

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Cherokee County

Honorable Brian M. Gibbons, Circuit Court Judge

ALLEN CHARRON WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000547

APPENDIX

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

3
4)
5 THE STATE OF SOUTH) TRANSCRIPT OF RECORD
6 CAROLINA)
7 -vs-) 2017-GS-11-01483
8) 2017-GS-11-01484
9) 2017-GS-11-01485
10 ALLEN C. WILLIAMS, JR.,)
11) JANUARY 15, 2019
12) GAFFNEY, SOUTH CAROLINA
13)
14)
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21)
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25)

(VOLUME I)

B E F O R E:

THE HONORABLE R. KEITH KELLY, JUDGE. ; And a Jury.

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

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ATTORNEY FOR THE DEFENDANT

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CIRCUIT COURT REPORTER

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1 (PROCEEDINGS, JANUARY 15, 2019).

2 (Photograph marked as State's Exhibit No. 1 for
3 identification)

4 (Photograph marked as State's Exhibit No. 2 for
5 identification)

6 (Photograph marked as State's Exhibit No. 3 for
7 identification)

8 (Photograph marked as State's Exhibit No. 4 for
9 identification)

10 (Photograph marked as State's Exhibit No. 5 for
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12 (Photograph marked as State's Exhibit No. 6 for
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14 (Photograph marked as State's Exhibit No. 7 for
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16 (Photograph marked as State's Exhibit No. 8 for
17 identification)

18 (Drugs marked as State's Exhibit No. 9 for
19 identification)

20 (GSR Kit marked as State's Exhibit No. 10 for
21 identification)

22 THE COURT: Is the arraignment just on Count II?

23 MR. KENDALL: I believe it was a standard warrant
24 on both Count I and Count II as well. I believe it would be
25 just on Count II. Maybe all three charges.

1 THE COURT: Mr. Moore, anything?

2 MR. MOORE: No, sir, Your Honor, not regarding
3 that.

4 THE COURT: Are we ready for the arraignment?

5 MR. MOORE: Yes, sir.

6 THE COURT: Does he waive arraignment?

7 (Off the record).

8 (Back on the record).

9 MR. MOORE: Yes, sir, Your Honor, we have
10 discussed it. He's going to waive arraignment. He's aware
11 of the charges that have been added as Count II of the
12 indictments against him and he is requesting a jury trial on
13 all counts.

14 THE COURT: Okay. He waives arraignment and
15 that's on 2017-0185, 2017-0184, and 2017-0183.

16 MR. KENDALL: We got a couple of things to put on
17 the record, Your Honor. We might want to just pick the jury
18 first.

19 One thing I do think we need to do now is just put
20 on the record the offer extended in this case, if he's
21 interested in rejecting it, put the rejection on the record.

22 He was originally charged with three counts of
23 assault -- excuse me, attempted murder, three counts of use
24 of a firearm during the commission of a violent crime, as
25 well as a PWID methamphetamine and I think possession -

1 possession of methamphetamine and PWID crack cocaine, third
2 offenses.

3 We have agreed, if he's interested in pleading, to
4 allow him to plead to one count of assault and battery of a
5 high and aggravated nature, one count of assault and battery
6 in the first degree and one count of discharging into a
7 vehicle.

8 In addition, after our last trial I was willing to
9 dismiss the narcotics cases against him, if is interested in
10 doing that. If not, that's okay, but like I said, put it on
11 the record so it doesn't come up in PCR and wanted to offer
12 that up.

13 THE COURT: Is that a straight-up plea?

14 MR. KENDALL: Yes, sir.

15 (Off the record).

16 (Back on the record).

17 MR. MOORE: Yes, Your Honor. I just confirmed.
18 We have discussed this offer previously and we discussed it
19 again today. He does not want to accept the offer.

20 THE COURT: Okay.

21 MR. MOORE: He wants to go to trial.

22 THE COURT: The offer is rejected on the record.
23 Okay.

24 MR. KENDALL: And we can go through and put stuff
25 on the record about what we talked about in chambers with

1 regards to some of those issues, but it might be easier just
2 to try to get the jury picked and then we can do that once
3 they are released, if that's okay with the court.

4 THE COURT: Okay. Well, we ready for the jury?

5 MR. MOORE: Yes.

6 THE COURT: Bring up the jury.

7 Strikes are five and five.

8 (Off the record).

9 (Back on the record).

10 (Whereupon, the jury venire panel entered the
11 courtroom.

12 THE COURT: Good morning again, ladies and
13 gentlemen. Thank you for your patience.

14 We are about to begin the trial of the case of the
15 State of South Carolina versus Allen C. Williams, Jr..

16 Mr. Williams is charged with three separate
17 indictments, to which he has entered pleas of not guilty
18 with the attempted murder and possession of a weapon during
19 the commission of a violent crime.

20 Ladies and gentlemen, it is alleged in Indictment
21 2017-1483 that he did, in Cherokee County, South Carolina,
22 between the dates of May 9 and May 10 of 2017 commit the
23 offense of attempted murder.

24 It is also alleged that on the same time period in
25 Cherokee County, South Carolina, that he possessed a weapon

1 during the commission of a violent crime.

2 There are three separate indictments. And I tell
3 you, and I will say this more than once this morning, there
4 are three indictments. Those indictments are merely pieces
5 of paper. They are documents, if you will, that bring Mr.
6 Williams before the court. They are not evidence of his
7 guilt.

8 He has entered a plea of not guilty to all three
9 indictments. That puts the burden on the State of South
10 Carolina to prove his guilt beyond a reasonable doubt.

11 Again, he has entered a plea of not guilty. The
12 indictments are not evidence against him. The burden is on
13 the State to prove him guilty beyond a reasonable doubt. He
14 is presumed under our law to be innocent of the allegations
15 in the indictments.

16 Now, ladies and gentlemen, there are certain
17 questions that I'm required to ask regarding the trial of
18 this case. You were previously sworn and you remain under
19 oath at this time.

20 Mr. Williams, would you please stand, sir, and
21 face the jury just about thirty seconds, or so?

22 Thank you, Mr. Williams.

23 Is there any member of this jury panel who is now
24 or ever has been related by blood or marriage to Allen C.
25 Williams, Jr.? If so, please stand.

1 (No response)

2 THE COURT: Is there any member of the jury panel
3 who is now or ever has been a friend or associated, know him
4 socially, personally or socially, a friend, a social
5 acquaintance of Mr. Williams? If so, please stand. You
6 know him from school, work, recreation, Facebook, please
7 stand.

8 (No response).

9 THE COURT: The following is a list of possible
10 witnesses, not probable, but possible witnesses in the case.

11 W.D.

12 C.D.

13 Douglas Scott Rising.

14 Tim Brasier.

15 Jason Burgess.

16 Asion Foster.

17 Makayla Brown.

18 Steven McKinney.

19 Raymond Burnette.

20 Richard Burgess.

21 Christa Woodie.

22 Sierra McKinney.

23 Kenneth Blake Hall.

24 Jordan Smith.

25 Tim Clark.

1 Cynthia Hood.

2 Betty Jean Johnson.

3 Amy Fritzche.

4 Mary Newman.

5 Dan Karns.

6 Halle Robinson.

7 Megan Weaver.

8 D. Dowe.

9 J.W. Owensby.

10 Billy Anthony.

11 Jomoll Glenn.

12 Megan Fletcher.

13 Willie Smith.

14 Doctor Keith Matthew Webb.

15 William McKinney.

16 Donna Fox.

17 Brandon Peeler.

18 Jimmy Henson.

19 Brandon Mullinax.

20 Jaimie Hall.

21 Benji Peterson.

22 Deanna Haney.

23 Is there any member of the jury panel who is now
24 or ever has been related by blood or marriage to any of the
25 potential witnesses in this case? If so, please stand.

1 Yes, ma'am, your number, please?

2 JUROR NUMBER 90: 90.

3 THE COURT: You know?

4 JUROR NUMBER 90: Billy Anthony is my son.

5 THE COURT: Is your son?

6 JUROR NUMBER 90: Yes.

7 THE COURT: The fact that he is your son, would
8 that interfere with your ability to be fair and impartial in
9 this case?

10 JUROR NUMBER 90: No, sir.

11 THE COURT: All right. You may stay with us.

12 Yes, sir, your number?

13 JUROR NUMBER 108: 108.

14 THE COURT: You know?

15 JUROR NUMBER 108: Blake Hall.

16 THE COURT: Would that interfere with your ability
17 to be fair and impartial?

18 JUROR NUMBER 108: No.

19 THE COURT: You may stay.

20 Yes, sir, your number?

21 JUROR NUMBER 49: 49.

22 THE COURT: 49.

23 JUROR NUMBER 49: I know Richard Burgess, Jason
24 Burgess, Billy Anthony.

25 THE COURT: Would that interfere with your ability

1 to be fair and impartial?

2 JUROR NUMBER 49: No, sir.

3 THE COURT: Sir, you may stay.

4 Is there any member of the jury panel who has a
5 personal or social relationship, other than the ones that
6 have previously stood? If so, please stand.

7 (No response)

8 THE COURT: Any other relationship with them?

9 Yes, ma'am, your number?

10 JUROR NUMBER 97: 97.

11 Several of those were cops as witnesses come to
12 the local hospital where I'm employed.

13 THE COURT: Okay. Would that interfere with your
14 ability to be fair and impartial in this case?

15 JUROR NUMBER 97: No, sir.

16 THE COURT: Ma'am, you may stay.

17 I'm going to ask the lawyers to introduce --

18 I'm sorry, yes, sir, your number?

19 JUROR NUMBER 22: 22.

20 I know Richard and Jason, friends with me.

21 THE COURT: Would that interfere with your ability
22 to be fair and impartial?

23 JUROR NUMBER 22: No.

24 THE COURT: Sir, you may stay.

25 I'm going to ask the lawyers to introduce

1 themselves.

2 Mr. Kendall?

3 MR. KENDALL: Good morning, ladies and gentlemen.

4 My name is Matt Kendall. I represent the State of
5 South Carolina, and here with me is Kim Leskanic.

6 MS. LESKANIC: Good morning.

7 THE COURT: All right.

8 MR. MOORE: Good morning.

9 My name is Travis Moore. I represent the
10 defendant. I'm a partner in the law firm Anderson, Moore,
11 Bailey & Nowell out of Spartanburg. My law partners are
12 Patrick Anderson, Mark Nowell, Vic Bailey, IV, and Jennie
13 Moore. We handle criminal defense lawyers, car accidents,
14 things like that. That's it.

15 THE COURT: Thank you.

16 Is there any member of the jury panel who is now
17 or ever has been related to any of the lawyers in this case?
18 If so, please stand.

19 (No response)

20 THE COURT: Is there any member of the jury panel
21 who is now or ever has been a personal or social friend of
22 any of the lawyers? Again, you know them from recreation,
23 work, school, from the community, whatever it is. If so,
24 please stand.

25 (No response)

1 THE COURT: Is there any member of the jury panel
2 who has ever spoken with any of these lawyers about a legal
3 matter; you consulted with them, whether that be a real
4 estate matter, a car accident, drafting a will, a criminal
5 matter. Any relationship, any contact that you sought legal
6 advise from any of these lawyers, please stand.

7 (No response).

8 THE COURT: Any member of the panel ever been
9 represented by any of the lawyers in this case or with Mr.
10 Moore's law firm. He named those partners for you. If so,
11 please stand.

12 (No response).

13 THE COURT: Any member of the jury panel have a
14 family member or a close friend who is employed by the
15 Seventh Circuit Solicitor's Office? If so, please stand.

16 (No response).

17 THE COURT: Any member of the jury panel have a
18 family member or a friend employed in the law firm of Mr.
19 Moore? If so, please stand.

20 (No response).

21 THE COURT: Any member of this panel ever been
22 summoned to testify as a witness in a case by the Seventh
23 Circuit Solicitor's Office? If so, please stand.

24 (No response).

25 THE COURT: Any member of the panel ever been

1 subpoenaed by a lawyer in Mr. Moore's firm to testify in a
2 case, again, whether that's a car accident, a real estate
3 matter, a criminal matter, any kind of case? If so, please
4 stand.

5 (No response).

6 THE COURT: Any member of the jury panel have a
7 family member or a friend who was represented by the
8 solicitor's office as a victim on a case, please stand.
9 Family member or friend.

10 (No response)

11 THE COURT: Any member of the panel have a family
12 member or a friend that was represented by any of the
13 lawyers in Mr. Moore's office, please stand, or a member of
14 that firm.

15 (No response)

16 THE COURT: Any member of the jury panel --
17 yourself now. I'm talking about you, yourself, ever been a
18 commissioned law enforcement officer, whether that's in the
19 military, local, municipal, county, state, law enforcement
20 officer or any kind, including DNR? If so, please stand.

21 Yes, sir, your number?

22 JUROR NUMBER 21: 21.

23 THE COURT: 21.

24 Would that interfere with your ability to be fair
25 and impartial?

1 JUROR NUMBER 21: No, sir.

2 THE COURT: Sir, you may stay with us.

3 Any member of the panel have a relative who is
4 currently serving as a law enforcement officer? Again,
5 whether that's municipality, county, state, including
6 military police. If so, please stand. A relative.

7 Yes, ma'am, your number again?

8 JUROR NUMBER 90: 90.

9 THE COURT: Would that interfere with your ability
10 to be fair and impartial?

11 JUROR NUMBER 90: No, sir.

12 THE COURT: You may stay.

13 Yes, sir, your number?

14 JUROR NUMBER 41: 41.

15 THE COURT: Would that interfere with your ability
16 to be fair and impartial?

17 JUROR NUMBER 41: No, sir.

18 THE COURT: You may stay.

19 Yes, ma'am?

20 JUROR NUMBER 139: 139.

21 THE COURT: What agency? I know those.

22 JUROR NUMBER 139: Cherokee County law
23 enforcement.

24 THE COURT: Cherokee County law enforcement.

25 Would that interfere with your ability to be fair

1 and impartial?

2 JUROR NUMBER 139: No, sir.

3 THE COURT: You may stay.

4 Yes, ma'am?

5 JUROR NUMBER 88: 88.

6 I have got a cousin that's a state trooper in
7 Cherokee -- I mean in North Carolina, and I have got family
8 that work in the detention center.

9 THE COURT: Would that interfere with your ability
10 to be fair and impartial?

11 JUROR NUMBER 88: No.

12 THE COURT: You may stay.

13 Yes, ma'am.

14 JUROR NUMBER 72: 72, and I know people from the
15 Gaffney Police Department.

16 THE COURT: Okay. Would that interfere with your
17 ability to be fair and impartial?

18 JUROR NUMBER 72: No, sir.

19 THE COURT: You may stay.

20 I previously asked if anyone knew the defendant in
21 this case, Mr. Williams.

22 Is there anyone who is familiar with him, you
23 don't really know him, but you are familiar with or know a
24 relative of his, whether that's a cousin, something like of
25 that nature? Anyone, please stand.

1 (No response)

2 THE COURT: Has anyone read or know of any media
3 coverage, if any? I don't know of any that relates to the
4 charges against Mr. Allen Williams, or a witness by the name
5 of Douglas Scott Rising? If so, please stand.

6 (No response)

7 THE COURT: Is there anyone on the jury panel who
8 knows anything about this case, other than what I have just
9 told you? If so, please stand.

10 (No response)

11 THE COURT: Is there any member of the panel know
12 of any reason why he or she should not serve in this case?
13 If so, please stand.

14 (No response)

15 THE COURT: Anything from the State?

16 MR. KENDALL: Can I approach on one thing, Your
17 Honor?

18 THE COURT: Yes.

19 (Whereupon, the lawyers approached the bench for
20 an off-the-record discussion).

21 THE COURT: Anything?

22 MR. KENDALL: No, Your Honor.

23 MR. MOORE: No.

24 THE COURT: Madam Clerk, let's have a jury.

25 THE CLERK: When I call your name, please come

1 forward and please bring all your personal belongings with
2 you.

3 If I tell you to take a seat in the jury box, you
4 will take a seat over here. If I tell you that you have
5 been excused, you will take a seat back out in the gallery.

6 When you come forward, please stand right in front
7 of me and face back out to the audience.

8 Juror 126, Ashley Thomas.

9 What says the State?

10 MR. KENDALL: Please seat the juror.

11 THE CLERK: What says the defense?

12 MR. MOORE: Please seat the juror.

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

14 Juror 116, James Sparks.

15 What says the State?

16 MR. KENDALL: Please seat the juror.

17 THE CLERK: What says the defense?

18 MR. MOORE: Please seat the juror.

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

20 Juror 34, Chad Dover.

21 What says the State?

22 MR. KENDALL: Please excuse this juror.

23 THE CLERK: You have been excused.

24 Juror 9, John Blanton, Sr..

25 What says the State?

1 MR. KENDALL: Please seat the juror.

2 THE CLERK: What says the defense?

3 MR. MOORE: Please excuse this juror.

4 THE CLERK: You have been excused.

5 Juror 139, Savannah Wilkins.

6 What says the State?

7 MR. KENDALL: Please seat the juror.

8 THE CLERK: What says the defense?

9 MR. MOORE: Please seat the juror.

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

11 Juror 22, Larry Cantrell.

12 What says the State?

13 MR. KENDALL: Please seat the juror.

14 THE CLERK: What says the defense?

15 MR. MOORE: Please excuse this juror.

16 THE CLERK: You have been excused.

17 Juror 70, Karen Lydon.

18 What says the State?

19 MR. KENDALL: Please seat the juror.

20 THE CLERK: What says the defense?

21 MR. MOORE: Please seat the juror.

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

23 Juror 84, Jeanette Mullinax.

24 What says the State?

25 MR. KENDALL: Please seat the juror.

1 THE CLERK: What says the defense?
2 MR. MOORE: Please seat the juror.
3 THE CLERK: Please take a seat in the jury box.
4 Juror 29, Franchisa Dawkins.
5 What says the State?
6 MR. KENDALL: Please seat the juror.
7 THE CLERK: What says the defense?
8 MR. MOORE: Please seat the juror.
9 THE CLERK: Please take a seat in the jury box.
10 Juror 69, Jeffrey Long.
11 What says the State?
12 MR. KENDALL: Please seat the juror.
13 THE CLERK: What says the defense?
14 MR. MOORE: Please seat the juror.
15 THE CLERK: Please take a seat in the jury box.
16 Juror 49, Marvin Griffin.
17 What says the State?
18 MR. KENDALL: Please seat the juror.
19 THE CLERK: What says the defense?
20 MR. MOORE: Please excuse the juror.
21 THE CLERK: You have been excused.
22 Juror 25, Phyllis Coyle.
23 What says the State?
24 MR. KENDALL: Please seat the juror.
25 THE CLERK: What says the defense?

1 MR. MOORE: Please excuse this juror.

2 THE CLERK: You have been excused.

3 Juror 52, Rickey Helms.

4 What says the State?

5 MR. KENDALL: Please seat the juror.

6 THE CLERK: What says the defense?

7 MR. MOORE: Please seat the juror.

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

9 Juror 131, Kevin Upchurch.

10 What says the State?

11 MR. KENDALL: Please seat the juror.

12 THE CLERK: What says the defense?

13 MR. MOORE: Please seat the juror.

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

15 Juror 48, Rickey Gregory.

16 What says the State?

17 MR. KENDALL: Please excuse the juror.

18 THE CLERK: You have been excused.

19 Juror 106, David Ruppe.

20 What says the State?

21 MR. KENDALL: Please seat the juror.

22 THE CLERK: What says the defense?

23 MR. MOORE: Please seat the juror.

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

25 Juror 72, Jordan Mages.

1 What says the State?

2 MR. KENDALL: Please excuse the juror.

3 THE CLERK: You have been excused.

4 Juror 136, Joe Wheeler, III.

5 What says the State?

6 MR. KENDALL: Please seat the juror.

7 THE CLERK: What says the defense?

8 MR. MOORE: Please seat the juror.

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

10 Juror 97, Amy Pruitt.

11 What says the State?

12 MR. KENDALL: Please seat the juror.

13 THE CLERK: What says the defense?

14 MR. MOORE: Please excuse this juror.

15 THE CLERK: You have been excused.

16 Juror 51, Jason Hawkins.

17 What says the State?

18 MR. KENDALL: Please seat the juror.

19 THE CLERK: What says the defense?

20 MR. MOORE: Please seat the juror.

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

22 The next juror will be for the alternate.

23 Juror 59, Deborah Johnson.

24 What says the State?

25 MR. KENDALL: Please seat the juror.

1 THE CLERK: What says the defense?

2 MR. MOORE: Please seat the juror.

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

4 THE COURT: Anything from the State?

5 MS. LESKANIC: Yes, Your Honor. May we approach?

6 THE COURT: Sure.

7 (Whereupon, the lawyers approached the bench for
8 an off-the-record discussion)

9 THE COURT: We are going to pick -- let's pick one
10 more alternate, and, again, it will be one and two, Mr.
11 Moore.

12 THE CLERK: Juror 60, Gregory Jones, II.

13 What says the State?

14 MR. KENDALL: Please seat the juror.

15 THE CLERK: What says the defense?

16 MR. MOORE: Please seat the juror.

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

18 THE COURT: Any matters from the State?

19 MR. KENDALL: No, sir, Your Honor.

20 THE COURT: From the defense?

21 MR. MOORE: No, sir, Your Honor.

22 THE COURT: Okay.

23 Ladies and gentlemen, who were not selected I can
24 see the disappointment. I know that you wanted to be here.
25 Truly, we do thank you for your service. I'm going to

1 excuse you for the rest of the day. I'm going to excuse
2 them too in just a few minutes to go to lunch and return.

3 I'm going to invite you to return. I tell you,
4 and it's true, this courtroom belongs to you. It does not
5 belong to me. I merely have the honor and privilege of
6 working here, but it belongs to the people of Cherokee
7 County. We have an open courthouse and an open courtroom.
8 You are already here. We are all going to get some lunch
9 here momentarily. We are going to resume probably about two
10 o'clock this afternoon. Maybe 1:30. We will talk about
11 that with the lawyers, but we are going to resume this
12 afternoon and I extend a warm welcome to each of you to
13 please come back and see what happens in your courtroom, but
14 you are not going to be required to.

15 What I would ask you to do also this evening after
16 six p.m., Ms. Brandy?

17 THE CLERK: Yes, sir.

18 THE COURT: Okay. After six p.m. if you will call
19 that magic number that you have been given. It will have
20 further reporting instructions. It may ask you to report
21 tomorrow and it may ask you to call back a few hours later
22 to kind of see where we are, because we do have other trials
23 than this trial, and what we don't want to do is have you
24 come and sit downstairs when we don't really need you at
25 that time. I promised you we would not do that to you and

1 we are not, but if you will just call that magic number
2 after six p.m..

3 And, again, I extend a warm welcome to each of you
4 to come back this afternoon and see what happens in your
5 courtroom.

6 With that I'm going to turn you back over to Madam
7 Bailiff and she's going to see that you get back downstairs
8 and you can go to lunch and have the afternoon for wherever
9 you need to be.

10 (Whereupon, the jury venire panel left the
11 courtroom)

12 THE COURT: Ladies and gentlemen of the jury, we
13 are going to recess for lunch at this point in time. It's
14 just a little bit before twelve here. We are going to
15 return and I'm going to ask you to be in place at 1:45.
16 Okay? 1:45 p.m.. That will give you plenty of time for
17 lunch, to move your cars, or whatever. We are going to do
18 some other work here and then try to get a bite ourselves.
19 Again, I usually bring my lunch, but not everybody does.

20 So when we return --

21 You want them in the jury assembly room or do you
22 want them up here?

23 THE CLERK: Up here.

24 THE COURT: Up here.

25 When you return -- the bailiff is going to take

1 you in just a moment to a room you have not seen back here.
2 It is your jury assembly room -- not the jury assembly room.
3 It's the jury deliberation room and you will be coming up
4 the back steps, Wayne?

5 THE BAILIFF: Yes, sir.

6 THE COURT: They will have you coming up the back
7 steps. There is a locked -- an electric lock on this door,
8 so they will have to open that for you when you come.

9 We are all adults. I'm not going to tell you what
10 time to be back. Just be ready to go at 1:45, because I
11 will already be here. The lawyers will already be here and
12 we will be ready to go at 1:45. So make sure you get back
13 in time to stow your personal belongings, get a drink of
14 water, whatever it is you might need.

15 And, again, please, please, please, if you have
16 one of those wrist watches with the communication
17 capability, or a cell phone, or other communication device,
18 please leave that at home or in your car, somewhere where it
19 will be safe. Okay?

20 Please don't try to learn anything about this
21 case. You and I must learn about this case in this
22 courtroom together. This is the only place that you are
23 allowed to learn anything about this case. The same with
24 he. I only know what this piece of paper says. Everything
25 that I learn about this case will be in this courtroom.

