trying to show you what actually happened
11 that night.

12 They're trying to show you what they want
13 you to believe happened that night. The State
14 wants to convict Mr. Sanders. Their
15 investigation wasn't meant to prove his
16 innocence, their investigation wasn't for his
17 benefit, it was for his demise.

18 You heard the Judge read the in the
19 stipulation, Rhonda's DNA was on the mouthpiece
20 of both of those crack pipes that were found on
21 the scene. If she's getting rid of evidence, so
22 that she doesn't get in trouble, what else is
23 she gonna rid of?

24 What else was in that purse? What didn't
25 the officers find? How long was he there

1 manipulating that crime scene before those
2 officers showed up?

3 Ladies and gentlemen, that's reasonable
4 doubt. That's the first piece of reasonable
5 doubt. Rhonda's different statements, all the
6 different stories she told, that's another piece
7 of reasonable doubt. "If you want to know what
8 happened, go look at the Facebook records. They
9 didn't show it to you, that's reasonable doubt.

10 Let's keep talking. Rhonda got on that
11 stand, and she told you out of her own mouth, "I
12 always tell the truth, especially to the
13 police." You heard her say it. But every time
14 she opened her mouth to talk to a different
15 officer, there was different facts coming out,
16 that's reasonable doubt. Yesterday you'all
17 heard from Ms. Tiffany Lovett, the EMT that
18 drove Rhonda to the hospital. She told you that
19 Rhonda told her, "Yeah, I was up for over 24
20 hours on a cocaine binge, and I don't remember
21 what happened."

22 That might have been the one time in this
23 case that Ms. Randall told the truth, that's
24 reasonable doubt. The law says that any
25 reasonable doubt has to be resolved in the favor

1 of Mr. Sanders. Now, I'm not the Judge, I'm not
2 instructing you on what the law is, the Judge is
3 gonna tell you what the law is, but that any
4 reasonable doubt has got to be resolved in favor
5 of Mr. Sanders. And when you're in that jury
6 room, and you're having conversations about,
7 "Well, I'm not sure what happened," or "I'm not
8 sure who's telling the truth," if you find
9 yourself saying that, might, should, could,
10 maybe, those are all words that mean that
11 there's reasonable doubt, and you must find Mr.
12 Sanders not guilty, if there is any reasonable
13 doubt.

14 Let's talk about the State's investigation
15 of the case, we've already talked about it a
16 little bit. No gun, no shell casings. They
17 didn't go look for more drugs on the side of the
18 road, they didn't take a dog, they didn't have a
19 crime scene unit come out and process it,
20 because Investigator Tunis told you it wasn't a
21 complex crime scene.

22 They don't even know where the shooting
23 actually happened. It happened somewhere around
24 Stanley Farm Road and Roseida Road, but they
25 didn't find shell casings on the road, they

1 didn't find a blood spot, they don't even know
2 where this happened, that's reasonable doubt.

3 They blocked off a whole road where it
4 could have happened, never narrowed it down,
5 that's reasonable doubt. And I know I've hit on
6 it a couple of times, but, man, if we had those
7 Facebook records, we could point right to it,
8 and show you who did what. We could show you in
9 the two hours of conversation between Rhonda and
10 Deonne, if Deonne said, "Man, there's a sucker
11 with me, and I think we can hit a lick," it
12 could be right there on Facebook.

13 And now if you'all don't know what a lick
14 is, that's robbing somebody, that's getting
15 yours, getting your money for crack. As the
16 defense, I don't have any burden, I could have
17 laid down and gone to sleep at my table, and if
18 at the end of this case you'all decided that the
19 State did not prove their case, I would have
20 done my job, because it's not my job to prove
21 Mr. Sanders innocent, it's their job to prove
22 his guilt.

23 It is their job to prove beyond a
24 reasonable doubt that Mr. Sanders did not act in
25 self-defense. They haven't done that, because

1 they haven't provided you with all the evidence.
2 I had to show you the evidence. I had to bring
3 in Ms. Tiffany Lovett and the EMS records to
4 show you that Rhonda didn't know what happened
5 after the shooting, because she'd been awake
6 somewhere between one and three days on a crack
7 binge. They didn't show you that, I did, Mr.
8 Sanders did.

9 I walked you through Mr. McLendon's
10 toxicology with Dr. Garvin. I explained that
11 science to you. I explained to you that he had
12 active cocaine in his system. That the
13 metabolite cocaethylene shows that at some point
14 in that night, before he passed away, he was
15 drinking and doing cocaine at the same time.
16 Now, the State wants you to believe, and their
17 whole theory of the case is, that Mr. Sanders
18 was so whacked out of his mind on cocaine from
19 those three to four bumps he did, that he just
20 shot two people. There wasn't an argument,
21 there's no other motive.

22 Ms. Jones just stood up there and told you
23 they don't know what the motive is, that's
24 reasonable doubt. Ms. Rhonda Randall got on the
25 stand, and told you that she'd been awake

1 somewhere between one and three days smoking
2 crack. She told officers that she didn't --
3 "The last time that I smoked crack was sometime
4 this morning on 7/22." Well, then she got up
5 there this week, she told you'all that she
6 smoked crack at the hotel room that night. You
7 can't trust a word that comes out of her mouth.
8 And the State's right, Mr. Williams didn't know
9 a darn thing about this case, because it's not
10 for me to disclose the facts of this case to
11 him.

12 I'm not asking him anything about the facts
13 of this case. I'm asking him whether Ms. Rhonda
14 Randall tells the truth. He was married to her.
15 He knew her. And what did he tell you, "She's
16 not truthful." I don't think we needed him to
17 tell us that anymore. Investigator Tunis told
18 you that the ping on Ms. Rhonda Randall's cell
19 phone happened at 1:49 a.m. in the morning.

20 He read that off a piece of paper that I
21 showed him. This shooting happened somewhere
22 15, 20 minutes before that. How is Mr. Sanders
23 supposed to make it to Georgia in a 2017 Dodge
24 Durango in 20 minutes? You'all know how long it
25 takes to get to Savannah. You'all know how long

1 it takes to get to Georgia from here. That cell
2 phone wasn't in Georgia. The address of that
3 cell phone pinged up, it was [REDACTED] Long Street
4 Avenue.

5 Mr. Tunis also told you that, "There's no
6 evidence of self-defense in this case." That's
7 just because he didn't believe Mr. Sanders.
8 Well, it doesn't matter what he believes.

9 Ladies and gentlemen of the jury, it
10 matters what you believe. You heard Mr.
11 Sanders' testimony, you watched him testify.
12 And the State wants you to believe that every
13 time Mr. Sanders opened his mouth it was a
14 different story, and he lied the first time, he
15 did, he lied to him. But that second story that
16 he told Duncan and Tunis has been the same since
17 that day. Sure, there's some more details now,
18 because we investigated this case. We got down
19 in the nitty gritty, we wanted to know
20 everything that happened. We didn't just want
21 to know the things that proved him guilty,
22 that's what they're looking for.

23 We brought you the details, that's not a
24 different story, that's painting the whole
25 picture. Investigator Tunis told you that when

1 he went to America's Best Inn to go talk to
2 Rhonda again, where she had been at just a
3 couple days prior, she wasn't there. And
4 whenever he asked the manager, "Who rented that
5 room?" It wasn't her brother, it wasn't a Mr.
6 Randall, it wasn't the friends, *Taneisha Jones
7 -- Taneisha John, excuse me. No, the person
8 that rented that room was a Ms. Rosieda Jones.
9 Who in the world is Rosieda Jones? When
10 Detective Ireland went up to that room, he
11 didn't speak with a Rosieda Jones, Tunis told
12 you that he spoke with Taneisha John and Tony
13 Randall, more lies.

14 And Dr. Presnell from MUSC came and talked
15 with you. She told you that, "Yeah, this is
16 where Mr. McLendon got shot, that's one of the
17 spots, and he got shot right here." And Mr.
18 Ball came and told you that, "He's about 5'6",
19 and you're gonna have a copy of that autopsy
20 report back there with you, and you're gonna see
21 on that autopsy report that Mr. McLendon is 66
22 and one-half inches tall. Now, by my math
23 that's 5'6 ½", so he's a half inch taller than
24 Mr. Ball. But when Mr. Ball went and stood up
25 against the hood of that car, and you'all are

1 gonna have these pictures, you can look at them
2 again, he said the hood of that car came up to
3 about here on him.

4 Came up to about right there. Ms. Randall
5 first testified that Mr. McLendon was on the
6 passenger side of the car, whenever Delmar shot.
7 If he's on the passenger side of the car, and
8 the hood of the car comes up past right there,
9 how did those bullet holes get there? She's not
10 telling the truth.

11 Dr. Presnell also told you that since Mr.
12 McLendon was wearing a shirt, there's no way of
13 knowing how close or how far away he was, based
14 on looking at that photo. She even told you,
15 "That even if he had a shirt off, if he was more
16 than 36 inches away, there still wouldn't be any
17 stippling, or any gun soot, anything that would
18 show that Mr. Sanders was close to it.

19 The State wants you to believe that Mr.
20 McLendon was a ways off, and that Mr. Sanders
21 shot him unarmed, and there was nothing bad
22 going on. No, they were just standing out there
23 having a talk. We don't know how close he was,
24 that's reasonable doubt.

25 You'all heard from the Defendant in this

1 case, Mr. Sanders decided to talk to you'all and
2 tell you what happened. He also decided to talk
3 with investigators, and tell them what happened.
4 What did he tell investigators? He told them a
5 lie the first time, but when they confronted him
6 with the fact that, "Deonne told us you shot
7 him," he says, "Yeah, I did." He tells them the
8 truth.

9 He tells them, "That the night of this
10 incident I got off of work and I went to my
11 mama's house to take a shower, because I was
12 living out of my car, it's embarrassing, man."
13 He says, "I took a shower and I snuck a little
14 nap in, and when I woke up I asked her for some
15 money for cigarettes, because my direct deposit
16 wasn't hitting until the next day.

17 She wouldn't give me money for cigarettes,
18 she didn't have it." So he took the loose
19 change that he had in his car, and he goes -- he
20 tells Investigators Duncan and Tunis he went to
21 a family member's house, that wasn't a lie. He
22 told you'all today that he -- he told you'all
23 this week that he went to the bootlegger's
24 house, and the bootlegger is run by a family
25 member.

1 He says he went up there with the quarters
2 he had to get a couple loose cigarettes. That's
3 where he ran into Mr. McLendon, and that's when
4 Mr. McLendon asked him for a ride. He said,
5 "No, man, I'm just here to get some cigarettes,
6 I've got to go back, I've got to go sleep
7 somewhere. I've got to get ready for work the
8 next morning." Mr. McLendon kept bugging him
9 for a ride, and, eventually, the bootlegger
10 asked Mr. Sanders to run an errand for him, go
11 get some beers, some cigarettes, some cigars
12 from the smokers.

13 We all call it smokers, you'all don't call
14 it smokers, smokers is the gas station up there
15 by the Circle K and the T. J. Maxx and all that,
16 but people in this world they call it smokers.
17 People in this world, they use nicknames.
18 People in this world sometimes you don't know
19 their last name.

20 You heard Rhonda testify, "Yeah, I was
21 hanging out with this girl named, Sierra, for
22 three days, smoking crack, I don't know her last
23 name. It's the world they live in. Mr.
24 McLendon and Mr. Sanders ride up to the store,
25 get the stuff for the bootlegger and come back,

1 and when Delmar takes the stuff inside, he comes
2 back out and his hood's popped.

3 He's goes, "What in the world is the hood
4 popped for?" They were putting a gun under his
5 car, that's what they told him. Maybe they did
6 put a gun under there, maybe they didn't. The
7 gun was never presented to you in evidence. But
8 just like the scorpion, Mr. McLendon said, "Nah,
9 man, there's nothing to worry about, the gun's
10 under the hood. There's no gun in the car."
11 That's what Delmar believed.

12 The frog then had to take the scorpion to
13 run another errand, had to go take him to get
14 some drugs. He doesn't have a license, he
15 doesn't want to get pulled over with drugs in
16 the car. If Mr. Sanders' gets pulled over, he's
17 got a license. "Have a good evening, sir, go on
18 about your day."

19 He needed a frog, and he got one. Mr.
20 Sanders testified that after they got the drugs
21 at the drug dealer's house, that that's when he
22 started sniffing cocaine, and they went straight
23 from the drug dealer's house to go pick up Ms.
24 Randall. Actually, they didn't just go pick up
25 Ms. Randall, you heard Mr. Sanders testify that

1 they went to pick up two girls.

2 Deonne said, "Yeah, man, we're gonna get
3 some girls. We've got one for you, this girl
4 named Lacey." Where is she at? She didn't get
5 in the car. She didn't get out of the car at
6 the Oasis Inn. Mr. Sanders starts thinking to
7 himself, why are we just picking up one girl,
8 that's kind of weird, but I just trust the
9 scorpion. He'll be all right. But he doesn't
10 want any part of the threesome. He didn't want
11 to go in that hotel room. He didn't want to be
12 involved in that, so he sat in the car, and he
13 waited for his cousin, like his cousin asked him
14 to.

15 I just want to touch on something real
16 quick. Ms. Jones wants you to believe that Mr.
17 Sanders was driving crazy when he pulled up in
18 that parking lot. He didn't know where he was
19 going, well, no doubt he didn't know where he
20 was going, it wasn't his hotel room. He hadn't
21 been there before, how's he supposed to know
22 which part of the hotel her room is at? He
23 pulled into a parking spot, and I wasn't there,
24 so I don't know what happened, but what probably
25 happened is she said, "No, it's over there."

1 "Okay, I'll pull up a little closer."

2 He didn't come in on two wheels. He wasn't
3 swerving all over the place whenever he came in,
4 but he drove the wrong way down a one-way, how
5 can he be safe to drive? It's probably not the
6 most courteous thing to do, but, ladies and
7 gentlemen, who among us has not driven the wrong
8 way down the parking lot aisle in Publix? It's
9 not a crime. That doesn't show that you're
10 under the influence and too messed up to drive.
11 So Delmar's waiting in the car, he wasn't
12 waiting long.

13 You'all watched the whole video, from the
14 time they pulled up to the time they left.
15 Right after they got there, just a couple
16 minutes later Ms. Randall comes down to the car.
17 She wants you to believe that, "Oh, I'm a good
18 Samaritan, I was making sure that this gentleman
19 was gonna have some water, but what I was really
20 doing was making sure that he wasn't acting
21 crazy, and that he wasn't gonna get the cops
22 called on us." For sitting in the car?

23 What Mr. Sanders told you is, that Ms.
24 Randall came out to get him into that hotel
25 room. "Don't you want to come inside? Let's

1 have some fun, let's party, come on in." Ms.
2 Randall was a prostitute, she's always trying to
3 make a dollar. She's a crack addict. She told
4 you herself she's trying to figure out where
5 here next buck's coming from, so she can get
6 that next hit. You think she went out there out
7 of the goodness of her heart, to make sure that
8 he was okay, and that he had some water, or that
9 she was trying to get him into that hotel room
10 for some other purpose?

11 She goes back in, and then Deonne comes
12 out. "Man, why don't you come inside, let's
13 party." "No, man, I -- I'll take you'all where
14 you need to go, but I've got work in the
15 morning, I'm waiting on my direct deposit to
16 hit. I'm gonna go get some cigarettes, and I'm
17 gonna go to sleep somewhere."

18 Deonne goes back into that hotel room. And
19 some matter of minutes later they both return.
20 Now, Rhonda wants you to believe that they went
21 in that hotel room and they had sex. Like,
22 wait, I'm not saying it couldn't happen.
23 You'all saw how long they were in there, now you
24 make up your own mind. We do see when they
25 reappear though the door's locked on that car.

1 You see Deonne pull on it, he can't get in.

2 Delmar reached over and unlocked.

3 You see Rhonda Randall in the back driver's
4 side can't get in. She goes around to the other
5 side, can't get in. Deonne unlocks her door
6 too. "You going to the ATM? We'll come with
7 you. We're happy to come with you. I know
8 where my next hit's coming from." They get in
9 the car and Delmar doesn't want to go to the ATM
10 with them, so he keeps driving. He doesn't know
11 where he's gonna drive, he's trying to figure it
12 out, and something weird's going on, so I don't
13 exactly know what, but something weird's going
14 on.

15 He tells you that's why he was swerving,
16 keeping one eye on her and keeping one eye on
17 him, because something just doesn't feel right.
18 When you live in a world that these events
19 happened in, you learn to trust your gut. When
20 things don't feel right, you listen. That's how
21 you survive, that's how you keep breathing. So
22 he's trying to keep an eye on everything that's
23 going on, and, yeah, he swerves a little bit.
24 He was driving slow, he said, "Man, I was
25 honestly hoping kind of hoping I got pulled over

1 to get out of this situation."

2 He wasn't driving that way because he was
3 too messed up. There's been no testimony that
4 he was drinking alcohol. The only testimony was
5 that he did three or four bumps of powdered
6 cocaine. He says, "Rhonda and Deonne they want
7 to drive." "Man, pull over, let me drive, let
8 me drive, pull over." So Mr. Sanders stops the
9 car, he stops the car and he turns the light on,
10 and he says, "All right, we're gonna figure out
11 what's going on." Excuse me, let me back up.
12 Before he stops the car, he says they're going
13 by Shanklin Road, the pumps out that way.

14 That's when he hears something drop. He
15 doesn't know what it was, but he didn't ask. He
16 never asked, but Ms. Randall volunteered, "Oh,
17 that's just my phone, don't worry about it." He
18 said, "That didn't sound like a phone." A red
19 flag. Yeah, you know, something's weird. He
20 says that during that drive he sees Deonne
21 reaching over with his left hand.

22 And, ladies and gentlemen, that's what he
23 said was weird, that's what he said he didn't
24 understand. He never said that a gun could not
25 fit between the side of the passenger seat.

1 You heard it, you'all trust your memory,
2 you trust what you heard that man say. Don't
3 let them tell you what he said, you trust what
4 he said with your own ears. He never said a gun
5 couldn't fit between the passenger side of a
6 car. You'all have got cars, you'all drive.
7 Think about it.

8 Can a gun fit between the passenger side of
9 a car? Sure. Mr. Sanders said it was weird,
10 and it didn't make sense to him why Mr. McLendon
11 would be reaching around like this, and I agree
12 with him. If he's gonna lie and say that he saw
13 him passing something back and forth, why is he
14 gonna tell that? That doesn't make any sense.

15 He told it to you because that's what he
16 saw. And maybe one of those times that he
17 swerved, he looked back when that was happening,
18 and he saw Ms. Randall moving just a little bit,
19 possibly passing that object, and it just
20 dropped on the floor. Mr. Sanders told you how
21 big the gun was. He said it hung about a
22 quarter inch off my hand.

23 Now, ladies and gentlemen, you can look for
24 yourself and judge how big that purse is, it's
25 sitting in the chair. You know how big chairs

1 are. You've got something to compare it to.
2 You decide for yourself, if you think a gun
3 about that big would fit in that purse or not,
4 that's not something -- that's something for
5 you'all to decide.

6 Now we get back to my prior point, the
7 car's stopped, Delmar said he's seen enough red
8 flags, he's gonna figure out what's going on.
9 He didn't pull over to let them drive. Ms.
10 Randall might have said that he pulled over to
11 let them drive, but what didn't she say?

12 The truth of the matter is, she does not
13 know why the car was pulled over, because she
14 was not driving the car. She can assume why the
15 car was pulled over, but she did not pull the
16 car over. Mr. Sanders pulled the car over, and
17 he told you why he pulled the car over. He'd
18 seen enough red flags, he was gonna figure out
19 what in the world are you'all up to?

20 He was gonna talk to his cousin. He
21 flipped the dome light on, and that's when he
22 sees it, the gun sitting in the scorpion's lap.
23 Well, he didn't point it at him, it was pointed
24 at -- he said it was like this. He said, "There
25 was a gun sitting in the scorpion's lap, pointed

1 in my direction."

2 So the scorpion gets out of the car, leaves
3 the gun on the seat, and he gets out of the car,
4 because they're gonna talk about this, and
5 they're gonna figure out what in the world is
6 going on, but then he sees Ms. Randall lean on
7 up inching closer to that gun. He didn't know
8 what she was gonna do.

9 He didn't know what Mr. McLendon was gonna
10 do. He says when he saw her doing that he sat
11 back down in the seat, and that's when Deonne
12 comes back around to that side, and Deonne goes
13 to reach for the gun, and Mr. Sanders grabs the
14 gun first, and they get out. And he said, "Man,
15 what's going on? What are you doing? You need
16 to chill out, you need to chill out."

17 Mr. McLendon keeps walking towards him and
18 he gets closer and closer, that's when he pulls
19 the gun up, bang. He kept coming, bang. "He
20 started running away, so I stopped shooting. I
21 thought that I had scared him, I hoped that I
22 had just scared him. But then I go to get back
23 in my car and this crack addict is still sitting
24 back there, and she's fidgeting, and she's
25 reaching in her purse, and she's reaching for

1 stuff.

2 I didn't know what she was gonna do, so I
3 fired a warning shot at her. I had to get her
4 out of the car." She wasn't getting out, and he
5 said, "Get the F out of my car." And then he
6 fled for his life. He drove safely. He knew
7 that he wasn't supposed to have a gun, and he
8 was terrified, "I can't defend myself with a
9 gun, I'm not supposed to have it. I'm just
10 gonna drive, I'll figure it out, I'm just gonna
11 drive."

12 And he drove to Georgia, and he tells you
13 that at some point he had to get some gas, at
14 some point during all this, he lost his phone,
15 so he stopped and got another one. And he drove
16 to the Sheriff's Office, and he turned himself
17 in. They didn't catch him. They didn't find
18 him in an airport. They didn't find him at the
19 border. They didn't find him heading to Mexico.
20 They never found him, he turned himself in.

21 And he did try to get out of it, he lied,
22 and he told them a different story at first, to
23 make himself not seem responsible, but he told
24 them what happened. And he turned himself in
25 fully thinking, man, I'm done for, I'm cooked.

1 I can't have a gun, there's no way I'm allowed
2 to protect myself.

3 That's why he was saying sorry. Because he
4 didn't know that in the State of South Carolina,
5 the Judge is gonna tell him, it doesn't matter
6 if you can't own a gun, if you have the right to
7 arm yourself in self-defense --

8 MS. JONES: Your Honor, I'm gonna object to
9 that. I do not believe that's part of the
10 charge.

11 THE COURT: Sustained, that's not in the
12 charge.

13 MR. PAULK: He turned himself in, and they
14 want you to believe that every time that he
15 opened his mouth he told a different story. I
16 mean there's no reason they show you. The
17 Solicitor counted five -- counting today,
18 counting this week, you saw one interview, the
19 true story. Now, she made mention that he told
20 that same story to somebody in Camden County.
21 We didn't hear from anybody in Camden County.
22 He tells that same story.

23 He told the same lie once; he told the same
24 lie twice. Since that time, he has told the
25 same story. We've got more details now because

1 we did more investigation.

2 The State also just said during their
3 close, "You get rid of evidence, because you're
4 guilty, because you did something wrong." What
5 did Ms. Rhonda Randall do? She got rid of
6 evidence, because if the police believed Mr.
7 Sanders' story, she could have been found guilty
8 of attempted armed robbery, because she did
9 something wrong. That's why you have evidence,
10 right?

11 That's what the State just said. Look at
12 all the evidence Ms. Randall did, are you gonna
13 believe her story? That's reasonable doubt.
14 The State also just told you, "Nothing makes
15 sense." I agree with that. They want you to
16 believe that this man's gonna shoot two people
17 just because he had used a little bit of
18 powdered cocaine.

19 That's his only motive, that's what their
20 theory is, do you'all buy that? The only person
21 that told you that Ms. Rhonda Randall was
22 supposed to drive that night was Ms. Rhonda
23 Randall. Delmar never told you she was supposed
24 to drive. And we've already established what
25 her credibility is like. Now, that's for

1 you'all to decide. That's a question for
2 you'all to determine, don't let me tell you
3 where the credibility is, you saw her.

4 The only person arguing to Mr. Sanders'
5 action were the sole result of his drug use, the
6 State are the only people arguing that. We're
7 arguing that his actions were driven by fear.
8 We're arguing that this actions resulted,
9 because he saw, after all the red flags, a gun
10 sitting on the lap of the scorpion.

11 And he saw the scorpion had been awake
12 somewhere between one and three days smoking
13 crack, getting closer to the gun. He didn't
14 know what their intentions were. He didn't grab
15 that gun until Deonne came back and around and
16 reached for it himself, that's what he told you.
17 The State wants you to believe that if Mr.
18 Sanders hadn't been using that cocaine that
19 night, that this wouldn't have happened, and Mr.
20 Sanders said it himself in an interview. It's
21 an oversimplification, that if Mr. Sanders
22 hadn't been hanging out with two scorpions that
23 night, he wouldn't have been using cocaine.

24 If he hadn't been hanging out with two
25 scorpions that night, he wouldn't have been a

1 frog driving people around. If he hadn't been
2 using cocaine that night, he wouldn't have ever
3 been put in this situation. This situation
4 didn't happen because of the drugs, the
5 situation happened because this man reasonably
6 believed that he was gonna be robbed or shot or
7 killed. When these actions took place, Mr.
8 Sanders was in fear of his life. There wasn't
9 supposed to be a gun in the car. Deonne wasn't
10 supposed to have a gun.

11 The State a minute ago, the Solicitor said
12 they don't know what the motive is.

13 MS. JONES: Your Honor, I'm gonna object to
14 what he's about to do. As you know --

15 THE COURT: I'll allow him to argue.

16 MR. PAULK: Ladies and gentlemen, that's
17 reasonable doubt. Ladies and gentlemen, you'all
18 heard from Debbie Garvin about the toxicology
19 report. She talked to you about motive,
20 ingestion and dosage, and about how those are
21 the two things that make the physical
22 manifestations happen, route of administration
23 and dosage.

24 She told you that other than intravenous
25 usage, injecting cocaine straight into you, the

1 next most powerful one is smoking it, because it
2 hits the brain like that. It instills in people
3 that they've got to get that next hit. She told
4 you that Mr. McLendon was also using cocaine
5 that night, we've got the toxic report to show
6 it.

7 You've got it all back there with you, and
8 you can read her opinion on that, it's in
9 evidence. It's in evidence, because I showed it
10 to you. They want to say that Delmar did this,
11 because he was on cocaine. Well, guess what?
12 Everybody that was in that car was on drugs.
13 There's no difference between Mr. Sanders or Ms.
14 Randall, or any of the scorpions, and that's
15 reasonable doubt.

16 Mr. Johnson came and told you that he did
17 not weight the bullet that was fired and that
18 was collected from Mr. McLendon, but that he did
19 review the measurements of that bullet, and that
20 in his expert opinion that bullet was a 380
21 caliber. He told you that most of the 380
22 calibers that you see nowadays are micro-
23 compact, they're real small, it'll fit just
24 about anywhere.

25 Now, he didn't say that they were only

1 micro-compacts, I'll admit that I'm sure there
2 could be some varying; but, generally, when you
3 see a 380, he told you that it's gonna be a
4 small pistol, easily concealed. Think about
5 that.

6 Ladies and gentlemen, if the State wanted
7 to show you what happened that night, they would
8 have put all the evidence in front of you, but
9 they didn't, and that's reasonable doubt. When
10 you're back in that jury room, and you're trying
11 to figure yourselves out what happened, because
12 you'all are the finders of fact, if you don't
13 know what happened, if you have any question
14 about what happened, if you've got any
15 reasonable doubts about what happened, you've
16 got to find Mr. Sanders not guilty.