1 That is our system of justice. Okay.

2 When we return, juror number 126, Ms. Ashley
3 Thomas, ma'am, where are you?

4 Ms. Thomas, unless you object, I want to appoint
5 you the forelady of the jury. Do you have any objection?

6 JUROR NUMBER 126: Actually I have something that
7 I would like to talk to you about before we go.

8 THE COURT: All right. Well, we will do something
9 else in a little bit here then. Okay. All right.

10 When we return, I will -- the jury will be sworn
11 and we will appoint a foreperson. I usually try to
12 alternate between a forelady and a foreman, but it doesn't
13 have to be.

14 With that, Mr. Bailiff, if you will take them to
15 this room and let them go to lunch and then they will be
16 back at 1:45.

17 Ma'am, we will speak right here in the courtroom
18 in just a minute, okay?

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

21 THE COURT: Ma'am, you're number 126?

22 JUROR NUMBER 126: Yes.

23 THE COURT: Yes, ma'am.

24 (Off the record).

25 (Back on the record).

1 THE COURT: Well, let me come down here.

2 (Whereupon, the following was an on-the-record
3 discussion)

4 JUROR NUMBER 126: Obviously I didn't know what
5 kind of case that is going to be, but my brother was just
6 murdered in October and hearing the word attempted murder
7 kind of put me in an emotional state and I have anxiety
8 right now, because I -- I guess it's freshly just happened a
9 few months ago.

10 THE COURT: Well, can you serve if I don't make
11 you the foreperson?

12 JUROR NUMBER 126: I don't know. I don't -- I
13 don't feel that I can.

14 THE COURT: Okay. Let me see the lawyers.
15 In this county?

16 JUROR NUMBER 126: Yes, sir. It happened in
17 Gaffney. His name was Brandon Thomas.

18 THE COURT: Her brother was murdered in October,
19 Brandon Thomas. She says she didn't know what kind of case
20 it was, but I have got attempted murder, I did read that off
21 earlier.

22 You don't think that you can serve as a juror?

23 THE WITNESS: I feel like it would be a bit much
24 for me right now because we really haven't processed it.

25 THE COURT: Any objection?

1 MR. KENDALL: No, sir.

2 MR. MOORE: I don't think so.

3 THE COURT: I'm sorry.

4 MR. KENDALL: We have two alternates.

5 THE COURT: Yeah, we will have twelve, but we
6 won't have an alternate if that is who it turns out who it
7 is.

8 Any objection?

9 MR. MOORE: No.

10 THE COURT: Any objection at all?

11 MS. LESKANIC: No, sir.

12 THE COURT: All right. We will release her back
13 to the pool.

14 Ma'am, you will just have to call back after six.

15 JUROR NUMBER 126: Okay.

16 THE COURT: Okay. You can go in that direction.

17 (Whereupon, Juror Number 126 was released from the
18 jury panel and left the courtroom).

19 (Whereupon, the on-the-record discussion was
20 concluded)

21 THE COURT: Anything before we break for lunch?

22 MR. KENDALL: No, sir.

23 MR. MOORE: No, sir.

24 THE COURT: 1:45.

25 MR. MOORE: Yes, sir.

1 MR. KENDALL: Yes, sir.

2 THE COURT: Okay. See everybody then.

3 (Whereupon, proceedings were recessed).

4 (Whereupon, proceedings were reconvened)

5 THE COURT: Everybody ready?

6 MR. KENDALL: If you want to, I think we have some
7 discussions in chambers. I just wanted to put those on the
8 record, and we have got the juror issue as well.

9 THE COURT: Yes.

10 Let's deal with -- let's put your stuff on the
11 record. I think we have an agreement on about three things,
12 right?

13 MR. KENDALL: Yes, sir.

14 The first is third-party guilt. The State filed a
15 motion to exclude evidence of third-party guilt. In talking
16 to the defense attorney, I think they do not intend to offer
17 evidence of third-party guilt.

18 THE COURT: Okay. That's my understanding.

19 MR. MOORE: Yes, sir, that's correct, Your Honor.

20 THE COURT: Okay. That said.

21 MR. KENDALL: The second part that dealt with the
22 narcotics that were found in his house. My understanding of
23 that, of course, ruling on that was going to be it was okay
24 to say they found narcotics in his house. It was not okay
25 to say they were his narcotics.

1 THE COURT: Right.

2 MR. KENDALL: I was going to put narcotics into
3 evidence, unless you are going to put them in there and say
4 they were found in his home, but not that they were his, or
5 basically he couldn't call the police just because there
6 were narcotics in the house.

7 THE COURT: We were going to say the drugs -- they
8 are not going to say the drugs were his. They are going to
9 say that the drugs were in the house.

10 MR. MOORE: Right, that there were drugs found as
11 part of the search warrant in the house. I don't think they
12 can say it was his house. I don't think we ever established
13 who owns this house. He's not denying he lived there, along
14 with other people, but I think it's maybe a bit of a stretch
15 to say that he owned the house or --

16 MR. KENDALL: Or he lived there.

17 THE COURT: He lived there.

18 MR. KENDALL: Okay. I think that's what the
19 evidence shows. When I say his house, I meant the house he
20 was living in.

21 THE COURT: He didn't have the part, but he
22 resided there.

23 MR. KENDALL: Yes, sir.

24 THE COURT: Okay.

25 Well the other one was arraignment. We already

1 waived that.

2 MR. KENDALL: It's also my understanding, I just
3 want to go ahead and put this out there. This case, just
4 for the record, is a little bit odd. We have done the drug
5 portion, the search warrant portion, all that stuff before.
6 My understanding is that they don't have any intention of
7 objecting to the search of the home, that -- I don't think
8 they didn't do it last time either. I just didn't know if
9 we were going to have to have a hearing on that, on the
10 search warrant. My officer is going down to physical
11 therapy tomorrow he said.

12 THE COURT: I thought we talked about it that it
13 was conceded that a search warrant was issued and drugs were
14 found. No weapon was found, but the drugs -- but drugs were
15 found in the residence in which he resides. Mr. Moore was
16 going to say, which would also true, but there was other
17 people that resided there.

18 MR. KENDALL: Yeah, I just want to make sure we
19 weren't going to have a hearing on the search. My officer
20 is not going to be -- he can't be here tomorrow. I just
21 want to make sure we were good with that. I doubt we was
22 going to put the search warrant in. I was just going to put
23 up an officer who executed the search warrant and who found
24 that.

25 MR. MOORE: No issue.

1 THE COURT: No issue.

2 MR. KENDALL: All right.

3 And I believe Mr. Moore wanted to sequester the
4 witnesses. We can do that. I have got -- the primary
5 officer was Tim Hill, and then these were two of the victims
6 and their family. Their family is not going to be
7 testifying, just the victims will. Then the witnesses out
8 there are going to be testifying. We can ask them to step
9 out of the courtroom.

10 Would somebody make sure that Billy knows not to
11 walk in, because he's going to be sequestered.

12 Other issues that I think, the second one -- the
13 other issue -- I don't know if we want to, I guess, address
14 now. There were some other issues in dealing with the drugs
15 in the drug case. I suspect they are going to also be
16 appropriate here. I suspect that the court is going to
17 issue a similar ruling. I have got the witnesses here now
18 to make sure everybody is clear. I think Your Honor said
19 during last trial that the drugs, we were not to refer to
20 them as being paranoid, that that was a medical term and not
21 appropriate, and that they could not say that he was high on
22 drugs that night. They could describe how he looked, that
23 he was sweaty, nervous, whatever, but they could not say he
24 was high on drugs. Is that my understanding still --

25 THE COURT: Yes, that would be still the ruling,

1 yes.

2 MR. KENDALL: Did you guys get that?

3 THE COURT: He wasn't and you can't say that.

4 MR. KENDALL: You can't say paranoid, he was
5 acting paranoid. You can describe how he was acting, but
6 you can't use the word paranoid. You can't say he was high
7 on drugs. You can describe how he looked and everything,
8 but you can't say he was high on drugs.

9 I think that's about it. We had the issue with
10 the witnesses -- or, excuse me, the juror as well.

11 THE COURT: Yes, we will take that up right now.

12 Okay. The first juror -- we have already -- we
13 have already dismissed Juror 126, which leaves us -- we had
14 picked an extra one, so we are at -- we need number 116 now.
15 Have you verified, solicitor, that that's, in fact, who that
16 person is? Kim?

17 MS. LESKANIC: We are 99.9 percent sure. It was
18 Ted Suppiger's father-in-law and Ted Suppiger was a
19 detective with the sheriff's department until sometime last
20 year, and this particular juror was a victim of an assault
21 and battery case that I prosecuted.

22 THE COURT: This juror 116 was the victim --

23 MS. LESKANIC: Of an assault and battery that took
24 place at Hamrick Mills.

25 THE COURT: Okay. And it was Ted Suppiger's

1 father-in-law who was the aggressor?

2 MS. LESKANIC: He -- he is just related. He is
3 Ted Suppiger's --

4 THE COURT: He is Ted Suppiger's father-in-law?

5 MS. LESKANIC: Yes, sir.

6 THE COURT: Okay. He was the victim in a --

7 MS. LESKANIC: He was the victim in a case that
8 was prosecuted by our office and that was not announced
9 during jury qualification.

10 THE COURT: Okay.

11 MR. LESKANIC: So Mr. Moore was not made aware of
12 that, and I did not realize it until he came forward and Ms.
13 Jackson and I had that discussion.

14 THE COURT: Okay. So let's have juror number 116,
15 please. Mr. James Tony Sparks.

16 (Whereupon, Juror Number 116 was brought into the
17 courtroom)

18 THE COURT: Sir, come around right here, please.

19 Are you -- you are James Tony Sparks?

20 JUROR NUMBER 116: Yes, sir.

21 THE COURT: You are related to Ted Suppiger, who
22 is a detective here?

23 JUROR NUMBER 116: He's my son-in-law.

24 THE COURT: Son-in-law.

25 And you were a victim in a case that was

1 prosecuted by the solicitor's office?

2 JUROR NUMBER 116: Yes, sir.

3 THE COURT: Okay. That's -- were you the guard at
4 the mill where the lady drove -- man -- lady -- someone
5 drove up and assaulted you there?

6 JUROR NUMBER 116: I was a security guard at
7 Hamrick's and he cussed at us and he assaulted me after.

8 THE COURT: I either presided over that trial, or
9 I took a plea, or I did a bond, or something, but I remember
10 that case myself.

11 Sir, we were asking, or I did. I was asking
12 questions about have you ever been -- testified as a witness
13 or been involved in a case and the State pointed out
14 correctly, and they should have, we have got good lawyers
15 here, but they pointed out that you were involved in that
16 case. That was not identified to Mr. Moore, so we are going
17 to excuse you for the trial of this case.

18 JUROR NUMBER 116: Okay. Yes, sir.

19 THE COURT: We are going to ask you to call back
20 after six p.m. this evening.

21 JUROR NUMBER 116: Okay. Thank you.

22 THE COURT: Thank you.

23 (Whereupon, Juror Number 116 was released from
24 this jury and left the courtroom)

25 THE COURT: Okay. Anybody object then? We have

1 picked two alternates. We don't have an alternate now, but
2 we have twelve. Any objection to the composition of the
3 jury before it's sworn?

4 MR. KENDALL: No, sir, Your Honor.

5 MR. MOORE: No, sir, Your Honor.

6 THE COURT: Okay. We will have the twelve.

7 (The following takes place in the presence of the
8 jury panel).

9 THE COURT: Juror number 139, Ms. Savannah
10 Wilkins. Ma'am, where are you?

11 Would you serve as the forelady of this jury?

12 JURY FOREPERSON: Yes, Your Honor.

13 THE COURT: Thank you. If you will come up and
14 have a seat in this empty seat. Thank you.

15 Madam Clerk, will you swear the jury to try the
16 case?

17 THE CLERK: Madam Forelady, ladies and gentlemen,
18 please stand and raise your right hand.

19 Do you solemnly swear that you will truly try the
20 issues joined in this case and true verdict render according
21 to the law and evidence, so help you God?

22 JURY PANEL: (Collectively said I do.)

23 THE CLERK: You may be seated.

24 THE COURT: Madam Forelady and ladies and
25 gentlemen of the jury, we are about to try the case of the

1 State of South Carolina versus Allen C. Williams, Jr..

2 As I have previously told you, Mr. Williams is
3 charged by three separate indictments, those being
4 2017-1483, 1484, and 1485. He is charged with three
5 separate indictments, three separate offenses of attempted
6 murder.

7 It is alleged in one of the indictments that he
8 did, in Cherokee County, South Carolina, between the dates
9 of May 9, 2017 and May 10, 2017, commit the offense, the
10 criminal offense, of attempted murder.

11 And he is also charged with the other two with the
12 same -- with the same charge, but a different victim in each
13 of the indictments, as you will understand more about that
14 as we go along.

15 Again, he has entered a plea of not guilty to all
16 three indictments and that plea puts the burden on the State
17 to prove his guilt beyond a reasonable doubt. He is
18 presumed under our system of law to be innocent of the
19 allegations made against him in the indictment.

20 Now, ladies and gentlemen, this trial will
21 probably be different from what you and I have come to
22 expect from the entertainment industry. Many people do not
23 have a chance to attend an actual court session and serve as
24 a juror, as you are doing today, and they believe and
25 understand from watching television, movies, or reading

1 books that all trials are full of riveting circumstances and
2 high drama. While that may be true in some instances, it is
3 not necessarily true in all instances and this courtroom is
4 not a place for entertainment.

5 Ladies and gentlemen, this courtroom is a place of
6 honor, dedicated to the protection and preservation of
7 citizen's rights through what many other countries have
8 called the greatest justice system ever created.

9 Ladies and gentlemen, the lawyers appearing before
10 you are advocates for the parties that they represent, but
11 first and foremost they are officers of this court.

12 Now, what I say is not intended to serve -- what I
13 say is intended to serve as an introduction to this trial.

14 Ladies and gentlemen, my comments, my remarks, are
15 not a charge on the law in this case. I will instruct on
16 the law at the end of the trial before you retire to
17 consider your verdict. My remarks are merely an explanation
18 of the procedure that we will follow so that you may better
19 understand what is happening.

20 As I previously told you, this defendant is
21 charged with three separate indictments or three separate
22 criminal offenses to which he has pled not guilty and that
23 puts the burden on the State to prove him guilty beyond a
24 reasonable doubt.

25 Ladies and gentlemen, it will be your duty to

1 decide whether the State has met the burden of proof.

2 Your purpose as jurors is to find and determine
3 facts. You twelve alone will determine the facts in this
4 case. If at any time I make a comment regarding the facts,
5 you must disregard it. You are to determine the facts from
6 the testimony and the evidence received in this courtroom.
7 It will be up to you to determine the inferences which you
8 think may be properly drawn from the evidence presented. It
9 is especially important, ladies and gentlemen, that you
10 perform your duty of determining facts diligently and
11 conscientiously, because ordinarily there is no way to
12 correct an erroneous determination of facts by a jury.

13 Now, on the other hand and with the same emphasis,
14 the same law of this state that makes you twelve the finders
15 of facts in this case makes me the judge of the law in this
16 case. You must accept it as I give it to you and follow it,
17 even if you disagree with it. I cannot tell you what a fact
18 is in this case and you cannot disagree with me about what
19 the law is, or should be, or ought to be. Your job would be
20 to take the law as I give it to you, apply it to the facts
21 as you find them to be, and after doing so render a verdict,
22 but until I tell you to begin deliberations you twelve must
23 not discuss this case with anyone, including fellow jurors,
24 friends, or family members, and certainly no one involved in
25 this case.

1 The lawyers and the parties have been instructed
2 by me to not speak to you if they see you outside of this
3 courtroom or in the hallway or some place. And if they do
4 not do so, they are not being rude. They are merely
5 following my instructions. You must decide this case based
6 solely on the evidence presented in this courtroom.

7 Now, during the trial you must not conduct any
8 independent research about the case or any facts in this
9 case or any people or organizations involved in this case.
10 Please do not try to learn any information outside of this
11 courtroom. You must not use dictionaries or reference
12 material, search the Internet, web sites, blog rooms, or use
13 any electronic tool to discover or receive information about
14 this case. You may not use computers, telephones,
15 cellphones, smart phones, tablets, the Internet, or any tool
16 or technology with communication capability at any time
17 while you are in the courtroom or during deliberations.
18 Now, during breaks for meals and overnight you may use those
19 devices, but you must not use them to communicate with
20 anyone about the case until it is ended. And this means you
21 must not use phone calls, e-mails, text messages, instant
22 messages, Twitter, or any blog or otherwise, including
23 Facebook, or any other social media to send or receive
24 information about this case.

25 Now, information includes information about a

1 party, or a witness, or a court officer, a news account, or
2 do any research on any topic raised which you might think
3 would be helpful in deciding the case. Do not listen to,
4 read, or watch any news reports about this case, if any. I
5 don't see any media here, but should they be here and
6 something be on the newspaper, please disregard that until
7 the case is ended.

8 You must not consider anything you hear or read
9 outside of this courtroom, because that information may be
10 wrong, or certainly it may be incomplete, and in our
11 judicial system it is important that you not influenced by
12 anything or any person outside of this courtroom.

13 Ladies and gentlemen, if you become aware of a
14 fellow juror's violations of my instructions, please inform
15 me immediately.

16 I tell you that it is important to keep an open
17 mind and not decide any issue until all evidence has been
18 presented, the parties have made their closing statements
19 and I instruct you on the law. It will then be your solemn
20 responsibility and duty to determine the guilt or innocence
21 of this defendant and your verdict must be based solely on
22 evidence presented in this courtroom.

23 Now, in just a few moments, ladies and gentlemen,
24 the solicitor will make an opening statement in which he
25 will explain to you the issues, or at least what the

1 solicitor believes the issues to be. The lawyer for the
2 defendant is entitled to make an opening statement as well,
3 although he is not required to do so, but I remind you that
4 what the lawyers say to you in opening and closing statement
5 is not evidence in the case. It is their position or
6 perception of the case. The evidence will be presented to
7 you by sworn witnesses and other exhibits that may be
8 introduced properly in the trial of this case.

9 Now, ladies and gentlemen, I tell you ahead of
10 time that at some point in this trial, it never fails, one
11 of the lawyers, or both, will rise and say "Your Honor, we
12 have a matter of law to discuss," or, "may we approach the
13 bench?" Sometimes I, myself, summon the lawyers forward.
14 And if you see me use a hand motion like this, they will
15 rise and come forward to speak to me and I will turn my
16 microphone off. That means that we are here to discuss a
17 matter of law. As I told you, I am in charge of the law in
18 this case. There are certain rules of evidence that we have
19 to follow. It may be that one of those rules of evidence --
20 maybe one of those rules of evidence or court rules that we
21 have to deal with and that is for me to discuss. In that
22 matter I'll bring them up here and talk off the microphone
23 so that you would not be influenced by that. If that
24 conversation would last more than about ten seconds, Madam
25 Forelady, I would send -- I would ask you -- I would send

1 the jury to -- remove the jury to the jury room so that you
2 would not be influenced by any comment that I make.

3 Remember, that in this state a trial judge is not permitted
4 to make a comment about a fact in a case. That is solely
5 for you twelve to determine.

6 Now, ladies and gentlemen, in deciding what facts
7 are in a case, you must decide whether or not testimony of a
8 witness is believable. It is my job, my responsibility, to
9 rule as a matter of law as to whether certain testimony is
10 admissible, but once testimony is admissible, whether you
11 twelve believe it is solely in your discretion. You may
12 believe one witness over several. You may believe several
13 over one. You may believe all the witness' testimony. You
14 may reject all of that witness' testimony. Whatever your
15 good sense tells you is credible, is believable, is the
16 evidence that you should remember and receive. You have a
17 right to consider anything in the record that will help you
18 evaluate the testimony of the witnesses.

19 Now, ladies and gentlemen, I'm often asked, and I
20 tell you ahead of time, as to whether or not you can take
21 notes. We do not permit note taking in state court. It is
22 permitted in federal court, and I suppose it could be an
23 exception to where it would be permitted in state court, but
24 we are not taking notes in this trial. And the reason for
25 that quite simply is we want you to give your undivided

1 attention to the lawyers and to the witnesses and not miss
2 something in taking notes. Okay.

3 Anything from the State?

4 MR. KENDALL: No, sir, Your Honor.

5 THE COURT: From the defense?

6 MR. MOORE: No, sir, Your Honor.

7 THE COURT: We ready to go?

8 MR. KENDALL: Yes, sir.

9 THE COURT: Solicitor.

10 MR. KENDALL: Thank you, Your Honor.

11 May it please the court?

12 THE COURT: Yes, sir.

13 MR. KENDALL: Counsel.

14 Ladies and gentlemen of the jury.

15 Good afternoon, ladies and gentlemen, and thank
16 you for coming here today.

17 We are all here because the defendant, Allen
18 Williams, attempted to murder C.D. W.D.

19 and Douglas Rising while they were riding in a pickup
20 truck around the neighborhood.

21 This crime took place on May 9th, 2017, ladies and
22 gentlemen, here in Cherokee County, on Evans Street. This
23 took place in the evening. Scott Rising and his two
24 stepsons were working on a truck. He was trying to get it
25 running. He was concerned they had some bad gas in the

1 truck. The gas in there had gone bad and he wanted to burn
2 it off, so they all got in the truck and basically drove
3 around the neighborhood. Just kind of driving around.
4 Scott was driving. Wesley was in the cab, and C.D. was in
5 the bed of the truck. This was their neighborhood, ladies
6 and gentlemen. They weren't going far from home and they
7 were just slowly riding around the neighborhood trying to
8 burn off some gas.

9 One of the roads they went down, ladies and
10 gentlemen, was Evans Street where Mr. Williams lived. This
11 was a small street on the edge of the neighborhood. It
12 wasn't any main road going through it, just a few houses, a
13 quiet street. The truck went past it multiple times, ladies
14 and gentlemen, as they were trying to burn off gas, and Mr.
15 Williams, who was in the area at that time started to get
16 nervous. He armed himself with a long gun and went to his
17 next door neighbor's home. While he was there he placed
18 bricks or rocks in the road, attempted to stop or slow down
19 the truck. Then his neighbor saw him run from their house
20 to behind it, which is where his house was located. And a
21 short time later as the truck pulled to the stop sign a shot
22 went off. C.D. the child who was in the back of the
23 truck, was shot. He had pellets in his chest, his torso,
24 and face, and jumped off the truck seeking shelter.
25 Frantically his father pulled him into the cab of the truck

1 and they were able to speed away. C.D. had to be taken to
2 Spartanburg where he underwent surgery to have the bullets
3 removed.

4 Now, at the end of this trial, ladies and
5 gentlemen, I'm going to ask you to return a verdict of
6 guilty, but right now I'm going to ask you to do three
7 things.

8 First, you listen carefully to the judge. He is
9 going to provide you with the instructions that assures this
10 is a fair trial.

11 Second, please listen to all the evidence that's
12 presented today in this case.

13 And finally, ladies and gentlemen, in this case
14 please use common sense. You will find it goes a long way.
15 Thank you.

16 THE COURT: Mr. Moore?

17 MR. MOORE: May it please the court?

18 THE COURT: Yes, sir.

19 MR. MOORE: Solicitor.

20 Ladies and gentlemen, my name is Travis Moore. I
21 know I introduced myself this morning. I represent Mr.
22 Williams, and as you heard from Mr. Kendall, this is a very
23 serious case.

24 You just heard the judge say a minute ago the
25 statements Mr. Kendall make and the statement that I make

1 are just our opinion or our perspective on the case. The
2 real evidence, the evidence that you have a duty to examine
3 and to weigh, will come through sworn testimony here on this
4 stand, through witnesses who will testify as to what
5 happened. Not from what I tell you or from what Mr. Kendall
6 tells you.

7 Now, you may have some preconceived notions on
8 what to expect from this trial and I know one of the things
9 that people are always concerned about at the very beginning
10 is how long is this going to last, how long is it going to
11 be. I would imagine it would probably last at least through
12 tomorrow, but I don't think it will be a really long trial,
13 but this will be a very important trial.

14 As the judge has already told you, you may have
15 some preconceived notions about what to expect from a
16 criminal trial or jury trial and those probably came from TV
17 shows and movies and things like that that you watch, but
18 those are for entertainment, and this today is not for
19 entertainment. It's not for your entertainment. It's not
20 for none of our entertainment. This is a very, very
21 important process.

22 As the judge told you, we have what's been called
23 one of the best justice systems in the world. I don't think
24 there is a perfect justice system, not at least in this
25 world, but most people would agree that what we have here in

1 America is the best. And the reason, one of the most
2 important reasons that it is, is because we have the
3 presumption of innocence. When we have an individual, like
4 Mr. Williams, or other individuals who probably are in
5 trials all around this country, we have an individual who
6 has been accused by the government of committing a crime and
7 that person says "I am innocent. I did not do this," then
8 that burden falls upon the government, the government with
9 all its resources, with all its officers, investigators, its
10 labs, its technology. The one that has all that has the
11 duty under our law to prove that individual is guilty to all
12 twelve of you unanimously beyond a reasonable doubt. They
13 have to make sure that each one of you is firmly convinced
14 that the defendant did what they say he did. And you have a
15 duty at the end that if you don't believe they have done
16 that, then you have the duty to find them not guilty,
17 because the burden is on them.

18 So what I would ask you to do is not much
19 different than what Mr. Kendall has asked you to do. Pay
20 attention to these witnesses. You get to decide what to
21 believe. You get to decide if you believe everything that
22 they say, part of what they say, or all of what they say, or
23 none of what they say. You determine their credibility.
24 You get to decide if their stories all seem to match up and
25 make sense or not. Ultimately you will decide, as the judge

1 said, what the facts are in this case, and it comes through
2 these witnesses.

3 We used to have a circuit judge in this circuit
4 who is retired now, but he used to say that service on a
5 jury was second only to military service in the importance
6 of this country. And having firsthand experience with both
7 of those, I'll tell you that it is, or maybe a tie, maybe
8 it's just as important, because that's what separates us
9 from other countries around the world, that we require
10 before we convict our citizens of criminal offenses.

11 I can't even really describe how important this
12 case is to the State, this case is to Mr. Williams, this
13 case is to us and our system of justice, so please pay
14 attention. Please use your common sense, and please be
15 firmly convinced of what you believe actually happened.
16 Thank you.

17 THE COURT: Solicitor.

18 MR. KENDALL: The State would call C.D.

19 having been first duly sworn,
20 testified as follows:

21 THE WITNESS: Yes.

22 THE COURT: C.D. tell us your full name, please.

23 THE WITNESS: C.D. Allen Donald.

24 THE COURT: Thank you.

25 Solicitor.

1 DIRECT EXAMINATION BY MR. KENDALL:

2 Q. Good afternoon, C.D.

3 A. Good afternoon.

4 Q. C.D. where are you originally from?

5 A. Greenville, South Carolina.

6 Q. How old are you?

7 COURT REPORTER: Hold on a second.

8 BY MR. KENDALL:

9 Q. One of the things they are doing is they are making a
10 recording. The gentleman in front of you is making a
11 recording, so try to speak up as best you can. Don't worry.
12 Everybody, including myself, has ever sat on the stand needs
13 to adjust to that thing. It happens.

14 C.D. how old are you now?

15 A. I am eleven years old.

16 Q. What grade are you in?

17 A. 6th grade.

18 Q. Oaks. Do you remember where you were living back in
19 May of 2017?

20 A. Yes, we were living at [REDACTED] Craft Street in Gaffney.

21 Q. Okay. And who was living with you at that time?

22 A. My mom, my brother, my sister, my stepdad, and me.

23 Q. Okay. And what is your brother's name?

24 A. W.D.

25 Q. Okay. And what about -- what was your stepfather at

1 that time's name?

2 A. Douglas Scott Rising.

3 Q. Okay. And do you remember what you were doing the
4 evening of May 9th, 2017?

5 A. We were fixing a truck that had bad gas in it.

6 Q. Okay. And how were you trying to fix it? What were
7 you guys doing?

8 A. We were driving around the neighborhood to burn off the
9 gas.

10 Q. Okay. And could you kind of describe the neighborhood
11 to me?

12 A. It was just -- I can't remember.

13 Q. Okay. All right.

14 And when you were riding around the neighborhood, who
15 was with you?

16 A. My brother and my stepdad.

17 Q. All right. And where was everybody in the vehicle?

18 A. My stepdad was driving in the cab, and my step -- my
19 brother was also in the cab, and I was in the bed of the
20 truck.

21 Q. Okay. So you were in the back of the truck at that
22 time, is that fair to say?

23 A. Yes, sir.

24 Q. Okay. I'm going to show you what is marked State's
25 Exhibit 1. Could you take a look at this? I know it's

1 small. Do you recall what that is?

2 A. That's the map of where we were driving around the
3 neighborhood.

4 Q. Okay. And is that a fair and accurate representation
5 of what it kind of looks like?

6 A. Yes, sir.

7 MR. KENDALL: Your Honor, we would offer State's
8 Exhibit 1 into evidence at this time.

9 MR. MOORE: Without objection, Your Honor.

10 THE COURT: Without objection, it's admitted.

11 (Whereupon, State's Exhibit No. 1 was entered into
12 the record as evidence)

13 BY MR. KENDALL:

14 Q. All right. I'm going to put --

15 If you want to take a second to just look at it real
16 quick. I'm going to put it up on the big screen and get you
17 to point things out with a laser.

18 If you take a look at it, sometimes it can be hard to
19 sort of read up there. All right?

20 Can you see that okay?

21 A. Yes, sir.

22 Q. If you want to, you can step down, if you would like,
23 if that will help you kind of see where some things are.

24 Now, C.D. could you point out to us using this laser
25 pointer where you were living at that time?

1 A. We were living right there.

2 Q. Okay. And when you said that you were driving, what
3 route were you guys driving around the neighborhood?

4 A. We were driving down this road and then around like
5 that.

6 Q. Okay. And do you see Evans Street on that map?

7 A. Yes, it's right here.

8 Q. Okay. And did you guys drive down that road at all
9 while you were driving around?

10 A. Yes, sir.

11 Q. And did you drive -- how many times did you drive by
12 there? Was it once? Was it more than once?

13 A. It was about four times.

14 Q. Okay. So you drove down that little road about four
15 times?

16 A. Yes, sir.

17 Q. All right. I'm going to show you what is marked
18 State's Exhibit 2. Do you recognize this?

19 A. Yes, sir.

20 Q. What is that?

21 A. That is a house on the road that we had drove down on
22 Evans Street.

23 Q. On Evans Street?

24 Okay. Does that look like what Evans Street looks
25 like?

1 A. Yes, sir.

2 MR. KENDALL: All right. Your Honor, we would
3 offer State's Exhibit 2 into evidence.

4 MR. MOORE: Without objection, Your Honor.

5 THE COURT: State's 2 without objection.

6 (Whereupon, State's Exhibit No. 2 was entered into
7 the record as evidence)

8 MR. KENDALL: And publish to the jury, if I could.

9 BY MR. KENDALL:

10 Q. C.D. could you describe Evans Street to me? Is Evans
11 Street a real busy hustling and bustling kind of street?

12 A. No, sir.

13 Q. How would you describe it?

14 A. It's very simple. It's just a connection between two
15 of the main roads with a couple houses down it. Like maybe
16 one car goes down it.

17 Q. Okay. So it's not a real high traffic area or anything
18 like that?

19 A. No, sir.

20 Q. Okay. And do you remember what county and state that
21 was located in?

22 A. It was in Cherokee County in South Carolina.

23 Q. Okay. And when you drove over -- or drive down Evans
24 Street, did you see a whole lot of people milling around
25 there, like downtown sometimes there's people walking up and

1 down the sidewalks. Did you see a whole lot of that
2 happening on Evans Street?

3 A. No, sir.

4 Q. Okay. And so the last time that you went down Evans
5 Street, what happened then?

6 A. I was shot.

7 Q. Okay. And could you please describe to the jury how
8 that happened, sort of what happened as you were going down
9 Evans Street?

10 A. So as we drove down the road the fourth time, we --
11 when we got to the end of the road somebody yelled "why
12 y'all keep driving by," and then my mom and my stepdad
13 stopped to tell them and then that's when we heard the
14 gunshot.

15 Q. Okay. And were you hit?

16 A. Yes, sir.

17 Q. Where were you hit?

18 A. I was hit in the face and the scalp and in the chest.

19 Q. Okay. And how did you respond?

20 A. I immediately jumped out of the back of the truck to
21 seek for cover.

22 Q. Okay. And what did you guys do after that?

23 A. My brother grabbed me and pulled me through the window
24 of the truck and then we went home.

25 Q. Okay. And from there where did you go?

1 A. We -- after we washed up my face at the house, we went
2 to the Gaffney hospital.

3 Q. Okay. And could you show me on the map where this
4 shooting occurred, approximately?

5 A. Right about there.

6 Q. Okay. All right.

7 Do you remember which direction you guys were going?

8 A. We were going from here down to this way.

9 Q. Okay. Okay. All right.

10 Where would the stop sign be you said -- that
11 you talked about?

12 A. What?

13 Q. I'm sorry, never mind.

14 A. What?

15 Q. That's okay.

16 Okay. So you were going from the top down to the
17 bottom, is that right?

18 A. Yes, sir.

19 Q. Okay. All right.

20 And when you went to the hospital, what happened then?

21 A. So they put us in the ER room and one of the doctors
22 was able to grab a pair of tweezers --

23 COURT REPORTER: Could you speak -- I'm sorry,
24 speak into the microphone a little bit.

25 THE WITNESS: I'm sorry.

1 COURT REPORTER: There you go.

2 A. One of the doctors grabbed -- was able to grab a pair
3 of tweezers and pull out one of the pellets from my chest.

4 BY MR. KENDALL:

5 Q. Okay. And did you just stay at the emergency room
6 here?

7 A. No, an ambulance came and took us down to the
8 Spartanburg Memorial.

9 Q. Okay. What happened there?

10 A. Then I was there for about a day and then I had to go
11 through surgery.

12 Q. Okay. I'm going to show you State's Exhibits 3 through
13 8.

14 I'm going to show you what is marked State's Exhibits 3
15 through 8. Can you take a look at those, please?

16 A. (Witness examining photos).

17 Q. And what are those pictures of?

18 A. Those are -- excuse me, those are pictures of me after
19 the gunshot --

20 Q. Okay.

21 A. -- in the hospital.

22 Q. And where were you shot? Could you just show the jury
23 where you were shot?

24 A. I was shot right here in the cheek, and then right
25 above my eye, and a little one right here on my eye. There

1 was one in my right ear. And I was shot in the knuckle --
2 well, in the finger, rather, right here, and on my pinky.

3 Q. Okay. What about in your torso or chest? Any shots
4 there?

5 A. I was shot twice near the bottom of the stomach, and
6 then once up here further up, and then on the other side of
7 my chest.

8 Q. Okay. So the bullets hit you -- or the pellets hit you
9 in the face and in the torso, is that fair to say?

10 A. Yes, sir.

11 Q. Okay.

12 MR. KENDALL: Your Honor, we would offer State's
13 Exhibit 3 through 8 into evidence at this time.

14 MR. MOORE: Without objection, Your Honor.

15 THE COURT: No. 3 through 8 from the State without
16 objection.

17 (Whereupon, State's Exhibit No. 3 was entered into
18 the record as evidence).

19 (Whereupon, State's Exhibit No. 4 was entered into
20 the record as evidence).

21 (Whereupon, State's Exhibit No. 5 was entered into
22 the record as evidence).

23 (Whereupon, State's Exhibit No. 6 was entered into
24 the record as evidence).

25 (Whereupon, State's Exhibit No. 7 was entered into

1 the record as evidence).

2 (Whereupon, State's Exhibit No. 8 was entered into
3 the record as evidence)

4 MR. KENDALL: We request permission to publish at
5 this time.

6 THE COURT: Yes, sir.

7 MR. KENDALL: If I could, Your Honor, just pass
8 them around to the jury. It's not picking up the detail on
9 these copies. If I could just pass them around.

10 THE COURT: Yes, sir.

11 BY MR. KENDALL:

12 Q. Just to clarify one thing. When y'all --

13 Right before you got shot, kind of what happened?

14 Right before the shooting, right before the shooting
15 actually happened, before you heard the shot, what happened
16 as you were driving down Evans Street that last time?

17 A. Some lady yelled "why do y'all keep driving by," and
18 then we got to the end of the road we had stopped to back up
19 and tell her.

20 Q. Okay. Did you ever have any conversation with her or
21 anything like that, or did --

22 A. No, sir.

23 Q. Okay. So somebody called out kind of what you are
24 doing and he slowed down and it's at that point the shooting
25 happened?

1 A. Yes, sir.

2 Q. Please answer any questions that Mr. Moore has for you
3 okay.

4 CROSS EXAMINATION BY MR. MOORE:

5 Q. Good afternoon, C.D.

6 A. Good afternoon.

7 Q. You are doing a really great job testifying.

8 A. Thank you.

9 Q. I imagine -- I don't know if you are nervous or not,
10 but you don't act like it and you're doing a great job
11 answering questions.

12 And also it's really brave of you not just to testify,
13 but to have made it through what you made it through.

14 A. Thank you.

15 Q. And I only have just a few questions and they should be
16 real quick, okay?

17 A. (Shaking head yes).

18 Q. The first question I have was you just told Mr. Kendall
19 that it was on your last time of four trips, maybe it was on
20 the last time that you heard a lady yell "why y'all keep
21 driving around," is that correct?

22 A. Yes, sir.

23 Q. So it was a female?

24 A. Yes, sir.

25 Q. Did you see anybody else besides her?

1 A. No, sir.

2 Q. Did you see anybody with a gun?

3 A. No, sir.

4 Q. Did you see any rocks or anything in the road?

5 A. No, sir.

6 Q. And I believe you just testified that once this
7 happened -- and I know that you had to be like super scared,
8 but once this happened y'all didn't go straight to the
9 hospital? You went to your home first?

10 A. Yes, sir.

11 Q. And what did y'all do there?

12 A. We had cleaned off the wounds and kind of got a rag to
13 keep it from bleeding more.

14 Q. Okay. So y'all went there and kind of cleaned up first
15 and went straight to the Gaffney, like urgent care or
16 something?

17 A. Yes, sir.

18 Q. Okay. And then it was from there that they told you
19 that -- you went by ambulance to Spartanburg?

20 A. Yes, sir.

21 Q. And I don't want to try to drag all this back up. I
22 know it's hard to miss school and come here for this, but at
23 any point during all that you didn't -- you didn't lose
24 consciousness or anything, did you?

25 A. I passed out in the ambulance.

1 Q. Okay. And when you got to the hospital were you able
2 to talk to the nurses and doctors and stuff?

3 A. Yes, sir.

4 Q. And you are doing well in school?

5 A. Yes, sir.

6 Q. Good. I'm glad.

7 That's all the questions that I have. Thank you for
8 answering them.

9 A. Thank you.

10 THE COURT: Anything at all as to that?

11 MR. KENDALL: Just real, real quickly.

12 REDIRECT EXAMINATION BY MR. KENDALL:

13 Q. You said there was a lady standing outside there and
14 you didn't see anyone else. Did she anybody with her?

15 A. She had a baby and a toddler.

16 Q. Okay. So there were a couple other ones that were
17 little kids and stuff like that?

18 A. Yes, sir.

19 MR. KENDALL: Nothing further, Your Honor.

20 THE COURT: Anything at all?

21 MR. MOORE: Nothing from the defense, Your Honor.

22 THE COURT: Sir, you may step down. Please be
23 careful. Thank you.

24 MR. KENDALL: May he be excused, Your Honor?

25 THE COURT: Any objection?

1 MR. MOORE: No objection, Your Honor.

2 THE COURT: He may stay or go, whichever.

3 MR. KENDALL: At this time the State would call

4 W.D.

5 having been first duly
6 sworn, testified as follows:

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Sir, tell us your full name and spell
9 your last name, please.

10 THE WITNESS: W.D. [REDACTED].

11 THE COURT: Thank you.

12 Solicitor.

13 DIRECT EXAMINATION BY MR. KENDALL:

14 Q. Mr. Donald, where are you from?

15 A. I'm originally from North Carolina.

16 Q. All right. And where do you currently reside?

17 A. Taylors.

18 Q. And do you remember where you were living back in May,
19 May 9th of 2017?

20 A. [REDACTED] Craft Street in Gaffney.

21 Q. And who were you living with at that time?

22 A. I was living with my mom, my brother, my step-sister,
23 my sister and my stepdad.

24 Q. And who was your brother? What brother?

25 A. C.D.

1 Q. C.D. who just testified?

2 A. Yeah.

3 Q. And who was your stepfather?

4 A. Scott.

5 Q. Scott.

6 And is that Douglas Scott Rising?

7 A. Yes, sir.

8 Q. And could you tell me what you guys were doing on
9 May 9th?

10 A. We was working on a Toyota pickup because my
11 transmission went out in my other truck, so I was trying to
12 get it running.

13 Q. And what did y'all think was wrong with it at that
14 time?

15 A. We gave it a good tune-up. It kept skipping, so we
16 figured it was bad gas, so we was going to take it around.

17 Q. All right. So what did y'all do to kind of fix that?

18 A. We was just driving around the neighborhood.

19 Q. All right. And what's the neighborhood like?

20 A. It's quiet for the most part.

21 Q. Okay. Is it big through traffic or anything like that
22 where y'all are?

23 A. No.

24 Q. So it's not like a major street area or anything like
25 that?

1 A. No, sir.

2 Q. Did the truck have plates or anything like that on it?

3 A. No.

4 Q. All right. So did you just stay off the main road?

5 A. Yes.

6 Q. How long did y'all -- or where did y'all go as you were
7 driving around?

8 A. Just through our little cut-throughs in the
9 neighborhood.

10 Q. All right. Did y'all go down Evans Street at any
11 point?

12 A. Yes, sir.

13 Q. All right. And do you remember about how many times
14 y'all went down Evans Street?

15 A. About four or five.

16 Q. Okay. And could you describe Evans Street to the jury?

17 A. It's just a little cut-through. Really it's just
18 houses there and --

19 Q. Okay. Are there a lot of houses, like a whole bunch of
20 them, or just a couple, or --

21 A. I believe there is four on the back side and there is
22 three on the other side, if I remember correctly.

23 Q. All right. And the ones that are on the back side of
24 it --

25 All right. I'll show you State's Exhibit 1 here. I

1 don't know if you want to take a look at this. If you will
2 just take a look at it here. If you will take a look at
3 that real fast.

4 A. (Witness examining document).

5 Q. How were the houses that are on the kind of back side
6 of Evans Street, the far side, how are they sort of
7 situated?

8 A. They are kind of like facing out to the road.

9 Q. Okay. So they kind of a -- is it fair to say that
10 Evans Street is sort of a through between two bigger roads,
11 is that fair to say?

12 A. You got like your main road of the neighborhood and
13 it's kind of a cut-through.

14 Q. Okay. Would you mind showing us? I'll get the laser
15 pointer here.

16 Could you sort of show me where Evans Street is and
17 then kind of where the other roads are?

18 A. Evans Street is right here. And to get to it, it's
19 either this road or this road right here.

20 Q. Okay. And so there is a couple houses that's sort of
21 on the corner of Evans Street and those two major bigger
22 roads, is that fair to say?

23 A. Uh-huh.

24 Q. Okay. One in the middle, or at least one in the
25 middle?

1 A. That right there?

2 Q. Over one more. I know it's hard to see.

3 I'll let you take a look at it.

4 So how many on that back side of Evans?

5 A. It's about four houses right there on the back side of
6 it.

7 Q. Okay. All right.

8 And those kind of around the corner of those other two
9 bigger roads as well?

10 A. Yes, sir.

11 Q. That's all I was trying to get to.

12 And y'all drove down there you said about four or five
13 times, or so. What happens on the last time that you were
14 down there?

15 A. We was going through Evans Street, you know. A
16 woman -- a woman's house right there on the corner. She was
17 out there with her kids and she hollered out, you know, "why
18 y'all keep driving down?"

19 Scott hollered out "trying to work on my truck."

20 We got down -- we was going to take a left off of Evans
21 Street and he started backing up, so I don't know if she
22 just wanted to make sure she heard us, you know, because she
23 had some kids out.

24 Q. Okay. What happened after that?

25 A. He put it in reverse and was about to turn around and

1 we heard a gun go off, and I notice C.D. jumped out the
2 back and I just pulled him in the truck.

3 Q. Okay. So now -- sorry, this is a small drawing.

4 And you're -- if it's all right with the judge, you are
5 welcome to step down if that helps see a little bit better,
6 if that's all right with Your Honor.

7 THE COURT: You can step down. Step right over
8 close to my court reporter so he can hear you, please.

9 (Witness off the witness stand).

10 BY MR. KENDALL:

11 Q. I'll get that laser pointer.

12 All right. So on that last -- on that last trip could
13 you sort of show us where y'all were going?

14 A. The last trip, we was coming down through here. Well,
15 it's right here he starts making another loop. We go back
16 up to this road and come back down.

17 Q. All right. And when you pulled down Evans Street,
18 which direction were you going?

19 A. We was going right there.

20 Q. All right. And where did the lady yell to you, the
21 lady with the kids?

22 A. She was in this house right here.

23 Q. All right. And was she all the way out in the road or
24 kind of yelling from the house? Do you remember?

25 A. Yelling from the porch.

1 Q. Okay. All right.

2 And the porch is -- how far off the road is that porch?

3 A. It's right here --

4 Q. Okay.

5 A. -- is where the porch is. It's right there on the
6 corner.

7 Q. All right. And where were y'all --

8 So when you made that left, I guess, onto Evans, you
9 heard her yell. Now, where were y'all when the gunshots
10 started, happened?

11 A. We was right here.

12 Q. All right. So you guys were all the way to the far end
13 of Evans Street when somebody actually shot?

14 A. Yes, sir.

15 Q. Okay. All right.

16 (Witness back on the witness stand).

17 BY MR. KENDALL:

18 Q. And what did you do after that? Once the shooting
19 happened, what did you do after that?

20 A. C.D. jumped out of the side of the truck and I saw he
21 had blood on him and so I pulled him inside the truck and
22 laid on the top of him until we got to the house.

23 Q. Okay. All right.

24 Did you see a whole lot of other people or anything
25 milling around out there that night, wandering around with a

1 whole bunch of other folks? Did you see them with a gun
2 ever?

3 A. No, I did not see a gun.

4 I did see a man walking down the road when we was --
5 right before we got to Evans.

6 Q. Okay. So before you turned down Evans Street?

7 A. Yeah.

8 Q. Okay. But you didn't see anybody, once you got on
9 Evans Street --

10 A. No.

11 Q. -- walking around, or a whole bunch of people, or
12 anything like that?

13 A. No, sir.

14 Q. Is it fair to say Evans Street was a pretty quiet
15 street?

16 A. Yes, sir.

17 Q. Please answer any questions that Mr. Moore may have.

18 CROSS EXAMINATION BY MR. MOORE:

19 Q. Good afternoon, Mr. Donald.

20 What name do you go by?

21 A. W.D.

22 Q. okay.

23 Just to clarify a couple of things.

24 Now, you just said that you saw a man walking down the
25 street?

1 A. Yes.

2 Q. But that wasn't in the vicinity of where the gunshot
3 was?

4 A. It was right -- kind of right toward our house, right
5 there on the corner before you take -- you come down that
6 road and that's where Evans Street is right here.

7 MR. MOORE: May I approach the witness, Your
8 Honor?

9 THE COURT: Sure.

10 BY MR. MOORE:

11 Q. Let me give you this back, just to make sure I
12 understand about this other person and where they were.

13 A. He was about right in this vicinity --

14 Q. Okay.

15 A. -- going past him.

16 Q. And that was before a gunshot?

17 A. Yeah.

18 Q. And the gunshot, can you show us that vicinity again?

19 A. We was down here.

20 Q. Okay. So other than the woman on the corner house
21 yelling, you didn't -- and the man up there at the top, you
22 didn't see anybody else?

23 A. No, sir.

24 Q. Okay. You never saw a gun?

25 A. Uh-uh.

1 Q. Okay. That's a no?

2 A. Yes, sir.

3 Q. Okay. And who was with this lady on her porch?

4 A. Her two kids.

5 Q. Two kids.

6 Approximately do you know what their age might have
7 been?

8 A. No.

9 Q. I think, and it may have just been a slip-up, there was
10 some use of the word gunshot and shots. Was there multiple
11 shots, or one shot?

12 A. Just one.

13 Q. And you heard one shot?

14 A. Yes, sir.

15 Q. Okay. And did you have any physical injuries from that
16 shot?

17 A. No, sir.

18 Q. Are you aware of whether or not the driver had any
19 physical injuries from that shot?

20 A. I cannot recall.

21 Q. Okay.

22 MR. MOORE: Beg the court's indulgence just for
23 one moment, Your Honor.

24 THE COURT: Yes, sir.

25 (Off the record).

1 (Back on the record).

2 BY MR. MOORE:

3 Q. One more question.

4 Do you recall there being any rocks or obstacles in the
5 road that you were driving over?

6 A. No, sir.

7 Q. Nothing in the road?

8 A. Uh-uh.

9 Q. Okay. Thank you.

10 MR. MOORE: That's all the questions that I have,
11 Your Honor.

12 THE COURT: Anything at all?

13 MR. KENDALL: Just very quickly, Your Honor.

14 REDIRECT EXAMINATION BY MR. KENDALL:

15 Q. So y'all were inside of the cab of the truck that got
16 shot at, correct?

17 A. Yes.

18 Q. Okay. With the exception of C.D. who was in the
19 back, is that fair to say?

20 A. Yes, sir.

21 MR. KENDALL: Nothing further, Your Honor.

22 THE COURT: Anything at all as to those two
23 questions?

24 MR. MOORE: No, sir, Your Honor.

25 THE COURT: Sir, you may step down. Please be

1 careful.

2 MR. KENDALL: Your Honor, may he be excused?

3 MR. MOORE: No objection, Your Honor.

4 THE COURT: He's excused. You may stay or go,
5 sir, whichever you choose.

6 MR. KENDALL: Your Honor, the State would call
7 Christa Woodie at this time.

8 THE COURT: Okay.

9 (Off the record).