17 It's not my job to prove that he was acting
18 in self-defense, it's their job to prove that he
19 wasn't. It's not my job to prove that the two
20 scorpions were trying to rob them. It's their
21 job to prove that they weren't. We don't have
22 that. This is a failed investigation, ladies
23 and gentlemen, we don't know what happened.

24 They can't look at you in the eyes and tell
25 you what happened. Their star witness tried to

1 tell you what happened, but she changed her
2 story six times within 24 hours of the incident,
3 and then two more since then, that's eight. If
4 you've got any reasonable doubts about what
5 happened, those doubts must be resolved in favor
6 of Mr. Sanders, the frog that got stung. Ladies
7 and gentlemen, I want you to go back in that
8 jury room, and I want you to look at every piece
9 of evidence.

10 I want you to think about all the testimony
11 that you've heard, and I want to know what
12 you'all think. The Court wants to know what
13 you'all think. Ladies and gentlemen, I believe
14 that after reviewing all the evidence in this
15 case, that you're gonna come back, and I'm gonna
16 ask you to deliver of verdict of not guilty for
17 Mr. Sanders, because we don't know exactly what
18 happened that night, because the State has not
19 proved to you what happened that night.

20 And when you look at the State's case, and
21 you think about all the reasonable doubt that's
22 in that box, just imagine this box is the
23 State's case. That box could probably hold all
24 that, but when you go to pick up this case, and
25 you take it back to the jury room with you,

1 you're gonna see that it can't support the
2 weight of the reasonable doubt.

3 Ladies and gentlemen, I'm asking you to
4 find Mr. Sanders not guilty. Thank you.

5 THE COURT: Ms. Jones, a reply?

6 MS. JONES: Thank you, Your Honor.

7 ***

8 FINAL CLOSING ARGUMENT BY MS. JONES

9 MS JONES: The only scorpion that night is
10 right here. The only danger that night is right
11 here. The only threat that night is this man.
12 Rhonda Randall and Deonne McLendon never were
13 gonna rob Delmar Sanders. As far as they knew,
14 he had no money.

15 He went to the bootlegger to buy
16 cigarettes, who's homeless, why are they gonna
17 rob this homeless guy with no money? They're
18 not gonna do that. The only scorpion that night
19 is seated right there. And everything that I
20 said to you in my closing came from that
21 scorpion's mouth.

22 Ten hours after his trip, it was a ten-hour
23 trip to Camden County after he fled, after he
24 threw away the gun, after he got a new phone for
25 some reason, he tells his first story, didn't

1 work. So then he had a full year, a little over
2 a year and he gave that one, "You'all this is
3 self-defense."

4 If this really was self-defense, if he
5 really met all four of the prongs of self-
6 defense, all four. Actually in imminent danger
7 of sustaining death or serious bodily injury, or
8 a reasonable person in his own shoes would think
9 he was gonna sustain death, or serious bodily
10 injury, or no other means to escape, if he was
11 forced to gun down his cousin, his loving
12 cousin, or an unwanted companion, why not say
13 it? Why not tell the police? "I know my cousin
14 said it was me, you got me. Rhonda Randall said
15 it was me, you got me, but guess what, I had to
16 defend myself."

17 He never said that, because that's not what
18 happened. He got caught and he came up with
19 this story, and then came up with another story.
20 The only story that night, the only person
21 that's guilty, the only person that committed
22 murder and attempted murder is the Defendant.

23 THE COURT: All right, we've been going
24 about an hour and a half, and the charge takes a
25 little time, so let's take a ten-minute break,

1 to give everybody a chance to refresh
2 themselves, and we'll come back and I'll charge
3 you on the law. Be back at 12:55.

4 (The jury exits the courtroom.)

5 THE BAILIFF: The jury's cleared, Your
6 Honor.

7 THE COURT: All right, be back in ten
8 minutes.

9 (Recess.)

10 (The jury enters the courtroom.)

11 ***

12 PROCEEDINGS CONTINUED

13 THE BAILIFF: The jury's seated, your
14 Honor.

15 ***

16 JURY CHARGE

17 THE COURT: Madam Forelady, ladies and gentlemen
18 of the jury, you've heard all the evidence, and the
19 arguments of counsel. I will now explain the law,
20 which you will apply in this case. As we discussed
21 earlier, you and I have specific duties to perform.
22 As the trial judge, it is my responsibility to preside
23 over this trial.

24 I also have the duty to rule on the admissibility
25 of evidence offered. You are to consider only the

1 evidence before you. If there was any testimony
2 ordered stricken from the record during this trial,
3 you must disregard that testimony. You are to
4 consider only the testimony presented from this
5 witness stand, any exhibits which have been made a
6 part of the record in this case, and any stipulations
7 of counsel. I have the duty to charge law applicable
8 in this case.

9 As the presiding Judge, I am the sole judge of
10 the law, and it is your duty, as jurors, to accept and
11 apply the law as I now state it to you. If you
12 already have any idea, as to what the law is, or what
13 the law ought to be, and it does not agree with what I
14 now tell you, you must abandon your idea, because you
15 are sworn to accept the law and apply the law exactly
16 as I state it to you. Your duty is to determine
17 facts. In every case the jury is the sole and
18 exclusive judge of the facts. A trial judge cannot
19 suggest, state, comment on, or make any statement to a
20 trial jury about the facts in a case. Since you, the
21 jury, are the sole judge of the facts, you are not to
22 infer from what I have said during the progress of
23 this trial, and the ruling upon the admissibility of
24 evidence, or otherwise, or anything that I say now or
25 during the course of this instruction to you, that I

1 have any opinion about the facts in this case.

2 The law does not allow me to have an opinion
3 about the facts. This is a matter solely for you, the
4 jury, to determine, as juror. It is your duty to
5 determine the effect, value and weight of the evidence
6 presented during this trial.

7 **CHARGE, ARREST AND INDICTMENT ARE NOT EVIDENCE**

8 The indictments in this case charge Delmar
9 Sanders with murder, attempted murder and possession
10 of a weapon during the commission of a violent crime.
11 Each indictment charges a separate and distinct
12 offense. You must decide each indictment separate on
13 the evidence and the law that's applicable to it,
14 uninfluenced by your decision as to any other
15 indictment.

16 The fact that the Defendant was arrested, charged
17 and indicted is not evidence in this case and cannot
18 be considered by you as evidence of guilt, nor does it
19 create any presumption or inference of guilt. These
20 indictments are simply the formal written instruments
21 which containing the charge made against the
22 Defendant. They are the formal document by which this
23 case is brought into Court. You will be asked to
24 write a separate verdict of guilty or not guilty for
25 each indictment.

PRESUMPTION OF INNOCENCE

The Defendant has pled not guilty to these indictments, and that puts the burden on the State to prove the Defendant guilty beyond a reasonable doubt. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent.

I charge you that it is a guiding rule of law that a Defendant in a criminal trial, no matter what the serious the charge is always be presumed innocent of the crime for which an indictment was issued unless guilt is proven by evidence satisfying you, the jury, of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the Defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is like a robe of righteousness placed around the shoulders of the Defendant, which remains with the Defendant until it has been stripped away by evidence satisfying you of the Defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a real

1 and substantial right to which every Defendant is
2 entitled unless you, the jury, are satisfied, from the
3 evidence of the Defendant's guilt beyond a reasonable
4 doubt.

5
6 **REASONABLE DOUBT**

7 What is a reasonable doubt in the law? A
8 reasonable doubt is the kind of doubt that would cause
9 a reasonable person to hesitate to act in their most
10 important decisions.

11 The State has the burden of establishing every
12 fact necessary to prove the Defendant guilty beyond a
13 reasonable doubt. The law presumes every person
14 charged with a crime to be innocent, and the burden of
15 establishing guilt is placed solely on the State.
16 Some of you may have served as jurors in civil cases,
17 where you were told that it is only necessary to prove
18 that a fact is more likely true than not true, such as
19 by the greater weight or preponderance of the
20 evidence. Other civil cases, use the clear and
21 convincing evidence standard.

22 In those cases it is necessary to prove that a
23 fact is highly probable, but this is a criminal trial,
24 and the State's proof must be more powerful than those
25 burdens of proof. In criminal cases the State's proof

1 must be beyond a reasonable doubt.

2 Proof beyond a reasonable doubt is prove that
3 leaves you firmly convinced of the Defendant's guilt.
4 There are very few things in this world that we know
5 with absolute certainty, and in criminal cases the law
6 does not require proof that overcomes every possible
7 doubt. If based on your consideration of the
8 evidence, you are firmly convinced that the Defendant
9 is guilty of the crime charged, you must find the
10 Defendant guilty.

11 The Defendant is not required to prove his
12 innocence. If, on the other hand, you think there's a
13 real possibility that the Defendant is not guilty, you
14 must give the Defendant the benefit of every
15 reasonable doubt and find him not guilty.

16 **DUTIES OF JURY AND TRIAL JUDGE**

17 Necessarily, you must determine the credibility
18 of witnesses who have testified. Credibility simply
19 means believability. It is your duty, as jurors, to
20 analyze and evaluate the evidence, and determine which
21 evidence convinces you of its truth. In determining
22 the believability of witnesses, who have testified in
23 this case, you may believe one witness over several
24 witnesses, or several witnesses over one witness.

25 You may believe a part of the testimony of a

1 witness and reject the remaining part of the testimony
2 of that same witness. You may believe the testimony
3 of a witness in its entirety or reject the testimony
4 of a witness in its entirety. You may consider
5 whether any witness has exhibited to you any interest,
6 bias, prejudice, other motive in this case. You may
7 also consider the appearance and manner of the witness
8 while on the stand.

9 Ladies and gentlemen, this Court has admitted
10 evidence of statements allegedly made by Deonne
11 McLendon. I have determined that these statements
12 should be admitted into evidence in this case;
13 however, it is for you to determine the believability
14 of these statements.

15 In deciding this question, you may consider
16 whether Mr. McLendon was dying, and knew he was dying,
17 and whether Mr. McLendon had lost all hope of recovery
18 at the time the statements were made.

19 The rules of evidence, ordinarily, do not permit
20 witnesses to testify to opinions or conclusions. An
21 exception to this rule exists for witnesses we call
22 expert witnesses. A witness, who by education and
23 experience has become an expert in some art, science,
24 profession or calling, may state an opinion about a
25 relevant and material matter, in which the witness

1 claims to be an expert, and may also state the reasons
2 for the opinion. You should consider any expert
3 opinion received in evidence, like any other evidence,
4 and give it the weight you think it deserves. If you
5 decide that the opinion of an expert witness is not
6 based on sufficient education and experience in
7 support of the opinion are not sound, or that the
8 opinion is outweighed by other evidence, you may
9 disregard the opinion entirely. An expert witness'
10 testimony is to be given no greater weight than that
11 of other witnesses, simply because the witness is an
12 expert.

13 Further, you are not required to accept an
14 expert's opinion, even though it is not contradicted.

15 A person who has a past criminal record is
16 competent to testify during a trial. A past record
17 does not affect the ability of that witness to
18 testify. The past record may only be considered by
19 you, if at all, in determining the witnesses
20 believability. Remember, you are the sole judges of
21 the facts in the case, and of the believability of any
22 and all of the witnesses.

23 In order to establish criminal liability,
24 criminal intent is required. For example, the mental
25 state required to be proven by the State for a

1 particular crime might be purpose, intent, knowledge,
2 recklessness, or criminal negligence. Criminal intent
3 must be proven by the State beyond a reasonable doubt.
4 Criminal intent is always a matter that must be
5 determined by the jury from the circumstances
6 surrounding the situation at that time. There is no
7 way to prove intent to a mathematical certainty.
8 There is no way medical science can dissect a person's
9 brain, and determine what the person had in mind. So
10 the law says that criminal intent may be inferred from
11 the circumstances shown to have existed at the time.
12 This is how you make a determination of whether not
13 the element requiring intent was present.

14 It is not necessary to establish intent by direct
15 and positive evidence, but intent may be established
16 by inference, in the same way as any other fact, by
17 taking into consideration the acts of the parties, and
18 all the facts and circumstances of the case. Criminal
19 intent is a mental state of conscious wrongdoing. It
20 can arise from an action, or a failure to act. You
21 must determine what the Defendant intended to do,
22 based on the circumstances existing at the time.

23 DIRECT AND CIRCUMSTANTIAL EVIDENCE

24 There are two types of evidence which are
25 generally presented during a trial: direct evidence

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

6 Crimes may be proven by circumstantial evidence.
7 The law makes no distinction between the weight or
8 value to be given to either direct or circumstantial
9 evidence.

10 However, to the extent the State relies on
11 circumstantial evidence, the circumstances must be
12 consistent with each other, and when taken together
13 point conclusively to the guilt of the accused beyond
14 a reasonable doubt.

15 If these circumstances merely portray the
16 Defendant's behavior as suspicious, the proof has
17 failed.

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

23 The Defendant is charged with murder. The State
24 must prove beyond a reasonable doubt that the
25 Defendant killed another person with malice a

1 forethought. Malice is hatred, ill-will, or hostility
2 towards another person. It is the intentional doing
3 of a wrongful act without just cause or excuse, and
4 with an intent to inflict an injury or under
5 circumstances that the law will infer an evil intent.
6 Malice of forethought does not require that malice
7 exists for any particular time before the act is
8 committed, but malice must exist in the mind of the
9 Defendant just before and at the time the act is
10 committed.

11 Therefore, there must be a combination of the
12 previous evil intent and the act. Malice of
13 forethought may be expressed or inferred. These terms
14 expressed and inferred do not mean different kinds of
15 malice, but merely the manner in which malice may be
16 shown to exist. That is either by direct evidence or
17 by inference from the facts and circumstances which
18 are proved.

19 Express malice is shown when a person speaks
20 words, which express hatred or ill-will for another,
21 or when the person prepared beforehand to do the act,
22 which was later accomplished. For example, lying in
23 wait for a person, or any other acts of preparation
24 going to show that the deed was within the defendant's
25 mind would be expressed malice. Malice may be

1 inferred from conduct showing a total disregard for
2 human life. If the facts are proven beyond a
3 reasonable doubt, sufficient to raise an inference of
4 malice to your satisfaction, this inference would
5 simply be an evidentiary fact to be considered by you,
6 along with the other evidence in the case, and you may
7 give it the weight you decide it should receive.

8 If you find that the State has failed to prove
9 beyond a reasonable doubt, that the Defendant
10 committed murder, you may consider whether the State
11 has proved beyond a reasonable doubt that the
12 Defendant committed voluntary manslaughter.

13 To prove voluntary manslaughter, the State must
14 prove beyond a reasonable doubt that Defendant took
15 the life of another in the sudden heat of passion,
16 based on sufficient legal provocation. Both heat of
17 passion and sufficient legal provocation must be
18 present at the time of the killing to constitute
19 voluntary manslaughter. Sudden heat of passion may,
20 for a time, affect a person's self-control, and
21 temporarily disturb a person's reason. The sudden
22 heat of passion must be the type that would make an
23 ordinary person unable to coolly reflect on his
24 actions, and would produce an uncontrollable impulse
25 to do violence.

1 Sufficient legal provocation must be the type
2 that would make a person of ordinary reason and
3 caution become enraged, and lose control temporarily.
4 The provocation needed for voluntary manslaughter must
5 come from some act of, or related to the alleged
6 victim. Words alone, however vulgar or insulting are
7 not enough to be legal provocation. Where death is
8 caused by the use of a deadly weapon, the words must
9 be accompanied by some overt threatening act, which
10 could have produced the heat of passion.

11 The exercise of a legal right, no matter how
12 offensive it is to another, is never sufficient legal
13 provocation for voluntary manslaughter. If the heat
14 of passion had cooled, or if there was enough time
15 between the provocation, if any, and the killing, for
16 the passion of a reasonable person to cool, the
17 killing would not be voluntary manslaughter.

18 In deciding whether a reasonable person could
19 have had enough time to cool off, you should consider
20 all the circumstances surrounding the killing. You
21 may consider the nature of the provocation, if any,
22 the Defendant's mental and physical state, and the
23 circumstances and relationships between the parties.

24 The Defendant is also charged with attempted
25 murder. In order to prove this crime, the State must

1 prove the Defendant, with specific intent to kill,
2 attempted to kill another person with malice of
3 forethought, either expressed or implied. Again,
4 malice is hatred, ill-will, or hostility towards
5 another person. It is the intentional doing of a
6 wrongful act without just cause or excuse, and with an
7 intent to inflict an injury, or under circumstances
8 from which the law will infer an evil intent.

9 Malice of forethought does not require that
10 malice exists for any particular time before the act
11 is committed, but malice must exist in the mind of the
12 Defendant just before and at the time the act is
13 committed. Therefore, there must be a combination of
14 the previous evil intent and the act.

15 Malice of forethought may be expressed or
16 inferred. These terms expressed and inferred do not
17 mean different kinds of malice, but merely the manner,
18 in which malice may be shown to exist. That is either
19 by direct evidence or by inference from the facts and
20 circumstances which are proved.

21 Express malice is shown when a person speaks
22 words which express hatred or ill-will for another, or
23 when the person prepared beforehand to do the act
24 which was later accomplished, as I said earlier, for
25 example, lying in wait for a person or any other acts

1 of preparation going to show that the deed was within
2 the Defendant's mind would expressed malice. Malice
3 may be inferred from conduct showing a total disregard
4 for human life, if facts prove beyond a reasonable
5 doubt, sufficient to raise an inference of malice to
6 your satisfaction, this inference would simply be an
7 evidentiary fact to be considered by you, along with
8 the other evidence in the case, and you may give it
9 the weight you decide it should receive.

10 Specific intent to kill is an element of
11 attempted murder. Intent means intending the result
12 which actually occurs not accidentally or involuntary.
13 Intent may be shown by acts and conduct of the
14 Defendant and other circumstances from which you may
15 naturally and reasonably infer intent. Evidence of
16 the character of the act, the charact of the act, the
17 character of the instrument used, the manner in which
18 it was used, and the purpose to be accomplished, and
19 the resulting wounds or injuries may be considered in
20 determining the intent with which the act was
21 committed.

22 Intent may also be inferred when it is
23 demonstrated that the Defendant voluntarily and
24 willfully commits an act, the natural tendency of
25 which is to destroy another's life. The Defendant is

1 also charged with possession of a weapon during the
2 commission of a violent crime -- I'm sorry, or
3 attempt to commit a violent crime. The statute must -
4 - sorry, let me slow down. The State must prove
5 beyond a reasonable doubt that the Defendant was in
6 possession of a firearm, or visibly displayed what
7 appeared to be a firearm during the commission of a
8 violent crime. A firearm means any machine gun,
9 automatic rifle, revolver, pistol, or any weapon which
10 will, is designed to, or may be readily converted to
11 expel a projectile.

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

21 The Defendant has raised the defense of self-
22 defense. Self-defense is a complete defense, and if
23 it is established, you must find the Defendant not
24 guilty. The State has the burden of disproving self-
25 defense by proof beyond a reasonable doubt. If you

1 have a reasonable doubt of the Defendant's guilt,
2 after considering all the evidence, including the
3 evidence of self-defense, then you must find the
4 Defendant not guilty.

5 On the other hand, if you have no reasonable
6 doubt of the Defendant's guilt after considering all
7 the evidence, including the evidence of self-defense,
8 then you must find the Defendant guilty. The
9 following elements are required to establish self-
10 defense.

11 First, the Defendant must be without fault in
12 bringing on the difficulty. If the Defendant's
13 conduct was the type, which was reasonably calculated
14 to, and did provoke a deadly assault, the Defendant
15 will be at fault in bringing on the difficulty, and
16 would not be entitled to an acquittal, based on self-
17 defense.

18 The second element of self-defense is, that the
19 Defendant was actually in imminent danger of death or
20 serious bodily injury, or that the Defendant actually
21 believed he was in imminent danger of death or serious
22 bodily injury. If the Defendant was actually in
23 imminent danger, it must be shown that the
24 circumstances would have warranted a person of
25 ordinary firmness and courage to strike the fatal

1 blow, to prevent death or serious bodily injury. If
2 the Defendant believed he was in imminent danger of
3 death, or serious bodily injury, it must be shown that
4 a reasonably prudent person of ordinary firmness and
5 courage would have had the same belief.

6 In deciding whether the Defendant actually was or
7 believed he was in imminent danger of death or serious
8 bodily injury, you should consider all the facts and
9 circumstances surrounding the crime, including the
10 physical condition and characteristics of the
11 Defendant and the victim. The Defendant does not have
12 to show that he was actually in danger. It is enough
13 if the Defendant believed he was in imminent danger,
14 and a reasonably prudent person of ordinary firmness
15 and courage would have had the same belief. The
16 Defendant has the right to act on appearances, even
17 though the Defendant's beliefs may have been mistaken.
18 It is for you to decide whether the Defendant's fear
19 of immediate danger, or death, or serious bodily
20 injury was reasonable, and would have been felt by an
21 ordinary person in the same situation. Words
22 accompanied by hostile acts may, depending on the
23 circumstances, establish self-defense.

24 The final element of self-defense is that the
25 Defendant had no other probable way to avoid the

1 danger of death, or serious bodily injury than to act
2 as the Defendant did in this particular instance. If
3 the Defendant was on his own premises, the Defendant
4 had no duty to retreat before acting in self-defense.

5 A person cannot be required to make an exact
6 calculation, as to the degree or amount of force which
7 may be needed to avoid death or serious bodily harm.
8 Therefore, in self-defense, the Defendant has the
9 right to use the force needed to avoid death or
10 serious bodily harm. The force used in self-defense
11 does not have to be limited to the degree or amount of
12 force used by the victim.

13 The Defendant has the right to use so much force,
14 as appeared to be necessary, for complete self-
15 protection, in which a person of ordinary reason and
16 firmness would have believed to be needed to prevent
17 death or serious bodily harm. If the Defendant is
18 justified in defending himself in firing the first
19 shot, then the Defendant is also justified in
20 continuing to shoot until it is apparent the danger of
21 death or serious bodily injury has completely ended.

22 Voluntary intoxication is not an excuse or a
23 defense to a crime, regardless of whether the crime is
24 one involving general or specific intent. This rule
25 also extends to voluntary ingestion of drugs.

1 A person who voluntarily ingests alcohol or drugs
2 and thereby becomes intoxicated, is not less
3 responsible for his acts while in such condition. If
4 one voluntarily drinks intoxicating liquors, wine, or
5 beer, or ingests drugs and becomes intoxicated, to
6 whatever degree, and if while in that condition,
7 commits an act which will be a crime, if it had been
8 committed by a sober person, the fact of intoxication
9 would not relieve the intoxicated person from
10 responsibility.

11 Ladies and gentlemen, I have declared the law to
12 you through these instructions to help guide you to a
13 verdict. Whether some of these instructions apply
14 depends on what you find to be the facts.

15 The fact that I have instructed you on various
16 subjects in this case should not be taken as
17 indicating an opinion of this Court, as to what you
18 should find to be the facts. Your verdict must
19 represent the considered judgment of each jurors. In
20 order to return a verdict, it is necessary that each
21 juror agree. Your verdict must be unanimous. All 12
22 of you must agree on the verdict. Your verdict cannot
23 be based on sympathy, passion, prejudice, or any other
24 consideration not in evidence in this case.

25 Remember at all times you are not partisans

1 favoring one party over another, you are the judges of
2 the facts. Your sole interest is to determine whether
3 the State has proven the Defendant's guilt to each of
4 his charges beyond a reasonable doubt from the
5 evidence presented to you in this case.

6 There are three possible verdicts which you may
7 find in this case, murder, attempted murder, and
8 possession of a weapon during the commission of a
9 violent crime. There is no significance whatsoever in
10 the order in which I state I state these possible
11 verdict, it's simply that one must be stated first.
12 Ladies and gentlemen, your verdict must be a unanimous
13 one.

14 Madam Forelady, when the jury agrees on the
15 verdict, you will circle the verdict on the verdict
16 form and sign your name as Foreperson. Then knock on
17 the jury room door and inform the Bailiff that you
18 have reached a verdict. At that time, we will receive
19 you back in the courtroom. I ask that you now return
20 to your jury room, but do not begin deliberations
21 until you are told by the Clerk or the Bailiff to do
22 so. There are some matters which must be discussed
23 with the attorneys before you begin your
24 deliberations. And my alternate jurors, you'all can
25 stay with us.

1 (The jury exits the courtroom.)

2 THE COURT: Any exceptions to the charge?

3 MS. JONES: Just one, Your Honor.

4 THE COURT: Okay.

5 THE BAILIFF: The jury's cleared, Your Honor.

6 THE COURT: Okay. Do you have somewhere you can
7 put the --

8 THE BAILIFF: Absolutely.

9 THE COURT: -- alternates.

10 THE BAILIFF: We usually separate them back here.

11 THE COURT: Okay.

12 THE BAILIFF: Come on back, folks. The jury's
13 cleared, Your Honor.

14 THE COURT: Thank you, sir.

15 MS. JONES: When you went through the charge for
16 possession of a weapon, voluntary manslaughter was not
17 listed as a violent crime.

18 THE COURT: Okay. Okay, we'll get them back in,
19 and I'll charge them on that. Anything from you, Mr.
20 Paulk?

21 MR. PAULK: No, Your Honor.

22 THE COURT: All right, let's go ahead and get all
23 the exhibits together, make sure -- have you'all been
24 through the exhibits with the Court Reporter, to make
25 sure we have everything that's going back?

1 MR. PAULK: I think, we're good, Your Honor.

2 COURT REPOTER: I think we do, yes, sir.

3 THE COURT: All right. And I have -- make sure
4 my list is right, I had the State had one through 51,
5 and then 54 through 56; is that correct?

6 MS. JONES: Yes.

7 THE COURT: And the defense had 1 through 9?

8 COURT REPORTER: Yes, sir.

9 MR. PAULK: Yes, Your Honor.

10 THE COURT: All right, let me get back to that
11 spot in the charge. We're gonna have to bring them
12 back for one thing. You can go ahead and get them,
13 Rick?

14 THE BAILIFF: Yes?

15 THE COURT: Yes, sir. And I'm gonna, if you'all
16 are okay with cautioning them again, not to rush, that
17 we've got tomorrow, if we need it, since one of them
18 has got to leave, because I don't want them to feel
19 rushed to make their decision.

20 MR. PAULK: Thank you, Your Honor.

21 THE BAILIFF: The jury's entering the courtroom,
22 Your Honor.

23 (The jury enters the courtroom.)

24 ***

25 PROCEEDINGS CONTINUED

1 THE COURT: All right, ladies and gentlemen, very
2 briefly, I have one thing to add when I was charging
3 you on possession of a weapon during the commission of
4 a violent crime. I'm gonna just re-read one of these
5 paragraphs, and I had to add something, based on the
6 verdicts you may consider. I'm just gonna, again,
7 give you the entire paragraph again.

8 In order to find the Defendant guilty of
9 possession of a weapon during the commission of a
10 violent crime, you must first find the Defendant
11 guilty of either committing a violent crime, or
12 attempting to commit a violent crime. Murder,
13 voluntary manslaughter and attempted murder are
14 violent crimes.

15 In the original charge I had left out voluntary
16 manslaughter, but that will be a possible verdict that
17 you can arrive at. Also, and we are really close to
18 giving this case to you, do not rush. I know at least
19 one of you needs to leave today by 5:00, and that's
20 fine. I'm here all week, I don't want any of you to
21 feel rushed to get out of here, or any pressure in
22 that regard. You'all have to make your own decision,
23 based on the evidence here, and, again, the State and
24 the Defendant are entitled to fair deliberations, so
25 don't let us having to leave and come back tomorrow in

1 any way factor into your deliberations.

2 All right, we'll be with you shortly, thank you.

3 (The jury exits the courtroom.)