10 (Back on the record)

11 MR. KENDALL: Your Honor, we actually are going to
12 be calling Sierra McKinney.

13 SIERRA MCKINNEY, having been first duly sworn,
14 testified as follows:

15 THE WITNESS: Yes.

16 THE COURT: Ma'am, tell us your name and spell
17 your last name, please.

18 THE WITNESS: Sierra McKinney, M-C-K-I-N-N-E-Y.

19 THE COURT: Thank you. Please answer any
20 questions.

21 DIRECT EXAMINATION BY MR. KENDALL:

22 Q. Thank you for coming, Ms. McKinney.

23 Where are you from?

24 A. Gaffney.

25 Q. All right. And how long have you lived here in

1 Cherokee County?

2 A. My whole life.

3 Q. Okay. And do you know the defendant Allen Williams?

4 A. I do.

5 Q. All right. And how do you know him?

6 A. We lived in the same area.

7 Q. Okay. And where does he live, or where does he live in
8 relation to you?

9 A. He lived behind me, like my old house.

10 Q. Okay. And back in 2017, do you remember where that
11 was?

12 A. Yeah.

13 Q. Where was that?

14 A. I lived on Rita Street.

15 Q. Okay. I'm going to show you a map here. Look at it.
16 It's pretty small.

17 All right. The writing is pretty small, but we are
18 going to use the laser and point it out to show the jury.

19 Do you want to take a look at that real fast?

20 A. Yeah.

21 Q. Do you recognize the area and everything?

22 A. Uh-huh.

23 Q. Do you remember where you lived and where --

24 A. Right there in that house.

25 Q. Okay. All right.

1 And where Mr. Williams lives?

2 A. Right there behind me.

3 Q. Okay. All right.

4 Let's put it up on the big screen here.

5 If you could, just take this pointer and I'm going to
6 ask you to show us where your house was and where his house
7 was, all right?

8 A. Okay.

9 Q. All right. Now, back in May of 2017, do you remember
10 where you were living?

11 A. Yes.

12 Q. Could you use that laser and point out where it is?

13 A. Right there in that house.

14 Q. Okay. And which way does that house face?

15 A. Towards the road right there.

16 Q. Okay. So it was facing Rita Street --

17 A. Yes.

18 Q. -- is that fair to say?

19 A. Yes.

20 Q. All right. And where was Mr. Williams living at that
21 time?

22 A. Right there behind me.

23 Q. Okay. At that [REDACTED] Evans Street?

24 A. Yeah.

25 Q. Okay. And which way did that house face?

1 A. Towards that way.

2 Q. Okay. So he kind of lived behind you, but also kind of
3 next to you, is that fair to say?

4 A. Yeah.

5 Q. Okay.

6 A. He lived behind me and I lived beside him.

7 Q. Okay. All right.

8 And how long had you known him before all this
9 happened?

10 A. Since 2012.

11 Q. Okay. Do you see him in the courtroom?

12 A. Yes.

13 Q. Could you point him out, please?

14 A. He's right there.

15 Q. Okay. And is that the individual that lived beside you
16 in May of 2017?

17 A. Yeah.

18 Q. All right. And on May 9th of that evening, do you
19 remember what you were doing that night?

20 A. I think we were sitting on the porch --

21 Q. Okay.

22 A. -- in the dark.

23 Q. Who was there with you?

24 A. My sister and my brother-in-law.

25 Q. And what's your sister's name?

1 A. Christa Hall.

2 Q. Was she Christa Woodie back then?

3 A. Yeah.

4 Q. All right. And what about her I guess now husband?
5 What was his name?

6 A. Blake Hall. Well, it's Kenneth Hall.

7 Q. Okay. All right.

8 And did you see anything out of the ordinary that night
9 traffic-wise?

10 A. No, just a truck kept riding around the block over and
11 over and over.

12 Q. Okay. Was that sort of out of the ordinary?

13 A. Yeah.

14 Q. And what was that -- where y'all were living on Evans
15 Street Rita Street corner, was that typically a busy area?
16 Was that something that happened, like you got a whole lot
17 of traffic going through there?

18 A. No.

19 Q. Okay. And so it was out of the ordinary the same truck
20 came running by?

21 A. Yeah.

22 Q. All right. And did you see Mr. Williams that night?

23 A. Yes.

24 Q. How did he appear?

25 A. He was aggravated, that he thought -- we all thought

1 that maybe it was someone trying to start trouble.

2 Q. Okay. Did he appear to be aggravated?

3 A. Yeah.

4 Q. Okay. Was he calm, or was he kind of nervous, or
5 anything?

6 A. It's really hard to remember. It happened so long ago.

7 Q. Okay. If you don't remember, it's okay to say you
8 don't remember, but he looked aggravated?

9 A. Yeah, I guess so.

10 Q. Okay. Did he appear to be worried about the truck?

11 A. Yeah. I think we all were.

12 Q. Okay. And how did he react when the truck came by?
13 Did he stay at his house? Did he come by your house?

14 A. We were all trying to figure out what was going on. He
15 come up on the left side of my house and went into the woods
16 in front of my --

17 Q. Where would the left side be on the map?

18 A. Oh, I can't see it good from here.

19 This side, the left side, and then there is woods right
20 there in front of my house.

21 Q. Okay. All right.

22 And did he have anything with him?

23 A. It was -- it was a long gun.

24 Q. A what?

25 A. A long gun.

1 Q. Okay. So not like a pistol? Like a big gun, or a
2 shotgun, or a rifle, or something like that?

3 A. Yes.

4 Q. Okay. And was he doing anything while he was up there?

5 A. Just trying to figure out what was going on and the
6 bricks were put in the road.

7 Q. Okay. Who put them there?

8 A. He did.

9 Q. All right. When you say bricks were put in the road,
10 are we talking about --

11 A. It's hard to remember a lot.

12 Q. Are we talking like a giant wall were put in the road?

13 A. It was just broke up bricks in the road.

14 Q. So he was putting broken down bricks in the road?

15 A. Yeah, because it looked like the people that were
16 riding by were starting trouble. He -- I mean, they wasn't.
17 It did look like it.

18 Q. Okay. And so he went and got a gun and then put bricks
19 in the road?

20 A. I don't know if he had the gun when he did it, or --
21 but I remember seeing him. He come to the side of my house
22 with the gun.

23 Q. Okay. So at some point he came by your house with a
24 gun?

25 A. Yeah.

1 Q. This was a long gun? This wasn't like a pistol or
2 something like that?

3 A. No.

4 Q. And where did he go next? That last time you saw him
5 with the long gun, what happened after that?

6 A. The last time I seen him was that he went back behind
7 my house towards his.

8 Q. Okay.

9 A. And then I didn't see him any more after that.

10 Q. Did you hear anything after that?

11 A. We heard a loud boom, but --

12 Q. A gunshot?

13 A. Yeah.

14 Q. Okay. How long after that that he left the gunshot go
15 off? Was it like hours later, or we talking about --

16 A. It may have been like ten or fifteen minutes, maybe.
17 Well, not that long, but --

18 Q. Okay. So was it pretty short --

19 A. Yeah.

20 Q. -- from when he ran behind your house when the gunshot
21 went off?

22 A. Yeah.

23 Q. Okay. Did you see anyone else out there that night
24 with a gun?

25 A. Not with a gun.

1 Q. Okay. Did you see anyone else putting bricks or rocks
2 in the roads, or anything like that?

3 A. No.

4 Q. Okay. So when you saw him, to just kind of summarize,
5 he appeared to be aggravated?

6 A. Yeah.

7 Q. He was putting something in the road? It wasn't like a
8 giant pile or anything like that?

9 A. No.

10 Q. And then you saw him with a gun?

11 A. Yes.

12 Q. And a short time later you heard the shot --

13 A. Yes.

14 Q. -- is that fair to say?

15 A. Yes.

16 Q. And just -- and --

17 Please answer any questions Mr. Moore may have, okay?

18 A. Okay.

19 MR. KENDALL: Your Honor, may I approach real
20 fast? I actually have something.

21 THE COURT: Yeah.

22 MR. KENDALL: Yes, Your Honor, can we approach
23 real fast?

24 (Whereupon, the lawyers approached the bench for
25 an off-the-record discussion)

1 THE COURT: Madam Forelady, ladies and gentlemen
2 of the jury, the lawyers have asked me for a short break and
3 we were about fifteen minutes from a break, because I
4 promised you we would stop about every ninety minutes, so we
5 are going to be fifteen minutes early, but we are going to
6 go ahead and stop at this time. This will be the afternoon
7 break.

8 Please refresh yourselves. Water, coffee,
9 whatever you might need is available. The restrooms are
10 back there for you.

11 Is there anyone who -- let me ask this now before
12 I ask. Is anyone on the jury a smoker? Do I have anyone
13 who needs to go outside to smoke?

14 I wish you would quit. It's personal to me. It
15 killed my sister at forty-eight years of age, but,
16 nonetheless, if you desire to go out and smoke, now would be
17 the time to do that, but understand the reason I asked that
18 is you will have to be escorted out to the smoking area.
19 There is no smoking in the building and someone would have
20 to remain with you. That's one of our bailiffs or someone,
21 until we bring you back in. That's not so that you don't
22 run away. It's so no one might try to approach you and
23 influence you in any way whatsoever, but they will arrange
24 that during this time, so this is the time to do that, if
25 you need to.

1 With that please do not talk about the case.
2 Don't think about the case. Actually you are at work and
3 now you are on break, so the last thing that you want to do
4 is be thinking about work. Just enjoy yourself for a few
5 minutes and we will resume the testimony. Don't discuss the
6 case. Don't decide the case. It's not over. It's just
7 getting started.

8 Madam Forelady, when we return -- ma'am, I forgot
9 to tell you earlier. The reason you are sitting there is
10 you are in the foreperson's seat. I would ask that you
11 remain in that seat during the trial of the case so that
12 when I look up I know exactly where my foreperson is.

13 Everyone else is free to move around. So you can
14 sit in the seat you are now. You can move left or right.
15 You can move to the rear, in front. It matters not to me.
16 Anywhere, what you want to do is fine with me.

17 Ma'am, if you will take the jury out.

18 (The following takes place outside the presence of
19 the jury panel)

20 THE COURT: Ma'am, I'm going to allow you to get
21 off the stand so that you may refresh yourself. The
22 restrooms are available, water, what have you you might
23 need, but you cannot talk to anyone during the break. Okay?

24 THE WITNESS: Okay.

25 THE COURT: And when we resume, I need for you to

1 come back to the witness stand, okay?

2 THE WITNESS: Okay.

3 THE COURT: You may step down. You need some
4 help?

5 THE WITNESS: No, I don't.

6 THE COURT: I'll lay it right here.

7 Please be careful.

8 THE WITNESS: Okay.

9 THE COURT: Thank you.

10 Okay. We will take fifteen minutes and thank you
11 for bringing that to my attention, Mr. Kendall.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened)

14 THE COURT: Everybody ready?

15 MR. KENDALL: Yes, sir.

16 THE COURT: We will have the jury.

17 (The following takes place in the presence of the
18 jury panel)

19 THE COURT: Madam Forelady, everybody ready to go?

20 JURY FOREPERSON: Yes.

21 THE COURT: Very good.

22 Mr. Moore.

23 MR. MOORE: Yes, sir, Your Honor.

24 CROSS EXAMINATION BY MR. MOORE:

25 Q. Good afternoon, Sierra. How are you doing?

1 A. Fine.

2 Q. Good. I got a few followup questions, based off your
3 testimony.

4 First of all, you said that it was dark when this
5 happened, is that correct?

6 A. It was dark or almost dark.

7 Q. Okay. And you were on the front porch of your house?

8 A. Yeah.

9 Q. And who else was on the front porch with you?

10 A. My sister and brother-in-law.

11 Q. Okay. Can you -- your sister's name is?

12 A. Christa Hall.

13 Q. And your brother-in-law's name is?

14 A. Blake Hall.

15 Q. So is it just the three of you on the porch?

16 A. And my son.

17 Q. Okay. And how old is he?

18 A. Six.

19 Q. Okay. So there is four of you?

20 A. Well, he's seven now.

21 Q. Okay. Well, at the time how old was he?

22 A. Five.

23 Q. Were there any other children on the porch?

24 A. No.

25 Q. Okay. A minute ago you testified that "we yelled at

1 the truck that was driving around." When you said we, who
2 yelled?

3 A. I guess all of us. We -- oh, we didn't like yell and
4 cuss. We just like "what are you doing," because we didn't
5 know they were just riding around.

6 Q. So this would be you, Blake and Christa all yelled at
7 this truck? I mean --

8 A. I'm pretty sure. I know -- I know I did once.

9 Q. Okay. You know you yelled?

10 A. Yeah.

11 Q. And you think they yelled?

12 A. Yeah.

13 Q. One time?

14 A. I'm sure not really --

15 Q. Okay.

16 A. -- to be honest.

17 Q. Do you remember --

18 You just testified this truck drove around this area
19 multiple times. That's what was causing y'all concern. Do
20 you remember which one of those times you yelled at the
21 truck?

22 A. I don't.

23 Q. You don't know if it was the second time?

24 A. I know it was more than twice, because we got really
25 concerned.

1 Q. Okay.

2 A. We didn't know who it was.

3 Q. You just testified that Mr. Williams came up on the
4 left side of your house, is that correct?

5 A. Yes.

6 Q. Was he present when y'all yelled at the truck?

7 A. I honestly don't remember.

8 Q. Okay. You testified that he appeared to have a long
9 gun, is that correct?

10 A. Yes.

11 Q. Can you describe that gun, please?

12 A. I know it had brown on it. That's all I remember.
13 This happened awhile back.

14 Q. Right. Well, I realize that, but you realize this is
15 also really important?

16 A. Oh, yes, I know.

17 Q. And your answers to these questions are very important
18 as well.

19 A. I know.

20 Q. Okay.

21 A. I -- I -- I don't remember what it really looked like.
22 I know it was long and it was brown.

23 Q. Okay. How far away was he when you saw the gun?

24 A. He wasn't real real close to me. I was like in my
25 front yard. He was on this side of the house, so I would

1 say like from me to them.

2 Q. Who is them?

3 A. Those two sitting back there.

4 Q. Okay. Did you see him doing anything with the gun,
5 loading it, or anything like that?

6 A. No.

7 Q. You just testified that you saw him placing bricks in
8 the road, is that correct?

9 A. Yes.

10 Q. Where were those bricks placed?

11 A. Right at my driveway.

12 Q. At your driveway?

13 A. Yeah. Not in my driveway. It's on the road, but my
14 driveway is right there.

15 Q. Okay. I'm going to ask you this question one time, so
16 please make sure that you think about it and give me a
17 truthful answer, okay?

18 A. Okay.

19 Q. Did your brother-in-law Blake put any bricks in the
20 road?

21 A. Not -- honestly I don't remember. A lot of things I
22 don't remember from that night.

23 Q. Well, I realize that, but it's important, so you don't
24 recall at all whether he left the porch and placed bricks in
25 the road as well?

1 A. I know we all left the porch --

2 Q. Okay.

3 A. -- but I honestly don't remember. There is a lot of
4 things I don't remember.

5 He could have. I don't know.

6 Q. Did you see anybody actually shoot the gun?

7 A. No.

8 Q. And you said you heard it from behind your house?

9 A. Yeah.

10 Q. And how many gunshots did you hear?

11 A. I think just one. I remember hearing one.

12 Q. What about this time frame on -- from when you
13 yelled -- I'm just trying to understand and I want to make
14 sure the jury understands this timeline. We have got -- you
15 have got the gunshot that you heard. We have got you or
16 multiple people yelling at the truck. We have got people
17 putting the bricks in the road. We've got Mr. Williams
18 apparently coming up to the left side of your house. What
19 order did that happen and how long did that take between
20 those events?

21 A. I have got to piece it together. It's been so long.

22 I know they kept riding a few times and we were already
23 yelling. I know I was. And then I guess he heard it and
24 saw the truck, so he come up behind my house on the left
25 side.

1 Q. I don't want you to take a guess. Now, I definitely
2 don't want you guessing.

3 A. I know for a fact he come up on the left side of my
4 house.

5 Q. Okay.

6 A. I'm just -- I'm being honest on what I remember.

7 Q. That's all I'm asking you to do.

8 A. I know -- I honestly am getting confused, because I
9 don't remember a whole lot of it.

10 Q. Okay. That's okay. Please do not try to make it up.

11 A. Oh, no.

12 Q. I mean, that's just what you remember. That's all we
13 can ask of you.

14 So there was one child on the porch?

15 A. Yeah, I made him go in, because I didn't know if the
16 truck was starting trouble, or, you know, what was going on.

17 Q. Were Christa and Blake on the porch with you the whole
18 time this truck was riding around?

19 A. Yeah.

20 Q. Okay. Who else lives in that house with you?

21 A. Just -- it was just me, my husband, my son, and a
22 foster child I had at the time.

23 Q. Okay. Do y'all keep any guns in that house?

24 A. Yes.

25 Q. What kind?

1 A. Well, at the time we had -- I don't know what it's
2 called. It's my husband's. It was a big black gun --

3 Q. Okay.

4 A. -- and he has two handguns.

5 Q. Now, at the very beginning of your testimony Mr.
6 Kendall asked you how you know Mr. Williams and your
7 response was "we live in the same area," is that correct?

8 A. Yes.

9 Q. That's not really the extent to how you know Mr.
10 Williams?

11 A. Well, that's how it started. That's how I know him.

12 Q. Okay. Did y'all have a relationship together?

13 A. Yes.

14 Q. I mean --

15 A. Yes.

16 Q. A romantic relationship?

17 A. Yes.

18 Q. And at some point he broke up with you?

19 A. That's -- we weren't never really in a relationship.
20 It was just a thing, because he was with other people and so
21 was I.

22 Q. Okay. So he wasn't just a neighbor?

23 A. Yeah, no.

24 Q. He was somebody that you had a physical relationship
25 with?

1 A. In 2012.

2 Q. Okay.

3 A. At the time he was just my neighbor --

4 Q. Okay.

5 A. -- when all this happened.

6 Q. Did he have a relationship later with your sister as
7 well?

8 A. He says yes and she told me no, so I honestly don't
9 know. I mean, it's possible. I have no idea.

10 Q. And you just don't recall whether or not Blake was in
11 the road putting bricks in the road, is that correct?

12 A. I really don't remember. He could have. He may have.
13 I don't know.

14 MR. MOORE: Beg the court's indulgence for a
15 moment, Your Honor.

16 THE COURT: Yes, sir.

17 (Off the record).

18 (Back on the record).

19 MR. MOORE: That's all questions, Your Honor.

20 THE COURT: Yes, sir, anything?

21 MR. KENDALL: Yes, sir, Your Honor.

22 REDIRECT EXAMINATION BY MR. KENDALL:

23 Q. I'm going to show you what is marked State's Exhibit 2.
24 Do you recognize this?

25 A. Yes, that's his house.

1 Q. And what's in front of his house?

2 A. A truck.

3 Q. What about right back there?

4 A. Road.

5 Q. Okay. And could you describe the road that runs in
6 front of Mr. Williams house, that Evans Street road? Is
7 that a -- like a brand new --

8 A. It's like a back road.

9 Q. Okay. So it's like a -- it's like semi-dirt, is that a
10 fair way to describe it? Like it's kind of like a dirt
11 road, but it's got some asphalt underneath there?

12 A. Yes.

13 Q. Okay. Is it fair to say that there are pieces of rock
14 and stuff like that out there --

15 A. Yes.

16 Q. -- as well.

17 Okay. And you talked about people putting bricks in
18 the road. Was this like a giant pile of bricks or anything
19 like that?

20 A. No.

21 Q. Could you kind of describe it to us how what they were
22 like?

23 A. It was like broke up. It was some rocks like -- like a
24 brick broke into many pieces.

25 Q. Okay. And sort of he was just throwing them in the

1 road?

2 A. Yeah.

3 Q. Okay.

4 A. That's -- as far as I know.

5 Like I remember him doing that, but I don't know if
6 anyone else was. I don't remember.

7 Q. Okay. Did you see anything that was going to actually
8 slow down the truck? Like was it big enough like speed bump
9 that it's going to cause somebody to stop or something?

10 A. No, it would have like made them, you know --

11 Q. Okay. So it never got to the point where it was like a
12 big bump, or anything like that, is that fair to say?

13 A. No.

14 Q. Okay. When the gunshots went off where was Blake?

15 A. I have no idea.

16 Q. Okay.

17 A. We were -- I don't know if he was still there with us.
18 I know we were all in the same area. I don't know if he was
19 on the porch or the house.

20 Q. Okay. But he was still in the house area?

21 A. Yeah.

22 Q. He hadn't left the home?

23 A. Yeah.

24 Q. Okay. Is that fair to say? I don't want to put words
25 in your mouth.

1 A. Oh, yeah, yeah.

2 Q. Okay. So Blake is still somewhere on the porch or
3 house, you guys were all in the same area?

4 A. Yeah.

5 Q. Okay. You testified your husband had a couple of guns
6 there. You said one was a black gun. What did this gun
7 kind of look like?

8 A. The best I can describe it is like -- it looks like a
9 machine gun.

10 Q. Okay.

11 A. But it's called something else.

12 Q. Like an assault rifle or something like that?

13 A. Yes.

14 Q. Does it shoot pellets or does it shot like real
15 bullets?

16 A. Real bullets.

17 Q. Okay. I guess -- rephrase that. Does it shoot a
18 single bullet, or does it shoot like a shotgun shell?

19 A. Single bullets.

20 Q. Okay. All right.

21 And -- so -- and you testified you and Mr. Williams at
22 one point had had a thing going. When was that?

23 A. 2012.

24 Q. Okay. So that was approximately five years before
25 this? Four to five years before this?

1 A. Yeah.

2 Q. Okay. And y'all still lived in close proximity?

3 A. Yeah.

4 Q. Where was your husband while this was happening? Was
5 he there?

6 A. No.

7 Q. Where was he?

8 A. I think work.

9 Q. Okay.

10 A. Yeah, he drove a -- he drove a tow truck.

11 Q. Okay. So he wasn't even on the premises, is that fair
12 to say?

13 A. No.

14 Q. Okay. And who lived at the premises?

15 A. Me, my husband, my son, and my foster son.

16 Q. Okay. And your husband is not Blake, right?

17 A. No, it's my brother-in-law.

18 Q. Okay. And when Blake came over to the house, did he
19 have any guns with him?

20 A. No.

21 Q. Okay. Did you ever see him handle a gun the entire
22 time you saw him there?

23 A. No.

24 Q. Okay. How old was the foster child?

25 A. He turns eighteen this month.

1 Q. Okay. All right.

2 And how did your husband's gun look in comparison to
3 the gun that Mr. Williams had?

4 A. It wasn't as long.

5 Q. Your husband's gun was shorter?

6 A. I'm thinking it was.

7 Q. Okay.

8 A. Like I said, it was dark.

9 My husband's gun got stolen, though, a week -- or maybe
10 longer prior to that.

11 Q. Okay. So he didn't have his -- he didn't have his what
12 you call a machine gun in the house at that time?

13 A. Uh-uh.

14 Q. He just had pistols?

15 A. Yeah.

16 Q. Okay. Please answer any questions Mr. Moore may have.

17 A. All right.

18 THE COURT: Mr. Moore.

19 MR. MOORE: Just briefly.

20 RE CROSS EXAMINATION BY MR. MOORE:

21 Q. Again, I think Mr. Kendall used the word gunshots, but
22 I want to verify. Your testimony is you heard one gunshot?

23 A. I know I heard one for a fact, but I don't think there
24 was any others.

25 Q. Okay. Are you aware if anybody else lived in the house

1 that Mr. Williams lived in down the road?

2 A. Yes.

3 Q. Who else lived there?

4 A. I know his cousin I think, and his girlfriend, and
5 there may have been others, but I don't -- I don't know.

6 Q. Okay. But, to the best of your knowledge, at the time
7 of this incident he did not live in that house by himself?

8 A. No.

9 Q. And Mr. Kendall just asked you again about the bricks
10 in the road, pile of bricks, things like that. Were the
11 bricks -- I'm trying not to be ridiculous, but were the
12 bricks of a size that could -- would you recognize it if you
13 ran over them if they're in the road?

14 A. No.

15 Q. Could you feel it in the car if you hit one of them?

16 A. He was like build it like a speed bump, but it was --
17 it was -- it looked like it was rocks.

18 Q. Okay. I'm just asking would you have noticed it if you
19 had driven over it if you were driving a car?

20 A. You would, I guess, because it would feel like a speed
21 bump.

22 Q. Okay.

23 A. But nothing real huge.

24 Q. Okay. Thank you.

25 THE COURT: Thank you, ma'am. Please step down

1 and by careful, okay?