4 THE BAILIFF: The jury is cleared.

5 THE COURT: All right. Any other exceptions
6 before the jury gets the case?

7 MS. JONES: No, sir.

8 MR. PAULK: None, Your Honor.

9 THE COURT: All right, let's get the exhibits,
10 and here are the verdict forms. And, again, all I did
11 on that, if you'all want to look at those one more
12 time, all we did was remove that phrase on the bottom
13 about them to knock after they had arrived at a
14 verdict.

15 MR. BAILIFF: Do you mind if I staple these?

16 THE COURT: That'll be fine. Okay, I'll guess
17 we'll be at ease until further notice.

18 MR. PAULK: Your Honor, are we gonna let the
19 alternates get lunch, before we release them?

20 THE COURT: Do you want to release them or keep
21 them around for a little while?

22 MS. JONES: I have no position on that.

23 MR. PAULK: Your Honor, I'm fine with going ahead
24 and releasing them.

25 THE COURT: All right, well, when Rick comes

1 back, we can go ahead and release them. Yeah, just
2 bring them back in.

3 THE BAILIFF: Yes, sir. Judge, here's the three
4 alternates, if you will just stand right up here.

5 THE COURT: Hey, folks, the parties have agreed
6 to release you'all, since everybody appeared to
7 survive the trial, so we appreciate your service very
8 much. You are free to discuss the case now with
9 anyone. Sometimes lawyers like to talk to you. You
10 don't have to discuss the case with anybody.

11 You are free to hang around and see what the
12 verdict is, or go on about your life, but we very much
13 appreciate your service. I always tell jurors, you
14 don't realize how important you are to our system.
15 This case ended up going to trial, but a lot of cases
16 don't, just by virtue of you folks showing up. Cases
17 a lot of times don't get -- either civil or criminal
18 cases don't really get real, until you folks are out
19 there, and the parties are looking at, you know, okay,
20 this is real, and then a lot of cases get resolved by,
21 you know, the parties working it out, just because
22 folks like you are willing to show up, and we really
23 appreciate it.

24 And I hope this was somewhat educational for you,
25 and that you are -- again, you're welcome to hang

1 around, or you're free to leave, either way. But,
2 again, thank you very much for your service. All
3 right. They've got it?

4 THE BAILIFF: Yes, sir.

5 THE COURT: All right, very good.

6 (Recess.)

7 (Court's Exhibit 10 marked for identification.)

8 ***

9 PROCEEDINGS CONTINUED

10 THE COURT: All right, we're back on the record
11 in State v. Sanders. We have gotten a question from
12 the jury. It has been marked as Court's Exhibit 10.
13 I'll just go ahead and read it. It says, "May we have
14 a copy of the Judge's instructions that were read to
15 us at the close of the trial, specifically including
16 the definitions of the charges of this case."

17 I don't know what you'all's position on that.
18 Some Judges -- like I was with Judge Addy last week,
19 he routinely sends the charge back to begin with. I
20 personally don't like it as much, because I think they
21 try to interpret things that is beyond, not their
22 intelligence, but their expertise. That's trying to
23 interpret things that we use every day.

24 What I would be inclined to do is ask them for
25 specific areas, where they have questions, and then

1 recharge them, unless you'all have any brighter ideas?

2 MS. JONES: I don't have any issue with sending
3 the charge back to them, Judge. I think since they've
4 asked for it, I'm comfortable with that.

5 MR. PAULK: And, Your Honor, I would prefer that
6 you re-read the portions that they require.

7 THE COURT: Okay. I think that's what I'll do.
8 We'll just -- I'll ask them to let us know what
9 particular areas they want to be recharged on, and
10 we'll recharge.

11 MS. JONES: Okay.

12 THE COURT: How do we want to do that, Rick?

13 THE BAILIFF: Well, I don't even know, Judge,
14 I've never heard that one. I'd have to bring them
15 back in, and you'd have to ask the question directly
16 to them.

17 COURT REPORTER: Or you can write it on the back.

18 THE COURT: Okay.

19 MS. JONES: "Please list the charges you're
20 requesting."

21 THE COURT: Okay.

22 THE BAILIFF: Be very clear though, because
23 they're gonna be just confused over that note, if
24 you're not.

25 THE COURT: Right. All right, here's what I put.

1 I said, "The jury charge cannot be sent to the jury
2 room. Please let us know which charges you would like
3 to hear, and the Court will read the applicable law to
4 the jury again." That's signed --

5 MR. PAULK: No objection for the defense.

6 THE COURT: -- by me. Okay, they have asked that
7 we please read the charge of murder, voluntary
8 manslaughter and attempted murder. So we will bring
9 them in, and I will recharge them on those three
10 specific issues. Anybody have any objection with
11 that?

12 MS. JONES: No, Your Honor.

13 MR. PAULK: Without objection.

14 THE COURT: All right, bring them in?

15 THE BAILIFF: Bring them in?

16 THE COURT: Yep.

17 (The jury enters the courtroom.)

18 THE BAILIFF: The jury's entering the courtroom,
19 Your Honor.

20 THE COURT: Thank you, sir. Okay, Madam
21 Forelady, I understand that you'all would like to be
22 charged again on the definitions of murder, attempted
23 murder and voluntary manslaughter; is that correct?

24 MADAM FORELADY: Yes, sir.

25 THE COURT: Okay. And we'll go through all those

1 again. I appreciate all of your work back there, and
2 your diligence, and that means a lot to the State and
3 Defendant, so we understand you'all are back there
4 working hard, so we appreciate it.

5 All right. This is murder, the Defendant is
6 charged with murder. The State must prove beyond a
7 reasonable doubt the Defendant killed another person
8 with malice of forethought. Malice is hatred, ill-
9 will or hostility towards another person. It is the
10 intentional doing of a wrongful act without just cause
11 or excuse, and with an intent to inflict an injury, or
12 under circumstances that the law will infer an evil
13 intent.

14 Malice of forethought does not require that
15 malice exists for any particular time before the act
16 is committed, but malice must exist in the mind of the
17 Defendant just before and at the time the act is
18 committed. Therefore, there must be a combination of
19 the previous evil intent and the act.

20 Malice aforethought may be expressed or inferred.
21 These terms expressed and inferred do not mean
22 different kinds of malice, but merely the manner in
23 which malice may be shown to exist. That is either by
24 direct evidence, or by an inference from the facts and
25 circumstances which are provided.

1 Express malice is shown when a person speaks
2 words, which express hatred or ill-will for another,
3 or when the person prepared beforehand to do the act,
4 which was later accomplished. For example, lying in
5 wait for a person, or any other acts of preparation
6 going to show that the deed was within the Defendant's
7 mind would be expressed malice. Malice may be
8 inferred from conduct showing a total disregard for
9 human life. If facts are proven beyond a reasonable
10 doubt sufficient to raise an inference of malice to
11 your satisfaction, this inference would simply be an
12 evidentiary fact to be considered by you, along with
13 the other evidence in the case, and you may give it
14 the weight you decide it should received.

15 Now, voluntary manslaughter. If you find that
16 the State has failed to prove beyond a reasonable
17 doubt, that the Defendant committed murder, you may
18 consider whether the State has proved beyond a
19 reasonable doubt that the Defendant committed
20 voluntary manslaughter. To prove voluntary
21 manslaughter, the State must prove beyond a reasonable
22 doubt that the Defendant took the life of another in
23 the sudden heat of passion, based on sufficient legal
24 provocation.

25 Both heat of passion and sufficient legal

1 provocation must be present at the time of the killing
2 to constitute voluntary manslaughter. Sudden heat of
3 passion may, for a time, affect a person's self-
4 control, and temporarily disturb a person's reason.
5 The sudden heat of passion must be the type that would
6 make an ordinary person unable to coolly reflect on his
7 actions, and would produce an uncontrollable impulse
8 to do violence. Sufficient legal provocation must be
9 the type that would make a person of ordinary reason
10 and caution become enraged, and lose control
11 temporarily. The provocation needed for voluntary
12 manslaughter must come from some act of, or related to
13 the victim. Words alone, however vulgar or insulting,
14 are not enough to be legal provocation.

15 Where death is caused by the use of a deadly
16 weapon, the words must be accompanied by some overt
17 threatening act, which could have produced the heat of
18 passion. The exercise of a legal right, no matter how
19 offensive it is to another, is never sufficient legal
20 provocation for voluntary manslaughter. If the heat
21 of passion had cooled, or if there was enough time
22 between the provocation, if any, and the killing, for
23 the passion of a reasonable person to cool, the
24 killing would not be voluntary manslaughter.

25 In deciding whether a reasonable person would

1 have had enough time to cool off, you should consider
2 all the circumstances surrounding the killing. You
3 may consider the nature of the provocation, if any,
4 the Defendant's mental and physical state, and the
5 circumstances and relationships between the parties.

6 Now, this is attempted murder. The Defendant is
7 also charged with attempted murder. In order to prove
8 this crime, the State must prove the Defendant, with
9 specific intent to kill, attempted to kill another
10 person with malice of forethought, either expressed or
11 implied.

12 And I'll go through malice again. Malice is
13 hatred, ill-will, or hostility towards another person.
14 It is the intentional doing of a wrongful act without
15 just cause or excuse, and with an intent to inflict an
16 injury, or under circumstances from which the law will
17 infer an evil intent. Malice of forethought does not
18 require that malice exists for any particular time
19 before the act is committed, but malice must exist in
20 the mind of the Defendant just before and at the time
21 the act is committed. Therefore, there must be a
22 combination of the previous evil intent and the act.

23 Malice aforethought may be expressed or inferred.
24 These terms expressed and inferred do not mean
25 different kinds of malice, but merely the manner, in

1 which malice may be shown to exist. That is either by
2 direct evidence or by inference from the facts and
3 circumstances which are proved. Express malice is
4 shown when a person speaks words which express hatred
5 or ill-will for another, or when the person prepared
6 beforehand to do the act which was later accomplished,
7 for example, lying in wait for a person or any other
8 acts of preparation going to show that the deed was
9 within the Defendant's mind would constitute expressed
10 malice.

11 Malice may be inferred from conduct showing a
12 total disregard for human life, if facts prove beyond
13 a reasonable doubt, sufficient to raise an inference
14 of malice to your satisfaction, this inference would
15 simply be an evidentiary fact to be considered by you,
16 along with the other evidence in the case, and you may
17 give it the weight you decide it should receive.
18 Specific intent to kill is an element of attempted
19 murder. Intent means intending the result which
20 actually occurs not accidentally or involuntary.
21 Intent may be shown by acts and conduct of the
22 Defendant and other circumstances from which you may
23 naturally and reasonably infer intent.

24 Evidence of the character of the act, the charact
25 of the act, the character of the instrument used, the

1 manner in which it was used, and the purpose to be
2 accomplished, and the resulting wounds or injuries may
3 be considered in determining the intent with which the
4 act was committed. Intent may also be inferred when
5 it is demonstrated that the Defendant voluntarily and
6 willfully commits an act, the natural tendency of
7 which is to destroy another's life. That's those
8 three offenses. If you have any other questions, just
9 let us know.

10 (Jury exits courtroom.)

11 THE BAILIFF: The jury's clear, Your Honor.

12 THE COURT: Any exceptions to what we just did?

13 MS. JONES: No, Your Honor.

14 THE COURT: All right, Sanders will be at ease.

15 (Recess.)

16 ***

17 PROCEEDINGS CONTINUED

18 THE BAILIFF: All rise, the Court's back in
19 session.

20 THE COURT: Please be seated. Have we got
21 everybody?

22 THE BAILIFF: Yes.

23 MR. PAULK: Your Honor, I've looked around for
24 Mr. Sanders' family right now. Their stuff is still
25 in the pews, so they're not far.

1 THE COURT: Okay, all right.

2 MR. PAULK: I just want to let you know.

3 THE COURT: Yeah, we'll make sure they're there.
4 Do we have everybody, or are we still waiting on one
5 more.

6 THE BAILIFF: One more is coming.

7 THE COURT: Okay. All right, ladies and
8 gentlemen, we have a verdict, and as I mentioned
9 before the trial started, nobody's gonna get out of
10 hand, regardless of what happens. We're all gonna be
11 respectful. We're not gonna have any outburst,
12 nothing of that nature, or one of these guys will get
13 you out of here. I mean this is a serious place, this
14 is a serious charge for everybody involved.
15 Everybody's gonna be nice, and everybody's gonna be
16 respectful, regardless of who is disappointed. All
17 right, bring them in.

18 THE BAILIFF: The jury's entering the courtroom,
19 Your Honor.

20 (The jury enters the courtroom.)

21 ***

22 READING OF THE VERDICT

23 THE COURT: Thank you, sir.

24 THE BAILIFF: The jury's seated, Your Honor.

25 THE COURT: Madam Forelady, I understand we have

1 a verdict?

2 MADAM FORELADY: Yes, Your Honor.

3 THE COURT: Can you provide that to the Bailiff,
4 please?

5 MADAM FORELADY: Yes, sir.

6 THE COURT: Thank you. All right, Madam Clerk?

7 CLERK: Thank you.

8 THE COURT: If you will publish the verdict?

9 CLERK: All right. "In the Court of General
10 Sessions, Fourteenth Judicial Circuit, the State of
11 South Carolina v. Delmar Sanders, Indictment Numbers
12 2021-GS-07-01220, 1219 and 1221, we the jury
13 unanimously find the Defendant, Delmar Sanders, as to
14 the charge of murder, not guilty.

15 We, the jury, unanimously find the Defendant,
16 Delmar Sanders, as to the charge of voluntary
17 manslaughter, guilty.

18 We, the jury unanimously find the Defendant,
19 Delmar Sanders, as to the charge of attempted murder,
20 not guilty.

21 We, the jury, unanimously find the Defendant,
22 Delmar Sanders, as to the charge of possession of
23 weapon during the commission of a violent crime,
24 guilty.

25 THE COURT: All right. Would anyone like to poll

1 the jury?

2 MS. JONES: No, Your Honor.

3 MR. PAULK: Yes, your Honor

4 THE COURT: All right, Madam Clerk?

5 CLERK: Please look down at your number on your
6 jury badge. Juror 195.

7 JUROR 195: Yes.

8 CLERK: Go ahead and stand, please. Is this your
9 verdict?

10 JUROR 195: Yes.

11 CLERK: Is this still your verdict?

12 JUROR 195: Yes.

13 CLERK: Juror number 147. Is this your verdict?

14 JUROR 147: Yes.

15 CLERK: Is this your verdict?

16 JUROR 147: Yes.

17 CLERK: Number 146. Is this still your verdict?

18 JUROR 146: Yes, ma'am.

19 CLERK: Is it still your verdict?

20 JUROR 146: Yes, ma'am.

21 CLERK: Number 62. Is this your verdict?

22 JUROR 62: Yes.

23 CLERK: Is this still your verdict?

24 JUROR 62: Yes.

25 CLERK: Number 304. Is it still your verdict?

1 JUROR 304: Yes, ma'am.
2 CLERK: Is it still your verdict?
3 JUROR 304: Yes, ma'am.
4 CLERK: 314. Is this your verdict?
5 JUROR 314: Yes, ma'am.
6 CLERK: Is it still your verdict?
7 JUROR 314: Yes, ma'am.
8 CLERK: 167. Is this your verdict?
9 JUROR 1676: Yes.
10 CLERK: Is it still your verdict?
11 JUROR 167: Yes.
12 CLERK: 282. Is this your verdict?
13 JUROR 282: Yes.
14 CLERK: Is it still your verdict?
15 JUROR 282: Yes, ma'am.
16 CLERK: 208: Is this your verdict?
17 JUROR 208: Yes.
18 CLERK: Is it still your verdict?
19 JUROR 208: Yes.
20 CLERK: 319. Is this your verdict?
21 JUROR 319: Yes.
22 CLERK: Is it still your verdict?
23 JUROR 319: Yes.
24 CLERK: Number 95? Is this your verdict?
25 JUROR 95: Yes.

1 CLERK: Is it still your verdict?

2 JUROR 95: Yes.

3 CLERK: And number 221. Is this your verdict?

4 JUROR 221: Yes.

5 CLERK: Is it still your verdict?

6 JUROR 221: Yes.

7 CLERK: Okay.

8 THE COURT: Any objection to me excusing the
9 jury?

10 MS. JONES: Not from the State, Your Honor.

11 MR. PAULK: None, Your Honor.

12 THE COURT: All right, ladies and gentlemen, your
13 service has ended. We appreciate everything you've
14 done. You are welcome to hang around.

15 There will be some post-trial matters that we'll
16 have to take care of, but you don't have to. You are
17 welcome to discuss the case with anyone you'd like to,
18 you don't have to.

19 Sometimes the lawyers love to hear your thoughts,
20 and sometimes they don't, and some jurors like to talk
21 about it, and some don't, so however you want to
22 handle it is fine with me, but, again, we appreciate
23 your service. You don't know how important your job
24 is to making our system of justice function, just by
25 virtue of the fact that folks like you are willing to

1 show up our cases move along.

2 I was just on the phone with my assistant from
3 Orangeburg, and we had a jury coming in Monday, and
4 just about every civil case is settled, because folks
5 don't like having to, you know, put their business in
6 front of 12 folks they don't know, and if they can
7 resolve it on their own, they do. So just by virtue
8 of you folks willing to do your civic duty, you make
9 our system move forward, and we appreciate it very
10 much.

11 I know all the parties appreciate your hard work.
12 This wasn't the easiest of cases to handle, but you
13 were all very professional and diligent in your work,
14 and, again, we appreciate it very much, and thank you
15 for your service.

16 (Jury exits courtroom.)

17 ***

18 SENTENCING HEARING

19 THE BAILIFF: The jury's clear and the doors are
20 closed, Your Honor.

21 THE COURT: All right. Do you'all want to do
22 sentencing this afternoon?

23 MS. JONES: The State's ready, Your Honor.

24 THE COURT: Okay. We're gonna need to get a
25 sentencing sheet prepared.

1 MS. JONES: Your Honor, we're printing the
2 sentencing sheets now.

3 THE COURT: Okay.

4 MS. JONES: But while we're running downstairs to
5 get those, I'm happy to go into the State's position.

6 THE COURT: Let me make sure they don't have any
7 post-trial matters too.

8 Mr. Paulk, do you'all have any post-trial
9 matters?

10 MR. PAULK: Just renew all matters that were
11 brought up during the trial, Your Honor.

12 THE COURT: All right, I will respectfully deny
13 that motion for the reasons set forth below. And
14 they're getting us sentencing sheet.

15 MS. JONES: Someone from our office ran
16 downstairs to get it off the printer.

17 THE COURT: Okay, yeah.

18 MS. JONES: Your Honor, I can certainly go into
19 -- are we ready?

20 THE COURT: Let's let Ms. Gibbes get back.
21 You'all ready to get started?

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: We'll wait on the sentencing sheet.
24 Ms. Jones, I'll hear from you.

25 MS. JONES: Thank you, Your Honor. Your Honor,

1 before we start, I'm gonna hand up a certified copy of
2 some convictions of Mr. Sanders.

3 As Your Honor heard pretrial, this is not Mr.
4 Sanders first time with the criminal justice system.
5 He actually is a frequent flyer in this very
6 courtroom. Those convictions I handed up were for
7 criminal domestic violence, unlawful carrying,
8 possession of cocaine, and a criminal domestic
9 violence of a high and aggravated nature.

10 The most recent was in 2015 for that CDV hand.
11 Your Honor, Mr. Sanders never once had any remorse for
12 what he did to Deonne McLendon that night. If they
13 were such good, close, best friend, cousins, he didn't
14 shed one tear for Deonne after he killed him. Any
15 remorse that we saw, any apology, any I'm sorry, or I
16 did wrong, that was remorse for Delmar Sanders, that
17 was not remorse for Deonne McLendon.

18 If you look at Mr. Sanders' prior record, he's
19 just continued to get in trouble. His criminal
20 behavior has escalated, its drugs, its assault, the
21 CDVs. And now it's the drugs that coupled with the
22 gun, you already had that unlawful hearing, now he's
23 killed somebody. Your Honor, the jury has spoken. I
24 believe that the system has tried to rehabilitate Mr.
25 Sanders in the past, and he clearly is someone who

1 cannot be rehabilitated.

2 He has had his chance, he's had multiple chances,
3 and it's a slap in the criminal justice system's face
4 that he's in this very courtroom again. He doesn't
5 take our law seriously, and this time it cost Mr.
6 McLeondon his life. Your Honor, I think that 35 years
7 is appropriate here. That's the most you can give
8 under his convictions as it stands today, and I think
9 that without a shadow of a doubt, he deserves every
10 single day of 35 years.

11 I do believe that his father and his aunt would
12 like to address Your Honor.

13 THE COURT: Yes, I'll hear from anybody.

14 MS. YOUNG-RILEY: My name is Yolanda Yvette
15 Young-Riley.

16 COURT REPORTER: Yolanda Yvette Young-Riley.

17 THE COURT: Young-Riley?

18 MS. YOUNG-RILEY: Yvette Young-Riley, yes, sir.

19 THE COURT: Riley, okay, we've got it now. Yes,
20 ma'am.

21 MS. YOUNG-RILEY: For 48 years I've been having
22 what we called, or what we have called self-drive.
23 For 48 years I felt the comfort of self-drive. So
24 that when my nephew, Deonne, arrive here from Western
25 Kentucky University, having been a part of a military

1 mom, who was a life specialist supervisor, and a
2 military father have dealt with him coming here, we
3 could re-establish him with the realms of comfort
4 being governed within the New Hope Christian Church.

5 Well, Delmar's Uncle is my elder. We were born
6 and raised under the fact that truth matters, fairness
7 matters, and my husband and I took Deonne to church
8 every Sunday.

9 Deonne was on payroll at our church as a drummer.
10 We constantly mentored to not the weak side of him,
11 but the man in him to re-establish him, before it got
12 to a point where he was lying in a ditch murdered.
13 Speaking on the fact of Deonne, life for months after
14 Deonne was murdered, his mom was murdered, as well, so
15 we've taken in double jeopardy, as a family, as a
16 whole, which is heart-wrenching, because within the
17 realm of what we established in our criminal justice
18 system, again, fairness, life, liberty and the pursuit
19 of happiness for all individuals is what I see.

20 I stepped into this courtroom after Deonne's mom
21 died, and I had to take the forefront, because she was
22 not -- no longer able to speak towards establishing a
23 bond for Delmar. Delmar came before the Court for a
24 bond hearing, and at the time, the Judge established
25 that he was, in fact, a threat to society.

1 Delmar does not know my name. With Delmar, I
2 admit, never even Delmar in my life. What I know of
3 Delmar, I've been raised in Beaufort County, and I
4 know of his mom being a very prolific speaker, okay?
5 A very prolific speaker, but for me I've never met
6 Delmar, and I've been raised in Beaufort County 48
7 years.

8 I know he graduated from Battery Creek High
9 School, stayed here, and graduated from the University
10 of South Carolina-Beaufort. But as we sat back there
11 during the bond hearing he glared at all of us sitting
12 on that cube right there, and the Judge then
13 substantiated that he was a threat to his community.
14 I stand here today, as I mourn, I was then in fear of
15 my life, and knew that I had to continue the feat.

16 This has been an efficacious feat that I never
17 thought I would have to take on in Beaufort County,
18 because as I said, South Drive, and the people in
19 realm of South Drive, we do call family.

20 I don't know what happened during the course of
21 that day, but I know for a fact that Deonne arrived
22 from work on that very day, and something happened on
23 that road during that day that had never happened
24 before.

25 So I stand before you, Judge, as I speak for my

1 two girls, who are in fear, as well who have been in
2 fear to this very day. One who of which just started
3 her profession, after leaving the College of
4 Charleston, as a foreigner, has then quit that job in
5 fear for herself, and moved into the realm of
6 laboratory sciences at MUSC in Charleston. So Deonne
7 did not come from a family that just off-the-cuff does
8 violent things. We were raised in and immersed in the
9 fact, again, that if justice is served, we need it
10 badly. And we will live, because I believe in fate,
11 and I'm just -- we ladies are sitting here, and I
12 don't know if Delmar knows any of my other family,
13 but, again, I will re-establish I have never met a
14 Delmar Sanders in all of my days. And I sat there, he
15 glared at us, and the Judge then said again, "He is a
16 threat to this community," and I do agree that he will
17 do this again, and he was denied bond.

18 I'm not one to pass judgment. I know that Deonne
19 coming here eight years ago, and, again, left here
20 eight years ago. He arrived here eight, and he left
21 dying eight, okay? He left -- he came here eight, and
22 left eight. Speaking of Deonne, I know how Deonne was
23 in character. If Deonne had \$20, and I took him to
24 the store -- even I am well off with my husband and I,
25 if he had \$20 on him, he was going to split it between

1 me and my girls, "Go get what you all want. Go get
2 what you all want, I've got \$20." So I'm not here --
3 I'm -- I sit on juries.

4 The jury has made its decision.

5 So I just beg of you, as we sit here today, I
6 have none of my nephews here today, I have none of my
7 uncles, none of them here today, only because we're
8 the ones who would sit and listen to, calmly, what the
9 facts are.

10 Once the facts are in, we're willing to deal with
11 that, but I don't think giving him less than 35 years
12 would be enough for what he has decided to do.
13 Because after all, if I got into a car, if I drove a
14 car and agreed to something beforehand, I sat in a
15 yard and waited for whatever was to come out, we don't
16 know what he did while he was waiting for Deonne to
17 come out of that house, if a gun was even under the
18 hood.

19 We don't know that, but I beg of you today, I beg
20 of you today, as I've had to again, stand in the gap
21 for my deceased sister who died in December -- was
22 shot and killed in December after her son, that if you
23 think he will not do it again, if you give him as less
24 as possible, I'll pick up my bags and I'll leave. And
25 that's an educator of 20 years, who's dealt with

1 numerous amount of characters.

2 I will pick up my bags and leave the community
3 that I have served, I have lived in, I go to church
4 in, I mentor people in, I will pick up my bags and
5 leave, because character speaks volumes when it comes
6 to the life of someone you care about, this would be
7 it. I am his aunt. I thank you.

8 THE COURT: Thank you, ma'am.

9 MR. MCLENDON: My name is Damien McLendon,
10 Dannion is spelled D-A-N-N-I-O-N. First of all, Your
11 Honor, let me thank you for this opportunity to
12 address the Court. On June 27th, 1992, Deonne
13 McLendon indoctrinated me into fatherhood, and on July
14 23rd, 2022, my only son, my first child was taken away
15 from me. And as I stand before you'all today, this is
16 probably one of the hardest and probably, as I try to
17 hold back tears, probably one of the first times I've
18 really let tears out. You know, there's a movie
19 called, "Waiting Hell." It's about a bunch of women
20 who couldn't wait to finally breathe. The day of my
21 son's funeral I read the scripture, and as I walking
22 back to my seat, I couldn't sit down, I had to throw
23 my iPad, and I walked out of the sanctuary, and I
24 wanted to scream, and today I still haven't been able
25 to scream.

1 I'm angry and I thought I could stand here as a
2 tough guy, but as a father it hurts. I listened to
3 the defense attorney talk about the frog and the
4 scorpion, what I heard in that story was totally wrong
5 about my son. Yeah, my son was the scorpion, Delmar
6 was the frog.

7 The problem though is if you knew my son, he
8 would sting you with love, kindness, and that's why
9 Delmar liked my son because he was stung with his
10 affection and his charm. Those who knew my son,
11 whether here in Beaufort, or in Texas, where I
12 presently reside, people loved being around Deonne.
13 My family, because we weren't around him as much, but
14 when my family found out he was coming to town,
15 everybody got excited.

16 I live in the DFW area, I have siblings all
17 around Texas, and they would drive three hours or more
18 to get to come see Deonne. So, again, as I listened
19 to the story of the frog and the scorpion, the
20 scorpion was nothing but love. As a veteran of the
21 Armed Forces, U.S. Navy and U.S Air Force, a lot of my
22 young airmen would come to me, young ladies, would
23 always ask me, "Sarge, hook me up with your son." And
24 I would always tell them, "No." And I would always
25 tell them no, because they were entrusted to me by

1 their parents to protect them, but the problem is,
2 that that scorpion, I knew his DNA.

3 His grandmother would tell you right now, that
4 Deonne took on my personality, of a person who had a
5 kind heart, who always wanted to do right by people.
6 And for that reason I told these young ladies they
7 could not hook up with my son, because I did not want
8 them coming and telling me that he broke their hearts.
9 That's just the type of kid he was.

10 He could sing, play drums, had a little goofy
11 laugh, but everybody loved him. But as I heard the
12 story, the frog is trying to take the scorpion along
13 to allegedly sting, again, that story's wrong. What I
14 saw was the frog decided to go deep down into the pond
15 and drown the scorpion. So when I look at me being
16 the big scorpion, I no longer have my baby scorpion.
17 I'll never get to here, "Pops," I'll never get to
18 hear, "I love you," from him again.

19 And what hurts me more about this whole
20 situation, that I've got two granddaughters, the baby
21 scorpions. I had my granddaughters for the summer,
22 and the youngest one would always want to sit and just
23 look at the pictures of her dad. And she would make
24 me sit there about 45 minutes or more just kissing
25 them. "Want to see another picture G-man, come on, I

1 want to see another picture."

2 So I had to show her my iPhone, I had to show her
3 my iPad pictures, and she would always kiss it. And
4 she has a little pillow with my son's image on it, and
5 every night before she would go to bed, she had to
6 kiss him, but she'll always ask, "I want to talk to my
7 daddy."

8 As a father, it is my job to protect my son, and
9 I wasn't able to do that. As a minister, I'm always
10 taught that I'm supposed to pray for others, forgive,
11 and I can't lie to you today, if I was able to see him
12 in the streets, maybe the defense attorney would
13 probably be trying to defend me right now, that was my
14 child, and I am tired of our world right now. I am
15 tired of politicians playing these games about gun
16 control.

17 I'm a licensed carrier, but that does not give me
18 the right to take a life. And nobody in here should
19 be sitting around here thinking that they are God. He
20 did not give my son life, nor was he given the
21 responsibility to take his life. He is not the death
22 angel. Was one of my dreams that I was hoping I would
23 see before my son left this world, to step up in the
24 pulpit and be the fourth generation of preachers in my
25 family, but nothing, now all I have is hearing my

1 granddaughter sit there and tell me, "I want to talk
2 to my daddy."

3 The hardest thing on July 23rd of this year, when
4 I talked to her mother, and she said that my youngest
5 one would just scream throughout the house, she wants
6 to see her daddy, she wants to talk to her daddy. I
7 know you have a job to do, sir, and I know you can't
8 add to the law, but I ask you right now that you give
9 him everything that he can get, the max of what he can
10 get, which I heard is 35 years.

11 Maybe today I might be able to scream, because
12 all of this is over, but even with me screaming and
13 screaming, I still can't get my son back. Every day
14 I'm reminded because I have an urn sitting over my
15 fireplace that reminds me of my son. Every day I go
16 into my mancave, there my son's drumsticks are. A
17 man's only son, and I want the Court to know, if I
18 talk to his mother, and I told her, I have no ill-will
19 towards the family, but I want him to get the max.

20 I want him to get the max. He might one day get
21 out at 60, 70-years-old, he might get out, and still
22 be able to grow up -- or have a chance to start over
23 with his kids, I don't, my granddaughters don't, the
24 rest of the family don't. And as we go around, our
25 gun violence is getting higher and higher, we have to

1 start making an example out of the criminals, the
2 murderers, the killers, who are using these weapons.
3 Sir, I just want to say, again, thank you for your
4 time. Thank you.

5 THE COURT: Thank you, sir.

6 MS. JONES: Your Honor, I believe that's all from
7 the State.

8 THE COURT: Mr. Paulk?

9 MR. PAULK: Your Honor, this is certainly a
10 serious situation, and these are serious charges, and
11 there's a lot of passion on both sides, Your Honor.
12 I'm not gonna diminish any of that, or take any of
13 that away from anybody, but Your Honor is intimately
14 familiar with the facts of this case, you've sat here
15 and listened to them for four days, for pretrial on
16 it, you know what happened in this case. You know
17 that there's not a person who was involved in this
18 case that was without fault.

19 Your Honor, prior to this incident occurring, Mr.
20 Sanders had gainful employment, and was working
21 towards getting back into his own home. Your Honor,
22 Mr. Sanders as well has children. There's a very good
23 chance that he's not gonna be a part of their lives
24 for a very long time. And I understand that the Court
25 has a job to do, we all have jobs to do in the

1 criminal justice system, and my job is defending Mr.
2 Delmar Sanders, and my job is to advocate for him, and
3 I'd advocate for the lowest sentence that you can give
4 him, Your Honor.

5 Your Honor, Mr. Sanders is not a gang member.
6 Mr. Sanders is not somebody who is out committing
7 violent crimes wantonly. I don't believe that Mr.
8 Sanders is the menace that he is made out to be. I
9 believe that Mr. Sanders was put in a difficult
10 situation, where he had to make a decision, a decision
11 that could have ended his life.

12 Your Honor, I understand that Mr. Sanders has
13 been found guilty by a jury of his peers, and I
14 understand that he has to serve judgment for that
15 guilt, but Your Honor is intimately familiar with the
16 facts in this case. And I trust that there will be no
17 bias and no example made of Mr. Sanders, but that you
18 will do your duty as the Judge to give a fair and
19 impartial sentence to Mr. Sanders that accurately
20 reflects the actions that were committed on the day,
21 the eve of July 22nd and 23rd. Your Honor, with as
22 much time as I've spent with Mr. Sanders, it's my
23 personal belief that he does have a good heart.

24 It's my personal belief that -- I've always
25 enjoyed going to see Mr. Sanders at the jail, he

1 always has a smile on his face, he's always happy to
2 see me. He's never disgruntled as some of my clients
3 may be. Your Honor, I do believe that the family of
4 Mr. Sanders would like to speak at the appropriate
5 time. I don't believe that I have anything further
6 for you.

7 THE COURT: I'll be happy to hear from them.

8 MS. JOHNSON: Your Honor --

9 THE COURT: Hello, what is your name?

10 MS. JOHNSON: Alexis Johnson.

11 COURT REPORTER: I'm sorry?

12 THE COURT: Alexis Johnson? Okay, Ms. Johnson,
13 I'll be happy to hear from you.

14 MS. JOHNSON: I love my brother so much. My
15 brother has a heart of gold, and I'm not just saying
16 that because he's my brother. He's my mom's first
17 boy, I'm the oldest girl. I don't have any children,
18 I look at him like my son as well. My brother would
19 give you the suit off his body right now, if anybody
20 needed it. He's not what they're trying to make him
21 seem to be. Bad things happen, and my brother don't
22 deserve no 35 years. From deep down in my heart and
23 my soul I apologize for what happened to Deonne, and I
24 understand that they can't bring him back, but drugs
25 was a part of all of this, they both were on drugs.

1 My brother don't deserve all that time. He may
2 deserve some time to think, which I don't even -- he
3 does need to think. And I just pray that whenever my
4 brother does get out, because we have a very close
5 relationship, he's just -- like I told him, life is
6 not that hard where you have to do drugs, it's not.
7 He doesn't have to do that, he is too smart for that,
8 he is too intelligent.

9 My brother is a people's person. He loves
10 people. And since me and my brothers was -- came into
11 the world, my mom always told us to love everybody,
12 hate no one, but most of all trust no one. And you
13 can just -- he just have to -- I just -- he can't get
14 35 years. He's -- my brother will do whatever he has
15 to do. This is like -- this will be an eyeopener for
16 him.

17 Again, I'm sorry for what happened to Deonne.
18 When it first happened I not only prayed for my side,
19 but I prayed for their side as well. I'm not judging
20 anybody at all, but I know my brother more than
21 anybody in here, other than my mom knows my brother.
22 My brother's not that type of person. He has children
23 as well. He had a wife. Thank God he's divorced now,
24 but he don't deserve that. He doesn't deserve that.

25 My brother deserves another chance. There's two

1 sides to every story, and my brother deserves another
2 chance. My brother is my heart. My brother is sweet,
3 and my brother is loving, my brother is kind. And
4 about the scorpion and the frog, if that's the case,
5 my brother was set up. I know he was set up.

6 It is not fair. My brother's loving and he
7 trusts too much. And I told him before this happened
8 I had a dream, because I feel things and I see things,
9 and if I don't know nobody, I know Jesus. And I
10 called my brother and I said, "Delmar, whatever you're
11 doing, Delmar, stop. Whoever you're hanging around,
12 Delmar, leave them alone, something's not right."
13 Something wasn't right, I knew it, I felt it.

14 Your Honor, please give me brother the least time
15 you can, and I promise you he will -- when he gets out
16 he will never do anything like this again, because he
17 will not -- he will learn from this. I will be 37 in
18 October, I just got married last April. I want to
19 have children too. I don't want to have to take my
20 children to no prison and tell them about their uncle.
21 I don't want to have to do that, so I just ask you
22 please give my brother the least time, he's not what
23 they make him out to be. I promise you he's not, I
24 promise.

25 I love my brother so much, I just with I could

1 hug him right -- kiss him right now. I'm sorry for
2 what happened to them, I apologize. God knows my
3 heart, God knows his heart. My brother didn't mean to
4 do that. He would not have done that, just because
5 he's not no bad person, so please whatever you can do,
6 just give him the least time possible. Thank you so
7 much.

8 THE COURT: Yes, ma'am.

9 MS. JOHNSON: Hello, my name is Adrienne Johnson,
10 Your Honor.

11 THE COURT: Yes, ma'am.

12 MS. JOHNSON: A-D-R-I-A-N-N-E Johnson, J-O-H-N-S-
13 O-N.

14 THE COURT: Yes, ma'am, I remember you from your
15 testimony.

16 MS. JOHNSON: Yes, sir. I'd just like to say
17 that from the beginning, when Delmar had been getting
18 into trouble and stuff, I always warned him to have
19 rehabilitation. That was never granted him while he
20 was in jail.

21 Also I'd like to say that I am so sorry that this
22 happened to the family, because Delmar and Deonne was
23 close. I remember maybe six months or eight months
24 before everything happened, I saw Deonne's
25 grandmother, where is she? Oh she's not here. Well,

1 they -- I saw his grandmother and Deonne for the first
2 time, and Yoli -- Yolanda and her daughter, and I was
3 calling them out. I said, "You must be Yoli's
4 daughter, 'cause you look just like her." And I told
5 them that it must have been Kevin's son, because he
6 looks just like his mama, that's Deonne. But the
7 grandmother said to Deonne and them that, "When I was
8 a little girl I used to be their baby." And Deonne
9 came to me and said, "Delmar and Deondra is -- they're
10 my babies."

11 So I'm just saying this is something good that
12 just went bad, and my son would never commit a crime
13 of murder, unless his life was in danger. And I
14 believe with all my heart that he did not mean to kill
15 Deonne, and I don't think that he deserves 35 years,
16 and I'm just asking that you find leniency.

17 And if he does have to go for any amount of time,
18 I wish that you could have an order for him to be
19 rehabilitated from the drugs. That was what I wanted
20 from the beginning.

21 THE COURT: Yes, ma'am, is that all?

22 MS. JOHNSON: That's all for now.

23 THE COURT: Okay, thank you.

24 MS. JOHNSON: Thank you.

25 MR. PAULK: Your Honor, the only thing that I

1 would personally add to the record is, that Mr.
2 Sanders has 394 days of credit in the Beaufort County
3 Jail. I believe at the appropriate time Mr. Sanders
4 would like to address the Court.

5 THE COURT: I'll be happy to hear from anybody.

6 MR. SANDERS: Is it okay if I speak from here?

7 THE COURT: Yes.

8 MR. SANDERS: You'all --

9 MR. PAULK: It's okay.

10 THE COURT: No, I don't mind him addressing them,
11 that's --

12 MR. SANDERS: Okay.

13 THE COURT: That's appropriate.

14 MR. SANDERS: You guys, my family as well, I
15 truly apologize that this happened. I am not a
16 killer. I am not a murderer. Me and Deonne, we were
17 family, we were cousins, we were like the best of
18 friends. I don't know how all this came about, okay?

19 I understand you guys are mad because you'all
20 can't get him back, but I'm upset too that this had to
21 happen. I had to protect myself. I'm sorry that
22 you'all don't understand that, but I had to protect
23 myself. Myself comes first before anything. Just
24 like you'all, I don't care what you'all -- you ought
25 to not let anybody hurt you'all. You'all aren't gonna

1 let nobody come to you'all and do nothing, I don't
2 care who it is, it could be your sister, you'all are
3 not gonna let him do that.

4 Just like I don't let nobody hurt me and --

5 THE COURT: All right, that's enough. I thought
6 you were gonna apologize to them.

7 MR. SANDERS: Oh, no, I'm apologizing.

8 THE COURT: That's --

9 MR. SANDERS: -- right now.

10 THE COURT: That's enough.

11 MR. SANDERS: That's it?

12 THE COURT: Yeah. Yeah, I mean you can talk --
13 if you've got anything you need to tell me.

14 MR. SANDERS: Okay, well, I didn't mean to get
15 like that, I was just apologizing, and being sincere,
16 letting them know that it wasn't like how people think
17 it is, and I -- once again, I apologize for that, I'm
18 sorry. It's -- I apologize, okay, to the family,
19 that's my family too, and that's why I came -- that's
20 why I was talking to them like that directly, just to
21 let them know my sincere -- that, you know, I
22 apologize, I wasn't trying to get out of anything, and
23 I apologize to you as well --

24 THE COURT: I understand.

25 MR. SANDERS: -- Your Honor.

1 THE COURT: It's a tough day.

2 MR. SANDERS: And I thank you for all of your
3 time as well, and to God be the glory.

4 THE COURT: All right, do you'all have anything
5 further?

6 MR. PAULK: Not from the defense, Your Honor.

7 THE COURT: Do we have the sentencing sheets?

8 All right, Mr. Sanders, you don't know me. I'm a
9 new Judge. I've been on the bench about almost 60
10 days. For 24 years I did what your lawyers have done
11 all week, tried to help people, tried to keep them out
12 of jail.

13 And I'll be honest with you, when they told me I
14 had this murder trial, I've had an uneasy feeling all
15 week, knowing I might have to sentence somebody to
16 life in prison, but your -- and I've had a bad feeling
17 about even what I was gonna do with this sentence, but
18 looking at your record, it appears you don't get it.
19 It started out with just domestic violence, then it
20 was domestic high and aggravated, then carrying a
21 pistol.

22 Apparently, there's a drug, you know, your mom
23 mentioned rehabilitation. During my career in private
24 practice, the Senate Judiciary Committee Chairman
25 appointed me to our Sentencing Reform Oversight

1 Committee. I sat a year and a half on there, and
2 learned about all the rehabilitation programs we have,
3 and what we do for inmates.

4 We're not great, but they have a chance. You
5 haven't taken the opportunities, or learned any
6 lessons from any of this stuff over the years. I
7 still don't know what happened that night, and I've
8 sat here for four days. And the way you just talked
9 to those folks, it didn't even feel like you have any
10 remorse.

11 I wrote down you still had to protect yourself.
12 Like there's no -- you know, you don't get it.
13 There's a man that's dead, he's not coming back. I
14 mean the State has given you opportunity after
15 opportunity to get it right, and you haven't, and it
16 now culminated and somebody's losing their life.

17 I know something funky was going on out there
18 that night. Like I said, I've been on that side of
19 the courtroom enough, I know something was up. There
20 was something going on, and I still don't know what.
21 My Clerk and I were talking about that while the jury
22 was out. I don't know what was going on, but
23 something was going on, and nobody's told the truth
24 about that yet.

25 And maybe that would have changed things, if we

1 knew, but I am quite certain whatever was going on
2 wasn't worth taking somebody's life. So the sentence
3 of the Court on voluntary manslaughter is you get
4 committed to the State Department of Corrections for a
5 determined period of 30 years. You'll be given credit
6 for 390 days' time served. That will be consecutive
7 to the possession of a weapon, where you are committed
8 to the Department of Corrections for a determined term
9 of five years.

10 You'll be -- that is consecutive, like I said,
11 with the voluntary manslaughter, and you will be given
12 credit for 394 days time served. Good luck to you.

13 (At 4:11 p.m. the proceedings were concluded.)

14 ***

15 END OF TRANSCRIPT

CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina on the 22nd to 25th days of August, 2022.

I do further certify that I am neither of kin, counsel, or interest to any party hereto.

This, the 24th day of March, 2023.

Kymberlee M. Williams, CSR/RPR

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,

5 vs. Transcript of Record
6 2021-GS-07-1219
7 2021-GS-07-1221

8 Delmar Racory Sanders,

9 Defendant.

10 April 21, 2022
11 Beaufort, South Carolina

12 B E F O R E:

13 The HONORABLE EDWARD MILLER

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

15 Mary Jones, Solicitor
16 Matthew Seth Paulk, Representing the Defendant

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20 SHARON G. HARDOON, CSR
21 Official Circuit Court Reporter, III
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1 THE BAILIFF: All rise. This court is
2 back in session.

3 THE COURT: Please be seated. Thank you.

4 MS. JONES: My name is Mary Jones. I'm
5 with the solicitor's office. I believe the first
6 matter before Your Honor is an immunity hearing
7 filed by Mr. Paulk on behalf of Delmar Sanders who
8 should be in the back room in custody.

9 THE COURT: Okay. Anything you-all want
10 to tell me?

11 MS. JONES: Your Honor, this is
12 Mr. Paulk's motion, so I'll let him go first.

13 MR. PAULK: Your Honor, the defense would
14 call Latasha Hardy as the first witness.

15 THE COURT: All right.

16 THE CLERK: You want to come right over
17 here, ma'am. If you could raise your right hand
18 for me. Do you solemnly swear or affirm to
19 truthfully answer all questions asked of you by
20 this court, so help you God?

21 MS. HARDY: I do.

22 THE CLERK: Thank you. If you would,
23 just say your name for the court and then spell
24 your last name for the record.

25 MS. HARDY: Latasha Hardy, H-a-r-d-y.

1 WHEREUPON:

2 LATASHA HARDY,

3 after having been sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PAULK:

6 Q Good morning, Miss Hardy. How are you today? How
7 are you today, Miss Hardy?

8 A Good. How are you?

9 Q I'm doing well. How did you come to know
10 Mr. Delmar Sanders?

11 A I am a mental health provider here at
12 Beaufort County Detention Center.

13 Q How long have you been in that role?

14 A Since September of last year.

15 MS. JONES: Your Honor, I would actually
16 object to this line of questioning and the
17 testimony of Miss Hardy. This is an immunity
18 hearing. This is for what happened the night in
19 question of the shooting. I think anything that
20 Mr. Sanders may have told her following that would
21 be hearsay and outside of the scope of this
22 hearing.

23 THE COURT: Okay. You've covered it on
24 the record. I'm the fact finder as well as the
25 judge of the law in this hearing, so I'll make a

1 determination if it's right.

2 Go ahead.

3 MR. PAULK: Thank you, Your Honor.

4 BY MR. PAULK:

5 Q Miss Hardy, in giving Mr. Sanders services, did
6 you have an opportunity to be present for a
7 conversation between him and another inmate?

8 A I was.

9 Q And do you believe that Mr. Sanders has a bounty
10 or money on his head?

11 A I do.

12 Q And why do you believe that?

13 A In passing, escorting back to the unit,
14 another inmate did say --

15 MS. JONES: Objection, Your Honor. This
16 is hearsay.

17 THE COURT: That is hearsay.

18 MR. PAULK: Your Honor, a present sense
19 impression on a listener, it doesn't matter for
20 the truth of the matter. This is not for the
21 truth of the matter asserted. This is for the
22 effect that the words had on Miss Hardy and also
23 Mr. Sanders.

24 THE COURT: How about that?

25 MS. JONES: I thank that's a backdoor

1 excuse to try to get it in, Your Honor.

2 THE COURT: Yes, it is, but I'm going to
3 let him to do it. Go ahead.

4 BY MR. PAULK:

5 Q So why do you believe that Mr. Sanders had a
6 bounty on his head. The information was told to him
7 in passing. I was just a stander-by walking. Didn't
8 have a conversation. It was a conversation between he
9 and the other person, and the person actually
10 addressed him and give him that information.

11 MR. PAULK: Thank you, Miss Hardy. I
12 have no other questions.

13 MS. JONES: I have no questions for Miss
14 Hardy, Your Honor.

15 MR. PAULK: May this witness be excused?

16 THE COURT: Any objection?

17 MS. JONES: No.

18 THE COURT: Okay.

19 THE WITNESS: Thank you.

20 MR. PAULK: Your Honor, I would now ask
21 that -- if we could, could we clear the courtroom?
22 I'm worried a little bit about witness
23 intimidation with this bounty that is on
24 Mr. Sanders's head with some of the issues that we
25 have with his safety and the safety of the jail

1 whenever he returns back. I understand that much
2 of the victim's family is here and we're worried
3 that they may relay information back to other
4 people who are involved with a certain group.

5 THE COURT: No.

6 MR. PAULK: Yes, Your Honor.

7 THE COURT: All right. Go ahead.

8 MR. PAULK: Your Honor, defense next
9 calls Mr. Delmar Sanders.

10 THE CLERK: Raise your right hand the
11 best you can, Mr. Sanders.

12 MR. SANDERS: Is this under oath?

13 THE CLERK: Yes, sir. It's under oath.

14 MR. SANDERS: I won't put my hand on the
15 Bible.

16 THE CLERK: You don't have to put your
17 hand on the Bible.

18 THE COURT: Wait, wait. I can't
19 understand you, and we're taking down every word
20 you say.

21 MR. SANDERS: Yes, sir.

22 THE COURT: Okay. Go ahead.

23 MR. SANDERS: I just asked if this was
24 under oath.

25 THE COURT: Yes, sir.

1 MR. SANDERS: Due to my religion, I'm not
2 allowed to go and be under oath for anything.

3 THE COURT: What is your religion?

4 MR. SANDERS: Christian.

5 THE COURT: Christian.

6 MR. SANDERS: Yes, sir.

7 THE COURT: Well, you're not going to
8 take the oath --

9 MR. SANDERS: I affirm.

10 THE COURT: Well, you can swear or
11 affirm. Whatever you want to do, but you're going
12 to take an oath or you will not testify.

13 MR. SANDERS: Okay. I'll affirm.

14 THE COURT: Go ahead.

15 THE CLERK: Do you solemnly swear or
16 affirm to truthfully answer all questions asked of
17 you by this court, so help you God?

18 MR. SANDERS: I do.

19 THE CLERK: Have a seat right here. You
20 can adjust that mic the best you can, and state
21 your name for the record and spell your last name.

22 MR. SANDERS: Delmar Sanders,
23 S-a-n-d-e-r-s.

24 WHEREUPON:

25 DELMAR SANDERS,

1 after having been sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. PAULK:

4 Q Good morning, Mr. Sanders.

5 A How you doing?

6 Q I'm all right. Where are you from, Mr. Sanders?

7 A I'm from Beaufort, South Carolina. I was
8 born in Savannah, Georgia.

9 Q How long have you been back in Beaufort, South
10 Carolina?

11 A I've been back in Beaufort, South Carolina, I
12 believe, for -- maybe about eight or nine years.
13 Probably, 10.

14 Q Okay. What kind of work do you do?

15 A I'm an arborist. I cut trees. I cut them
16 down.

17 Q And how long have you been doing that kind of
18 work?

19 A For about 14 years.

20 Q Okay. You making money doing that?

21 A I make awesome money doing that.

22 Q Do you enjoy your job?

23 A I do.

24 Q And were you working an arborist's job at the time
25 this incident occurred?

1 A I was, I was. I was working at All Works.

2 Q Lowcountry All Works?

3 A Yes.

4 Q Okay. Did you graduate high school, Mr. Sanders?

5 A I did.

6 Q And where did you attend high school?

7 A Battery Creek High School.

8 Q Okay. So on the night of July 23rd, where were
9 you living at?

10 A I was really living in my truck at the
11 time.

12 Q And what caused you to be living out of your
13 vehicle?

14 A Just, you know, then -- being separated, so I
15 was just -- I didn't have anywhere to go.

16 Q Separated from who, Mr. Sanders?

17 A Separated from my wife.

18 Q Okay. What did you have in your car?

19 A What did I have in my car?

20 Q Yeah.

21 A I had a bunch of clothes. I had a lot of
22 stuff in my car.

23 Q Everything you own?

24 A Yes, everything I own.

25 Q So on the night of July 23rd, what did you do that

1 day? Or, I guess the 22nd is when this all started.

2 So on July 22nd, that evening, what did you do?

3 A It was a Thursday. I was -- just got off of
4 work. Ask my mom, can I come take a shower. She
5 said, yeah. I came, took a shower. I snuck a nap
6 in there. She doesn't really like me to, you
7 know, sleep, unless I ask her. I snuck in a nap.
8 I woke up. It was probably like maybe 10:30,
9 10:40, I woke up and I realized I didn't have no
10 cigarettes left. It was a Thursday night, and my
11 account -- I was going to get direct deposit in my
12 account on Friday, which would be 12:00 a.m.

13 So I asked her if she would buy me some
14 cigarettes. I didn't have any cigarettes. She
15 said she wouldn't do it, so I let her know that I
16 was going to go to the bootlegger's for some
17 cigarettes.

18 Q Now could you explain for the court what a
19 bootlegger is?

20 A A bootlegger is somewhere you can go late
21 night hours. It's not a store. If the store is
22 not open, you can go there and get cigarettes.
23 You can get whatever you want, beer, or whatever
24 you want at that time of hour.

25 Q Okay. So you left your mom's house about 10:30 or

1 10:40 and you go to this bootlegger?

2 A Yes.

3 Q And what did you do there?

4 A I went there for cigarettes.

5 Q Did you get cigarettes while you were there?

6 A Yeah, I got a couple of them. But then one
7 of the people that worked there, that actually
8 worked as a bootlegger, they wanted me to go and
9 get more cigarettes, so I can get more. I didn't
10 get all that I was supposed to get.

11 Q So the bootlegger asked you to run an errand while
12 you were there?

13 A Yes, yes.

14 Q So what did he ask you to do?

15 A He asked to get him beer, cigarettes, and
16 other items.

17 Q Okay.

18 MS. JONES: Could you repeat that? I'm
19 sorry. I didn't understand what else he was
20 asking you.

21 THE WITNESS: He told me to get him beer,
22 cigarettes, and other items.

23 MS. JONES: Thank you.

24 BY MR. PAULK:

25 Q So did you do that?

1 A I did. I did do that.

2 Q Did anybody go with you?

3 A Yes, yes. My cousin went with me. He asked
4 for a ride that day. And I told him, I don't want
5 to. I mean, I can't take you. I can't take you
6 at all. I had to work the next day. And, you
7 know, he got upset with me, and he wanted a ride.
8 That's really when we -- like, right after, that's
9 when me and him -- go with me, being that
10 bootlegger wanted me to buy some stuff for him.

11 Q Okay. So you -- what store did you go to?

12 A It's slang for Smokers. They call it
13 Smokers, but it was the Kangaroo at the time.
14 Everybody knows it as Smokers.

15 Q And where is that indicated?

16 A That's located across from T.J.MAXX shopping
17 center.

18 Q Okay. So you go to the gas station, you go to the
19 Kangaroo and what happens then?

20 A We get there, he already promised me gas
21 money.

22 Q He who?

23 A Deonne. My cousin, Deonne. He promised me
24 gas money when we get there. He starts talking
25 about how he robbed this white boy and then had

1 the money for it, so that was his excuse to give
2 me the gas money. He stayed in the car.