2 THE WITNESS: Do I go back out there?

3 THE COURT: Yes, ma'am.

4 MR. KENDALL: Your Honor, the State would call
5 Christa Woodie at this time.

6 CHRISTA HALL, having been first duly sworn,
7 testified as follows:

8 THE WITNESS: I do.

9 THE COURT: Ma'am, tell me your full name and
10 spell your last name for my court reporter, please.

11 THE WITNESS: Christa Hall, H-A-L-L.

12 THE COURT: Did you formerly go by Christa Woodie?

13 THE WITNESS: Yes.

14 THE COURT: Thank you.

15 Solicitor.

16 DIRECT EXAMINATION BY MR. KENDALL:

17 Q. Ms. Hall, where are you from?

18 A. Gaffney.

19 Q. How long have you lived in Cherokee County?

20 A. My whole entire life.

21 Q. Okay. And do you know Mr. Williams?

22 A. Yes, I do.

23 Q. And how do you know him?

24 A. Just the same area through certain people.

25 Q. Okay. And do you know where he lives, or he lived?

1 A. Yes, I do.

2 Q. Where was that?

3 A. Well, where my sister used to live, right behind her
4 house.

5 Q. Okay. And do you recall where you were on May 9th,
6 2017?

7 A. At my sister's.

8 Q. Okay. And what were y'all doing over there?

9 A. Just visiting. They was cooking and we went to eat
10 with them.

11 Q. Okay. And who all was over there?

12 A. Me, my sister, my husband, and that's it.

13 Q. Okay. And were there kids over there?

14 A. Yeah, my nephew D.

15 Q. Okay. And did anything odd happen that night when
16 y'all were over there?

17 A. Yes, there was a truck that was riding around and
18 around the block and stuff.

19 Q. Okay. And what did y'all think about that?

20 A. Well, we was curious what was going on, but come to
21 find out, they was just testing their truck.

22 Q. Okay. And did you see Mr. Williams that night?

23 A. Yes, I did.

24 Q. How did Mr. Williams appear?

25 A. Jittery, nervous, sweaty.

1 Q. Okay. When you say jittery, what do you mean?

2 A. Like just -- I don't know how to explain it, other than
3 just nervous like.

4 Q. Okay. Twitchy and nervous?

5 A. Yeah.

6 Q. Okay. You say he was sweaty as well?

7 A. Yes, sir.

8 Q. Okay. And did he appear worried about the truck at
9 all?

10 A. Yes, he did.

11 Q. And what made you think he was nervous about the truck?

12 A. Because he kept coming back and forth asking me, my
13 sister and Blake "who are these people?"

14 Q. Okay. Did he have anything -- did you see him do
15 anything to try to slow the truck down or something?

16 A. He started smashing bricks in the road for when they
17 came back around to try to stop him.

18 Q. All right. Did he ever get a big pile going or
19 anything like that, or was it just like busted up pieces of
20 brick?

21 A. Here and there just across the road, not like a big
22 pile.

23 Q. And could you kind of describe the state of that road
24 in general?

25 A. Like what do you mean?

1 Q. Like was that like the -- is that like a newly paved
2 road?

3 A. It wasn't cracked or nothing. It was still a good
4 road. It was like fair.

5 Q. Okay. But it had some rocks in it already, is that
6 fair to say?

7 A. Yeah.

8 Q. And did he have anything with him when you saw him?

9 A. Well, when he went to get the bricks to smash them, he
10 came back with a gun.

11 Q. Okay. And could you describe that gun to me?

12 A. It was long.

13 Q. Okay.

14 A. It just had a long barrel.

15 Q. Okay. So it looked more like a --

16 So I guess to kind of start back there from the
17 beginning. Do you know what a pistol looks like?

18 A. Yes, I do.

19 Q. Was it bigger or longer than that?

20 A. Longer.

21 Q. Okay. Did it look like something that was like a
22 hunting type of thing?

23 A. No.

24 Q. Okay. But it just looked like a big --

25 A. Yeah, like -- I'm not really familiar with guns, but I

1 know a gun when I see a gun.

2 Q. Okay. All right.

3 So do you remember what color it was or anything?

4 A. I know the barrel was black and I think -- I'm not for
5 sure, the handle was brown. It's been so long.

6 Q. Okay. All right.

7 So the handle would be brown and the barrel would be
8 black and it was kind of a bigger gun, is that fair to say?

9 A. Yes.

10 Q. Okay. And did he stay at your house?

11 A. Who?

12 Q. Allen.

13 I'm sorry, did he stay at Sierra's house, or was he
14 moving around?

15 A. Yeah, he was moving around.

16 Q. Okay. And did you see the truck come by?

17 A. Yes.

18 Q. All right. And how did Mr. Allen -- Mr. Williams react
19 to that?

20 A. He -- he thought it was somebody trying to start
21 trouble or something.

22 Q. Okay. And the last time the truck came around, the
23 very last one before the shooting, was Mr. Williams with you
24 all then?

25 A. Yes, but then he took off running behind my sister's

1 house once they came around.

2 Q. So the truck came back around?

3 A. Uh-huh.

4 Q. He took off running behind your sister's house?

5 A. Yes.

6 Q. Okay. How long after that --

7 And I know that you weren't wearing a stopwatch or
8 anything, but approximately how long after that did y'all
9 hear gunshots? Was it like hours? Was it minutes? Was it
10 seconds?

11 A. Seconds.

12 Q. So fairly shortly after he runs behind the house y'all
13 hear gunshots?

14 A. Yes.

15 Q. Okay. When he ran behind the house, did he have the
16 gun with him at that time?

17 A. Yes.

18 Q. Okay. And what about -- where were you guys? Where
19 were Sierra and Blake and any of the children and yourself?

20 A. Well, we made D. go in, my nephew, once we saw the
21 gun. Me and my sister was like halfway up the steps and my
22 husband, Blake, he was in the yard.

23 Q. Okay. And were you able to see him when the gunshots
24 went off?

25 A. No, we didn't see. After --

1 Q. I'm sorry, were you with Blake and Sierra? Y'all could
2 see them, Sierra and Blake?

3 A. Yes.

4 Q. What about -- were you able to see Mr. Williams when
5 the gunshots went off?

6 A. No.

7 Q. Okay. And what direction did the gunshots come from?
8 You are at Sierra's house. Did they come from behind
9 Sierra's house where Mr. Williams lived? Did they come from
10 down the street this way? Did they come from -- could you
11 generally tell the direction they came from?

12 A. Behind my sister's house.

13 Q. Okay. And where did Mr. Williams live?

14 A. Excuse me?

15 Q. Where did Mr. Williams live?

16 A. Right behind my sister's house.

17 Q. Okay. Did Mr. Williams say anything to you when he
18 came over to your house about the truck, or anything like
19 that?

20 A. It's been so long I couldn't exactly remember what his
21 words would have been.

22 Q. Okay. What was the general gist? Was he concerned?
23 Was he --

24 A. Yes, like he -- I remember he was asking what did they
25 want or something.

1 Q. Okay. And this road, this Evans Street road, is this
2 like a highly trafficked road?

3 A. No.

4 Q. So was it out of the ordinary for a truck to keep going
5 down there multiple times?

6 A. Yeah.

7 Q. Okay.

8 Please answer any questions Mr. Moore may have.

9 CROSS EXAMINATION BY MR. MOORE:

10 Q. All right. Good afternoon, Ms. Hall.

11 A. Yes.

12 Q. So y'all were all on the porch at your sister's house,
13 is that correct?

14 A. Yes.

15 Q. And were y'all -- by y'all, I'm talking you, your
16 sister and Blake, did y'all have any concern about this
17 truck driving around?

18 A. Yes, we was curious.

19 Q. Okay. Did you think they might be possibly trying to
20 start some trouble?

21 A. No, because we didn't know anyone that drove a truck
22 like that. I mean, we was curious who they are, but we
23 didn't think they were going to start anything with us.

24 Q. So y'all weren't concerned or nervous about it? You
25 were just curious?

1 A. We just was wondering what was going on or who were
2 they looking for, pretty much?

3 Q. Okay. At any point did you yell at the truck as it
4 drove by?

5 A. No.

6 Q. Did Blake yell at the truck?

7 A. No.

8 Q. Did Sierra yell at the truck?

9 A. No, not that I remember.

10 Q. Okay. So nobody yelled at the truck as it was driving
11 around?

12 A. No.

13 Q. That you recall?

14 A. Not that I recall, no.

15 Q. Okay. You just testified that Mr. Williams kept coming
16 back and forth during this time period from his house to
17 your sister's house, is that correct?

18 A. Yes.

19 Q. How many times?

20 A. It's been so long I couldn't exactly say like exactly
21 how many times.

22 Q. More than once?

23 A. Yes, more than once, of course.

24 Q. I mean, you say of course. I don't know.

25 A. I mean more than once, yes, but I couldn't like put

1 like five, six. I wouldn't know the exact amount.

2 Q. Okay. But it was multiple times he kept coming back
3 and forth?

4 A. Yes.

5 Q. Okay. Was he coming up the road, or which way was he
6 coming to your sister's house?

7 A. From behind her house.

8 Q. Well, he lived behind her house.

9 A. Yes, that's the way he was coming.

10 Q. On the right side?

11 A. Uh-huh, he was in the road coming up.

12 Q. Okay. But not like in the woods side of her house?

13 A. No.

14 Q. Now, you just testified that on the truck's last time
15 around the block he ran behind your sister's house and you
16 heard a gunshot within seconds, is that correct?

17 A. Yes.

18 Q. Okay. So let me understand that. Where was he
19 standing, that you recall, when he started this run?

20 You said he ran. Where did he start from when he
21 started running?

22 A. From the top of the road.

23 Q. Okay.

24 A. And then down once it passed.

25 Q. He ran down the road behind the truck?

1 A. Yes, but the truck was faster. Of course it was a
2 little ahead of him. He was chasing after it.

3 Q. Okay. So he was chasing after the truck going down the
4 road and within seconds you heard a gunshot?

5 A. Yes, once he made it behind my sister's house.

6 Q. Okay. But you didn't see him shoot a gun?

7 A. No, I did not.

8 Q. All right. How many -- did you hear one or multiple
9 gunshots?

10 A. One.

11 Q. Did your husband put any bricks in the road?

12 A. No, he did not.

13 Q. Okay. You don't possess any bias towards my client, do
14 you?

15 A. No, I do not.

16 Q. Y'all have never had any type of relationship or
17 anything?

18 A. No, we have not.

19 Q. Okay. Did you give a statement to law enforcement the
20 night of this incident?

21 A. Yes, I did.

22 Q. Have you reviewed that statement in preparation for
23 court today?

24 A. Yes, I have.

25 Q. Okay.

1 MR. MOORE: Your Honor, may I approach the
2 witness?

3 THE COURT: Sure.

4 BY MR. MOORE:

5 Q. Can you read the last, you know, two lines, three lines
6 of the statement?

7 MR. KENDALL: Objection, Your Honor. Is he asking
8 her to refresh her memory? I mean, she's allowed to look at
9 it to refresh her memory, if that's --

10 THE COURT: Okay. What's -- is she looking at it
11 to refresh her memory?

12 MR. MOORE: Yes.

13 THE COURT: Okay.

14 Ma'am, take a look at it. He's going to ask you
15 questions.

16 A. (Witness reviewing statement).

17 BY MR. MOORE:

18 Q. Okay. So the night of the incident --

19 That's your statement, first of all, is that correct?

20 A. Yes.

21 Q. Okay. And the night of the incident you told law
22 enforcement that he walked down the road back to his house,
23 is that correct?

24 A. No, he ran, but everyone was out. Everything was going
25 crazy. Police officers. A child just got shot, so I was

1 nervous, you know.

2 Q. I got you. I'm just asking is your statement then that
3 he walked back to his house?

4 A. Well, I didn't mean he walked. I actually meant ran,
5 but, you know.

6 Q. Okay. So just to make sure we are clear here, your
7 testimony today is that he ran from your sister's house and
8 you heard shots within seconds?

9 A. Yes.

10 Q. And that -- and you agree that that's not what you told
11 law enforcement the night of the incident?

12 A. Well, I didn't tell them nothing word to word, face to
13 face. I wrote it on this piece of paper.

14 Q. Right, but you agree that that's not what you wrote to
15 law enforcement the night of the incident?

16 A. Well, obviously it's there.

17 Q. Thank you.

18 THE COURT: Anything at all?

19 REDIRECT EXAMINATION BY MR. KENDALL:

20 Q. Just so we're clear on this. I just want to make sure
21 we understand.

22 Walk me through -- don't worry about setting time.

23 Walk me through what happened the last time the truck passed
24 by. What happened?

25 A. Okay. The last time they rode by, they made it over

1 the bricks without stopping or puncturing a tire and they
2 kept going down the road and then C.J. took --

3 Q. Who is C.J.?

4 A. Allen Williams.

5 Q. Okay.

6 A. And he took off running behind the truck passed my
7 sister's house and then we heard a gunshot go off.

8 Q. Did he have the gun at that time?

9 A. Yes, he did.

10 Q. Okay. Where is his house in relation to your sister's
11 house?

12 A. Okay. Here is my sister's house, and then here is his
13 house directly behind him.

14 Q. Let's see if we can turn this on.

15 Your sister's house is here, right?

16 A. Yes.

17 Q. All right. Mr. Williams was here, right?

18 A. Yes.

19 Q. All right. Using the pointer, show me what happens
20 when the truck drives by. Where does Mr. Williams go?

21 A. He is standing right there and the truck comes back
22 around and he runs down to -- I don't know exactly where,
23 but he runs past my sister's house down this road.

24 Q. Okay. So you don't know what happens once he runs past
25 you guys, once he goes past your house? The next thing you

1 hear is a gunshot?

2 A. Yes.

3 Q. Okay. And temporally, does that happen kind of all at
4 the same time? You saw Allen go off and then a gunshot goes
5 off?

6 A. Yes.

7 Q. Okay. So we are not talking about like two seconds?
8 We are not talking about like ten minutes? We are talking
9 about a truck runs by, he goes running off and then boom, is
10 that fair to say?

11 A. Yes.

12 Q. Okay. And were you out with your sister the entire
13 time she was out there, or is she out sometime and you be
14 inside, or you on the porch and she would be in the yard,
15 or --

16 A. We was mainly on the porch together the whole time.

17 Q. Okay. But there was sometimes when you weren't and she
18 wasn't as well, or were there times when you weren't as
19 well?

20 A. Yes.

21 Q. Okay. Did you see anybody else out there that night
22 with a firearm?

23 A. No, I did not.

24 Q. Okay. So the only person that you saw with the firearm
25 was Mr. Williams?

1 A. Yes.

2 Q. Okay.

3 MR. KENDALL: All right. Nothing further, Your
4 Honor.

5 THE COURT: Anything?

6 MR. MOORE: Yes, sir, just real quick.

7 Can we look at the map again? Can we get the
8 lights off?

9 May I approach the witness, Your Honor?

10 THE COURT: Yes.

11 RECROSS EXAMINATION BY MR. MOORE:

12 Q. Earlier you said that he came back and forth between
13 your sister's house multiple times. Can you show us which
14 way you saw him coming back and forth?

15 A. (Witness pointing).

16 Q. So back and forth right up the road?

17 A. Uh-huh.

18 Q. And where were these bricks in the road?

19 A. (Witness pointing).

20 Q. Okay. Where is her driveway?

21 A. (Witness pointing).

22 Q. And just to make sure I'm clear, you recall him running
23 behind the truck in the road with a shotgun and firing it at
24 the truck seconds later?

25 A. Yes.

1 MR. MOORE: No further questions, Your Honor.

2 THE COURT: Thank you.

3 Ma'am, you may step.

4 MR. KENDALL: Your Honor, if we could approach
5 about one thing?

6 (Whereupon, the lawyers approached the bench for
7 an off-the-record discussion)

8 THE COURT: You may step down, ma'am.

9 MR. KENDALL: Your Honor, the State would call
10 Billy Anthony at this time.

11 OFFICER BILLY ANTHONY, having been first duly
12 sworn, testified as follows:

13 THE WITNESS: I do.

14 THE COURT: Sir, tell us your full name and spell
15 your last name for us.

16 THE WITNESS: Billy Anthony, A-N-T-H-O-N-Y.

17 THE COURT: Thank you.

18 Solicitor.

19 (Photograph marked as State's Exhibit No. 11 for
20 identification).

21 (Photograph marked as State's Exhibit No. 12 for
22 identification)

23 DIRECT EXAMINATION BY MR. KENDALL:

24 Q. Could you please state your name for the record?

25 A. Billy Anthony.

1 Q. Mr. Anthony, where are you currently employed?

2 A. The Cherokee County Sheriff's Office.

3 Q. And how long have you been employed with the sheriff's
4 office?

5 A. I have been employed there now since 2002 as a
6 full-time officer, so seventeen years.

7 Q. Okay. And what are your responsibilities with the
8 sheriff's office?

9 A. My primary job is a crime scene investigator and
10 evidence custodian.

11 Q. Okay. And do you do any other jobs down there?

12 A. We do a lot of different things. You know, we may fill
13 in where as needed for patrol, or anything else that's
14 needed in the department, but primary focus is crime scene
15 and evidence.

16 Q. Okay. How long have you been with the sheriff's
17 office?

18 A. It will be seventeen years next month.

19 Q. Okay. Did you respond to a crime scene on May 9th and
20 May 10th, 2017?

21 A. Yes, sir, I did.

22 Q. And where did you respond to?

23 A. I was called out to Evans Street in Gaffney. It's in
24 Cherokee County.

25 Q. Okay. And what were you -- what were you doing while

1 you were out there? What were you investigating?

2 A. I was initially called by Detective Tim Brasier for a
3 shooting incident that had occurred.

4 Q. Okay. And what did you do once you got there?

5 A. When I arrived on the scene there was some officers
6 that were already there on the scene. Upon my arrival --
7 and had a subject detained.

8 When I arrived, I performed a GSR kit on the subject
9 they had detained.

10 Q. Let's talk a little more about the GSR kit first. What
11 does GSR stand for?

12 A. Gunshot residue.

13 Q. All right. And could you describe briefly what that
14 is?

15 A. Gunshot residue is typically found from -- it's
16 projectiles, lead, unburnt gunpowder, primer, things like
17 that that is projected out of a weapon.

18 Q. Okay. And so when a gun is fired, it shoots off a
19 bunch of particles, is that kind of what you are getting at?

20 A. That's correct.

21 Q. All right. And what is a gun -- what is a GSR kit
22 then?

23 A. It's a kit that we actually receive from SLED that has
24 little round tubes in it that's got -- basically it's like
25 one-sided tape. It's attached to the lid that we actually

1 use and we will dab it on the hands to try to pick up any
2 particles, if there is any there.

3 Q. Can you always do a gunshot residue test?

4 A. No, sir.

5 Q. I guess will they accept a gunshot residue test always
6 I think is a better say to phrase that?

7 A. No, sir, there is actually SLED's guidelines, anything
8 after four hours we don't submit. They don't accept our
9 gunshot residue kits, and if the person has knowingly, you
10 know, washed their hands or did something to remove
11 anything.

12 Q. So is it fair to say that gunshot is pretty transient
13 in nature? In other words, it can come off pretty easily,
14 is that fair to say?

15 A. Yes, sir, it does.

16 Q. If I were to say wash my hands, would there still --
17 how would that affect it?

18 A. It could eliminate it completely.

19 Q. What if I was sweaty?

20 A. After a period of time -- that's why the four-hour
21 window is there, because after natural contact, brushing
22 against other things, just day-to-day activities, after four
23 hours you would typically not see gunshot residue still.

24 Q. So you say brushing or wipe my hands off --

25 A. Yeah.

1 Q. -- that it could knock the gunshot residue off?

2 A. It could possibly, yes, sir.

3 Q. Okay. And did you conduct a gunshot residue test in
4 this case?

5 A. Yes, sir, I did.

6 Q. All right. And who did you conduct that gunshot
7 residue test on?

8 A. On a Mr. Allen Charron Williams, Jr..

9 Q. All right. I'm going to show you what is marked
10 State's Exhibit 10. Do you recognize that?

11 A. Yes, sir, I do.

12 Q. And what is that?

13 A. This is the gunshot residue kit that was -- collection
14 kit that was performed on Mr. Williams. The top, it has our
15 evidence bar code where it was entered in as our evidence.

16 Q. All right.

17 A. And I have actually listed my name, case number, and
18 defendant's name on the kit.

19 Q. Okay. And what do you do -- what did you do with that
20 kit once you took it?

21 A. It was -- after it was collected with everything that
22 would have went with the case, it was placed in our evidence
23 vault until it was taken to SLED.

24 Q. And what is the evidence vault?

25 A. The evidence vault is a closed room that we have inside

1 the sheriff's office. It's limited access. We have four
2 people that actually have access to it; myself, Detective
3 Jimmy Henson, who is another crime scene investigator,
4 Lieutenant Rodney Bright, who was an evidence custodian, and
5 the sheriff.

6 In the wall in the hallway where the door is to go into
7 the evidence vault, there is a little mail slot where you
8 can actually drop the evidence in, but the person that drops
9 it in can't retrieve it unless one of the custodians
10 actually goes in to get the evidence.

11 Q. All right. And did you take that to the evidence
12 vault?

13 A. Yes, sir, I did.

14 Q. And prior to you taking it to the evidence vault, did
15 you seal all of the I guess internal parts of that that
16 needed to be sealed?

17 A. Yes, sir. On the back there is actually a seal, red
18 seal, on the back of it. It has my initial on it.

19 Q. Okay. And what did you ultimately do with that kit?

20 A. It was taken to SLED for analysis.

21 Q. Okay. And I just want to -- I guess we probably ought
22 to -- there is some tape on the edge here that says it's
23 evidence tape. Do you recognize that?

24 A. Yes, sir. Here on the top, this was actually -- the
25 one that was on the top side, we had actually opened the kit

1 up for review and it was dated on the date of October the
2 5th, 2018.

3 Q. Was that before or after SLED ran the tests?

4 A. That was after.

5 Q. Okay. And do you recall why we opened that up?

6 A. I'm not sure. I remember we were meeting with the
7 attorneys, but I'm not --

8 Q. Do you recall if it had anything to do with the
9 paperwork that's inside of there?

10 A. Yes, sir, that's correct. Actually I have a note
11 written on top opened, who it was opened in the presence of,
12 and the date and time.

13 Q. Okay. And that was done after SLED ran all their
14 tests, is that correct?

15 A. That's correct, yes.

16 Q. Okay. And it looks like it was myself and Mr. Moore
17 were present when you opened that up, but that's --

18 All right. And did you make any markings indicating
19 you had sealed it back up?

20 A. Yes, sir, my initials and the date.

21 Q. Okay. Okay.

22 And how did we get this back?

23 A. I actually brought it back from SLED when they are
24 through with the analysis.

25 Q. Okay. In addition to conducting a GSR test on Mr.

1 Williams, did you perform any other crime scene functions?

2 A. Yes, sir, after the GSR kit was performed, myself and
3 the other officers that were there, we actually walked the
4 area looking for any evidence from a shooting to see if we
5 could see anything that may have been around the area. We
6 were unable to locate anything at is related to the shooting
7 around the roadway, the sides of the road.

8 Q. Okay. Were you able to locate the firearm?

9 A. No, sir, we did not.

10 Q. All right. Is it fair to say you guys looked pretty
11 hard for it as well?

12 A. Yes, sir, we were out there a significant amount of
13 time that night and actually went back the next day trying
14 to locate it.

15 Q. Okay. And over the course of your searching for the
16 firearm, did you conduct a search of the home Mr. Williams
17 was living in?

18 A. Yes, sir, we did.

19 Q. And was anything of note found inside of that home?

20 A. Let me refer to my notes.

21 Inside the residence, located in the freezer of the
22 residence, there was a gray plastic bag that was containing
23 a white rock-like substance and a small ziplock bag
24 containing white crystal substance.

25 Q. Okay. I'm going to show you --

1 And were you one of the officers on the scene -- were
2 you the officer on the scene that collected those narcotics?

3 A. Yes, sir, I was.

4 Q. Okay. I'm going to show you what is marked State's
5 Exhibit 11 and 12. Do you recognize these?

6 A. Yes, sir, I do.

7 Q. And what are those photographs of?

8 A. Those are photographs of the suspected narcotics that
9 were located in the freezer.

10 Q. Okay. And to be fair, there were other people living
11 at that house at the time, is that also -- or staying at the
12 house at that time, is that fair to say?

13 A. To my knowledge, there were.

14 Q. Okay. I'm going to show you what is marked State's
15 Exhibit 9.

16 MR. KENDALL: I'm sorry, I would offer State's
17 Exhibits 11 and 12 into evidence, Your Honor.

18 MR. MOORE: Without objection, Your Honor.

19 THE COURT: Without objection, 11 and 12.

20 (Whereupon, State's Exhibit No. 11 was entered
21 into the record as evidence).

22 (Whereupon, State's Exhibit No. 12 was entered
23 into the record as evidence)

24 MR. KENDALL: And I would like to publish to the
25 jury the coloring. I'm going to have to pass it around, if

1 that's all right, Your Honor.

2 BY MR. KENDALL:

3 Q. I'm going to show you what is marked State's Exhibit 9.

4 Do you recognize this?

5 A. Yes, sir. This is the BEST evidence kit that we used
6 to place narcotics into to send to SLED and this is the kit
7 that I placed them in. I actually dated, printed my name
8 and signed it and it was sealed.