3 Q So, Deonne told you that he robbed a white kid.
4 When this did this happen? Did he tell you?

5 A He didn't tell me what it happened.

6 Q Okay. So you-all are talking, and do you
7 eventually go in the store?

8 A I did. He stayed seated in the car.

9 Q Okay. So you go in the store and what do you buy,
10 if you can remember?

11 A I bought some cigarettes, and I bought two or
12 three packs of cigars.

13 Q Okay. Then what happened?

14 A Then I exited the store and we left.

15 Q Did you go back to the bootlegger?

16 A Yes, we went back to the bootlegger and
17 returned the items.

18 Q So what happens when you get back to the
19 bootlegger?

20 A When I get back to the bootlegger's, I return
21 the items. He stays seated -- Deonne stays seated
22 in the car. I go in the bootlegger. I give him
23 the items and I come back out.

24 Q So did you actually go into the house?

25 A Yes, yes, yes, yes. I had to give him his

1 things.

2 Q You can pick up there.

3 A I go in the house. I gave him his things. I
4 come back out and my hood was popped, and, you
5 know, I don't remember being -- I don't remember
6 having to fix my car or anything like that. So I
7 asked him, I'm like, why do you have my hood
8 popped?

9 Q Who did you ask why your hood was popped?

10 A I asked Deonne why my hood was popped.

11 Q Why was your hood popped?

12 A Because he was placing his gun there. So if
13 we get pulled over, they won't find the gun.

14 Q And had you agreed to take Deonne to anywhere else
15 at this time?

16 A I did not. I told him I had to work.

17 Q What time did you have to go to work the next
18 morning?

19 A About 6:00 in the morning.

20 Q Was that about what time you normally start?

21 A That's about what time I normally start. I
22 wake up about five o'clock.

23 Q So you tell Deonne that you're not able to give
24 him a ride because you got work early in the morning.
25 Then what happens?

1 A Then he gets angry, and, you know, my --
2 okay, my other cousin comes in. His name is -- I
3 don't like to say his name, but his name is M. He
4 comes and he wanted me to take him somewhere to
5 get some stuff for him. So that was, like, his
6 way of getting me to take him somewhere. So a
7 whole argument broke out.

8 Q So M wanted you take who where?

9 A Deonne.

10 Q Okay.

11 A Somewhere to get some things.

12 Q Okay.

13 A But I believe that was just his way wanting
14 me to take him somewhere.

15 Q To stop the fight from happening?

16 A Stop the fight from happening.

17 Q Have you and Deonne -- did you and Deonne ever --
18 how long have you known Deonne?

19 A I've known Deonne -- I met him -- I've known
20 him probably as long as I've been in Beaufort.

21 Q Somewhere between 8 and 10 years?

22 A Yes, yes.

23 Q In the time that you knew Deonne, did you-all ever
24 have any fights?

25 A Yeah, we had a lot of fights.

1 Q About how many?

2 A Maybe six or seven, maybe.

3 Q And these aren't arguments. Are these fist
4 fights?

5 A These are fist fights.

6 Q So the first fist fight you-all had, what
7 happened?

8 A Well, I'll sum it up. He kicked my ass.
9 Excuse my language.

10 Q So that was the first fight you-all had. What
11 about the second fight you-all had?

12 A Same. You can see. He did this right here.

13 Q You have a scar over your right eye?

14 A I do.

15 Q That's from a fight with Deonne?

16 A Yes.

17 Q Did you win that fight?

18 A I wouldn't say I did. I doubt it because he
19 got the best of me.

20 Q Okay. Were there any other fights?

21 A There were, like, little verbal fights.
22 Like, there were basically wrestling. What we
23 call slap-boxing matches, when you just, like,
24 real quick. It was like friendly, but he was
25 quicker in the hands than me.

1 Q Okay. So it was important that a fight not break
2 out at the bootlegger that night. So that's why your
3 cousin stepped in and tried to calm the situation and
4 asked you to take Deonne somewhere?

5 A Correct.

6 Q So what happened then?

7 A So I take him to a place over on Cleveland,
8 and we arrived there. There's a bunch of cars
9 coming in and out simultaneously. Someone stopped
10 and was asking for a strap. Basically, do you
11 have a gun. I'm like, no, I don't have a gun.
12 And then he, like, with haste, just immediately
13 gets out of the car and proceeds to the dude's.
14 So he was in there for maybe, like, 45 minutes to
15 an hour. I'm wondering what was what's going, so
16 I get out of the car and go and check on my
17 cousin. Take my phone just because I had my car
18 alarm and tell him what be going on, why was he in
19 there for so long.

20 Q So if you didn't want to even be taking him on
21 errand why didn't you leave at that point?

22 A Well, there's a bunch of cars behind me
23 blocking me in. There was cars coming in. There
24 was cars going out. I couldn't leave if I wanted
25 to. I would have to leave my truck and walk.

1 That's the only way to get out.

2 Q And you didn't want to leave your car there?

3 A No, heck no.

4 Q Would Deonne be angry if you just left him there?

5 A Of course he would.

6 Q What would have happened?

7 MS. JONES: Objection; speculation.

8 THE COURT: Yeah.

9 BY MR. PAULK:

10 Q So you didn't leave, but you get out of the car
11 and then what happens next?

12 A Once I got there, a bunch of people were in
13 the yard looking at me, giving me a little nasty
14 looks. And I was still waiting for him in the
15 yard. We just hanging out. He eventually comes
16 out. He has something wrapped in a towel. Puts
17 it in his groin area and he let's me know, hey,
18 we're going to go pick up two girls. I'm like,
19 come on man, I told you I'm not going nowhere
20 else.

21 Q So he told you-all that you were going to pick up
22 two girls. Did he describe them to you?

23 A He said one of them was white, and he
24 didn't -- he just said one was white.

25 Q Your wife, or ex-wife now, was she white?

1 A Yes, she is white.

2 Q Does Deonne know that you like white girls?

3 A He knows I like them thick.

4 Q Does he know you like thick white girls?

5 MS. JONES: Objection.

6 THE COURT: Yeah, I'll sustain that.

7 BY MR. PAULK:

8 Q So Deonne tells you thick white girl that you're
9 going to go pick up. And did you agree to go with him
10 at that point?

11 A I did.

12 Q So then what happens when you-all leave that house
13 on Cleveland?

14 A So we went there at the house in Cleveland.
15 We went to somewhere, like, Blue Street. I
16 thought I was picking up two girls. We ended
17 picking up one girl, and that was a black girl.
18 We're going to pick up two girls, you know. I'm
19 thinking one for me, one for him.

20 So he said, the girls comes around. She's
21 nonchalant. She gets in the car. My first thing was
22 don't sit behind me. Go slide in on the other side.

23 Q Why didn't you want her to sit behind you?

24 A I don't like nobody sitting behind me. And
25 it was just weird how it was supposed to be two

1 girls. And this girl was in a hoodie also. And
2 then I was sittted with them.

3 Q Okay.

4 A And then when I asked him, I thought it was
5 two girls? He just brushed it off. Oh, no,
6 you'll be safe. You're okay.

7 Q So after you-all pick up this one girl, what
8 happens then?

9 A He then go to the hotel Oasis.

10 Q Okay. And you have a room there?

11 A I did not have a room there.

12 Q Did Deonne have a room there?

13 A Not that I know of.

14 Q So whose room was this?

15 A I'm not sure. I believe --

16 Q If you don't know, you can just say you don't
17 know?

18 A I really don't.

19 Q Okay. Did they have to go in and pay for the
20 room?

21 A No, no. They went straight to her room.

22 Q So describe to me what happens from the time that
23 you-all pull up in the Oasis?

24 A We pull up to the Oasis. You know, everybody
25 gets out of the car. I get out of the car. I was

1 stretching a little bit, go and get back in the
2 car. They go in.

3 And like probably a minute and a half, two
4 minutes later, she comes out. She comes to my side
5 door. She opens the door. She's, like, come on in.
6 Come on in. I'll check my balance right here. I told
7 them before that I was going to check -- I was going
8 to have a direct deposit coming and I needed to get
9 gas. Around that time, it probably would have been
10 about -- just about a little over 12.

11 So she came to my side and she seem like
12 she was in a real seductive manner, the way she
13 was trying to get me to come out of the car. So
14 I'm like, no, I'm not coming out of the car. I'm
15 going to check my balance right here. She's like,
16 no, you can check your balance inside. Go check
17 it inside. No, I'm going to check it right here.
18 Slapped my door. I locked it.

19 After, she get mad. She go in there, and,
20 maybe two or three minutes later, that's when she
21 comes out with my cousin. My cousin reaches the car,
22 so that's when I'm thinking it's my opportunity to ask
23 what's really going on. What's going on. What you
24 got going on. I open the door for him. I didn't
25 unlock all the doors. I opened just one door for him

1 only. He opens the door, he's like, yo, man, what's
2 up? Come inside. Come inside. I'm like, no, man.
3 Like, what's going on? Like, why did she tell me to
4 come inside. I'm going to check my account. Like,
5 what's going on?

6 She comes and she start tugging on the door.
7 I'm like here. I'm letting them know, I'm going to
8 have to go to the ATM. My money just hit. I'm going
9 to the ATM.

10 That was really --

11 Q Hold on just one second, Delmar. We're going to
12 play the surveillance video for you and see if you can
13 recognize any of that.

14 A Okay.

15 MS. JONES: Your Honor, for the purposes
16 of this hearing, I stipulate that this is the
17 Oasis Inn surveillance video.

18 THE COURT: Okay.

19 MS. JONES: I assume. I'm not sure.

20 THE COURT: Yeah.

21 (Video played.)

22 BY MR. PAULK:

23 Q Could you point out your car for us, Delmar?

24 A It's behind that white work truck.

25 Q Okay. I believe that the officers noted in their

1 incident report that the camera for the Oasis Inn was
2 about 10 minutes different than the actual time
3 whenever they went to review the footage.

4 THE COURT: Wait a minute. With all due
5 respect, that's not evidence.

6 MR. PAULK: Yes, Your Honor.

7 THE COURT: Okay.

8 BY MR. PAULK:

9 Q So, Deonne (sic), what's happening here?

10 A Huh?

11 Q So what's happening here?

12 A Them getting out of the car. That's her
13 going to the room. That's when I got out of the
14 car, stretch real quick. That's Deonne going
15 inside the room. You see me, I'm just right there
16 stretching. You see me get back in the car. I
17 got in the car, shut the door.

18 Q Is this a fair and accurate depiction of the Oasis
19 Inn night?

20 A Yes.

21 Q So what are you doing in the car right now?

22 A I'm checking my balance. That's On the
23 Enmarket on the left side of where I was, and I
24 was thinking I could go over there and just swipe
25 the card and get gas. That's what I'm thinking.

1 I'm coming back out. She's all mad for some
2 reason. I don't even know her. Never met her a day
3 in my life. She comes to my side of the door, tugs on
4 it.

5 Q So why wasn't she able to open the door?

6 A I locked it.

7 MS. JONES: Your Honor, if Mr. Sanders
8 could speak up. I'm having difficulty hearing
9 him.

10 THE COURT: Yeah.

11 THE WITNESS: Sorry about that.

12 She couldn't open it because I had it locked.

13 That's her. You can see her. She's
14 talking, trying to get me come in. I'm letting
15 her know that I'm checking my balance. That's
16 when I shut my door. She got angry. She then
17 walked around there. That was after the two got
18 there.

19 MS. JONES: Your Honor, Miss Hardoon is
20 having trouble as well understanding
21 Mr. Sanders.

22 BY MR. PAULK:

23 Q Just speak up, if you could.

24 A Another couple minutes. Shortly a couple
25 minutes, you will see both of them coming. He got

1 to the car first, as I said, and I unlocked the
2 door for him.

3 Q Mr. Sanders, while we're waiting for them to come
4 out and as the video plays, had you used any drugs
5 that night?

6 A I had a few bumps.

7 Q And where did you do that at?

8 A Side of the truck.

9 Q Okay. Had you been drinking anything that
10 night?

11 A I don't drink.

12 Q It seems like she was in there a long time, but
13 it's only, like, two minutes. By this time, I find
14 out I have a positive balance. 1207.93, to be exact.

15 THE COURT: I'll tell you what, you don't
16 do a narration. You respond to questions. Okay.

17 THE WITNESS: Yes, sir.

18 BY MR. PAULK:

19 Q So what's happening here, Deonne -- or Delmar,
20 excuse me?

21 A They're approaching from the back.

22 Q And whenever he pulls on your door, is it unlocked
23 or locked?

24 A It's locked.

25 Q So what happens then?

1 A I opened the door for him and enters from the
2 side.

3 Q And do you see Miss Rhonda doing anything on the
4 back side of your car?

5 A Yes, she's trying to open the door. Like I
6 said, I reached over and unlocked his that way she
7 wouldn't get into my truck.

8 Q Try to speak into the microphone clearly.
9 So your door was locked?

10 A Yes.

11 Q So what's happening here whenever Deonne leans
12 into the car?

13 A I'm basically telling him, I'm asking him
14 what's going on. He said, nothing going on. I
15 let him know I'm trying to leave. I'm about to
16 got to the ATM and get some gas. They walk
17 around. By this time, I'm telling them both know
18 that I'm going to go to the ATM by myself. They
19 would not listen at all. She just jumps in there.
20 She didn't jumped in. She just jumps in and
21 closed the door, totally disregard what I'm
22 saying.

23 Q So why would you tell them that you wanted to go
24 to the ATM?

25 A I was trying to get out of the situation.

1 Q Why didn't you just leave when they were in the
2 hotel room?

3 A Because I know if I would have he left him,
4 he would have get angry at me. And then he would
5 say this, say that to the family, and than I got
6 to go through all this.

7 Q So you didn't leave him there because you were
8 afraid of Deonne?

9 A Yes.

10 Q What did you tell them whenever they came to get
11 in the car?

12 A I let them know that my balance was positive
13 and I'm able to get gas. I want to go by
14 myself.

15 Q Do people normally accompany you when you go to
16 the ATM?

17 A No, I don't let them.

18 Q Is it odd for people to want to go with you to the
19 ATM?

20 MS. JONES: Objection.

21 A Very.

22 THE COURT: That's speculative, so I
23 sustain that.

24 BY MR. PAULK:

25 Q Were you suspicious of Deonne and Rhonda at this

1 point?

2 A Yes.

3 Q At this point what was making you suspicious?

4 A That Deonne would disregard what I wanted. I
5 told him, no, I want to go to the ATM by myself.

6 Q They disregarded you and just got in the car?

7 A That was very disrespectful.

8 THE COURT: They was what?

9 THE WITNESS: That was very
10 disrespectful.

11 THE COURT: Very disrespectful.

12 THE WITNESS: Yes, yes. So I figured by
13 them doing that, that's -- that just made it very
14 suspicious.

15 BY MR. PAULK:

16 Q Okay. So what happens next, whenever you leave
17 the Oasis?

18 A I'm going to the ATM.

19 Q Because that's what you had told them.

20 A That's what I told them, yes. I'm going to
21 the ATM. I'm driving around contemplating what
22 I'm going to do. I didn't want to go to the ATM.

23 Q So what's going through your head at this point?
24 What are you thinking?

25 A I'm thinking they're going to harm me. I'm

1 thinking that I might get robbed. I already told
2 them -- Deonne already knew that I had got in an
3 accident and I had some money coming in.

4 Q When did you get into an accident?

5 A That was 2018.

6 Q What kind of accident?

7 A That was a car accident.

8 Q So what do you mean you had some money coming?

9 A I was waiting on a settlement.

10 Q And Deonne knew that?

11 A Yes, he knew that.

12 Q Okay. So, let's keep on. You leave the Oasis,
13 and what happens?

14 A I leave the Oasis and we're driving around.
15 I pass several ATMs. And they're like, you pass
16 the ATM, you pass the ATM. I didn't say anything.
17 I'm trying to think of how I'm going to get them
18 out of my car and take them home. We get probably
19 to like where the Independent trailer park is.

20 Q Uh-huh.

21 A And that's when I heard something drop.

22 Q You heard something drop. Where did it drop at?

23 A It dropped on the floorboard.

24 Q Was it like a piece of paper, or was what it like
25 a rock?

1 A It was like a brick.

2 Q What did you think it was?

3 A I thought it was a gun. I could tell a gun
4 sound.

5 Q So you hear something drop, and then what
6 happened?

7 A I hear something drop, and she immediately --

8 Q She who?

9 A Rhonda.

10 Q Uh-huh.

11 A She immediately, without me even asking her,
12 basically, oh, that's my phone. I looked back. I
13 didn't even ask her at all what it was. She with
14 haste herself said, that's my phone.

15 Q Okay.

16 A I look back. Her phone was clearly in the
17 cup holder that I had pulled down for her.
18 Because when you pull my seat down, there's a cup
19 holder in the middle.

20 Q You're talking about, like the middle seat in the
21 back, how it flips down and it has a cup holder?

22 A Yes. I saw her phone.

23 Q So you hear this thing drop in the back, and
24 without any provocation Miss Randall immediately
25 states, oh, that's my phone?

1 A Uh-huh.

2 Q And then you looked back there?

3 A Yes, and her phone was clearly in the middle
4 console.

5 Q Okay. So then what happens?

6 A So then, you know, I started getting real
7 worried, basically. I'm driving around. And I
8 believe, based on them seeing I was swerving, he
9 wanted to drive or whatever.

10 Q Why did they think that you were swerving? Or, if
11 you were swerving, why were you swerving?

12 A Because I kept looking back. I kept watching
13 my surroundings. I kept turning around,
14 looking -- I'm driving and looking at the same
15 time.

16 Q And where are you looking at?

17 A I'm looking in the back. I'm looking at him.
18 As I'm looking, I see him reaching over with his
19 left hand, like grabbing something. I'm like,
20 okay. I see his arm there.

21 Q And what was going on here now?

22 A I think they were passing something.

23 Q You think that they were passing something between
24 the front and the back seat?

25 A Whatever it was that dropped, that's what

1 they were passing.

2 Q Okay. So then what happens?

3 A Well, you know, they start talking about me
4 driving. They changing positions and everything.
5 I turn on the dome lights, and he had the gun on
6 his lap and he was facing my direction. He had
7 his finger right there where it needed it to be if
8 he needed to engage.

9 Q So where was his finger on that gun?

10 A It was on the trigger.

11 Q And where was it pointing at?

12 A At me. It was placed on his lap, pointed at
13 me. He said, I'm going to drive. You're
14 tripping. I'm going to drive.

15 Q But before this happened, had you seen a gun at
16 any point that night.

17 A I didn't.

18 Q Where did -- did you think that there was a gun
19 anywhere?

20 A No, I thought it was under the hood.

21 Q And why did you think that it was under the hood?

22 A Because he told me he put it under the
23 hood.

24 Q So you didn't know that Deonne had a gun on him
25 that night?

1 A I didn't.

2 Q So it was a surprise to you that there was now a
3 gun pointed at you?

4 A It was.

5 Q So after you turn on the dome lights and you see
6 the gun, what happens?

7 A I asked him, like -- I stopped the car. I
8 thought you put that under the hood. He
9 immediately gets out without even answering my
10 question. He immediately gets out, comes around
11 the car. He's like -- he left his gun there.

12 Q Comes around the car where?

13 A He came around the car to me.

14 Q To the driver's side.

15 A On the driver's side, yeah.

16 Q And where was his gun at?

17 A The gun was on the seat.

18 Q Okay.

19 A This caused --

20 Q So what did you do?

21 A I got out of the car, but I was still looking
22 to make sure that that gun was not in anybody's
23 hands. Now, that being said, Rhonda, she scooted
24 up in between both seats, put her elbow on the
25 seat and she's looking at the gun. So I'm like,

1 okay, cool.

2 Q So she props herself up between the driver and the
3 passenger seat in the front seats?

4 A Yes.

5 Q Is she within harm's reach of the gun at this
6 point?

7 A Yes, she is.

8 Q So what do you do?

9 A I get back in the car. I get back in the car
10 to basically be the mediator of the gun between
11 him and her.

12 Q So when you get back in the car, what happens?

13 A I get back in the car and that's when he
14 started saying that he wanted to drive. She said
15 something to him. He came back around --

16 Q What did she say?

17 A I'm not sure what she said at that moment --

18 Q Uh-huh.

19 A -- but she did make a statement later on.
20 Saying, basically, take his phone. That's once he
21 came back around. Once he came back around, she
22 was like take his phone. I was like, take his
23 phone. He reached for the gun and that's when I
24 snatched it, the gun. He tried to grab me.

25 Q So, you got back in the car in the driver's seat.

1 A Uh-huh.

2 Q And where did Deonne go?

3 A You said I got back in the car?

4 Q When you got back in the car in the driver's seat.

5 A No. He was still there talking, telling me
6 to get out of the car and he wanted to drive.

7 Q Then what happens?

8 A She said something to him and that's -- it
9 made him come back around to the car. He stood
10 right there.

11 Q So did he go back around to the passenger's
12 side?

13 A Yes, he did.

14 Q And then what happened?

15 A That's when she said take his phone. And
16 that's when he went for the gun. He didn't try
17 to, like -- with haste he just went for the gun
18 and I snatched it. I reached over and snatched
19 the gun. I didn't shoot him. I didn't shoot. I
20 was letting them both know it's not going down
21 like that.

22 Q So what were you thinking in your head that was
23 going to happen at this point whenever he was trying
24 to drive and whenever you saw the gun?

25 A I'm thinking they was trying to kill me, rob

1 me, take my truck, I don't know what they had
2 going on. At this point, there was a car
3 approaching, and that was -- I was thinking this
4 was going to be my escape ride. Flag them down
5 and I can get out of here. I can tell them to
6 call law enforcement or whatever. They turned
7 their lights off, and now all I can see is their
8 little yellow lights and it's dark. They're
9 probably 150 feet way from the truck -- from my
10 truck. So now I'm watching that car. I'm
11 watching him. I'm watching her.

12 Q And then what happens?

13 A That's when basically everything just took a
14 different turn.

15 Q What was Deonne doing at this point?

16 A At this point, Deonne was basically yelling
17 at me he wanted the gun back. He was coming
18 around.

19 Q Where was he standing at?

20 A He was standing at the door -- at his door,
21 passenger door.

22 Q Okay.

23 A And that's when he start coming around. I'm
24 like, Yo, don't come around. You're not getting
25 this gun back.

1 Q So he was moving towards you?

2 A Yeah. I knew if he had got the gun, he would
3 have shot me. I know without a doubt.

4 Q You think if you-all had got into a fist fight, he
5 would have got the best of you?

6 A Of course.

7 Q Why do you think that?

8 A Because he done it before in the past.

9 Q And you were afraid for him to get the gun back,
10 correct?

11 A Correct. That's my life. That's my life.
12 I'm not about to let him get that gun back. I
13 don't care if you beg and plead, please, I'm
14 sorry. I'm not giving that gun back.

15 Q So what was Deonne saying and doing at this point
16 whenever he's moving towards you.

17 A He was threatening me. He was saying he was
18 going to get the gun. And he came and was, like,
19 maybe probably four feet away from me at the
20 time.

21 THE COURT: He was what?

22 THE WITNESS: Maybe three or four feet
23 away from me at the time. You can hear me?

24 THE COURT: Okay. I can hear you. Just
25 enunciate a little better.

1 THE WITNESS: Yes, sir. Yes, sir.

2 BY MR. PAULK:

3 Q So Deonne is moving towards you and he's hollering
4 and cussing and yelling that he wants the gun back?

5 A Yes.

6 Q Then what happens?

7 A That's when a fire was shot.

8 Q And did he stop?

9 A No, he kept coming.

10 Q So then what did you do?

11 A I fired another shot.

12 Q And then what happened?

13 A He ran off. He ran away, and I figured that
14 was my time to go ahead and get on from there.
15 This is my time to get on. This is my time to
16 leave. This is my time to escape. But the money
17 was in my car. So I get over there. Miss Rhonda
18 is still in my car. She's going through her
19 purse. And I'm letting her know, you need to get
20 out of my car so I can leave. She goes. I'm
21 going to kill you, I'm going to kill you, going
22 through her purse.

23 Q What was she saying?

24 A She was saying she's going to kill me.

25 Q And what was she doing while she was saying that?

1 A Going through her purse. She was like
2 frantically looking for something. I don't know
3 what it is.

4 Q Did you think that she was going for a gun?

5 A It could have been a gun. It could have been
6 a knife. Could have been -- I didn't know what it
7 was, but you're not going to get to it.

8 Q So what did you do?

9 A So I shot a warning shot.

10 Q When you shot that warning shot, you weren't
11 trying to hit her?

12 A I wasn't trying to hit her.

13 Q Then what happens?

14 A She exits the vehicle. Just like she falls
15 out frantically (indicating). That's when I get in
16 the car and I go to leave.

17 Q So you get in the car and -- I'm going to pull
18 this map up real quick so that maybe you can show us a
19 little better?

20 MS. JONES: Your Honor, he can maybe show
21 it to me before he --

22 THE COURT: Yes.

23 MR. PAULK: Of course.

24 MS. JONES: All right. Thank you.

25 BY MR. PAULK:

1 Q Delmar, this is Laurel Bay Road. This is
2 Stanley Farm Road. And this is Rose Island Road. So
3 where were you-all driving that night?

4 A Could you say that again?

5 Q Yeah, and you can actually come down here and you
6 can mark on this if you want to.

7 A Okay.

8 Q This is Stanley Farm Road.

9 A Uh-huh.

10 Q This one down here is Rose Island Road.

11 A Right.

12 Q And this is Laurel Bay.

13 A I got you. And that's Stanley Farm?

14 Q Yes. This is Stanley Farm right here?

15 MS. JONES: Your Honor, I don't believe
16 that Mr. Sanders can recognize what Mr. Paulk is
17 pointing out.

18 THE COURT: Yeah. Let's get his
19 testimony. Not your testimony. Okay?

20 MR. PAULK: Yes, Your Honor.

21 BY MR. PAULK:

22 Q Where did you-all drive at that night, Delmar?

23 A Down Stanley Farm.

24 Q Which side of Stanley Farm?

25 A We was on the side -- okay. Like, you going

1 past the mobile home trailer park.

2 THE COURT: I can't hear you. You don't
3 -- just speak loudly. You don't have to have the
4 microphone.

5 THE WITNESS: We was going. Okay. Like,
6 if you pass the mobile home trailer park, that's
7 Independent Trailer Park. Past that. You got the
8 police station. You got the dump over there. You
9 go past those. You make a left on Stanley Farm.
10 We was on that side of Stanley Farm. We wasn't on
11 the other side. We was on the side where the dump
12 is.

13 THE COURT: Okay.

14 BY MR. PAULK:

15 Q So can you tell from looking at this map which
16 side of Stanley Farm Road you were on?

17 A Not by looking at that map.

18 Q Okay. If this map is not helpful, we're going to
19 take it down. Okay?

20 A Okay.

21 Q So after this happens, where do you drive?

22 A I drive -- well, that car -- that car, after
23 he turns off his light, starts following me. When
24 he started doing that, I was going to go right and
25 hopefully I can reach law enforcement somewhere in

1 the area. But I went left and I drove as fast as
2 I can and as far as I can. And once I got to
3 where I saw polices was riding around a lot,
4 that's when I stopped. From I know -- I didn't
5 know at the time -- but now I know it was Camden,
6 Georgia. And that's where I turned myself in,
7 there.

8 Q What day was that that you turned yourself in?

9 A To me, it felt like the same day.

10 Q Did you turn yourself in on July 24th?

11 A I guess so. Yeah, July 24th.

12 Q So after you turned yourself in, what happens?
13 You tell Camden County officers a different story than
14 you're telling us now? Why did you tell them that
15 different story?

16 A I did tell them a different story. I was
17 afraid of what my family would say, what they
18 think about it. You know, he's my cousin. I
19 didn't know how to let them know, you know, in a
20 way, like, I was defending myself. I didn't know
21 if they were going to believe me or not. And they
22 would retaliate. My family is real big in --
23 yeah, they would have retaliated.

24 Q So what was the story that you told Camden County
25 officers?

1 A I let them know, it was like two dudes, two
2 girls, or whatever, and was partying. And,
3 basically, a shot was fired, and everybody
4 disbursed and everybody ran.

5 Q But that wasn't true?

6 A That wasn't true.

7 Q Why did you tell them that?

8 A Because I was afraid of what was said about
9 my family. I was afraid -- I didn't want the
10 story to get out that, oh, he was defending
11 himself. He shot him. I never been in this
12 predicament before. I never been in predicament
13 before. I mean, you know, I was totally unaware
14 of what was going on, you know.

15 Q Were you afraid of what your family would have
16 said or what they would have done?

17 A Both. Both. More of what they would have
18 done.

19 Q So, you get transferred from Camden County to
20 Beaufort County?

21 A Uh-huh.

22 Q And you speak with investigators Tunis and Duncan,
23 correct?

24 A I did, yes.

25 Q And you tell them the same story that you told

1 Camden the first time when you speak with him.

2 A I did.

3 Q And why did you tell him that story?

4 A For the same reason. The same reason, that I
5 told you. I was just afraid of what we done. I'm
6 afraid of certain people in my family who concern
7 themselves with things like that. They don't
8 care. Your family, they don't care if you're this
9 and that. But they feel like, you did this and
10 that and they're going to retaliate.

11 THE COURT: I cannot understand you.
12 What did you say?

13 BY MR. PAULK:

14 Q Speak up a little bit.

15 A My family, is very ruthless when it comes to
16 certain things like that. Like, something going
17 on with their family. And I'm part of that
18 family. But didn't know how to relay that to
19 them. I didn't want the story to get out like
20 that. I already know -- I already know if I would
21 say it to them how I'm telling you guys, is not
22 going to come out how I tell you guys, because
23 it's not coming out like that now. It's not
24 coming out like that now. I had to explain this.
25 I'm the only ones who knows. Me and God. I'm the

1 only one that knows the truth. I'm the only one
2 that knows how I felt. Nobody knows that but
3 me.

4 Q So you tell officers Duncan and Tunis the story
5 about there being in the back seat and the shot going
6 off but that wasn't true.

7 A It wasn't true.

8 Q And you told them that story because you were
9 worried, you were scared.

10 A I was.

11 Q So after they let you know that they have
12 surveillance footage from the Oasis Inn and that they
13 got to speak with Deonne before he passed away, what
14 happens then?

15 A I'm sorry. Could you repeat that, please?

16 Q Yeah. So during the interview with Tunis and
17 Duncan, did you tell them the truth eventually?

18 A Yes, I did. I told him the same thing I'm
19 telling you now.

20 Q Why did you decide to tell them the truth then?

21 A Because at first I was thinking that, like,
22 you know, I didn't -- I never been in this
23 predicament before. I didn't know what to think,
24 what to do. All I knew is, if I would have
25 said -- I just thought by me telling him the truth

1 now, they would be able to help me with certain
2 things. I mean, I wanted them to be able to help
3 me. I mean, law enforcement, protect and serve.

4 Q Delmar, do you have a bounty on your head?

5 A From what I believe, yes. I've gotten many
6 threats in the jail.

7 Q At one point, were you put in red in the jail?

8 A Yes.

9 Q And why were you put in red? And what does that
10 mean?

11 A That means, I got code red. That means that
12 I either fought or something happened.

13 Q So what happened?

14 A Somebody was threatening me and they attacked
15 me and I defended myself.

16 Q Why did they attack you?

17 A Because they was trying to get -- reach that
18 bounty, so per se. Trying to get the bounty. As
19 if they were going to kill me, but they just,
20 like, punched me and we started fighting.

21 Q Okay. So you've been attacked in the jail because
22 of this incident?

23 A Yes. They still --

24 MS. JONES: Your Honor, I don't know what
25 attacks after the fact have anything to do with

1 whether he is warranted to have immunity today or
2 not.

3 MR. PAULK: Your Honor, respectfully, the
4 attacks after the fact go to show that Mr. Sanders
5 did have a right to be afraid of Deonne, and his
6 fear was --

7 THE COURT: He can talk about what his
8 state of mind was, but we don't have any evidence
9 about why he was attacked over than his state of
10 mind.

11 MR. PAULK: Yes, Your Honor.

12 THE COURT: Okay, go ahead.

13 BY MR. PAULK:

14 Q Delmar, is there anything else that you want to
15 tell the court?

16 A If I didn't act the way I acted, I would not
17 be here to testify today. I know that with all my
18 heart and soul. There would be somebody else
19 standing up here.

20 Q Delmar, I'm going to ask you a couple more
21 questions about your cocaine use that night. About
22 how much cocaine did you have -- or who had cocaine?

23 A Deonne had cocaine. He was the only one.
24 And I only took, like, maybe three or four a
25 bumps. A bump is -- a bump is when you take a

1 straw, put it in the straw and put it to your
2 nose, and you bump. Sniff it. That's what a bump
3 is.

4 Q So is that a large amount of cocaine? Is that
5 like a line of cocaine?

6 A No. No, that's different. I don't do lines.
7 I know my limit.

8 Q Okay. And were you passed your limit that
9 night?

10 A No, I was not passed my limit.

11 Q So is three or four bumps a lot of cocaine?

12 A That is not of cocaine. That's enough to get
13 the party started.

14 Q Okay.

15 MR. PAULK: Moment of the court's
16 indulgence, Your Honor. No further questions for
17 this witness, Your Honor.

18 THE COURT: Cross-examination.

19 MS. JONES: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. JONES:

22 Q Good morning, Mr. Sanders. How are you?

23 A I'm doing all right. How about yourself.

24 Q I'm doing well. I just want to ask you a few
25 questions. This bounty on your head, you reported it

1 to the police?

2 A I don't believe so.

3 Q No? So it happened in jail?

4 A Uh-huh.

5 Q Were there jailers all over the place you could
6 have reported to and you didn't?

7 A Well, I asked them. They reported to the
8 jail.

9 Q Okay. So the sheriff's office should be
10 investigating it, right?

11 A I would hope so.

12 Q Okay, we'll look into that. Who beat you up in
13 the jail?

14 A Am I supposed to say names?

15 Q So someone beat you up, but you're not going to
16 tell who?

17 A Like, I don't even know his name.

18 Q Okay. Does he have a nickname?

19 A Yes. He's call SAV-D.

20 Q SAV-D?

21 A Yes.

22 Q Okay. Perfect. Thank you. We'll look into that
23 for you, okay?

24 A Thank you.

25 Q Now, you heard -- you gave lots of different

1 statements, didn't you?

2 A I want wouldn't say lots of different ones,
3 no.

4 Q Maybe not different actual statements, but
5 different versions of what happened?

6 A I don't -- like maybe a couple. One or
7 two.

8 Q Sure, okay. Let's start back in Camden County and
9 you met with -- you turned yourself in after you fled,
10 right?

11 A Could you please define "fled?"

12 Q You got in your car, the car that you killed
13 Deonne outside of, the car that you shot Rhonda in,
14 you got it and drove to another state?

15 A Uh-huh. Georgia, yes.

16 Q Yes. And she has to take down everything you're
17 saying, so if you could say yes or no, please, for the
18 record.

19 A No problem. Thank you.

20 Q So you fled to Georgia?

21 A Uh-huh.

22 Q Is that a yes?

23 A Yes.

24 Q You met with -- I guess it was the sheriff's
25 office, so a Detective Mulligan in Camden County.

1 A Yes.

2 Q And you went there and you said that you were
3 wanted for something that you did not do?

4 A Yes.

5 Q And you needed to get your side of the story out.

6 A Yes.

7 Q To clear your name.

8 A Yes.

9 Q And you said that you went and picked your cousin
10 up. And when we say "cousin," we mean Deonne.

11 A Yes.

12 Q And Deonne had a nickname, didn't he? Was it
13 Scooter?

14 A Scooter, yes.

15 Q And you went and picked him up. And when you
16 picked him up, there was a group of men in the yard
17 asking for a ride.

18 A Yes.

19 Q And they said that they were going to give you \$20
20 gas money to give them a ride.

21 A Yes.

22 Q And so you said, okay, I'll give you a ride.

23 A Uh-huh.

24 Q And you did.

25 A (Witness nods head up and down.)

1 Q And you said that two unknown males, yes? Two
2 unknown males and two unknown females got into your
3 car, your SUV. Is it a Dodge Durango?

4 A Yes.

5 Q And they got in your car because they were going
6 to give you \$20 gas money.

7 A Yes.

8 Q Because you didn't have any money, did you?

9 A Not at the moment.

10 Q You had no cash on you.

11 A No.

12 Q You had nothing on you.

13 A Some quarters to get cigarettes. That's it.

14 Q Okay. And Deonne knew that you didn't have any
15 money?

16 A Deonne knew I didn't have any money?

17 Q Because you had been talking about getting my
18 direct deposit at midnight --

19 A Of course, of course, of course.

20 Q Okay, okay. You say that you have all these
21 unknown people in your car and you drive off, and
22 that, all of a sudden, you hear some arguing and
23 fighting in the back seat. Do you say that?

24 A I believe so, yes.

25 Q Okay. And all of a sudden you hear shots?

1 A Yes, ma'am.

2 Q And you got out of your car and you ran and hid
3 behind some bushes.

4 A Yes.

5 Q And the next thing you know, you see your cousin
6 running past --

7 A Yes.

8 Q -- and you see the other people running past.

9 A Yes.

10 Q And than you walk away.

11 A Now, that part, I didn't say I walked away.
12 I said I got back in my truck.

13 Q Okay. Well, we'll -- well, eventually you do end
14 up back in your truck. We know that, right?

15 A Right.

16 Q So that's what you tell Deputy Mulligan over in
17 Georgia, another state, after you fled.

18 So then you come back to South Carolina and
19 you agree, you waive your extradition, and you come on
20 back to Beaufort County, right?

21 A Yes.

22 Q And when you're in Beaufort County, you meet with
23 this man right here, Investigator Tunis.

24 A Yes.

25 Q And also another investigator, Investigator

1 Duncan. Do you remember meeting with them?

2 A Yes.

3 Q And it was right across the street over by the
4 investigation office. Do you remember that?

5 A Yes.

6 Q And this would have been -- your attorney kept
7 saying July, but we're actually in June, aren't we?

8 A Uh?

9 Q It was June?

10 A No, it was not June.

11 Q It was July. My apologies. July. So now we're
12 at July 26th? By the time you get to Beaufort, it's
13 July 26th?

14 A I believe so. I mean, is that what it
15 says.

16 Q Yeah, it was a couple days after. Because it took
17 a while to get you back here, didn't it?

18 A It took a while to get me back here?

19 Q You turn yourself in the day after you killed
20 Deonne, and then it took a couple days for you to get
21 extradited and voluntarily come back.

22 A Okay, okay. Yes.

23 Q And it turned out, while it's usually just a
24 two -- roughly a two-hour ride over to Camden County,
25 it took you about 10 hours to get back here in that

1 car that day, didn't it?

2 A What car?

3 Q The police that brought you from Camden County to
4 Beaufort County?

5 A It took about 10 hours?

6 Q Yes.

7 A Why did it take that long?

8 Q Well, Mr. Sanders, I get to ask you questions
9 today. So it took about 10 hours, didn't it?

10 A I'm not sure.

11 Q Okay. If you don't remember, you don't remember.

12 Do you remember saying it took so long
13 because they had to drop off a man somewhere else and
14 he wasn't allowed to come into the South Carolina?

15 A That's correct. I'm not sure it took 10
16 hours, though.

17 Q Okay, okay. But it was some period of time in the
18 car?

19 A Uh-huh.

20 Q We can agree on that?

21 A Yes, we can agree on that.

22 Q Perfect. And you say that you went out that night
23 looking for a cigarette. You had no money. Your mom
24 wouldn't give you money and you needed a cigarette.
25 We can agree on that, right?

1 A Yes.

2 Q And you went to a family house and you run into
3 your cousin Deonne, also known as Scooter.

4 A Yes.

5 Q And Scooter is buying drugs at this family house
6 get together.

7 A Yes.

8 Q Then you and Scooter leave together, and you go
9 pick up a black female who we now is Miss Randall,
10 Rhonda Randall.

11 A Yes.

12 Q And you-all then go to the Oasis Inn, which we saw
13 the footage. You-all were absolutely at the Oasis Inn
14 that night, weren't you?

15 A Yes.

16 Q But you tell Tunis, Investigator Tunis and Duncan
17 that the reason you go to the Oasis Inn is to meet a
18 white girl named Lacey.

19 A Correct.

20 Q And that when you get there, two unknown men then
21 get in your car.

22 A I said that?

23 Q You did.

24 A Do you have the recording to play back or
25 something?

1 Q We can certainly play that later on. But -- so
2 are you disagreeing that you said that or don't
3 remember saying that?

4 A I don't remember saying that.

5 Q That's fine. But that these two unknown men get
6 into your car with Scooter and Lacey. You don't
7 remember saying that?

8 A I just said, I don't remember. I'm sorry. I
9 thought you were --

10 Q That's fine. If you don't remember, you don't
11 remember. You-all proceed to drive away from the
12 hotel. Do you remember saying you and whoever is in
13 your car drive away from the hotel?

14 A Yes.

15 Q And that everyone in the car was telling you to
16 slow down because you were swerving and driving too
17 fast?

18 A I was swerving, not driving to fast.

19 Q Do you remember saying that they asked you --

20 A I don't remember saying I was driving too
21 fast.

22 Q But you admit you were swerving?

23 A I admit I said I was swerving, yes.

24 Q You then say that one of these unknown men in the
25 backseat say, do you want to do it right here? You

1 hear them say that?

2 A Yes.

3 Q And, as you're approaching the stop sign, you hear
4 shots go off?

5 A Yes, I guess.

6 Q Okay.

7 A You're saying -- are you asking this is what
8 I said?

9 Q Yes. This is what you said.

10 A See, I don't remember all that.

11 Q Well, I'll keep going. That after you say you
12 hear the shots go off, you froze, and you got out of
13 the car and ran, and that everybody else in the car
14 ran away together.

15 A No.

16 Q You don't remember saying that?

17 A No. I mean, am I supposed to say yes or no?

18 Q No, no. If you don't remember, you don't
19 remember. That's what I'm asking.

20 A I don't remember.

21 Q So then after you tell them that story, the
22 investigators at the sheriff's office kind of present
23 you with some evidence that really refutes everything
24 you just said, didn't they?

25 A Yes.

1 Q So they knew you were lying.

2 A Yeah.

3 Q So then you tell what I'm going to say is story
4 number 3. You then tell another story of what
5 happened that night, don't you?

6 A I tell them the truth.

7 Q Okay. Let's get there. So now you say they say,
8 you-all -- I'm so happy you said you told them the
9 truth, because they had asked you, hey, man, all we
10 want is the truth, right?

11 A Uh-huh.

12 Q Just tell us the truth.

13 A Yes.

14 Q Do you remember what you said when they asked you
15 to tell them the truth?

16 A I remember I said everything I said today.

17 Q Do you remember saying, it's too late?

18 A Too late?

19 Q You don't remember saying that?

20 A No, ma'am.

21 Q Okay. So now you start talking about the drug
22 usage that night. Do you remember that?

23 A I remember the drug use.

24 Q So you say that this girl -- and you never name
25 her. We now know she's Miss Randall, correct?

1 A Yes.

2 Q And you just looked this way. Do you see her in
3 the courtroom?

4 A (No response.)

5 Q Okay, that's fine. You're looking around. That's
6 fine. The girl, who we now know is Miss Randall, and
7 Deonne were both on drugs. Do you remember saying
8 that?

9 A Yes.

10 Q And that they kept asking to drive, but you were
11 actually driving.

12 A Yes.

13 Q And they wanted one of them to take over
14 driving?

15 A Yes.

16 Q Okay. And then you say the female in the back
17 seat says, "Do it right here."

18 A Yes.

19 Q And when you're speaking with Tunis and Duncan you
20 say, now that I'm sober, I don't know what she was
21 talking about. It could have been something positive.
22 Do you remember saying that?

23 A No, I don't remember saying that.

24 Q Okay. You said that Deonne came around to drive
25 and he left his gun in the passenger seat. Do you

1 remember telling them that?

2 A Yes.

3 Q That Deonne demanded to drive, but you said no.

4 A Correct.

5 Q That Deonne walked around. At this point, he's
6 walking around to your position in the driver's seat;
7 is that right?

8 A Yes.

9 Q And you say that the girl in the back, Rhonda, is
10 fidgeting?

11 A Yes.

12 Q And that, all of a sudden, it went south and it
13 went south real quick.

14 A Yes.

15 Q You said that -- in your interview, you're seated
16 at the table and you do have your cuffs on but you
17 motion like this. You say that Deonne is, kind of,
18 messing with his pants. Do you remember that?

19 A Uh-huh.

20 Q You remember saying that?

21 A Yes, yes.

22 Q Thank you. But, you don't know what's going on.
23 You said that. You remember saying that?

24 A I don't remember saying that.

25 Q Okay. You said, I felt like I was about to get

1 shot and die?

2 A (No response.)

3 Q And then, actually, they're asking about Deonne's
4 gun on the seat and you deny picking up Deonne's gun
5 on the seat.

6 A I don't remember that.

7 Q Well, this is story number 3, so you don't
8 remember that?

9 A I don't remember that.

10 Q You said --

11 A That I denied picking up his gun?

12 Q Yes.

13 A I didn't.

14 Q You said you did not pick up his gun.

15 A I did not.

16 Q You don't remember that. And then you said that
17 you felt like you were defending yourself. Do you
18 remember saying that?

19 A I don't remember saying that.

20 Q But you never said from what, did you?

21 A That should be self-explanatory.

22 Q I'm sorry?

23 A That should be self-explanatory. I'm in the
24 car with two people.

25 Q Okay. So in a murder investigation, you just want

1 them to assume everything?

2 A I mean, I never been in this predicament
3 before when I have to defend myself when there's a
4 weapon at least. So, I mean, you mean assume.
5 I'm like --

6 Q How about I'll make it a little simpler. You
7 never told them what you were defending yourself from,
8 did you?

9 A I feel like I didn't have to.

10 Q Okay. And you talk about fear in this third
11 story. But the fear you talk about is not fear you
12 had that night. It's actually fear of this future
13 retaliation, isn't it?

14 A Yes, both. Both. Fear that night and fear
15 of the future.

16 Q Okay. Today you're saying both?

17 A No. I'm saying both, period.

18 Q Okay. Now, I'm going to -- we're still talking to
19 Duncan and Tunis, and now we're going to go into what
20 I'm going to call story number 4. Okay.

21 So I'm going to ask you again: Do you
22 remember telling them that this is all because of the
23 drugs, and you start to blame it on your drug usage as
24 to what happened that night?

25 A I do remember saying something like that

1 because that type of drug enhances your ability to
2 hear things, see things really well, pay attention
3 to every little detail. So I would believe -- I
4 probably worded it wrong, which probably
5 incriminated myself by doing it, but that's not
6 what I meant. What I meant was, I was aware of
7 every single thing. All my senses was enhanced.

8 Q Okay. They were heightened.

9 A They was heightened, yes.

10 Q Okay. And it's the high of the cocaine that has
11 heightened you're awareness.

12 A Even more than how you were before.

13 Q Okay. You say, I was thinking the wrong thing.

14 A I don't remember saying that.

15 Q You don't remember saying that. Do you remember
16 saying, the drugs, I need help with the drugs?

17 A Yes, I remember saying that.

18 Q Do you remember saying, I've been doing them for
19 way too long?

20 A Yes, I remember saying that.

21 Q Do you remember saying, I was in control, but I
22 wasn't in control at the same time?

23 A In control? I wasn't in control at the same
24 time? No.

25 Q You don't remember saying that?

1 A I don't remember saying that.

2 Q You said, I wouldn't have made this stupid choice
3 if I wasn't on cocaine?

4 A I do remember saying something like that.

5 Q You said, I was swerving, but I told Deonne he was
6 not driving?

7 A Yeah.

8 Q You said, "He came around" -- "he" would be
9 Deonne, Scooter.

10 A Uh-huh.

11 Q "He came around. And I asked him, what's going
12 on. He said, 'F' off. Let me drive."

13 A I don't talk like that.

14 Q He never talked like that?

15 A I don't talk like that. That's like putting
16 your own little words. I don't say fuck off.

17 Q No, no. You're saying that's what he said.

18 A Right. I didn't say that.

19 Q You didn't.

20 A Maybe something similar to that, but not
21 those words.

22 Q And you said, "I said, no, you're not driving."

23 A Yes.

24 Q "And she," Rhonda, "was still sitting there. I
25 was trying to tell her to get in the front if he was

1 going to drive." So you're telling Tunis and Duncan,
2 he can drive, but she's got to get in the front
3 seat?

4 A That means I can get in the back.

5 Q Right. Because you don't want anybody sitting
6 behind you.

7 A Right.

8 Q Okay. I get it.

9 But she wanted to stay in the back seat
10 behind you and that made things worse.

11 A Yes.

12 Q Yes, okay. You said, "I felt like I was defending
13 myself." You said, "So I took it in my own hands to
14 defend myself."

15 A Yes.

16 Q "I was under the influence. I guess I was
17 paranoid."

18 A You said I said those words, "I was under the
19 influence." I don't really talk like that. If I
20 did, that's actually pretty good for me to speak
21 like that. But I don't remember saying that. I'm
22 pretty sure that's something in your own little
23 words.

24 Q Okay.

25 A I mean, if you knew exactly what I said, that

1 would be awesome, and not put it in your own
2 little words.

3 Q Okay.

4 A I'm not trying to the lie to you. I'm trying
5 to let you -- if I remember, I'll let you know I
6 remember.

7 Q Well, we have a transcript.

8 A Okay.

9 MS. JONES: But I know you had some
10 problems with this. How do you want to handle
11 this?

12 MR. PAULK: I would prefer to play the
13 video.

14 MS. JONES: We're going to get there.
15 We'll get there.

16 MR. PAULK: Okay.

17 BY MS. JONES:

18 Q Mr. Sanders, we'll play the video in a little bit.

19 A Yes, ma'am.

20 Q Let's see. Where was I? Okay. "I was under the
21 influence. I guess I was paranoid." You deny saying
22 that because you don't talk like that.

23 A Yeah, I don't talk like that. Not those
24 words.

25 Q Right. You said --

1 A The word "paranoid," I wouldn't use that word
2 paranoid. Now, if you can define paranoid -- I'm
3 sorry. I know you're asking questions. But if
4 you can, please, define paranoid for me, please.
5 Because I totally had the wrong definition with
6 how it was used.

7 Q Well, what do you think paranoid means?

8 A I thought it means that you're scared as
9 shit.

10 Q I think that's a pretty good explanation.

11 A Oh, okay. Cool.

12 Q You saw the gun on his lap. "His" being Deonne's.

13 A Yes.

14 Q And he came around, and he was coming around to
15 your side now.

16 A Yes.

17 Q You didn't know what to think, so I grabbed the
18 weapon.

19 A Yes. That's what I said, yes.

20 Q You're still arguing over who was going to drive.

21 A Correct.

22 Q And Deonne says, "Man, just watch out." And in
23 the video you, kind of, do your arm like this
24 (indicating.) Man, just watch out.

25 A Uh-huh.

1 Q Yes.

2 A Yes.

3 Q She started screaming. She as in Rhonda. And you
4 fired a warning shot at her. She's now out of your
5 car and she asked you for her cell phone. Do you
6 remember telling him that? Telling the investigators
7 that?

8 A Yes.

9 Q But you didn't give it to her, you drove off
10 instead.

11 A Yes.

12 Q Okay. Now we have -- so that's everything -- most
13 of everything you told these investigators.

14 A Yes.

15 Q And Deputy Mulligan over in Georgia.

16 A In Georgia, right.

17 Q So today you just testified to something you have
18 never told anybody before ever, have you?

19 A Yeah, I've told. Yes.

20 Q And statement one to Camden County, did you tell
21 that story?

22 A No.

23 Q In statement two to Tunis and Duncan, did you talk
24 about Deonne pointing the gun at you, you turning the
25 dome light on and hearing something drop?

1 A No.

2 Q In statement three to Tunis and Duncan, did you --

3 A I didn't go into all those details. I went
4 into that with my lawyer, of course, yes.

5 Q Okay. Statement three to Tunis and Duncan, did
6 you talk about the dome light, hearing something drop
7 and Deonne pointing the gun at you?

8 A I believe I did.

9 Q Okay. Statement four, did you tell them that?

10 A I don't believe I did.

11 Q But you know what you told them is recorded,
12 right?

13 A I understand that.

14 Q Okay. And now we have statement five. Let's see.
15 You talk about bootlegger. Never heard bootlegger
16 before until you took that stand. Yes or no?

17 A I'm pretty sure I said bootlegger.

18 Q Okay.

19 A Because that's where you go get cigarettes
20 from. I didn't go ask for a cigarette. I would
21 have bought the cigarettes.

22 Q I'm really just asking you about what you had told
23 them in the past.

24 A Got you.

25 Q Okay. You say that -- you talk about the hood of

1 your car being popped and Deonne hiding the gun?

2 A Yes.

3 Q Today you say that. And you, kind of, breezed on
4 that a little bit when you're talking to Tunis and
5 Duncan, don't you?

6 A Breeze on that a little bit?

7 Q You talk a little bit about it.

8 A Did I say it or did I not say it?

9 Q You talk about a gun going, possibly, under the
10 hood of the car.

11 A Got you. Got you. Okay, yes.

12 Q You said that -- this is again today -- you had to
13 work the next day, so you really didn't want to be
14 there. You want to go home and get some sleep.

15 A Yes.

16 Q But that you didn't want to make Deonne angry.

17 A Yes.

18 Q So a cousin, who -- are you going to tell me his
19 name?

20 A Deonne.

21 Q No, no. This other cousin "M".

22 A Oh, "M." "M," yes.

23 Q What's his name?

24 A "M." His name is "M."

25 Q Does he have a full name, a last name, a first

1 name?

2 A Just "M." That's what I call him.

3 Q He essentially says, give him a ride. Give Deonne
4 a ride.

5 A Give Deonne. Yes, yes. Give him a ride.

6 Q So you take Deonne and you go to someplace. Do
7 you know where this was?

8 A Yeah, that was the one on Cleveland.

9 Q On Cleveland?

10 A Yeah.

11 Q Okay. Who lives there?

12 A Some guys that he needed to go get some stuff
13 from.

14 Q Okay. Some stuff, is that drugs?

15 A It was probably drugs.

16 Q Who lives at Cleveland?

17 A I'm not sure of his name.

18 Q Okay. And that he's --

19 A Everybody has their own street name. I'm not
20 sure of their real name. Everybody has a street
21 name that they go by.

22 Q Okay.

23 A You're probably waiting for me to say blah,
24 blah, III, or something, but I don't know his real
25 name.

1 Q No. And it might be surprising, I do know people
2 go by street names.

3 A Okay.

4 Q So you say that Deonne goes into this house on
5 Cleveland where someone lives that you don't know his
6 name and is in there for 45 minutes to an hour.

7 A Uh-huh.

8 Q You never said that before, did you?

9 A I wasn't lying.

10 Q But you never said that before, did you?

11 A I never been a victim before. I mean, I
12 supposed to tell that to my lawyer.

13 Q I'm just asking you, have you said that before?
14 Aside from talks with your lawyer, did you say that to
15 Investigator Tunis?