9 Q. Okay. What did you do with this? Is this the BEST Kit
10 that you took from -- excuse me, the narcotics -- or the
11 suspected narcotics that you took from Mr. Williams house or
12 the home Mr. Williams was living in that night?

13 A. Yes, sir, it was.

14 Q. Okay. And what did you do with this?

15 A. They were placed in the evidence vault until they were
16 taken to SLED for analysis.

17 Q. Okay. And is that the same with State's Exhibit 10,
18 the GSR kit, they were placed in a vault and taken to SLED
19 for analysis?

20 A. That's correct.

21 Q. Okay. Now, Detective Anthony, you testified a moment
22 ago you did crime scene type stuff, crime scene
23 investigations. Are you familiar kind of a different kinds
24 of firearms?

25 A. Yes, sir.

1 Q. Could you please describe what kind of firearms
2 particularly would you consider to be long guns?

3 A. Typically in long guns it would be a rifle or a
4 shotgun.

5 Q. And what is the difference between a rifle and a
6 shotgun?

7 A. A rifle has one projectile primarily that is expelled
8 from the barrel, whereas the shotgun can either fire one
9 projectile or, as in many cases, birdshot or buckshot that
10 is multiple projectiles that's in one shot when it's fired.

11 Q. Would the injuries that showed --

12 I'm going to show you what is marked State's Exhibit 3
13 through 8.

14 MR. KENDALL: I think they have already been
15 admitted, Your Honor.

16 THE COURT: Yes.

17 BY MR. KENDALL:

18 Q. Could you take a look at those?

19 A. (Witness examining photographs).

20 Yes, sir.

21 Q. Now, assuming there was just one shot, right, somebody
22 pulled the trigger one time, would that be more consistent
23 with a rifle or with a shotgun?

24 A. This would be more consistent with a shotgun.

25 Q. And what makes you think that?

1 A. There is numerous wounds, small wounds, that if you
2 were shooting something with multiple projectiles, a
3 shotgun, typically that's what you are shooting a birdshot
4 or smaller shot that would have numerous projectiles in one
5 shot.

6 Q. Okay. And is it fair to say if somebody -- a whole
7 bunch of smaller wounds on one big pellet would mostly come
8 from a shotgun, is that fair to say?

9 A. That's fair to say, yes.

10 Q. And are shotguns more commonly long guns or short guns?

11 A. More commonly we see them as long guns.

12 We do see them from time to time where people have
13 modified them and cut them down to make shorter weapons out
14 of them.

15 Q. Do they ever get down to like pistol size, like small
16 pistol-like size of a regular service weapon?

17 A. Not typically.

18 Q. Okay. So would you say it's fair to say that most of
19 the time a shotgun is a long gun, is that fair to say?

20 A. Yes, sir.

21 Q. Okay. You don't recall what time you took the GSR kit
22 by chance, do you?

23 A. 10:45 p.m..

24 Q. Okay. Do you know how long approximately he had been
25 detained when that happened?

1 A. No, sir, I do not.

2 Q. Okay. Please answer any questions Mr. Moore may have.

3 THE COURT: Yes, sir.

4 MR. MOORE: May it please the court?

5 CROSS EXAMINATION BY MR. MOORE:

6 Q. Good afternoon, Detective Anthony.

7 A. Good afternoon.

8 Q. Were you the lead detective on this investigation?

9 A. No, sir.

10 Q. Okay. So what was your role?

11 A. Just crime scene. Come out, perform any crime scene
12 functions, looking for any evidence as it related to the
13 shooting.

14 Q. Okay. So -- and that's separate and distinct from a
15 lead detective, who would kind of be coordinating the
16 overall investigation, is that correct?

17 A. Yes, sir, that's correct.

18 Q. You said when you came to the house that y'all searched
19 around the house, you searched the roadway, and you searched
20 the house itself, is that correct?

21 A. Yes, sir, that's correct.

22 Q. And if I remember correctly from your report, you used
23 some language similar to nothing related to the shooting was
24 found?

25 A. Yes, sir, that's correct.

1 Q. So you didn't find a shotgun?

2 A. No, sir.

3 Q. Okay. You didn't find any expended shotgun shells in
4 the roadway?

5 A. No, sir.

6 Q. Did you find a box of shotgun shells anywhere in the
7 house?

8 A. No, sir, I did not.

9 Q. Did you find any of these pellets in the roadway, or
10 anything like that?

11 A. No, sir.

12 Q. You did take some pictures while you were there, is
13 that correct?

14 A. Yes, sir.

15 Q. Did you take any pictures of the bricks in the road?

16 A. No, sir.

17 Q. Okay. Did you take any pictures of the truck that had
18 been driving by?

19 A. No, sir, I did not.

20 Q. You did say that you did administered a GSR kit on the
21 defendant. Was a GSR kit administered on anyone else?

22 A. No, sir, he was the only one there when I arrived.

23 Q. Okay. And Mr. Kendall, when he was talking about the
24 GSR kit, he started asking questions about that it could
25 wash off easily, it could be brushed off easily, is that

1 correct?

2 A. Yes, sir.

3 Q. Can it be transferred from one item to another?

4 A. Yes, sir, it can.

5 Q. One person to another?

6 A. Yes, sir.

7 Q. So if I -- if I had shot a gun at the range and then a
8 friend of mine handled that gun, he could have GSR on his
9 hands?

10 A. Potentially. It's always possible to transfer GSR just
11 as you are brushing it off. You could have that potential
12 to get the GSR on you or your clothing, but typically that's
13 that four-hour window you typically, it is -- it dissipates
14 in that time.

15 Q. Okay. All right. I got off track a little bit.

16 Okay. So just to summarize as to what you found, or
17 did not find, during your search as part of this
18 investigation, there was no physical evidence found on this
19 road, or in this yard, or in this driveway that indicated
20 that a firearm had been fired, is that correct?

21 A. Nothing we found, no, sir.

22 Q. Okay. Mr. Kendall asked you some questions regarding
23 firearms and firearm training, so I'm assuming you are law
24 enforcement, you have had fairly extensive firearm training,
25 is that correct?

1 A. That's correct, and I'm also a firearms instructor.

2 Q. Okay. I didn't know that.

3 A. Yes, sir.

4 Q. So I'm assuming as part of your law enforcement
5 training you talk about the use of lethal force in certain
6 situations with officers, is that correct?

7 A. Yes, sir.

8 Q. And under certain circumstances, when an officer, you
9 know, is put in a situation where he or somebody else's life
10 is threatened is allowed to exercise lethal force, is that
11 correct?

12 A. That's correct.

13 Q. And what kind of -- what kind of weapons are you issued
14 as a sheriff's deputy or sheriff's officer?

15 A. We are issued our service weapon, our pistol, and some
16 officers are issued a rifle, and we have a few that are
17 issued shotguns at this time.

18 Q. Okay. And you used the term birdshot. Some people,
19 particularly some people on the jury might not be familiar
20 with the term birdshot. What do you mean by birdshot?

21 A. Basically a shotgun shell can contain from one shot,
22 which is considered a slug, goes -- next size down is a
23 buckshot that will contain a shot a little smaller than a
24 marble. Then you go down -- the further you go down towards
25 birdshot, it's the size of BB's, a real small shot and there

1 is multiple numerous -- a couple hundred in one shot in a
2 birdshot is what you would typically find.

3 Q. And I'm not an avid hunter. Are you an avid hunter?

4 A. A little bit, yes, sir.

5 Q. I have heard that, you know, there is different types
6 of ammunition for different types of birds. I mean, you
7 shoot one type of shot at turkeys and a different type at
8 doves, different type at pheasants?

9 A. That's correct.

10 Q. I'm assuming the bigger ammunition, the bigger what you
11 are hunting?

12 A. Typically, yes, sir.

13 Q. Okay. Those officers who were issued shotguns with the
14 sheriff's office, are they issued birdshot?

15 A. No, sir.

16 Q. Why not?

17 A. They are issued either buckshot or slugs is what's
18 carried in their weapons.

19 Q. Okay. You being a certified firearms instructor, in
20 instructing law enforcement who has the authority to use
21 lethal force in certain situations, if they are posed with a
22 lethal force type of situation, would you ever advise them
23 to use birdshot in self-defense?

24 A. They are not going to use that, because that's not what
25 they are going to be issued. You typically don't see that

1 in a self-defense or type of round that someone is carrying
2 for that purpose, though.

3 Q. But why wouldn't you use it in a self-defense type of
4 situation?

5 A. It has very short distance -- shorter distances,
6 because the smaller -- you have a lot more projectiles in
7 that shell. As it travels down, it dissipates. It spreads
8 out and the energy dissipates more quickly. So it still
9 could be a lethal round, but the distance from me to you
10 closes as you get to a smaller shot like that.

11 Q. Okay.

12 MR. MOORE: Beg the court's indulgence just for a
13 moment.

14 (Off the record).

15 (Back on the record).

16 MR. MOORE: One followup question.

17 BY MR. MOORE:

18 Q. We've talked about -- you talked about in your direct
19 examination that a rifle typically has a single round firing
20 a single projectile. Shotguns oftentimes can fire a shell
21 that contains multiple projectiles. Are there handguns that
22 also fire cartridges like shotguns?

23 A. There are. There is a few out there.

24 Q. Uh-huh.

25 A. I don't typically see them a lot, but there are. Some

1 that will fire shotgun shells.

2 Q. Okay. So this pellet-like shell can be fired
3 theoretically from a shotgun or a pistol-like weapon?

4 A. Yes, if you buy a pistol that is made for it.

5 Q. Right.

6 A. Yes, it can be.

7 Q. Okay.

8 MR. MOORE: Thank you.

9 REDIRECT EXAMINATION BY MR. KENDALL:

10 Q. Detective Anthony, if you shoot a little kid in the
11 face with birdshot, can it kill them?

12 A. It could, yes.

13 Q. And that night were you able to photograph the truck?

14 A. No, sir.

15 Q. Did the truck stay on the scene?

16 A. No, sir, it was not.

17 Q. Okay. And any idea where that truck might have gone?

18 A. We went to try to locate the truck and we thought maybe
19 they had went back to a residence. We went to the
20 residence. There was German shepherds inside a fence. We
21 couldn't gain access. It could have actually been at the
22 hospital. At the time we were unaware of where it was at.

23 Q. It's a pretty good chance that they may have needed the
24 truck to go someplace else?

25 A. Uh-huh.

1 Q. Or excuse me, they were unavailable to give you access
2 to the truck. Let me phrase it like that.

3 A. That's correct.

4 Q. All right.

5 Mr. Moore asked a question about not finding pellets in
6 the road. If somebody is sitting in the back of the truck
7 and you were to fire in the back of the truck, where would
8 you expect the pellets to be?

9 A. Depending on the distance, the person that is doing the
10 shooting to where the truck is, you would expect to find
11 them in the truck, or, you know, around that area. It just
12 depends on how much the pattern has spread.

13 Q. And Mr. Moore asked about any kind of specialized
14 shotgun, handgun-type of situation. In your experience of
15 somebody that handles all the evidence down there at the
16 sheriff's office, is that fair to say?

17 A. Yes, sir.

18 Q. Most of the shotguns that you see, what percentage of
19 those would you say that come to the evidence room are long
20 guns?

21 A. 95 percent.

22 Q. Okay.

23 MR. KENDALL: Nothing further, Your Honor.

24 THE COURT: Anything at all as to that?

25 MR. MOORE: Just very briefly, Your Honor.

1 RE CROSS EXAMINATION BY MR. MOORE:

2 Q. Besides the German shepherds, did you ever try to get
3 back out there to take any pictures of that truck?

4 A. No, sir.

5 Q. Did anybody ever turn in any pellets they found in that
6 truck?

7 A. No, sir.

8 Q. Are you aware that a pellet was removed from the minor
9 victim?

10 A. Yes, sir.

11 Q. Would you agree with me that had pellets been found in
12 the back of the truck, or anywhere else, they could
13 potentially have been compared to the ones removed from him?

14 A. Yes, sir.

15 THE COURT: Thank you.

16 Sir, you may step down. Please be careful.

17 MR. KENDALL: May we approach, Your Honor.

18 THE COURT: Yes.

19 (Whereupon, the lawyers approached the bench for
20 an off-the-record discussion)

21 THE COURT: Madam Forelady and ladies and
22 gentlemen, we are at a stopping point for the afternoon.
23 The next witness is not available until tomorrow morning,
24 but they will be here bright and early, so I'm going to ask
25 you to be seated in your jury area room back there by 9:15.

1 I'm taking the bench at nine. I previously scheduled
2 something to work in. It has nothing to do with this case.
3 It doesn't concern this case. It has zero to do with this
4 case, but they asked me to do something, sort of work
5 somebody in. I'm going to do that quickly at nine o'clock.
6 It will not take more than ten minutes. So if you will be
7 in place by 9:15 in the morning, I would appreciate it. Get
8 here, get some coffee. It opens at 8:30.

9 And you want them come in the side door?

10 THE BAILIFF: Yes, sir.

11 THE COURT: If you will report to the side door
12 here. The bailiffs will be allowing you to come in through
13 that door right there. They get here very early, but the
14 courthouse opens at 8:30. I don't see any reason to be here
15 any earlier than that, but if you will kindly be situated
16 and ready to go to work about 9:15. Again, I'll be here
17 about nine to take care of this one little matter at nine
18 a.m. and I'll already be on the bench and we will bring you
19 right in. Okay.

20 Please don't try to learn anything about the case.
21 Don't do any research. That's not permissible. Everything
22 that we learn in this case has to come from inside this
23 courtroom.

24 With that I'm going to let you go home. Don't
25 talk about it with your family, your friends. I don't see

1 any media, but if anything shows up in the media, please
2 disregard that. Set it aside. You can look at it and read
3 it later, if there happens to be anything in the newspaper
4 or TV or radio.

5 Madam Forelady, if you would take your jury out
6 for the evening.

7 (The following takes place outside the presence of
8 the jury panel)

9 THE COURT: All right. Anything from --

10 MR. KENDALL: I was just going to see if Mr. Moore
11 had --

12 We have a witness, Jaimie Hall. Jaimie works at
13 SLED. Basically her job is to open the GSR boxes and to
14 look inside of them and make sure everything is in there, if
15 it's been properly done, and it gets passed on to an actual
16 analyst. She does that stuff. Jaimie typically does not
17 testify to anything, but she's I guess technically in the
18 chain. She handled the box. I think the box was unsealed,
19 so I think we could have an argument about whether or not
20 she -- whether or not she's in the chain. She knew that we
21 had to bring her up here anyway, so I don't think she's --
22 she doesn't offer anything of substance about the case.
23 It's a question of whether or not the other analyst, the one
24 that handles the lab and everything like that. If she's
25 here, I can have her here in the morning. If not, tell her

1 not to come, Your Honor.

2 MR. MOORE: Your Honor, I spoke with Mr. Williams.
3 He and I have discussed what she would potentially be
4 testifying to. We are not aware of anything that we would
5 need to ask her, and, you know, I'm satisfied with the fact
6 that we would be able to cross-examine the analyst herself
7 with the regard to the chain.

8 THE COURT: Okay.

9 MR. KENDALL: Thank you very much. She would
10 appreciate that.

11 THE COURT: Okay. Anything further?

12 MR. KENDALL: No, sir.

13 THE COURT: All right. We will be on recess in
14 this case until 9:15. Then I'll take up that other matter
15 at nine.

16 (Whereupon, proceedings were recessed to January
17 16, 2019)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS
3
4)
5 THE STATE OF SOUTH) TRANSCRIPT OF RECORD
6 CAROLINA)
7 -vs-) 2017-GS-11-01483
8) 2017-GS-11-01484
9) 2017-GS-11-01485
10 ALLEN C. WILLIAMS, JR.,)
11) JANUARY 16, 2019
12) GAFFNEY, SOUTH CAROLINA
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(VOLUME II)

B E F O R E:

THE HONORABLE R. KEITH KELLY, JUDGE. ; And a Jury.

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

GEORGE MATTHEW KENDALL, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

KIMBERLY LEWIS LESKANIC, ASSISTANT SOLICITOR
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CIRCUIT COURT REPORTER

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1 (PROCEEDINGS, JANUARY 16, 2019)

2 THE COURT: Are you ready for the jury?

3 MR. MOORE: Yes, sir, Your Honor.

4 THE COURT: Okay.

5 MR. KENDALL: Could we --

6 MR. MOORE: Okay. Just indicate on the record,
7 state that now, or do you --

8 MR. KENDALL: We can.

9 MR. MOORE: Okay.

10 Your Honor, prior to bringing back the jury we had
11 discussed in chambers one of the State's potential
12 witnesses, a SLED chemical analyst, for purposes of
13 introducing testimony regarding the substances found as a
14 result of a search warrant at a residence related to this
15 incident. I have spoken with Mr. Williams. We have
16 discussed those facts, and as the court is aware, we have
17 previously had testimony. This witness has previously been
18 exposed to cross-examination on these issues. And based off
19 all that, and he and I have decided that we are willing to
20 stipulate to the fact that the substances tested and the
21 results and weights provided by the State are indeed a fact.

22 Obviously we are not stipulating to whose they
23 were or any of those type of things, just that they are the
24 substances the State says they are and they are the weights
25 that the State says they are, and that would include the

1 admission of the substances themselves as part of the
2 stipulation of fact.

3 MS. LESKANIC: I was going to make sure that was
4 included, Your Honor, that they would be admitted. Thank
5 you.

6 THE COURT: Yes. Okay. Thank you. That's the
7 order of the court.

8 Anything else?

9 MR. KENDALL: If I could just type up that.

10 Your Honor, would you want I guess just type it up
11 and have that court read the stipulation, or I can do it
12 when we get everything else done.

13 THE COURT: We can work on that in a few minutes.

14 Let's get the jury.

15 (The following takes place in the presence of the
16 jury panel)

17 THE COURT: Madam Forelady, ladies and gentlemen,
18 everybody ready to go to work?

19 JURY FOREPERSON: Uh-huh.

20 THE COURT: Solicitor.

21 MR. KENDALL: Your Honor, at this time the State
22 would call Dr. Webb.

23 THE COURT: Okay.

24

25

1 DR. KEITH WEBB, having been first duly sworn,
2 testified as follows:

3 THE WITNESS: I do.

4 THE COURT: Doctor, tell me your full name and
5 spell your last name for my court reporter, please.

6 THE WITNESS: Yes, sir, Keith Matthew Webb,
7 W-E-B-B.

8 THE COURT: Thank you.

9 Solicitor.

10 DIRECT EXAMINATION BY MR. KENDALL:

11 Q. Dr. Webb, where are you currently employed?

12 A. Greenville Hospital Systems in Greenville, South
13 Carolina.

14 Q. And were you employed there back in May of 2017?

15 A. I was.

16 Q. And what was your job there?

17 A. I am a pediatric surgeon.

18 Q. All right. And what training did you have to undergo
19 to become a surgeon?

20 A. After medical school, you do a residency in general
21 surgery, and then a fellowship in pediatric surgery.

22 Additionally, I did a fellowship in critical care and
23 pediatric colorectal.

24 Q. Okay. And what are your general responsibilities as a
25 surgeon?

1 A. General responsibilities of surgical care of children
2 and the care of trauma in the age group of minors, so
3 children's trauma.

4 We are the regional trauma medical center for pediatric
5 care. And as such, we're on call for each of those
6 emergencies.

7 Q. Okay.

8 MR. KENDALL: Your Honor, we would offer Dr. Webb
9 as an expert in the field of pediatric surgery.

10 THE COURT: Any questions?

11 MR. MOORE: No questions, Your Honor.

12 THE COURT: Ladies and gentlemen, usually a person
13 cannot give an opinion. When a person testifies, they must
14 testify to something that they have seen, heard, or sensed,
15 something of that nature. There is an exception when
16 someone is qualified due to their education, experience,
17 knowledge, skill, or training. That person is permitted to
18 give an opinion.

19 This court now qualifies Dr. Webb as an expert in
20 pediatric surgery. That does not mean that you must accept
21 an opinion that he has. You must weigh his opinion, as you
22 would with any other evidence.

23 Yes, sir, solicitor.

24 BY MR. KENDALL:

25 Q. Dr. Webb, did you conduct a surgery on C.D. on

1 May 10th, 2017?

2 A. I did.

3 Q. And how did Mr. Donald come to you?

4 A. He came to me as a trauma transfer due to the nature of
5 his injury.

6 Q. And what was the nature of his injury?

7 A. He sustained a gunshot wound that was apparently from a
8 shotgun. And due to the nature of that wound, then the
9 initial receiving hospital transferred him appropriately to
10 the pediatric trauma center.

11 Q. And what care did you provide him, based on those
12 injuries?

13 A. The care begins with an initial assessment to guard
14 against any life-threatening injuries and then subsequent
15 surgical treatment. For him surgical treatment involved
16 removal of the projectiles.

17 Q. Okay. And over the course of this surgery was he
18 placed under general anesthesia?

19 A. Yes.

20 Q. And could you -- if you could please just describe the
21 surgery to the jury, please.

22 A. Certainly.

23 After induction of general anesthesia, we were -- we
24 provided a sterile preparation of all of the sites for
25 operating and then explored those sites to remove the

1 projectiles. Multiple of those were in the head, neck, and
2 face region, and the concern regarding these is both their
3 initial injury and subsequent injuries due to the
4 inflammatory nature that they may have. So exploring for
5 those was the intent of the surgery.

6 During that operation we utilized x-ray to identify
7 them and tried to localize those and then explore the areas
8 to remove them.

9 Q. Now, when you talk about inflammation, what are you
10 referring to there? What's the risks?

11 A. Right. So any projectile that penetrates the body can
12 cause direct injury just due to striking a person. However,
13 there can be secondary effects due to the effect of the
14 projectile on the tissues around it causing swelling and
15 thereby inducing secondary injury. The objects can also
16 travel, such as if they erode into a blood vessel and then
17 that will cause further problems as they move to a different
18 area of the body.

19 Q. And were you able to remove all the pellets in this
20 case?

21 A. We were not able to remove them all.

22 Q. Okay. So he still has pellets in him, is that fair to
23 say?

24 A. Yes.

25 Q. Okay. And what are -- I guess the --

1 A gunshot wound like this, is this a potentially fatal
2 injury?

3 A. We treat all gunshot wounds as potentially fatal. If
4 an object is meant to kill a living being, it can kill
5 multiple types of living beings, so all gunshot wounds are
6 treated as lethal.

7 Q. And would a gunshot wound to the head and neck area,
8 would that increase the chances of it being lethal?

9 A. Certainly. They are more vital structures in the head
10 and neck region that are more vulnerable to gunshot wounds.

11 Q. Do you remember how many you were able to remove?

12 A. If I recall, ten, and -- I would have to look at his --
13 review his individual x-rays. I believe he had eighteen
14 present in his body. We were able to remove ten.

15 Q. Okay.

16 A. The others were deemed to be in areas that were less
17 vital.

18 Q. Please answer any questions that the defense attorney
19 may have.

20 THE COURT: Mr. Moore.

21 CROSS EXAMINATION BY MR. MOORE:

22 Q. Good morning, Dr. Webb.

23 A. Good morning.

24 Q. How long did you say that you have been doing this?

25 A. From which point would you like me to measure?

1 Q. I don't know. That's a good question too. I'm asking
2 the questions now. You are answering questions.

3 A. I have been employed in Greenville as a pediatric
4 surgeon since August of 2015.

5 Q. Okay. So that's a good bit of time.

6 When did you graduate from medical school? I guess
7 from that.

8 From your residency in the actual surgery until now,
9 how long?

10 A. Yes, sir. I graduated medical school in 2006. I spent
11 five years in general surgery residency. I spent a year in
12 pediatric colorectal and a year in pediatric surgical
13 critical care and trauma training. And then two years in
14 pediatric surgical training, following which I was employed
15 at the Greenville Health System.

16 Q. Okay. And if you -- and you don't have to be exact
17 here, but can you give an estimate on how many, you know --
18 I guess, first of all, how many surgeries that you
19 conducted, particularly pediatric surgery?

20 A. Somewhere in the range of five thousand.

21 Q. Okay. What about pediatric gunshot wounds?

22 A. Pediatric gunshot wounds, I would say I have treated in
23 the ranges of one hundred to one hundred and fifty.

24 Q. Okay. And what about pediatric gunshot wounds that
25 appear to be, as we discussed, fired from a shotgun

1 regarding pellets and things?

2 A. I don't know if I have that number off of the top of my
3 head.

4 Q. Do you recall having any --

5 A. Yes.

6 Q. -- pediatric pellets performed?

7 A. Absolutely.

8 Q. Okay. You said one of the first things you do -- when
9 you described the processed to the jury, you said one of the
10 first things y'all do is determine if there is any initial
11 life-threatening issues. In this case were there any
12 initial life-threatening issues upon his arrival?

13 A. No, there were no life-threatening issues that required
14 intervention to prevent his death at the moment, correct.