16 A Yes, I believe I did.

17 Q And that actually -- Deonne asked you if you're
18 strapped?

19 A Yes.

20 Q You never said that to Investigator Tunis before
21 either, did you?

22 A I guess I didn't go into detail. I was going
23 straight to the story cut and dry.

24 Q And today you said that you wanted to leave, but
25 you couldn't leave because you were blocked in.

1 A Yes.

2 Q You never said that before, did you?

3 A I believe I said that several times.

4 Q You say that Deonne comes out with something
5 wrapped in a towel?

6 A Yes.

7 Q And, again, that's the first time we're hearing
8 that today, isn't it?

9 A You're asking isn't it? No, that's not the
10 first time you're hearing that today. Maybe for
11 you. But it's not the first time. Duncan heard
12 that.

13 Q Tunis?

14 A Tunis. I'm sorry.

15 Q You told him that in this interview that we're
16 eventually going to see here in a little bit?

17 A I believe I did.

18 Q Now we're going to get some girls. You talk about
19 the girls.

20 A Yes.

21 Q And you like thick white girls. So, essentially,
22 Deonne, kind of, bribed you with, I got a thick white
23 girl named Lacey for you?

24 A I did not tell that to Tunis, no.

25 Q Thank you.

1 A I didn't go into detail. I did not.

2 Q Okay. But don't you think in a murder
3 investigation details are very important?

4 A I never been in this predicament, ever. I
5 didn't know about any -- no.

6 Q You pick up a black female on Duke Street.

7 A Uh-huh.

8 Q And that black female turns out to be Miss
9 Randall.

10 A Yes.

11 Q And you say that you-all go to the Oasis Inn. We
12 saw the video. You absolutely are at the Oasis Inn,
13 right?

14 A Yes, ma'am.

15 Q But that you don't want them in your car, do
16 you?

17 A At the moment, I didn't, because going
18 through all these red flags.

19 Q And never told that to Tunis, did you?

20 A I believe I did.

21 Q You were talking about you need to go to the ATM
22 and how Deonne knows that you need to go to the ATM.
23 You said that today.

24 A (Witness nods head up and down.)

25 Q And that Deonne knows that you have this

1 settlement coming through.

2 A I didn't tell that to them, no.

3 Q But you said that today.

4 A I did say that today, yes.

5 Q So when this happened back in -- last summer, did
6 you have that settlement money?

7 A I still don't have it.

8 Q Okay.

9 A But I was getting a settlement. This is what
10 I believe that they know I have getting it.

11 Q Okay. So they're going to rob this night for an
12 IOU?

13 A No, not an IOU. He's not psychic.

14 Q Okay. We'll get back to what exactly you said.
15 You then say that you-all leave the Oasis and you pass
16 by Independent Trailer Park and you heard something
17 drop in the back that sounded like a brick.

18 A Yeah, it sounded like a brick. I said that
19 today, yes.

20 Q Yes. But you never said that before?

21 A I said heavy a plate.

22 Q I'm sorry. It may have been your attorney that
23 used the word brick. I think he said a piece of paper
24 or a brick, and you said a brick.

25 A You piece of paper or rocks. I said brick.

1 Q Thank you. And that your suspicions are raised.

2 You're suspicious. You said that today.

3 A Yes.

4 Q You never told this investigator you were
5 suspicious of them before, did you?

6 A I didn't use those exact words every time.

7 Q You said that they are now talking about switching
8 drivers?

9 A Uh-huh.

10 Q And -- because you're swerving?

11 A Yes.

12 Q You said that all of a sudden the victim -- my
13 apologies -- victim, Mr. Deonne McLendon, he's
14 reaching with his left hand and him and Rhonda are
15 passing something around?

16 A Yeah.

17 Q And you don't know what it is?

18 A No.

19 Q You never tell that to Investigator Tunis?

20 A No.

21 Q And then you say you turn on the dome light.

22 A Uh-huh.

23 Q And you see Deonne with a gun on his lap and it's
24 pointed at you.

25 A Yes.

1 Q And he has his finger ready on the trigger.

2 A Yeah.

3 Q And you say that?

4 A I say that. That's my first time I'm saying
5 it like that. I didn't tell that to Duncan.

6 Q You didn't think it was important in a murder
7 investigation --

8 A I never been in this predicament before.

9 Q -- to tell the investigators that the man you shot
10 and killed had just pointed a gun at you with his hand
11 on the -- his finger on the trigger?

12 A It would have been very important to tell
13 them, yes. I never been in this predicament
14 before to know that I was supposed to.

15 Q You talked to them for over an hour and a half.

16 A I talked to them for over an hour and a half?

17 Q Uh-huh.

18 A I don't recall that.

19 Q Okay. You said -- let's see. You stopped the
20 car. Deonne gets out and leaves the gun on the seat.

21 A Yes.

22 Q Rhonda scoots up and she's looking at the gun and
23 now she's within arm's reach of the gun.

24 A Yes.

25 Q You said that one of them, and I was unclear which

1 one you said this, either Deonne or Rhonda said, take
2 his phone.

3 A Yes.

4 Q Talking about your phone.

5 A Yes.

6 Q You never told that to BCSO, did you?

7 A No.

8 Q Wouldn't you think it's important for the
9 sheriff's office to know that that's what happened?

10 A It would be very important, yes.

11 Q Let's see. That Deonne reached for his gun. You
12 snatched it before he could reach for it.

13 A Yes.

14 Q Because you thought that they were going to kill
15 you or rob you?

16 A Yes.

17 Q When they knew you had no money?

18 A I mean, I was told I was getting a direct
19 deposit.

20 Q But at the time you had nothing on you?

21 A They felt like I was going to the ATM. I
22 didn't go to the ATM. All he had to do was stay
23 in the car and not go against my regards. Like
24 why would you go against my regards. What is so
25 eager that you need to get in the car and go to

1 the ATM for? Why?

2 Q Okay. You say that Deonne -- today you said that
3 Deonne is now yelling at you and threatening you?

4 A Yes.

5 Q You never said that before, did you?

6 A Not that way, no.

7 Q You said that Deonne -- that you shot him. He
8 continued to come at you and you shot him again.
9 That's what you said today.

10 A Yes.

11 Q And he took off running?

12 A Yes.

13 Q You said Rhonda is now screaming, going through
14 her purse, and saying, I'm going to kill you.

15 A Yes.

16 Q And you never said that to the Beaufort County
17 Sheriff's Office or Deputy Mulligan in Camden County,
18 did you?

19 A I told them the same story. That was the
20 story that if it got out the wrong way, I would be
21 in trouble with my family.

22 Q Your family would be mad that you killed Deonne
23 defending yourself?

24 A They wouldn't. Like, his side of the family?
25 We're a family. His mother, brothers, sister,

1 father, those ones. They got their own little
2 thing going on, put it like that.

3 Q Okay.

4 A I did not go into detail.

5 Q No details. I won't ask you details about that.

6 So, let's see. This gun that you used to
7 kill Deonne and to shoot Rhonda, you threw it while
8 you were fleeing to Georgia, didn't you?

9 A Yes.

10 Q You threw it out the window.

11 A Uh-huh.

12 Q And actually, before you threw it, you took the
13 magazine out of the gun and threw it in one place and
14 threw the gun in a different place?

15 A No, I never said that.

16 Q You don't remember telling him that you separated
17 the gun?

18 A No, I didn't say that. We're going to listen
19 to it.

20 Q We're absolutely going to listen to it. But you
21 don't talk anything about the gun when you're up here
22 today, do you?

23 A No, I didn't tell them.

24 Q Okay. Because that's the murder weapon, you got
25 rid of it?

1 A Yeah, I threw it. They went and looked for
2 it.

3 Q And they couldn't find it. Where you told them it
4 was, they couldn't find it. You don't know?

5 A I thought they probably found it.

6 Q Okay. So I'm going to go back to the
7 interviews -- the interview you had with Tunis and
8 Duncan. A couple more things you said there. When
9 you come in, you're very nice. You're pleasant. You
10 agree to talk to them. You sign Miranda, you waive
11 it, and you agree to talk, don't you?

12 A Uh-huh.

13 Q And one of your first questions is, how did I end
14 up on America's Most Wanted. You want to know that,
15 don't you?

16 A I told them that, you say?

17 Q No, no. Tunis and Duncan.

18 A There was a camera stuck in my face. That's
19 why I said that.

20 Q So you -- okay.

21 A I've seen those little tidbits Caught On
22 Camera, some crap. Not Caught On Camera.
23 Whatever the thing is called. The First 48.

24 Q Okay.

25 A And they usually be on America's Most

1 Wanted.

2 Q So you were just assuming you were on
3 America's Most Wanted.

4 A Yes.

5 Q And they said, no, no. Not America's Most Wanted.
6 It was our local alert.

7 A When it came through a Mulligan, she said it
8 was for homicide. I was like, homicide, that
9 means, like, I'm wanted.

10 Q Okay. But you said that because you knew Rhonda
11 lived and she was going to tell the truth of what
12 happened?

13 A No, that's not why I said that.

14 Q They also asked you if on this 10-hour car ride
15 you had rehearsed your story. And you don't deny
16 that, do you?

17 A I didn't rehearse my story.

18 Q That's not what I'm asking you. You didn't deny
19 that when they asked you that, did you?

20 A I didn't rehearse the story.

21 Q Okay. And, actually, from what you told us today,
22 you had from July 23rd of 2021 until today to come up
23 with what you told us today, didn't you?

24 A Do I understand I told you that?

25 Q No. I'm asking you.

1 A No. I've been saying this for the whole
2 time.

3 Q Statement number five --

4 A There's time in between us, so -- I mean, for
5 you to say that I've had that amount of time to
6 come up with this, the time in between, I'm not
7 dead. You're not dead. There's time in between
8 us.

9 Q Okay.

10 A I don't get what you're trying to say when
11 you said I had that time to come up with it.

12 Q There seems to be a little bit of a disconnect, so
13 I'm just going to move on. Okay?

14 A Okay.

15 Q You tell them, "I'm not saying you guys screwed
16 up. I'm saying I screwed up."

17 A I don't recall that.

18 Q And then later on at some point in this interview,
19 you-all start talking about what might happen to you
20 in prison. Do you remember that?

21 A Probably.

22 Q You said, "I'm going to be stuck in here." Do you
23 remember saying that?

24 A Stuck in here? I don't remember saying that.

25 Q And you said, "I know I'm not going to get out on

1 bond. I'm smarter than that."

2 A Could we just play the video?

3 Q I'm going to keep asking you these questions,
4 okay?

5 A Go ahead.

6 Q You said, "Can I be by myself forever," when
7 talking about potential jail time.

8 A I don't recall that.

9 Q You said, "You know what, I'm already in it.
10 Screw it. I know how to defend myself," when you're
11 talking about potential possible fights in the jail
12 yard?

13 A I don't recall that.

14 Q You asked Duncan, "Did I already throw my life
15 away?"

16 A I don't remember that.

17 Q You asked Duncan and Tunis, "Am I going to spend
18 the rest of my life in prison?"

19 A I don't remember that.

20 Q You asked him about lethal injection. You don't
21 remember saying that?

22 A No.

23 Q And then you-all start talking about how to pass
24 time in prison. And you're talking about this because
25 you know what you did was wrong?

1 A If I was talking about this, it's because I
2 never been in this predicament before, so I had
3 all this stuff in my head about what all could
4 happen for defending or not. As somebody that was
5 in this position for self-defense or not. I never
6 been in this predicament at all. I never been in
7 this predicament.

8 Q You never been -- I'll agree, you never been in a
9 murder predicament. Is that the predicament you're
10 talking about?

11 A Yes.

12 Q But you're familiar with the justice systems. You
13 have convictions. You've been to prison. You have a
14 record, right?

15 A Yeah.

16 Q You have a domestic -- CDV-HAN, criminal domestic
17 violence of a high and aggravated from 2015.

18 A Yes.

19 Q And you have another CDV from the 2014. So you
20 know how it works.

21 A No. Like I said, the murder part, yes.

22 Q Just murder, that's just a different story. They
23 start telling you and you start talking about what
24 happened that night, and you asked them a couple
25 questions. Now it's your turn to ask questions. And

1 you asked Duncan and Tunis, "What's the story you guys
2 got? Is it near mine?" Do you remember saying
3 that?

4 A No, I don't remember saying that.

5 Q Do you remember saying, "Am I right so far about
6 what you know?"

7 A I think I remember saying something like
8 that.

9 Q So you're checking to see if, am I good, am I
10 good, are they really buying what I'm selling?

11 A Well, that's only because they coerced
12 everything. It was like, well, that's not what we
13 heard. Like they're going off of what you heard,
14 instead of giving me a chance to tell my story.

15 Q Okay. You even tell them you studied criminal
16 justice so you understand everything?

17 A I don't remember anything.

18 Q Where did you study criminal justice?

19 A I didn't study criminal justice.

20 Q Duncan tells you, "Yeah, you made some bad
21 decisions. We know you weren't planning that night to
22 kill your cousin." Do you remember him saying that?

23 A I don't remember that.

24 Q And what was your response to that? Do you
25 remember that?

1 A I don't remember that.

2 Q "That's a good one." "That's a good one." That's
3 what you say?

4 A Could you say everything over again?

5 Q Sure. Duncan tells you, "You made some decisions.
6 You weren't planning that night to kill your cousin."

7 A Okay.

8 Q And your response is --

9 A That's a good one?

10 Q Uh-huh.

11 A I don't remember that.

12 Q Okay. You talk again about how Deonne and Rhonda
13 just wouldn't comply. And you start blaming Deonne,
14 but you still never say why you had to kill him, do
15 you?

16 A I thought I did.

17 Q And then you go on and say -- you're talking
18 about -- they're talking about how after you shot him
19 and after you shot Rhonda, you fled. You went to
20 Camden, Georgia.

21 A Yes.

22 Q And you said --

23 MS. JONES: And pardon my language, Your
24 Honor.

25 BY MS. JONES:

1 Q -- "Object for me was to just get the fuck away
2 from this mental fucking thoughts for being under
3 drugs and just to get away from here."

4 A I don't remember saying that.

5 Q Okay. You deny saying that?

6 A Yes.

7 Q And you even talk about how you knew that you
8 drove off with Rhonda's phone in your car?

9 A Yes.

10 Q And you drove off with her phone so she couldn't
11 call 911, didn't you?

12 A No. She said that she was going to get her
13 phone, and I heard it went off. I didn't see her
14 phone.

15 Q Okay. You talk about how in this car ride from
16 South Carolina to Georgia, that you call lots of
17 family and friends.

18 A Call lots of family and friends?

19 Q Uh-huh.

20 A I said that?

21 Q Yes.

22 A I don't remember saying that.

23 Q And they said, "Hey, man, do what you got to do."

24 A I don't remember saying that.

25 Q You don't remember saying that. You don't call

1 the police, do you?

2 A No. I was going to go to jail.

3 Q You said, "I made a stupid choice, a stupid
4 choice."

5 A I don't recall that.

6 Q You never said, it was a choice I had to make, did
7 you?

8 A I didn't say it that way.

9 Q You said, "I failed. I failed it all."

10 A I don't remember that.

11 Q You said, "I'm a fucking idiot."

12 A I don't remember that. I don't talk like
13 that.

14 Q Okay. I mean, "I've been struggling with this
15 drug thing, man. This has nothing to do with what I
16 did wrong."

17 A I don't recall that.

18 Q So you admit, when you're talking to Tunis and
19 Duncan, that what you did was wrong?

20 A I don't recall that.

21 Q Do you remember finally telling them, "I have no
22 excuses, man?"

23 A I don't recall.

24 Q But today you do have your excuses, don't you?

25 A I don't have excuses. I have reasonable

1 belief -- to believe that I was being robbed,
2 about to be killed.

3 Q "I have no excuses, man."

4 A I don't remember saying that.

5 MS. JONES: I have no further questions,
6 Your Honor.

7 THE COURT: Do you have any other
8 questions?

9 MR. PAULK: Brief redirect, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. PAULK:

12 Q I know that you were unable to recall most of your
13 conversation with Investigators Tunis and Duncan from
14 almost a year ago at this point, nine months, some
15 time about like that.

16 A Yes.

17 Q Do you recall them asking you about what happened
18 before the Oasis?

19 A Before the Oasis?

20 Q Yeah.

21 A Asking me what happened before the Oasis?

22 Q Specifically asking you about what you-all were
23 doing before the Oasis. I know that you don't recall.
24 Would it refresh your recollection if we played the
25 video?

1 A Yes.

2 THE COURT: How long is this video?

3 MS. JONES: Your Honor, it's an hour and
4 23 minutes.

5 THE COURT: The entire intent of the line
6 of questioning was to impeach his credibility.
7 What does it have to do with the events that
8 occurred at the -- wherever it was out on the
9 road?

10 MR. PAULK: Yes, Your Honor. I
11 understand. What I would like to get Mr. Sanders
12 to explain was why he made those statements to
13 investigators, but he doesn't recall making those
14 statements.

15 THE COURT: We're not here to try the
16 whole case.

17 MR. PAULK: Yes, Your Honor.

18 THE COURT: We are just here to determine
19 whether or not he's entitled to immunity --

20 MR. PAULK: Yes, Your Honor.

21 THE COURT: -- for what happened.

22 MR. PAULK: Understood.

23 THE COURT: I let this go a long time,
24 but let's confine it to that issue. Okay?

25 MR. PAULK: Yes, Your Honor. I'll just

1 be brief with Mr. Sanders. We don't need the
2 video.

3 BY MR. PAULK:

4 Q Do you remember why you were telling them that you
5 had been using drugs that night?

6 A Why I was telling them I was using drugs?

7 Q Yeah.

8 A I mean --

9 Q Were you trying to tell them the truth?

10 A I was trying to tell them the truth, yeah. I
11 mean, once he told me everything would be okay,
12 and this and that, I was, like, let him know.

13 THE COURT: Could you repeat what you
14 just said, please?

15 THE WITNESS: Once I told them that
16 everything -- once they let me know that
17 everything would be okay, that's when I let them
18 know. Okay, yeah, that's when I basically was
19 letting them know the truth.

20 BY MR. PAULK:

21 Q And you told the truth that day. Maybe just not
22 in so much detail as you told today?

23 A Exactly. I didn't tell them everything I
24 told you.

25 Q Did they ask you the specific questions that I

1 asked you?

2 A They did not.

3 Q Did they ask you things to jog your memory and to
4 get a specific timeline of events?

5 A They did not. They just wanted me to get
6 straight to the point. Did you shoot him?

7 Q All they were interested in is whether or not you
8 shot him.

9 A That's it.

10 Q And once they got the information that you shot
11 him, they didn't care what else you had to say?

12 A They didn't care what else I had to say.

13 MR. PAULK: No further questions, Your
14 Honor.

15 THE COURT: Okay, you can step down.
16 Thank you.

17 Any other witnesses?

18 MR. PAULK: Not from the defense.

19 THE COURT: From the State?

20 MS. JONES: Your Honor, the State calls
21 Investigator Tunis.

22 THE CLERK: Good morning. Could you
23 please raise your right hand? Do you solemnly
24 swear or affirm to truthfully answer all questions
25 asked of you by this court, so help you God?

1 THE WITNESS: Yes, ma'am, I do.

2 THE CLERK: You can adjust this
3 microphone accordingly. If you just would state
4 your name for the record, please, and spell your
5 last name.

6 THE WITNESS: My name is Sergeant James
7 Tunis with the Beaufort County Sheriff's Office,
8 and it's T-U-N-I-S.

9 WHEREUPON:

10 JAMES TUNIS,
11 after having been sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. JONES:

14 Q Good morning, Investigator Tunis.

15 A Good morning.

16 Q I'm just going to cut right to the chase. You're
17 the lead investigator on the case against
18 Delmar Sanders?

19 A Yes, ma'am.

20 Q And you're currently with the Beaufort County
21 Sheriff's Office?

22 A Yes, ma'am.

23 Q And did you have an opportunity to interview
24 Mr. Sanders?

25 A Yes, ma'am, I did.

1 Q Did he waive his Miranda rights?

2 A Yes, ma'am, he did.

3 Q And I think Mr. Paulk and I agree that for the
4 purpose of this hearing, everything was proper and not
5 in any sort of violation. And he agreed to talk to
6 you.

7 A Yes, ma'am.

8 Q How long did you-all speak that afternoon?

9 A Approximately an hour and a half.

10 Q And was that interview recorded?

11 A Yes, ma'am, it was.

12 Q Did you have an opportunity to review this video
13 before today's hearing?

14 A Yes, ma'am.

15 MS. JONES: Permission to approach, Your
16 Honor.

17 THE COURT: Yes.

18 (COURT EXH. 1, Thumb drive; interview of
19 Sanders, was marked for identification.)

20 BY MS. JONES:

21 Q I'm going to hand you what has been marked as
22 Court's 1. Do you recognize this item?

23 A Yes, ma'am.

24 Q And what is that?

25 A It's a thumb drive.

1 Q And what does this thumb drive contain?

2 A The video from the interview.

3 Q The interview of Mr. Sanders?

4 A Yes.

5 MS. JONES: Your Honor, at this point, I
6 would be -- for the purposes of this hearing, I am
7 admitting that interview. For time-wise, I'm
8 happy to ask Investigator Tunis what was said, or
9 we can play the entire hour and 23 minutes.

10 THE COURT: It's up to you. Does it have
11 anything to do with what happened out on the
12 street?

13 MS. JONES: Yes.

14 THE COURT: Or is it just impeachment?

15 MS. JONES: It is primarily all of the
16 questions I asked him.

17 THE COURT: That's pretty much what I
18 thought.

19 MS. JONES: I think we have to play it,
20 Your Honor.

21 THE COURT: Well, we're going to take a
22 break.

23 MS. JONES: Okay.

24 THE COURT: Investigator, you can, of
25 course, stand down. Please don't discuss your

1 testimony with anybody.

2 THE WITNESS: Thank you.

3 (A break was taken from 11:33 a.m. to 11:51 a.m.)

4 THE BAILIFF: Court is back in session.

5 Please stay seated.

6 THE COURT: Okay.

7 MR. PAULK: Your Honor, if Your Honor --

8 THE COURT: We got to wait on your

9 client.

10 MR. PAULK: Your Honor, permission to
11 approach, briefly?

12 THE COURT: Yeah.

13 MR. PAULK: Here's a copy of our motion
14 for the clerk, and a copy for yourself as well.

15 THE COURT: Okay. All right.

16 MR. PAULK: Additionally,
17 Solicitor Mary Jones and I stipulated to a couple
18 of facts before this hearing that I failed to give
19 you.

20 THE COURT: Okay.

21 MR. PAULK: And these are the documents
22 that go along with those stipulations.

23 THE COURT: Okay. You want them marked?

24 MR. PAULK: Yes. I'll hand those to the
25 court reporter.

1 THE COURT: Why don't you staple it and
2 make it one exhibit.

3 (COURT EXH. 2, Stipulated facts and
4 supporting documents, was marked for identification.)

5 THE COURT: Can I have that, please,
6 Sharon? Thank you.

7 All right. Investigator Tunis, is there
8 any reason to put him back on the stand?

9 MS. JONES: No, sir.

10 THE COURT: It's admitted.

11 MS. JONES: Thank you.

12 State calls Rhonda Randall.

13 THE COURT: Rhonda Randall.

14 THE CLERK: Please raise your right hand.
15 Do you solemnly swear or affirm to truthfully
16 answer all questions asked of you by this court,
17 so help you God?

18 THE WITNESS: Yes, ma'am.

19 THE CLERK: State your name for the
20 record and spell your last name, please?

21 THE WITNESS: My name is Rhonda Randall.
22 Last name R-a-n-d-a-l-l.

23 WHEREUPON:

24 RHONDA RANDALL,
25 after having been sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MS. JONES:

3 Q Good afternoon, Miss Randall. This lady right
4 here has to take down every word you say, and I know
5 you're very soft spoken, so I'm going to ask you to
6 speak as loudly as you can. Okay?

7 A Okay.

8 Q So I'm going to jump right to the chase. Did you
9 know a man named Scooter, or Deonne McLendon?

10 A Yes.

11 Q What did you know him as?

12 A I know him as Scooter.

13 Q And were you with him the night he was killed?

14 A Unfortunately, yes.

15 Q And who else was with you that night?

16 A Him (indicating).

17 Q You're pointing over to the defense table. Can
18 you describe who you're pointing towards?

19 A When I got in the car, Deonne said him and
20 his cousin were coming to pick me up. I've never
21 met that man before that night.

22 Q Okay. And you knew this was Deonne's cousin?

23 A That's what Deonne said, so, yeah.

24 Q Do you know a girl named Lacey?

25 A I'm Lacey. That's my alias. I'm the only

1 girl of all boys, and I grew up here in Beaufort.
2 So to kind of keep my -- my side life, I go by
3 Lacey.

4 Q Okay, thank you. When you and Scooter and his
5 cousin are at the Oasis Inn, do you-all three go
6 inside the hotel?

7 A No. I wasn't aware that all three of us were
8 supposed to be even in the hotel. I'm married,
9 and Scooter also has, like, a whole family thing
10 going on. So it happened. He came. When inside
11 the hotel. I wasn't aware that Scooter had to go
12 anywhere else. So he wasn't supposed to be coming
13 to the hotel at all. Anyway, I thought he was
14 just our ride.

15 Q "He" would be his cousin, Scooter's cousin?

16 A Yeah, him.

17 Q Okay. When you-all leave the hotel, why do
18 you-all leave the hotel?

19 A Scooter came when -- he comes in. He's like
20 his cousin wanted to go get -- his cousin needed
21 cigarettes. I'm just being honest with you-all.
22 And I'm, like, why. You know, it's supposed to be
23 our time to hang out. And he's like, well, I got
24 to do something for him. So Scooter says, well,
25 you got a license, right. I said, yeah. He's

1 like, well, okay. I need you to drive because my
2 cousin is acting up. So I said, all right. Cool.
3 The dude was swerving like on the way to the
4 hotel -- on the way to the hotel anyway. So
5 that's why I went out.

6 Q So all three of you leave the hotel, and are
7 you-all going to -- you think, to go to an ATM
8 machine?

9 A Supposedly the -- where he wanted to go to
10 get the cocaine was that way also, but he was
11 supposed to be going to the CPM bank.

12 Q To get cash.

13 A Yeah, to pay for his coke.

14 Q To pay for his coke, okay. Does he drive past the
15 CPM bank?

16 A Yeah.

17 Q And then what happens?

18 A I've never been in trouble, so I'm, like --
19 super scary. Something like Deonne -- you know,
20 he's driving past the bank, he was swerving,
21 what's going on? Let me out of the car. So
22 Deonne, yeah, dude, so what's going on? And the
23 dude was like, he wanted a beer, or something like
24 that. So Deonne was like, pull over, let her
25 drive, or let me drive. And he made the left and

1 he made another left. And he asked Deonne, like,
2 okay, we can stop here. And Deonne was like,
3 yeah, whatever. And they stopped.

4 And all I remember is, we opened the doors to
5 switch seats, and dude shot Scooter. He shot that
6 way. And he turned an he shot me. And I stepped out
7 of the car and dude drove off.

8 Q The reason that you-all pulled over, was that so
9 Deonne or yourself could take over driving?

10 A Yeah.

11 Q Was there any argument before that?

12 A Me fussing at Scooter why and I'm not at my
13 hotel room and he driving crazy, yeah.

14 Q But no fighting or no argument between --

15 A No.

16 Q -- Scooter and his cousin.

17 A No.

18 Q When did Scooter threaten his cousin?

19 A He didn't threaten them at all. Like, they
20 were cool. Dude was just -- he was messed up.

21 Q And when you say he was messed up, what do you
22 mean?

23 A He was high. That's like another reason I
24 came out of the hotel, because he's -- it's my
25 room, and I didn't want dudes sitting in the

1 parking all fucked -- -- I'm sorry. I messed up.

2 So I'm like, are you okay? You want some water?

3 You know, what I mean? It's just because he's

4 messed up. And he's like, no, I got it. He was

5 like, you know, he had some paranoia going on.

6 It's a side effect of cocaine or whatever. But he

7 was just, like, really out of it.

8 Q At any point in the car, were you and Scooter

9 passing a gun around?

10 A No.

11 Q At any point, did you tell this man over here that

12 you were going to kill him?

13 A I'm not even that type. No.

14 Q And where were you when he shot you?

15 A Sitting behind passenger. I was in the back

16 seat but I was in the passenger seat -- like, the

17 passenger back seat.

18 Q Where did he shoot you on your body?

19 A He shot me here (indicating).

20 Q Is that what that scar is from I see?

21 A Yes.

22 Q And when you're shot what do you do?

23 A I, kind of, fell out of the car. I just --

24 we were already getting out of the car. The door

25 was open. Scooter was like -- to me, Scooter was

1 on the passenger side of the car. Like, dude just
2 shot once and he shot again. And he drove of.

3 Q Did you ask him for your cell phone before he
4 drove off?

5 A I highly doubt I asked for my cell phone
6 before he drove off after I got shot.

7 Q After you got shot, did you flag down a passerby?

8 A Yes, I did.

9 Q And that person ended up calling 911?

10 A After he drove off -- I was shot. Scooter
11 ran across the road. Scooter went to a ditch, and
12 I said, Scooter, try and find my phone or his
13 phone. Neither one of us had a phone, so I had to
14 leave Scooter and go to the road to call -- to get
15 a car to call 911.

16 Q At any point before Scooter was shot or you were
17 shot, was anybody threatening his cousin?

18 A No.

19 Q Was anybody pointing a gun at his cousin?

20 A No.

21 Q Were there any fights?

22 A No, not at all. Not at all.

23 Q Miss Randall, thank you. I have no further
24 questions?

25 A I appreciate it.

1 THE COURT: Okay. Cross.

2 MR. HAMILTON: Your Honor, Colin Hamilton
3 from the public defender's office.

4 THE WITNESS: Hi.

5 CROSS-EXAMINATION

6 BY MR. HAMILTON:

7 Q Good morning, Miss Randall. How are you today?

8 A Good morning.

9 Q Actually, it's about noon. So good day to you.

10 So back on this, back in July of last year,
11 you were back in Beaufort County, correct?

12 A Yes.

13 Q At the time, you had spent a little bit of time in
14 Charleston?

15 A Yes, I did. But my medical record is totally
16 personal, but I have no problem admitting that I
17 am in recovery. I just got out of the rehab
18 center in Charleston. I graduated, yes, I did.

19 Q It was like a sober living facility at that
20 point?

21 A I graduated, and there was recovery home. I
22 also was working at Charleston Rehabilitation
23 Medical Center. Yes, I was.

24 Q And then when you came back to Beaufort, did you
25 have -- you had a relapse when you came back to

1 Beaufort.

2 A Yes.

3 Q And that stems from -- or that's because you knew
4 Scooter, right?

5 A No, that's because I buried my daughter two
6 years ago.

7 Q Okay.

8 A We got into a wreck and she died. I started
9 relapsing and stuff with cocaine since then.

10 Q Okay. And then when you came back into Beaufort,
11 you got in touch with Scooter.

12 A No.

13 Q Deonne.

14 A No, that's not what happened. Me and Scooter
15 went to school together. He is the fault of my
16 drug addiction. He is not any influence on my
17 life or anything. He's just a cute guy that I
18 chose to dealt with that night.

19 Q Okay. So do you remember telling law enforcement
20 when you spoke to them that night that you would trade
21 services for drugs with Deonne McLenon, a/k/a Scooter?

22 A I said I would trade services for drugs with
23 Scooter? No, I never said that.

24 Q You would trade sex for drugs?

25 A Sometimes I have, yes. I have no problem

1 admitting that. But what's the case? What does
2 that have to do with him being murdered?

3 Q Well, I'll get to that Miss Randall. I do
4 apologize, though.

5 A Could you stop? My personal business, I
6 don't think, has nothing to do with him being
7 murdered.

8 THE WITNESS: Do I have to answer these
9 questions?

10 THE COURT: Ma'am, ma'am, you don't ask
11 questions. You just answer the questions he asks.
12 And if they're inappropriate, someone will
13 object.

14 THE WITNESS: I wish someone would.

15 THE COURT: Okay, go ahead.

16 BY MR. PAULK:

17 Q So on the night of this incident, you became
18 involved because Deonne had called you or texted you,
19 he contacted you on the phone?

20 A Yeah, we did that sometimes.

21 Q And you asked him to pick you up around --
22 somewhere around Duke Street, in that area, because
23 you wanted to go back to the Oasis Inn with him.

24 A Yeah, that's what we do when we was hanging
25 out.

1 Q You wanted to go back and party and he said he was
2 with his cousin, there was no problem.

3 A Normally Deonne drives. He does not have a
4 license, but he drives. This night, he said he
5 was not driving. His cousin was bringing him to
6 pick me up. If I had my cell phone, on Facebook
7 he said, I'm coming and I'm in a Red Dodge.

8 Q Okay. When you got to be around Deonne and his
9 cousin, who is Mr. Sanders, you noticed that they had
10 some drugs on them?

11 A We didn't do drugs in front of each other. I
12 don't even think he could tell you my drug of
13 choice.

14 Q Is your drug choice crack?

15 A Yes. It was at that time.

16 Q Would you only use crack at that time?

17 MS. JONES: Your Honor, if he wants to
18 ask her if she was high at the time of the
19 incident, I think he can ask her that. But I
20 think all of this is outside the scope of this
21 hearing.

22 THE COURT: Okay. Just kind of limit it
23 to the --

24 MR. PAULK: I'll tighten it up,
25 Your Honor.

1 THE COURT: Okay.

2 BY MR. PAULK:

3 Q Were you high that night -- or on the night during
4 this incident?

5 A Yeah.

6 Q What drugs or substances had you ingested that
7 night?

8 A I used crack cocaine. Never in front of him,
9 though.

10 Q Had you used it that night?

11 A Yes. I was under the influence, yes, I
12 was.

13 Q Okay. And so after you guys left the Oasis Inn,
14 Deonne was also -- was he high at that time, do you
15 know?

16 A No. I mean, I didn't see Deonne use drugs
17 that night, but I assume he was. It's nighttime,
18 yeah.

19 Q So after you guys leave -- or really before
20 that -- let me back track. You're at the Oasis Inn,
21 you and Scooter go up to your room, and Delmar, his
22 cousin, he stays down in his car in the parking lot.

23 A Uh-huh.

24 Q And then you went down to go, you said, to check
25 on him?

1 A I then went to my room to use crack cocaine.

2 And in the middle -- I didn't want trouble. He

3 was sitting outside, to me, high. And I'm like,

4 why is he sitting in the parking lot being high.

5 Deonne is like, I don't know. Hold on. We went

6 upstairs. For the record, we had our personal

7 thing. And his cousin called and he had to go and

8 take his cousin somewhere.

9 Q So when you went down -- because you testified
10 earlier you went down to talk to --

11 A I wanted him out of the parking lot of a

12 hotel that was in my name in my room. He was

13 calling too much attention to my hotel room. Do

14 something.

15 Q Okay. And then you and Deonne, a couple minutes
16 later you walked back out to go talk to him some more.

17 A I told him, calm down. He wanted to stay the

18 night. He just had to go do this for his cousin

19 and we're going to do this and come right back to

20 the Oasis.

21 Q You didn't want to leave the Oasis Inn.

22 A No.

23 Q So Deonne asked you to get into the car in the
24 back seat?

25 A I mean, I couldn't sit on the dude's lap, and

1 I couldn't sit on Deonne's lap, so I guess I had
2 to sit in the back seat.

3 Q But they asked you to get in the car?

4 A Yeah. I mean, like, we got a car.

5 Q And so you guys were going, as you testified to,
6 to buy more cocaine. Where were you guys headed?

7 A I don't know. Sell drugs, or buy them. He
8 said they were going towards Burton to go get
9 drugs. I don't know.

10 Q And, at this point, once -- Mr. Sanders, he drove
11 past an ATM or two, a couple of them at least?

12 A Dude drove threw a red light. Dude swerved.
13 Dude, he did a lot of driving that was bad.

14 Q Well, that's not really my question. He drove
15 past an ATM or two while you guys were in the car?

16 A He drove past our targeting destination,
17 which was CPM, yes.

18 Q And then sometime later, once you guys were in the
19 area of Lauren Bay Road and Stanley Farm Road, that's
20 when everything just, kind of, went awry?

21 A That's what I got shot by a stranger, yes.

22 Q At this point, is it your testimony that Deonne
23 and Delmar, kind of, had a conversation about either
24 Deonne or you taking over driving?

25 A Yeah.

1 Q There was no arguments?

2 A No. He was just -- dude was like -- there
3 was no argument. Nobody was -- I was getting,
4 probably, like, fussing at Scooter, like what kind
5 of situation you got me in. I'm ready to go. But
6 other than that, no.

7 Q And it was Delmar's idea to have somebody else
8 drive?

9 A Delmar volunteered to let someone else drive
10 and he put his car in park.

11 Q And from there, as soon as Deonne gets out of the
12 car, that's when Delmar shoots him.

13 A Yeah, and then shot me.

14 Q Out of the blue?

15 A Yes.

16 Q There was no --

17 A We opened the door -- it was a dark road.
18 There was no street lights. We opened the doors
19 and the dude shot him.

20 Q So you're saying that Delmar, was he sitting in
21 the car when he shot or was he outside the car?

22 A I think he was standing. I don't really know
23 where he was. All I know is, I -- we stopped the
24 car. All of us opened doors, and I heard a shot
25 and I felt one. And I was like, what's going on?

1 It took two seconds like (indicating). I don't
2 even think Scooter had time to come around the
3 car.

4 Q Were you watching? Were you watching what
5 happened?

6 A I was grabbing my purse and my things to get
7 to the driver's seat to figure out what we were
8 doing. I mean, I wasn't watching him, like --
9 no.

10 Q So when you testified earlier that you saw Delmar
11 shoot Deonne, you didn't see that?

12 A Yeah. I saw -- when a gun goes off, you see
13 a flash.

14 Q Okay. And then -- so, at that point, Deonne has
15 been shot twice. He starts running away?

16 A I didn't see Deonne run across the road until
17 the door hit me and he drove that way.

18 Q But Deonne, he's out of the car at this point.
19 He's been shot, and he's running across the road to
20 get away.

21 A As he's driving us off, yes.

22 Q And then you ran out of the car as well?

23 A No, I didn't run. I was shot. I stood there
24 for awhile holding my arm, and screaming Scooter.
25 And Scooter then directed me to where he was,

1 which was in a ditch.

2 Q But you got out of the car?

3 A I was getting out of the car anyway. We were
4 switching drivers.

5 Q Okay.

6 A Driving things.

7 Q In the short time later, you found Scooter in the
8 ditch, right, and neither of you had your phone? You
9 had your purse, though? Could you answer that
10 previous question?

11 A Yes, I had a purse, sir. A little black
12 satchel purse. Nothing that a gun could fit in.
13 It was small.

14 Q Right. And in that purse at that time, there were
15 crack pipes?

16 A Probably. I use crack cocaine. It wasn't a
17 gun.

18 Q And a bag of weed?

19 A Probably.

20 Q And these are some of the items that law
21 enforcement found when they eventually, a short time
22 later, located Deonne. They were all near him, right?

23 A I don't know.

24 Q Because they were -- it had come out of your
25 purse. You dumped everything out of your purse at

1 that time?

2 A Yeah. I threw weed and I threw away a crack
3 pipe. I never was arrested, yes.

4 MS. JONES: Your Honor, objection to this
5 line of questioning. I think it's outside the
6 scope of --

7 THE COURT: It's all right. Let him go
8 ahead.

9 MR. PAULK: Thank you, Your Honor.

10 BY MR. PAULK:

11 Q So after you dumped your purse, then you ran back
12 towards Laurel Bay Road to try and flag somebody
13 down?

14 A After my friend was dying directed me.
15 Because he's used to getting in trouble. Get
16 everything off you and call the police. Yes, he
17 did. I then said, Scooter, I have to go call the
18 police. He said, do not leave me. I said, I'm
19 not going to leave you. I have to call the
20 police. My friend did what he did to keep me
21 safe. I did throw weed off me. Yes, I did.

22 Q I understand that. I'm just asking if after you
23 had this little conversation, you ran back toward
24 Lauren Bay Road.

25 A I had to.

1 Q To try and flag somebody down.

2 A Because he shot us and drove off with my
3 phone. Yes, I did.

4 Q I understand. And that's when you flagged down
5 Mr. Multry?

6 A I don't know that dude. It was a silver
7 Honda gold car or something. I don't remember.

8 Q You flagged that guy down and asked him to call
9 911.

10 A Yes. That's what I was supposed to do.

11 Q Do you remember harping him and asking him for a
12 cigarette a couple times?

13 A Probably after, yeah. I was high and
14 agitated. After he said he was calling the
15 police, yes.

16 Q You asked -- do you remember asking Mr. Multry to
17 get out of his car?

18 A To come help Deonne, probably yes.

19 Q Just to get out of his car. Not to come help
20 necessarily, but to get out of his car?

21 A No. I don't understand what you're asking.
22 I wouldn't have done that.

23 Q So, at this time you've talked to Mr. Multry and
24 then law enforcement shows up a short time later.

25 A Yeah. And they pulled up in a red Jeep, or

1 something like that, so it scared the hell out of
2 me. Yes. I thought it was him.

3 Q And you started explaining, kind of, what had
4 happened to law enforcement, right? They asked you
5 what was going on?

6 A Yeah.

7 Q And that's when you started saying we were on our
8 way to get cash to buy drugs?

9 A Okay.

10 Q And then a pleasant conversation turned
11 automatically, at the drop of a hat, turn into a
12 shooting?

13 A It didn't automatically, at the drop of the
14 hat, turn into a shooting. Dude was already high
15 when he got there. So over time, it increase his,
16 probably, paranoia, whatever you call it. He was
17 sweating. He was hot. It was just an escalated
18 situation that happened from the beginning.

19 Q You said, because he was under the influence of
20 drugs, that his paranoia and things would have been
21 heightened. You've admitted too that you were under
22 the influence of crack and various --

23 A I get paranoid, too. And a lot of times, if
24 I was, a lot of people probably would have ended
25 up shot, too. It still doesn't give an excuse to

1 shoot people.

2 Q Would you say after this happened, after Deonne
3 had been shot, Delmar could have run him over with the
4 car?

5 A I was not -- I was shot. I was not looking
6 where Deonne was, where, any of that. When that
7 car drove off. All I know is, I was hit by a car,
8 and I saw brake lights going up to the road.

9 Q But if he had wanted -- if Delmar had wanted to
10 kill Deonne --

11 A What?

12 Q -- in that moment -- I'm asking, because you were
13 there. If Delmar had wanted to kill Deonne dead in
14 the street --

15 MS. JONES: Your Honor.

16 THE COURT: Wait, wait, wait, wait.

17 MS. JONES: This calls for speculation in
18 going into the mind of Delmar Sanders that she
19 cannot testify to.

20 THE COURT: She can testify to her
21 impressions. Okay? Ask the question and then
22 we'll see where we are.

23 MR. PAULK: Thank you, Your Honor.

24 BY MR. PAULK:

25 Q You were saying after this happened, Deonne is --

1 you don't know where he is, but he had run away from
2 the car and Delmar is driving away.

3 A Yeah.

4 Q Would you say that if Delmar wanted him dead at
5 that moment, he could have continued shooting?

6 A He did continue shooting. He moved the gun
7 towards me and shot. So Scooter was shot twice,
8 and he shot three times.

9 Q I understand. But when -- after Scooter had been
10 shot --

11 A He wanted everybody dead.

12 Q -- and then he started running away, he wasn't
13 dead at that point.

14 MS. JONES: Your Honor?

15 THE COURT: That is speculative.

16 MR. PAULK: Okay. Moment of the court's
17 indulgence, Your Honor.

18 THE COURT: Okay.

19 MR. PAULK: I don't have any further
20 questions for this witness, Your Honor.

21 THE COURT: Okay. Any redirect?

22 MS. JONES: No, Your Honor. I ask that
23 Miss Randall be excused.

24 THE COURT: All right. Thank you, ma'am.
25 You can step down. Thank you.

1 THE WITNESS: Thank you so much. Sorry,
2 sir.

3 THE COURT: That's all right.

4 MS. JONES: The State has no further
5 witnesses, Your Honor.

6 THE COURT: Anything else from the
7 defense?

8 MR. PAULK: Not unless you would like me
9 to argue my motion at this time, Your Honor. Or
10 if you would like to take it under advisement with
11 the written notion.

12 THE COURT: You make a brief argument.
13 That would be great. Because I'm ready to rule.

14 MR. PAULK: Yes, Your Honor. Under the
15 Protections of Persons and Property Act, persons
16 are immune from prosecution if they are found to
17 be justified in using deadly force. When making
18 this assessment, the court's job is obviously the
19 finder of fact, and it's the defense's job to
20 demonstrate the four elements of self-defense.

21 In demonstrating the four elements of
22 self-defense, I know that we spoke about this
23 earlier, but the duty to not bring on the
24 difficulty, and as well as the duty to not be
25 engaged in unlawful or illegal activity, that

1 burden is upon the State to prove beyond a
2 reasonable doubt that the proximate cause of the
3 shooting was the illegal activity that was
4 occurring.

5 THE COURT: I read your brief, so if
6 there's something outside of that you need to tell
7 me.

8 MR. PAULK: Your Honor, there's really
9 nothing outside of the brief.

10 THE COURT: Okay. This issue hinges on
11 credibility, and even if I were to believe what
12 your -- take what your client is true, the victim
13 was out of the car, the gun was sitting on the
14 seat, he armed himself and shot. He had -- there
15 was no deadly threat at that time, at the time of
16 the shooting.

17 So I don't think I need to go any further
18 than that, and I'm going to deny your motion.
19 Okay?

20 MR. PAULK: Thank you, Your Honor.

21 MS. JONES: Thank you, Your Honor.

22 THE COURT: I didn't give the State an
23 opportunity to argue. You want to argue something?

24 MS. JONES: I'm happy with your ruling.
25 I'm going to keep my mouth shut.

1 THE COURT: Okay.

2 MS. JONES: Thank you, Your Honor.

3 THE COURT: Thank you very much.

4 (The hearing was concluded.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

April 21, 2022

A handwritten signature in cursive script, reading "Sharon G. Hardoon". The signature is written in dark ink and is positioned above a horizontal line.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III



BEAUFORT COUNTY SHERIFF'S OFFICE

Miranda Warning Form

PENGAD 800-631-6989	COURT'S
	EXHIBIT NO. <u>2</u>
	IDENTIFICATION/EVIDENCE
	DKT.# _____
DATE: _____	

Case Number: 21S148933

Location Where Miranda Issued: NIS OFFICE, 1925 DUKE ST.

Name: DELMAR Sanders Date of Birth: 5/25/1992

Statement of Rights

- D.S 1. You have the right to remain silent.
(Initials)
- D.S 2. Anything you say can and will be used against you in a court of law.
(Initials)
- D.S 3. You have the right to have an attorney present before or during questioning.
(Initials)
- D.S 4. If you cannot afford an attorney, one will be appointed for you before any
(Initials) questioning, if you wish.

Waiver of Rights

Do you understand each of these rights I have explained to you? YES: D.S NO: _____
(Initials)

Having these rights in mind, do you wish to talk to us now? YES: D.S NO: _____
(Initials)

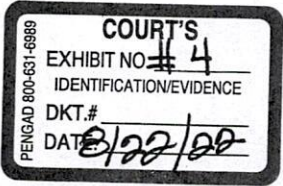
Signature: Delmar Sanders Date: 7/26/21 Time: 1733

Witness: James D. R. Date: 7/26/21 Time: 1733

Witness: [Signature] Date: 7/26/21 Time: 1735

Certified to be a true and correct
copy of the original document on file with
the Office of Sheriff for Beaufort County
Michael M. Hultfeld
Chief Deputy, Beaufort County Sheriff's Office

Case: Sanders, Delmar Racory, 2/20/2020, Probation			
Note	Note Info	Create Time	Created By
TELEPHONE CALL: Telephone call to Sgt Tunis at BCSO to check on the status of Mr. Delmar Sanders. I was informed that Mr. Sanders was still in GA, but they planned to move him here today. Informed Sgt Tunis that Mr. Delmar Sanders was a current client of Seth Paulk.	Case Note - 07A20-00000508	7/26/2021 12:53:09 PM	Estrada, Christy



WITNESSES

BCSO TODD M. CALHOUN

DOCKET NO. 2021GS0701220

The State of South Carolina

County of Beaufort

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury. 899

Defendant

COURT OF GENERAL SESSIONS

April Term 2022

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2021A0710400221

THE STATE

vs.

DELMAR RACORY SANDERS

ACTION OF GRAND JURY

True Bill

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

Defendant

Witness:

VERDICT

murder -
~~NOT~~ NOT guilty
voluntary manslaughter -
guilty

[Signature]
Foreperson of Petit Jury
Date: 8/25/22
INDICT

C.C.C. PLS. and G.S.

RECEIVED

SEP 06 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

INDICTMENT

2021GS0701220

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Murder

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did, with malice aforethought, kill Deonne McLendon and Deonne McLendon did die as a proximate result of DELMAR RACORY SANDERS's actions, to wit: by shooting him, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

BCSO TODD M. CALHOUN

ARREST WARRANT NUMBER

2021A0710400222

ACTION OF GRAND JURY

True Bill

Melinda Hargins

Foreperson of Grand Jury

Date: APR 07 2022

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

Date: 8/25/22

INDICT

DOCKET NO. 2021GS0701221

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2022

THE STATE

vs.

DELMAR RACORY SANDERS

Indictment For

**Possession of Weapon During
Violent Crime**

SC Code: 16-23-490

CDR Code: 0549

RECEIVED

SEP 06 2022

SC Court of Appeals

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: Murder and/or Attempted Murder and DELMAR RACORY SANDERS was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: Murder and/or Attempted Murder, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

BCSO Todd M. Calhoun

DOCKET NO. 2021GS0701219

The State of South Carolina

County of Beaufort

After being fully advised as to my legal rights, I hereby waive ⁹⁰³ presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

April Term 2022

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2021A0710400220

THE STATE

vs.

DELMAR RACORY SANDERS

ACTION OF GRAND JURY

True Bill

Indictment For

Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

Melinda Hagen's

Foreperson of Grand Jury
Date: APR 07 2022

Defendant

VERDICT

Not guilty

Witness:

RECEIVED

SEP 06 2022

SC Court of Appeals

C.C.C. PLS. and G.S.

[Signature]
Foreperson of Petit Jury

Date: 8/25/22
INDICT

Certified - A True Copy

[Signature]
Jeri Ann Roseberry - Clerk of Court
Beaufort County, SC
[Signature] Kristin Kesten

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

2021GS0701219

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Attempted Murder

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did, with intent to kill and with malice aforethought, attempt to willfully kill Rhonda Randall, to wit: by shooting her, all in violation of Section 16-3-29, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor



WITNESSES

BCSO TOOO M. CALHOUN

DOCKET NO. 2021GS0701220

The State of South Carolina
County of Beaufort

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

April Term 2022

THE STATE

vs.

DELMAR RACORY SANDERS

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

ARREST WARRANT NUMBER

2021A0710400221

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

ACTION OF GRAND JURY

True BillMelinda Hagnis

Foreperson of Grand Jury

Date: APR 07 2022

Defendant

VERDICT

Witness:

Foreperson of Petit Jury

Date:

INDICT

C.C.C. PLS. and G.S.

Certified - A True Copy

Jerri Ann Roseberry - Clerk of Court
Beaufort County, SC - Kristin Kesten

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

INDICTMENT

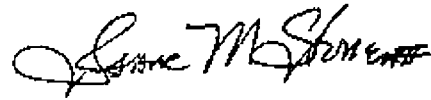
2021GS0701220

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

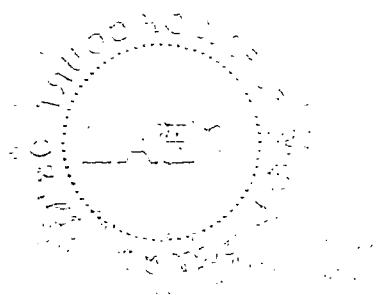
Murder

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did, with malice aforethought, kill Deonne McLendon and Deonne McLendon did die as a proximate result of DELMAR RACORY SANDERS's actions, to wit: by shooting him, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor



STATE

DELMAR RACORY SANDERS

INDICTMENT/CASE#: 2021GS0701220 907

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

VS.

INDICTMENT/CASE#: 2021GS0701220

DELMAR RACORY SANDERS

A/W#: 2021A0710400221

AKA:

Date of Offense: 07/23/2021

Race: Black Sex: Male Age: 29

S.C. Code §: 16-3-10

DOB: 2 SS#: _____

CDR Code #: 0116

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

SENTENCE SHEET
SEP 06 2022

SC Court of Appeals

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Voluntary ManslaughterIn violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

May C. Jones
Solicitor100353
SC Bar #Delmar Sanders
DefendantMA Spack
Attorney for Defendant104725
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served, ☐ Youthful Offender Act not to exceed _____ years

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

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

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

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: August 25, 2022 (Possession of Weapon)☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.394 (days/months)☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

Certified - A True Copy

Page 1 of 2

Jerri Ann Rosenbau
Jerri Ann Rosenbau - Clerk of Court
Beaufort County, SC - Kristin Kesten

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

	\$	
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund**TOTAL** \$ 128.75Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Presiding Judge: _____
Judge Code: 7775
Sentence Date: August 25, 2022

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE

VS.

DELMAR RACORY SANDERS

AKA:

Race: Black Sex: Male Age: 29

DOB: _____ SS#: _____

Address:

City, State, Zip:

DL#*	SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Possession of a weapon during a violent crime

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Max C. Joy 10035-3 Defendant Attorney for Defendant 10472S
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 5 days/months/years Time Served, ☐ ~~Youthful Offender Act~~ not to exceed years

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

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

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

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: August 25, 2022 / Voluntary Manslaughter

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

394 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

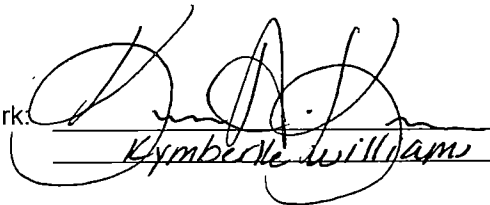
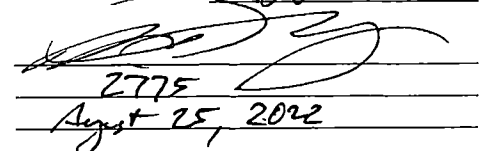
Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114 (BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$ 3.75

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

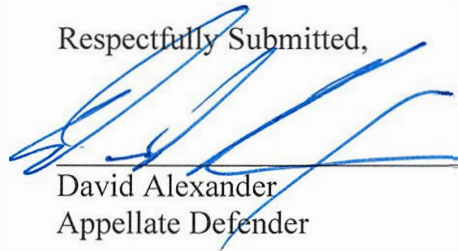
TOTAL \$ 128.75Clerk of Court/Deputy Clerk:
Court Reporter:
Kimberle WilliamsPresiding Judge:
Judge Code:
Sentence Date:
2775
August 25, 2022

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Oct 05 2023****SC Court of Appeals**

Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of October, 2023.