15 Q. Okay. I understand, you know, there is a lot of words
16 and a lot of stuff going on. I just want to make sure. I
17 think in my mind, you know, there is different -- people
18 show up and they -- things have to be done immediately to
19 save their life, and there are other people who come with
20 injuries, and I guess my question is was there any
21 intervention required immediately emergent upon his arrival
22 to prevent his death?

23 A. Nothing immediately prevented his death. The surgery
24 did happen on an emergent basis as a result of his injuries.

25 Q. Got you.

1 And you talked about the nature of head and neck
2 wounds, you know, injuries, and the vital structures there
3 were concentrated than they are in other parts of the body.
4 Were any of those vital structures impacted or injured by
5 the --

6 A. Fortunately no.

7 Q. Okay. Do you remember how he first presented to you?
8 Was he conscious? Was he responsive? Was he able to
9 communicate?

10 A. Yes.

11 Q. Okay. And I know we just narrowed down some of these
12 issues, gunshot wound and then pediatric gunshot wounds and
13 pediatric shotgun-related injuries. In the years that you
14 have done this, how many of those who have had these gunshot
15 wounds related to pellets ultimately led to a fatality?

16 A. Again, a number that I don't keep on the top of my
17 head.

18 We have seen fatalities from these. I'm not sure. In
19 the range of under twenty, probably.

20 Q. You personally had operated on a child who did not
21 survive?

22 A. Or been part of a team.

23 Q. Okay.

24 MR. MOORE: Beg the court's indulgence for just
25 one moment, Your Honor.

1 THE COURT: Sure.

2 (Off the record).

3 (Back on the record).

4 MR. MOORE: No further questions, Your Honor.

5 THE COURT: Anything at all?

6 MR. KENDALL: Nothing further, Your Honor.

7 We would ask the witness be allowed to be excused
8 and thank you for coming.

9 THE COURT: Any objection?

10 MR. MOORE: No objection, Your Honor.

11 THE COURT: Doctor, you may step down. Please be
12 careful and thank you.

13 THE WITNESS: Thank you, sir.

14 THE COURT: Safe travels.

15 MR. KENDALL: Your Honor, at this time the State
16 would call Megan Fletcher from SLED.

17 THE COURT: Okay.

18 SLED AGENT MEGAN FLETCHER, having been first duly
19 sworn, testified as follows:

20 THE WITNESS: I do.

21 THE COURT: Ma'am, tell me your full name and
22 spell your last name for my court reporter, please.

23 THE WITNESS: It's Megan Fletcher,
24 F-L-E-T-C-H-E-R.

25 THE COURT: Thank you.

1 Solicitor.

2 DIRECT EXAMINATION BY MR. KENDALL:

3 Q. Megan -- Ms. Fletcher, where are you currently
4 employed?

5 A. I'm employed by the South Carolina Law Enforcement
6 Division in the forensics services laboratory and the trace
7 evidence laboratory.

8 Q. Okay. And what are your responsibilities in the trace
9 evidence laboratory?

10 A. I perform a variety of different analyses, including
11 gunshot residue, fire debris, paint, fibers, glass,
12 explosives, duct tape, and general chemical physical
13 unknowns.

14 Q. And what sort of training did you have to undergo to
15 work in the SLED laboratory?

16 A. I have my Bachelor's Degree from Chatham College in
17 Biochemistry and English.

18 I also have a Masters Degree emphasizing in forensic
19 chemistry and computer forensics from Marshall University.

20 I also underwent an in-house training program for all
21 the disciplines in which I'm deemed competent to analyze,
22 specifically for gunshot residue.

23 I underwent about a year-long training program that
24 consisted of oral, practical, and written examinations,
25 where I had to analyze mock samples or made-up samples, as

1 well as work under another qualified analyst on actual case
2 work samples.

3 Q. Okay. And approximately how many gunshot residue
4 samples have you analyzed over the course of your career?

5 A. I have analyzed probably close to two hundred cases,
6 which would be about eight hundred samples.

7 Q. Okay.

8 MR. KENDALL: Your Honor, at this time we would
9 offer Ms. Fletcher as an expert in the field of gunshot
10 residue and gunshot residue analysis.

11 THE COURT: Any questions?

12 MR. MOORE: No, sir, Your Honor.

13 THE COURT: Again, ladies and gentlemen, the court
14 now qualifies this witness as an expert witness in gunshot
15 residue and analysis. You may give whatever weight to her
16 testimony you deem appropriate.

17 Solicitor.

18 BY MR. KENDALL:

19 Q. Ms. Fletcher, I'm going to show you what is marked
20 State's Exhibit 10. Do you recognize this?

21 A. I do recognize this. This is a GSR kit. This is SLED
22 lab L-18-05492, Item No. 1.

23 I recognize it also because my initials appear right
24 here and it appears to be a GSR kit from Allen Charron
25 Williams, Jr..

1 Q. Okay. And how did this kit come to you?

2 A. May I refresh my notes, please?

3 Q. Yes.

4 A. When this item was received into the laboratory, it was
5 taken in by our evidence control department. It was then
6 transferred to our forensic technician in the trace evidence
7 department, who notated at the time of opening that the
8 container, this heat-sealed pouch, was sealed and initialed,
9 and the GSR kit, the envelope inside of this pouch, was also
10 sealed and initialed.

11 Q. Okay. And are those -- is that the proper way in which
12 a GSR kit should come to you?

13 A. Yes, sir, it is.

14 Q. It's in compliance with the standards set when you get
15 to test these?

16 A. Yes, sir.

17 Q. Okay. And after testing, what did you all do with it
18 after that?

19 A. After it was inventoried, I -- the technician actually
20 put it in a secured storage area. I then took it from that
21 secured storage area and put it on an instrument called a
22 scanning electron microscope with electron dispersive x-ray
23 detector. So really that's just a very powerful microscope
24 that allows me to see very small particles and it also
25 allows me to determine what's inside of those particles.

1 So in the case of gunshot residue, I'm looking for a
2 very small particle that contains the elements lead, barium
3 and antimony, which are the three primary components of the
4 gunshot primer residue mixture that is found in cartridges.

5 Q. Okay. And is it fair to say these particles are pretty
6 small at this point?

7 A. These particles are pretty small.

8 Inside of this gunshot residue kit there is a
9 collection lift. It looks like a small stamp. It's
10 circular in nature. If each one of those stamps was the
11 size of two football fields, I'm looking for a particle that
12 is roughly the size of a pea.

13 Q. Okay. And once you get that, once you look at the
14 stamps, what do you do with them then? Is that when you put
15 them underneath the microscope?

16 A. Yes, they are under -- I put them under the microscope.
17 I set up an automated analysis so the instrument is going to
18 move around the particle lift and it's going to classify any
19 particles that contain the elements lead, barium and
20 antimony.

21 The next day I then go back and I actually look at the
22 data. I don't let the instrument tell me what it is. I go
23 back, I look at the particles themselves. I determine
24 whether they are molten or not. Particles that are
25 characteristic of gunshot primer residue are molten in

1 nature.

2 So once I have determined that it's --

3 Q. I'm sorry, what does this molten mean?

4 A. The edges are rounded. It looks like it's been
5 subjected to high heat or pressure. Most of the time they
6 are little spherical or round, but in general the edges are
7 rounded, as opposed to something that looks like an ice
8 crystal or an ice cube.

9 Q. Okay. This might be a good time. What is gunshot
10 residue? What are -- what are we talking about here? What
11 is considered gunshot residue? Where is that? Where does
12 that come from?

13 A. The gunshot residue is everything that comes out of the
14 gun. That includes the smoke, the fire, the bullet itself,
15 fragments of the bullet, as well as -- as well as gunshot
16 primer residue.

17 What we are actually looking for is gunshot primer
18 residue. This is the residue that is generated from the
19 primer mixture of the cartridge. It's composed of lead,
20 barium and antimony, the characteristic particles are, and
21 they are molten in nature.

22 Q. Okay. And how would one get this gunshot residue on
23 them? What's the most common way to get gunshot residue on
24 them, the easiest way?

25 A. There are three ways that you could get it on you. You

1 could shoot a gun. You could be in the vicinity to the
2 discharge of a gun, or you could handle something that has
3 gunshot residue on it.

4 Q. Okay. And so when you say shoot a gun, in the vicinity
5 of shooting a gun, how close are we talking about? I guess,
6 if we're, you know, a hundred yards apart, is it likely
7 gunshot residue would end up on your hands at that point?

8 A. I -- if you were a hundred yards apart, a hundred yards
9 is very far away. That would not typically happen.

10 I think that sixty meters is about as far out as it's
11 gone in any study and that's because it travels with the
12 bullet. So that would be sixty meters in front of the
13 muzzle of the gun, not from the sides or from the back.

14 Q. Okay. So in that sort of situation, do we get gunshot
15 residue sort of as it's coming with the bullets, is that
16 fair to say?

17 A. Yes.

18 Q. So it would be likely to hit the target and it would be
19 some gunshot residue around there as well?

20 A. Yes.

21 Q. Okay. And you said a moment ago that you could get it
22 by handling stuff. Could you kind of describe that briefly
23 to us?

24 A. You can get gunshot residue by touching things that
25 have gunshot residue on it. So that the most typical thing

1 that you would get it from is touching a gun that's been
2 recently fired, or a dirty gun, one that hasn't been cleaned
3 in quite awhile.

4 You could also get it from touching any area where
5 somebody who has recently fired a weapon has touched. So if
6 somebody fired a weapon and got into a vehicle and touched
7 the steering wheel, you could then conceivably pick it up
8 from that steering wheel.

9 Q. And how long would it typically stick around? Is it --
10 is gunshot residue something that's going to sort of stay
11 there forever, or is it something that is fairly transient
12 in nature, it kind of blows away and stuff like that?

13 A. On a living person gunshot residue is typically going
14 to stay no more than four to six hours.

15 Our time limit that we even test in the laboratory is
16 six hours, so we will not test a sample on a living person
17 that's been collected after six hours. And that's because
18 gunshot residue is so easily transferred, so easily washed
19 away. You can wipe your hands on your pants and remove it.
20 You can touch a doorknob and remove it. And after six hours
21 we just can't tie it back to an original incident.

22 Q. Okay. And so in this you talk about ways it can come
23 off of you. And if you could describe, highlight again what
24 some of those ways were, how gunshot residue can literally
25 come off your hands?

1 A. The easiest way is to wash your hands. You could put
2 your hands inside your pockets. You could wipe your hands
3 on your pants. If you were sweating profusely, it would be
4 easily removed by the -- by the sweat itself. If your hands
5 are covered in dirt or debris. Those are typical ways.

6 Q. Okay. So is it fair to say that there are quite a
7 number of situations where someone could fire a weapon and
8 even a short time later not have any gunshot residue on
9 their hands?

10 A. That is fair to say.

11 Q. Okay. And that's -- with -- I guess with that in mind,
12 not in every case where somebody fires a gun do you have
13 gunshot residue, is that fair to say, when you test it, when
14 it ultimately is given to you?

15 A. It largely depends on the type of weapon used and the
16 time in between the collection and the shooting, but just
17 because somebody fired a gun does not mean that I will find
18 gunshot residue on somebody's hands.

19 Q. All right.

20 And you talked about transferring it awhile ago. I
21 just want to be forthright with the jury. It's possible
22 just to transfer it onto something else, is that fair to
23 say?

24 A. Yes.

25 Q. And what sort of things could it transfer from?

1 A. So if somebody is around the gun on a typical basis,
2 say police officers, if they have handled their gun and the
3 gun is not cleaned, then they may be able to transfer it to
4 an individual. That is one way.

5 It may come from handcuffs or from the seat of a patrol
6 car. Those are some ways that you could transfer in this
7 situation.

8 Q. And would the same rule apply to transfer it to other
9 things, that it doesn't stick around forever and things like
10 that? It becomes less likely to tie it back after time, is
11 that fair to say?

12 A. Yes, at the moment a transfer, the six-hour clock would
13 then set in.

14 Q. Okay. Going back to what we were talking about in your
15 testing, in this particular case did you look at this under
16 the microscope?

17 A. I looked at it under the scanning electron microscope,
18 yes.

19 Q. And what did you determine from that scan? What did
20 you find?

21 A. I found one particle that is characteristics of gunshot
22 primer residue.

23 Q. Okay. And what does that ultimately --

24 And to be clear, that was from the kit that was from
25 Mr. Williams, is that correct?

1 A. Yes, the kit was collected from Allen Charron Williams,
2 Jr..

3 Q. Okay. And so what did that, finding that particle,
4 tell you, in your expert opinion?

5 A. That it could have come from one of the three
6 scenarios. This individual may have discharged a firearm,
7 been in the vicinity to the discharge of a firearm, or come
8 into contact with something that had gunshot residue on it.

9 Q. Okay. And to be clear, he did have that? That came
10 from his hands, is that correct?

11 A. Yes, sir.

12 Q. Okay. Once you were completed -- once you were done
13 with your testing, what do you do with it after that?

14 A. I write up my case file. I send my case file, along
15 with the report, to a technical reviewer. They either agree
16 or disagree with my opinions. And then if everything is per
17 protocol and they agree with the opinion, then that report
18 is issued to the submitting agency. The GSR kit is then
19 sealed up and returned to the submitting agency.

20 Q. And on State's Exhibit 10, with the exception of this
21 marking here that indicates that it's been opened and
22 resealed, was it otherwise sealed?

23 A. The initial seal is this blue seal at the top.

24 This seal that I created when I was returning the
25 evidence is this seal with my initials and the date of July

1 10th, 2018.

2 Q. And with the exception of that blue tape that was
3 subsequently opened, does that appear to be in the same
4 condition in which you sent it back?

5 A. It does.

6 MR. KENDALL: Your Honor, we would offer State's
7 Exhibit 10 into evidence.

8 THE COURT: Any objection?

9 MR. MOORE: No objection, Your Honor.

10 THE COURT: 10 is without objection.

11 (Whereupon, State's Exhibit No. 10 was entered
12 into the record as evidence)

13 BY MR. KENDALL:

14 Q. Please answer any questions Mr. Moore may have.

15 A. Yes, sir.

16 THE COURT: Mr. Moore.

17 CROSS EXAMINATION BY MR. MOORE:

18 Q. All right. Good morning.

19 I'm sorry, I can't -- Megan. I can't remember your
20 last name.

21 A. Fletcher.

22 Q. Fletcher. Okay. It's Agent -- it's SLED Agent
23 Fletcher.

24 A. That's just fine.

25 Q. Okay.

1 So I have a couple questions and one of them was
2 actually -- I hadn't thought about it until I heard you
3 testify, so I'm going to start with that because it was new
4 to me. You said that gunshot primer residue, the amounts of
5 it potentially found could be different, depending on the
6 type of weapon?

7 A. Yes, sir.

8 Q. So how could it be different?

9 I'm assuming you are talking handguns versus rifle
10 versus pistol versus automatic versus -- I mean, I don't
11 know.

12 A. The amount that's deposited on the individual shooting
13 would differ based on the caliber, the condition of the gun,
14 a shotgun versus a revolver versus a semiautomatic. A
15 revolver has more potential to deposit on a hand than a
16 semiautomatic. And when you get into a long gun, like a
17 rifle or a shotgun, the amount of GSR that's transferred to
18 the individual shooting becomes even less, because the
19 majority is going out the muzzle, which is further away from
20 the hands of the shooter.

21 Q. Right.

22 What about -- does gunshot residue only come out the
23 muzzle of the weapon, or does it also come out the opening
24 there at the actual breech and where the ammunition goes in?

25 A. Any opening in the gun. So, again, it's up to the gun

1 itself and where it's going to come out.

2 In a revolver it would be out of the cylinder gaps, as
3 well as the muzzle.

4 In a semiautomatic, the ejector port.

5 In a shotgun, again, the ejector port and the muzzle.

6 Q. Right.

7 And -- I mean, most shotguns I would assume have a
8 place where you load the cartridge, particularly from the
9 bottom, and have the place where the cartridge is ejected
10 and have the muzzle. So all three of those areas would be
11 where gunshot primer residue could exit?

12 A. Definitely where it's ejected and definitely the
13 muzzle. It would -- I'm not sure about where you would load
14 it, whether that would be open during the firing --

15 Q. Okay.

16 A. -- of the -- of the weapon.

17 Q. Is there anything, any part of your analysis that can
18 determine what type of weapon the gunshot residue came from?

19 A. No, sir.

20 Q. Is there any way to tell, based off your analysis -- I
21 know you talked about the three major categories --

22 Sorry about the train.

23 I know you talked about the three major categories for
24 having gunshot residue or shooting it, being in the vicinity
25 of a shot, or actually having it transferred from a weapon

1 or somebody else, but are there any -- are there any other
2 ways of getting it besides those?

3 A. Those are the three main ways to get it.

4 Q. But there is no way in your analysis to tell which one
5 of those ways it was?

6 A. No, sir.

7 Q. In this particular case were both hands, I'm assuming,
8 tested?

9 A. The right palm, the right back of the hand, the left
10 palm, and the left back of the hand were all tested.

11 Q. Okay. And as a result of that testing, you said that
12 one particle was found?

13 A. That's correct.

14 Q. And can you give us the size of that particle again?
15 It's hard to kind of imagine. I know -- I'm not asking for
16 like, you know, a scientific measurement. I'm asking about
17 relative example that you gave.

18 A. So, if the particle lift were the size of two football
19 fields, I'm looking for a particle that's roughly the size
20 of a pea.

21 Q. Okay. In this particular case you found one particle,
22 is that correct?

23 A. That's correct.

24 Q. And is there -- is there any lesser amount that can be
25 found?

1 A. No particles.

2 Q. That's what I was assuming.

3 A. Yes.

4 Q. I didn't know if there were half particles or --

5 A. No, sir.

6 Q. Okay. So this is the bear minimum amount that could
7 possibly be found as part of your analysis?

8 A. That's correct.

9 Q. The only thing below this is no gunshot residue?

10 A. Correct.

11 Q. Do you remember what part of the hand this one particle
12 was found on?

13 A. Could I refer to my notes?

14 Q. Absolutely.

15 A. This particle was found on the left palm of the hand.

16 Q. All right.

17 And this incident allegedly occurred on May 9th or
18 10th, 2017. What day did you do your analysis?

19 A. I performed my analysis, the automated run started on
20 July 6th, 2018.

21 Q. So that's about a year and two months later?

22 A. Correct.

23 Q. And is that typical timing from incident to analysis?

24 A. That's pretty typical.

25 Q. Okay. So the collection has to happen within four to

1 six hours, but the testing could happen years later?

2 A. Correct. The evidence, once it's collected, is not
3 going to be removed from that, from the particle lift
4 itself.

5 Q. And I don't have a whole lot of experience with gunshot
6 residue, so in my mind, and tell me if this is correct or
7 not, just the way I kind of see it, it's sort of like one of
8 those like videos, like a slow motion sneeze? I mean, is
9 that basically what's happening? It's like this goes
10 everywhere at the time of it being fired, particularly out
11 of the points you are talking about?

12 A. Yeah, it looks like a -- it's sort of a cloud of smoke.
13 Typically you are not going to see the individual particles.
14 Mostly what you are going to see when it's fired is this
15 cloud of smoke to the front of the -- or towards the target.
16 It will go -- I believe I misspoke earlier and said sixty
17 meters. It's eighteen meters, which is roughly sixty feet.
18 It can go out three to five feet to each side, or three to
19 five feet behind as well from the shooter.

20 Q. Okay. And is there any -- based off -- not -- I know
21 you didn't do it in this case and it's not about this case,
22 but just in general, since you're an expert in GSR analysis,
23 is there a typical -- or has studies shown that there is a
24 range of these particles that come out from the average
25 firing of a gun? I mean, do we fire a gun and there are

1 fifty of these? Are there a million of these? Is there any
2 type of evidence of that kind of stuff?

3 A. There is not really any studies that show exactly how
4 many particles that are distributed out of the gun and
5 that's largely due to the fact that an individual gun is
6 going to disperse a certain number of particles with a
7 certain ammunition. You use a different ammunition, or even
8 a different cartridge, you could have a complete different
9 number of particles present. So it is so based on the type
10 of weapon and the type of ammunition, that it's just not
11 possible to say on average this is what should be there.

12 Q. Right.

13 And is there -- I guess -- is there kind of -- based
14 off other cases -- how many cases have you analyzed in your
15 experience?

16 A. Roughly two hundred.

17 Q. Okay. Is there a point in the analysis that you kind
18 of say this is a positive test, we are just cutting off
19 because we have already found "x" number of particles in
20 this kit?

21 A. It's mostly case by case dependent, but, yeah, we do
22 have a certain number of particles that at a certain point
23 we can say that it's any -- saying it's any more positive
24 isn't going to change the opinion.

25 Q. Right.

1 And how many would that be?

2 A. It would be -- I mean, eight particles give a good idea
3 of what's on the hands.

4 It still can't tell you whether somebody shot or
5 handled something or was in the vicinity. That's just what
6 we would confirm.

7 Q. Right.

8 So just to clarify, this was one particle. What part
9 of the hand? Left palm?

10 A. Yes.

11 Q. Okay. And I believe you just testified that they are
12 so easily transferred, and you mentioned situations like I'm
13 assuming officers service weapons, handcuffs, things like
14 that also have these particles?

15 A. There are a number of studies that indicate that they
16 are present within those studies and it is possible to
17 transfer of those particles to happen.

18 Q. And are you aware of anybody else related to this case
19 was tested for GSR?

20 A. This is the only item that I received in this case.

21 Q. Okay.

22 MR. MOORE: Just one moment, Your Honor.

23 THE COURT: Yes, sir.

24 (Off the record).

25 (Back on the record).

1 MR. MOORE: No further questions, Your Honor.

2 THE COURT: Anything at all?

3 MR. KENDALL: Yes, sir, Your Honor.

4 REDIRECT EXAMINATION BY MR. KENDALL:

5 Q. You testified a moment ago --

6 Mr. Moore asked you about a bunch of different kind of
7 guns, and I just wanted to sort of clarify, so I'm not sure
8 everybody understood kind of what you were talking about in
9 that situation.

10 A. Okay.

11 Q. So sort of if you could describe what a revolver is?

12 A. A revolver is a weapon that has a certain number of
13 cartridges that spin around in a circle to be shot.

14 Q. Sort of like a cowboy type?

15 A. Sort of, yeah.

16 Q. Okay. And on those types of guns, are like the
17 cylinders like encased? Are they like closed off or
18 anything?

19 A. They are open to the environment.

20 Q. Okay. And so what about like a shotgun?

21 Let's start with like an over-under shotgun. In that
22 case are those cylinders open to the environment?

23 A. I'm not familiar with that type of weapon.

24 Q. Or let's say just a shotgun in general. What --
25 typically speaking where are the openings in a shotgun?

1 A. The openings that I'm aware of are the ejector port and
2 the muzzle.

3 Q. Okay. And where is the ejector port located?

4 A. It should be somewhere along the barrel or towards the
5 handle, but I'm not very familiar.

6 Q. Okay. I guess what I'm really trying to get at is on
7 the GSR, for GSR purposes, where does the GSR come out of?

8 A. The majority of it comes out the muzzle.

9 Q. Okay. So the primary where the GSR is coming out, it's
10 coming out the muzzle?

11 A. Correct.

12 Q. And on a long gun, that's farther away than a short
13 gun, is that fair to say?

14 A. That's correct.

15 Q. Okay. Where are the secondary parts where things are
16 ejected from?

17 A. That would be the ejector part -- or the ejector port.
18 That would be where you would get the secondary amounts of
19 gunshot residue.

20 Q. Okay? On your -- the revolver, the cowboy gun, what
21 about in that case? It doesn't have an ejector port.

22 A. Through the cylinder gaps.

23 Q. Okay. And so it kind of depends on what kind of gun
24 that you have as to where the secondary stuff comes out, is
25 that fair to say?

1 A. That's correct.

2 Q. A shotgun is going to come out, most of it out of the
3 barrel?

4 A. Correct.

5 Q. And some of it out of the ejector port, is that fair?

6 A. Correct.

7 Q. How many particles do you guy test for? Like if -- is
8 there a like a cutoff point for particles?

9 A. We don't have one per protocol.

10 Q. Okay. What would be like a lot of particles?

11 A. A good amount or an average amount on a very positive
12 sample would be eight.

13 Q. Okay. So out of that whole football field and all
14 these football fields like, on what you are hoping for is
15 four peas or, eight peas, right?

16 A. I'm sorry? Yes, eight peas, yes.

17 Q. Okay. Okay.

18 MR. KENDALL: Nothing further, Your Honor.

19 THE COURT: Anything?

20 MR. MOORE: Very briefly.

21 RECROSS EXAMINATION BY MR. MOORE:

22 Q. A question about muzzle ejector ports, real quick.

23 A. Okay.

24 Q. A shotgun, the ejector ports are typically located on
25 the right side of the weapon, is that correct?

1 A. I'm not familiar enough with -- to be able to answer
2 that.

3 Q. Okay. But just to clarify, this was found on the palm
4 of his left hand, not the outside, is that correct?

5 A. It was found on the left palm of the left hand.

6 Q. Okay. Thank you.

7 THE COURT: Thank you, ma'am. You may step down
8 please be careful.

9 MR. KENDALL: I need a moment to type up that
10 stipulation.

11 THE COURT: Is she released?

12 MR. KENDALL: Yes, sir.

13 THE COURT: Any objection?

14 MR. MOORE: No objection, Your Honor.

15 THE COURT: Agent, you may stay or go, whichever
16 you may choose.

17 MR. KENDALL: I need a couple of minutes to type
18 it up.

19 THE COURT: Yeah.

20 Is there everybody need a break?

21 MR. KENDALL: No, sir, Your Honor, that would be
22 it.

23 THE COURT: Madam Forelady and ladies and
24 gentlemen, he needs to type up something called a
25 stipulation. We are going to get that to you momentarily,

1 but I'm not going to have you just sit there while he does
2 that, so let's just go ahead and take a quick break this
3 morning. If you want to refresh yourselves, there is water,
4 there is coffee. Restrooms are right there. Give us about
5 ten, twelve minutes and we would like to bring you right
6 back in.

7 Don't talk about the case. It's not over.

8 Yes, ma'am.

9 (The following takes place outside the presence of
10 the jury panel)

11 (Whereupon, proceedings were recessed)

12 (Whereupon, proceedings were reconvened)

13 THE COURT: Okay. Ready? Back on the record?

14 MR. KENDALL: Yes, sir, Your Honor.

15 THE COURT: Okay. Solicitor.

16 MR. KENDALL: Your Honor, the parties have
17 agreed -- the State is winding up its case. The parties
18 have agreed to a stipulation with regards to State's
19 Exhibit 9, the drugs, to be published to the jury.

20 We also have agreed to go ahead and just put
21 State's Exhibit 9 into evidence. Those were the narcotics
22 we discussed the other day. And after that we are not going
23 to introduce any more evidence. We are going to be
24 effectively resting.

25 THE COURT: Okay.

1 Any objection to the stipulation?

2 MR. MOORE: No, sir, Your Honor.

3 Mr. Williams and I have discussed the stipulation.
4 He's read the actual facts that we are stipulating to. He's
5 familiar with it.

6 As I mentioned earlier, we have had an opportunity
7 to hear the testimony of this witness previously and
8 cross-examine him, so that's why we are willing to stipulate
9 to this fact. He has reviewed the stipulation of fact form
10 she and I have both signed here in the courtroom, so no
11 objection.

12 THE COURT: Okay.

13 MS. LESKANIC: Your Honor, we just offer State's
14 Exhibit 9 for admission as evidence.

15 MR. MOORE: Without objection?

16 THE COURT: It's without objection. It is
17 admitted, and we will put all this back on in front of the
18 jury when they come in and I will read the stipulation to
19 them as you move them in in front of the jury.

20 MS. LESKANIC: Thank you, Your Honor.

21 THE COURT: Okay. All right.

22 The State is now rested, is that right?

23 MR. KENDALL: Yes, sir.

24 THE COURT: All right.

25 Mr. Moore?

1 MR. MOORE: Yes, sir, Your Honor.

2 At this time the defendant would move for a
3 directed verdict regarding the indictment he's currently
4 before the court. The basis for the defendant's motion is
5 the fact that there was no evidence presented by the State
6 that showed the defendant had the specific intent to murder
7 or kill anybody in this situation.

8 You know, even when viewed in the light most
9 favorable to the State, there was no testimony regarding
10 injuries to Douglas Rising. There is no -- he didn't even
11 testify in this case, wasn't even present for the trial.

12 There is no information regarding injuries to
13 W.D. resulting from this incident.

14 And particularly there was no evidence from the
15 State that Mr. Williams ever intended to kill C.D.

16 So the defendant's motion for directed verdict is
17 based on the fact even once you look at the evidence they
18 have presented, there is no evidence that he had the
19 specific intent to commit the murder of those three
20 individuals.

21 THE COURT: Solicitor?

22 MR. KENDALL: He discharged a firearm into a
23 pickup truck that was occupied by two people in the cab of
24 the truck. There was one person in the back. It hit the
25 child in the head and neck area resulting in serious

1 injuries requiring medical attention. It could have been
2 lethal.

3 The fact he didn't hit somebody else -- there is
4 no requirement in attempted murder that any sort of injury
5 actually occurs, just the attempt of it.

6 The State contends the use of a deadly weapon when
7 fired into a vehicle could give rise that he intended to
8 kill them. You shoot a deadly weapon at somebody, I think
9 it's -- someone actually acting, your intention is to kill
10 them. And he got close enough with that deadly weapon. It
11 was not shot in the air. It was not shot in the ground. It
12 actually hit the pickup truck.

13 In addition, Your Honor, I think we saw evidence
14 suggesting that it was premeditated, what was described as
15 his behavior immediately before this, him pursuing the truck
16 as he fired the weapon into it.

17 I think in the light most favorable to the State
18 we have established and we've met our burden that he did, in
19 fact, intend to kill the occupants of that truck.

20 The fact that he only hit one of them I don't
21 think is, standing alone, insufficient to send it back. He
22 was trying to kill all of them, particularly shooting them
23 with a shotgun into a vehicle.

24 I think based on all the evidence favorable to the
25 State, I believe we have met our burden in this case, Your

1 Honor.

2 THE COURT: The court does not weigh the evidence.
3 The court considers whether there is any evidence, and the
4 court denies the motion for directed verdict on all three of
5 the attempted murders. There is a question of fact as to
6 what his criminal his criminal intent was. That, as we
7 know, is a question for the finders of fact.

8 Anything else, Mr. Moore?

9 MR. MOORE: No, sir, Your Honor.

10 THE COURT: Okay. Does your client intend to
11 testify?

12 MR. MOORE: No, sir, Your Honor.

13 THE COURT: Okay. Sir, would you stand and be
14 sworn, please?

15 ALLEN C. WILLIAMS, JR., having been first duly
16 sworn, testified as follows:

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Sir, we are at the point in this trial
19 where you may present your own defense.

20 You have the right to claim the protections given
21 to you by the Fifth Amendment to the Constitution of the
22 United States, which states, in part, no person shall be
23 compelled in any criminal case to be a witness against
24 himself.

25 Additionally, you have the right to claim the

1 protections given to you by Article 1, Section 12 of the
2 South Carolina Constitution, which states, in part, no
3 person shall be compelled in any criminal case to be a
4 witness against himself. This means you cannot be required
5 to testify. You have the right to testify, but no one can
6 make you do so. This is a personal right and no one can
7 waive this right except you.

8 If you testify, you will be subject to the same
9 rules that govern other witnesses and you may be examined
10 and cross-examined on any relevant issue in this case.

11 Additionally, if you have convictions involving
12 dishonesty or false statement or for crimes punishable by
13 imprisonment for more than one year and this court
14 determines the probative value of admitting the evidence
15 outweighs its prejudicial effect, the solicitor will be able
16 to introduce your record to attack your credibility.

17 If you decide to testify, this decision on your
18 part must be freely, intelligently and voluntarily made with
19 the knowledge of the protections given to you by the
20 Constitutions of this state and the United States and the
21 consequences of your decision.

22 If you decide not to testify, I will instruct the
23 jurors that they cannot give that fact that you did not
24 testify any consideration and there will be no prejudice to
25 you. It is entirely your decision as to whether or not you

1 testify.

2 Do you understand what I have explained?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you have any questions about what I
5 have explained?

6 THE DEFENDANT: No, sir.

7 THE COURT: Have you discussed your decision with
8 your lawyer?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you need any more time to speak to
11 your lawyer about your decision?

12 THE DEFENDANT: No, sir.

13 THE COURT: Sir, what is your decision?

14 THE DEFENDANT: Not to testify.

15 THE COURT: Not to testify?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Thank you, sir. Please be
18 seated.

19 Does the defense offer any other defense?

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

21 THE COURT: Defense rests?

22 MR. MOORE: Yes, sir, that's correct.

23 We would renew our previous motion for a directed
24 verdict on the same grounds.

25 THE COURT: And on the same grounds as heretofore

1 enunciated the court denies your motion once again.

2 Okay. Anything from anyone then?

3 MR. KENDALL: Just in chambers, Your Honor, we
4 discussed charges to the jury, lesser-included offenses.

5 THE COURT: Yes, sir.

6 MR. KENDALL: The State's request is with regard
7 to C.D. the lesser-included offense also charging
8 ABHAN. That would carry with it also -- it would maintain,
9 I guess, the use of a firearm during the commission of a
10 violent crime, that is also a violent crime.

11 With regards to Scott Rising and W.D. we
12 would request a lesser-included offense of assault and
13 battery in the first degree, the distinction being that
14 there were no evidence of any injuries with them.

15 Also in this case, as we discussed, there would
16 not be a use of a firearm during the commission a violent
17 crime, as assault and battery in the first degree is not a
18 violent crime.

19 THE COURT: Anything from the defense?

20 MR. MOORE: Yes, sir, Your Honor.

21 Just the defendant's position is he would object
22 to that. The State, you know, has maintained its case I
23 guess almost two years now. They are the ones that decided
24 to indict him and try him for attempted murder, which the
25 court is aware. It carries a specific intent to kill or

1 murder a person. That's the case they decided to make
2 against him. That's the case they decided to indict him for
3 and that's the case they wanted to try him for and that's
4 what he's here for trial. So he would object to the
5 offering of any lesser-included offense and ask that this
6 jury just be charged on the indictments, which are attempted
7 murder and possession of a weapon during a violent crime,
8 three separate counts.

9 THE COURT: Okay. Well, as the court has said in
10 chambers, we have discussed this. My law clerk is working
11 on the charge. I'm going to -- I'm going to grant that
12 motion, because I think the facts are in the record, and
13 it's my understanding that if those facts are in the record
14 that it could be a lesser offense, that it should be
15 charged, so I will charge it.

16 Anything further?

17 MR. MOORE: No, sir.

18 THE COURT: We will bring the jury in. And as I
19 told you in chambers, we are now -- now everybody is
20 protected. I didn't want the jury to go back out after one
21 stipulation is put in, do the motions, so I will let
22 everybody do this again in front of the jury. How about
23 that?

24 All right.

25 (The following takes place in the presence of the

1 jury panel)

2 THE COURT: Thank you, ladies and gentlemen.

3 Please give your attention to the solicitor.

4 Yes, sir.

5 MR. KENDALL: Your Honor, at this time the State
6 would move State's Exhibit 9 into evidence.

7 THE COURT: Any objection?

8 MR. MOORE: No, sir, Your Honor. I believe that
9 State's Exhibit 9 is related to a stipulation of fact and we
10 don't object to its introduction into evidence.

11 THE COURT: Okay.

12 Madam Forelady and ladies and gentlemen of the
13 jury, State's 9 is now by stipulation in evidence.

14 The stipulation of the parties, without calling a
15 witness, is that the parties stipulate that the substances
16 Detective Anthony secured during the search warrant, which
17 are State's 9, are cocaine base, 2.87 grams, and
18 methamphetamine, .67 grams.

19 That means there will be no testimony as to that
20 by a live witness. The parties agree that that is the
21 substance and it is now in evidence.

22 (Whereupon, State's Exhibit No. 9 was entered into
23 the record as evidence)

24 Okay. Solicitor?

25 MR. KENDALL: The State rests at this time, Your

1 Honor.

2 THE COURT: The State rests.

3 Okay. Madam Forelady, ladies and gentlemen, the
4 State now rests, which means it does not intend to call
5 another witness or introduce any other evidence.

6 We turn now to Mr. Moore.

7 Yes, sir.

8 MR. MOORE: Your Honor, the defense rests as well.

9 THE COURT: The defense rests as well?

10 MR. MOORE: Yes, sir, Your Honor.

11 THE COURT: Madam Forelady, ladies and gentlemen
12 of the jury, the defense has now rested, which means they do
13 not intend to call any witnesses or offer any other evidence
14 in the trial of this case.

15 Is there anything further from the State or the
16 defense?

17 MR. KENDALL: No, sir, Your Honor.

18 MR. MOORE: No, sir, Your Honor.

19 THE COURT: Okay. Ladies and gentlemen of the
20 jury, where we are at this point in time is the State has
21 now rested, the defense has rested, and it is now -- all the
22 evidence and all the testimony in this case is now before
23 you.

24 I'm getting ready to send you right back out for
25 one reason, and that reason is I now have to charge you the

1 law. My law clerk you have seen is absent this morning.
2 She's back here working on what's called the jury charge.
3 We have actually met and discussed some things, so I'm going
4 to go back here and make sure she's got everything in order.
5 And when I come back to the bench, I'm going to ask you to
6 give your attention to the solicitor. The solicitor will
7 then make a closing statement, and then the defense lawyer
8 has a right to make a closing statement. I'm going to
9 charge you on the law and then the case is going to be
10 yours, but I think Madam Clerk already has a lunch order, or
11 you are about to get a lunch order?

12 THE CLERK: I have already taken them, Your Honor.
13 I have got to go pick them up in the jury room.

14 THE COURT: Okay. She's going to get your lunch
15 orders. It's going to be steak.

16 THE CLERK: They already know, judge. It's going
17 to be Daddy Joe's.

18 THE COURT: Daddy Joe's. Shag's.

19 Do not discuss the case. It's at -- it's just
20 about to come to you. It's just that I need to get off the
21 bench and meet with them briefly and make sure that my law
22 clerk has my jury charge printed for me.

23 When we return here in just a few minutes, I'm
24 going to call your attention to them and they are going to
25 make their arguments to you. I'm going to read the law to

1 you and then in your hands.

2 All right. If you will take the jury back out,
3 please. Make sure they get your lunch orders, please.

4 (The following takes place outside the presence of
5 the jury panel)

6 THE COURT: Anything at all before we go back in
7 chambers and look at the jury charge?

8 MR. KENDALL: No, sir, Your Honor.

9 MR. MOORE: No, sir.

10 THE COURT: Okay. Let's go back and look at it.
11 Then we will get them get going.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened)

14 (Stipulation marked as Court's Exhibit No. 1 for
15 identification).

16 THE COURT: Ready for the jury?

17 MR. KENDALL: Yes, sir, Your Honor.

18 MR. MOORE: Yes, sir, Your Honor.

19 THE COURT: We will have the jury.

20 (The following takes place in the presence of the
21 jury panel)

22 THE COURT: Madam Forelady, ladies and gentlemen,
23 give your attention to the solicitor.

24 MR. KENDALL: Thank you, Your Honor.

25 May it please the court?

1 THE COURT: Yes.

2 MR. KENDALL: Counsel.

3 Thank you, ladies and gentlemen, for coming here
4 this week and being a part of this trial.

5 At the beginning of this trial I asked of you
6 three things: To listen to the evidence presented in this
7 case, to listen to the instructions of the judge, and to use
8 common sense.

9 I appreciate over the course of this trial how you
10 all paid close attention in listening to the facts and the
11 evidence.

12 I would like to first take a few moments to talk
13 to you all about the law in this case.

14 The defendant is charged with three counts of
15 attempted murder and three counts of use of a firearm during
16 the commission of a violent crime.

17 Now, in a few moments the judge is going to
18 provide you with his final instruction, the law in this
19 case. If anything I say differs with what the judge says,
20 you listen to what the judge says. As you all are the
21 judges of the facts in this case and decide what happened,
22 the judge is the determiner of law and explains what the law
23 is.

24 The defendant is charged with three counts of
25 attempted murder.

1 The judge is also going to charge you with some
2 lesser offenses, ladies and gentlemen. With regard to C.D.

3 he's going to charge you with assault and battery of
4 a high and aggravated nature. And with regards to Scott
5 Rising and W.D. he's going to charge you with
6 assault and battery in the first degree.

7 Before I go into the facts of this case, I would
8 like to open a bit on what law is, what the law about this
9 case is.

10 Attempted murder, ladies and gentlemen, has three
11 elements. We, the State, must prove that the defendant
12 attempted to kill another person, that he had the intent to
13 kill, and this was done with malice aforethought, either
14 expressed or implied.

15 Now, malice is doing something -- it's doing a
16 wrongful act intentionally and without just cause.

17 An aforethought, ladies and gentlemen, is the time
18 the evil is conceived.

19 It's important to note that there is no particular
20 length of time for killing with malice aforethought, just
21 that he had a forethought, any aforethought going forward.

22 ABHAN is a little bit different, ladies and
23 gentlemen. Like ABHAN, which is assault and battery of a
24 high and aggravated nature. This is going to apply just to
25 C.D.'s case. Not to any of the others, but just Caleb's.

1 And that involves an unlawful injury to another person, in
2 this case C.D. and either great bodily injury to the
3 person results, or the act was accompanied by means likely
4 to produce death or great bodily injury. In this case the
5 shooting with the shotgun, ladies and gentlemen.

6 Now, with regard to Scott Rising and W.D.

7 the judge is also going to charge you with assault
8 and battery of the first degree.

9 Now, the big distinction -- and the judge is going
10 to explain to you the whole crux of the law. The big
11 distinction between these two is assault and battery in the
12 first degree doesn't require injury. It's not injuring
13 another person. Assault and battery in the first degree can
14 involve injury to the person, but in this case it involves
15 the offer, or attempt, to injure another person with the
16 present ability to do so. What we are alleging here is he
17 attempted to hurt them by shooting the gun in their truck,
18 and it's accomplished by means likely to produce death or
19 great bodily injury. This involved a shotgun, ladies and
20 gentlemen, shooting into the truck. Those are the means
21 that could produce death or great bodily injury.

22 Now, with that in mind -- I know that's a
23 mouthful. I know that's kind of a lot, and the judge is
24 going to give you further instruction on that, but with that
25 in mind and out of the way I would like to talk to you about

1 what the evidence shows in this case, ladies and gentlemen,
2 what the State has proven.

3 Now, ladies and gentlemen, we are going to go
4 through here and we are going to discuss specific pieces of
5 evidence, specific pieces of testimony. We are going to
6 talk about what the witnesses said and what the facts show.
7 We tend to do this piece by piece, but you, ladies and
8 gentlemen, are allowed to look at the whole picture. You
9 are allowed to look at the entire thing, how the evidence
10 fits together, how things relate to each other in reaching
11 your ultimate conclusion.

12 Ladies and gentlemen, this occurred on May 9th,
13 2017, on Evans Street here in Cherokee County. That night
14 the victims, C.D. Scott Rising, and W.D.
15 were working on a truck, not hurting anybody, minding their
16 own business. They were trying to get it running, because
17 it had been sputtering and they were concerned that it had
18 bad gas in the truck. So they got in it and tried to burn
19 the gas off, driving it slowly around their neighborhood.
20 Their neighborhood, ladies and gentlemen. W.D. got in the
21 cab. Scott was driving. C.D. sat in the back, in the bed
22 of the truck.

23 You heard them testify they just drove around the
24 neighborhood. They went down Evans Street where the
25 defendant lived on multiple occasions, as they attempted to

1 burn fuel off of the truck.

2 As you heard multiple witnesses say, this is not a
3 highly trafficked street. This is not a street where a lot
4 of people coming through and everything like that. It's
5 just kind of a quiet connector street between two roads.

6 You heard both C.D. and W.D. testify as the
7 last time they were going down that street they heard
8 someone yell. And as they stopped at the stop sign a shot
9 rang out hitting C.D. in the chest and face, ladies and
10 gentlemen. He was taken to the hospital where surgery was
11 performed, attempting to remove those pellets from his face,
12 neck and torso.

13 You also heard, ladies and gentlemen, from people
14 who lived next door to Mr. Williams. Sierra McKinney, who
15 is his next door neighbor, and Christa Woodie, who was over
16 visiting. Both testified that prior to the shooting they
17 had seen Mr. Williams, who had come over to their house
18 multiple times worried about the truck. This is an
19 important fact, ladies and gentlemen, that he was coming to
20 their house, because it shows that Mr. Williams did view
21 Christa and Sierra not as hostile people, but as people he
22 went to when things were going wrong. He wasn't backing
23 away from them. These weren't people that were out to get
24 him. He went to them when things were going wrong.

25 Now, I understand, ladies and gentlemen, there

1 have been some history between he and Sierra, that they
2 have -- they hooked up in the past, and there was some
3 allegations of whether he and Christa had hooked up that she
4 denied and he didn't, but on this day, ladies and gentlemen,
5 May 9th, 2017, when this shooting occurred, they were
6 clearly not the enemy. He was going to them, multiple times
7 going to them, to express worry about this truck going
8 around the block. This is the house he went to when there
9 was a problem that night, which frankly isn't consistent
10 with the whole idea that this was a story ginned up by
11 jolted ex with an axe to grind. He didn't think they had
12 any problem with them.

13 Additionally, ladies and gentlemen, you heard
14 about his behavior that night. I believe Sierra described
15 him as being aggravated. Christa noticed he was nervous and
16 sweaty and jittery, upset about this truck going by. Both
17 noted he was throwing pieces of bricks in the road in an
18 apparent attempt to slow the truck down. He didn't get
19 anywhere with this, ladies and gentlemen. You have seen the
20 pictures of the road. I don't think it really adversely
21 slowed them down too much, but it shows his mental state.
22 He was nervous, twitchy, jittery, sweaty, ladies and
23 gentlemen, about what was going on.

24 They also testified they saw him with a firearm.
25 Not just any firearm, ladies and gentlemen, but a long gun.

1 Big one. Not a little one, which they described -- one of
2 them described as being brown. One of them described as
3 brown with a black barrel.

4 Mr. Williams had that firearm, ladies and
5 gentlemen, that truck came around that last time and they
6 saw him go back behind the house shortly before the shots
7 were fired. Nobody else saw any people out there with
8 firearms that night. On the small quiet street there
9 weren't tons of people milling around and this wasn't a
10 short gun. This was a big full-sized gun. The person
11 people saw out there with the firearm that night was Mr.
12 Williams.

13 Now, there are certain small inconsistencies in
14 their stories and you heard that over the course of this
15 trial. This happened over a year ago and there are things
16 they couldn't remember the same. They couldn't remember
17 which side the house he walked up on. They couldn't
18 remember whether or not somebody yelled at the truck or
19 whether they said something to the truck, but the big
20 things, ladies and gentlemen, the major facts of what went
21 on that night, they were surprisingly consistent. Both knew
22 Mr. Williams. Both knew he lived a short distance away,
23 kind of right behind that house, or next to it, depending
24 upon how you are facing it. A short, a very short distance
25 of where this shooting occurred. They both saw Mr. Williams

1 in the state of distress that night. Both saw him come over
2 to Sierra's house and throw bricks, rocks in the road. Both
3 saw him with a gun. And, ladies and gentlemen, both stated
4 that right before the shooting he left the house with the
5 shotgun in the direction where the shots were fired. And
6 neither saw him once he went behind the house. Both heard
7 the shot shortly thereafter, and nobody else seen him
8 walking around Evans Street.

9 Once this took place, ladies and gentlemen, law
10 enforcement came to see and scoured the area looking for the
11 gun, which they were unable to find, but they did find --
12 they did conduct a search of Mr. Williams home. And in that
13 home they did find -- or, excuse me, the home Mr. Williams
14 was living in. And in that home they found narcotics -
15 methamphetamine and crack cocaine. This is important,
16 ladies and gentlemen, because the State would assert this
17 provides a motive. Fearful that someone was going to come
18 and try to take the drugs that were in his home, the home he
19 was staying, he simply couldn't call them up and get the
20 police to come, so he grabbed the gun, ladies and gentlemen,
21 and shot it.

22 Additionally, ladies and gentlemen, you heard from
23 Detective Billy Anthony, who stated he took a swab of the
24 defendant's hand for GSR, for gunshot residue.

25 You heard, ladies and gentlemen, this GSR doesn't

1 stick around very long. It can easily be wiped off, washed
2 off, patted off. It's easy to go. It's a very transient
3 amount.

4 This GSR was subsequently tested, ladies and
5 gentlemen, by SLED and you heard an expert, Megan Fletcher
6 come and talk about that gunshot residue.

7 Now, as she explained, ladies and gentlemen,
8 gunshot residue is not necessarily going to be there in
9 every shooting. In addition to wiping it off and washing it
10 off, it doesn't always get on people. In this case it was a
11 small amount. She testified it's much, much likely, or it's
12 less likely that gunshot residue would get on people, that
13 not gunshot residue would get on people because of the
14 distance from the barrel of the gun to where the hands are.
15 It's a longer gun.

16 Now, ladies and gentlemen, it's certainly true
17 that this could have gotten -- the GSR was found on him.
18 The gunshot residues was found on Mr. Williams, the only
19 person who was seen out there that night with a firearm
20 could have come from some other source. It's possible. She
21 testified to it, the State's witness. I don't disagree with
22 her, but let's look at the evidence, ladies and gentlemen,
23 to your common sense, which is what I asked you to do before
24 this case took place. There was one person out there with a
25 firearm that night. Multiple people saw him with a firearm

1 that night. This took place on the street which is not
2 heavily trafficked, which there were not people walking
3 around, where Mr. Williams was staying. Other people saw
4 him aggravated, saw him sweaty, something which would
5 adversely affect having gunshot residue stay on his hands.
6 Trying to block this truck, clearly upset. This truck was
7 coming down this road. He wasn't able to call the police,
8 so what did he do, ladies and gentlemen? He fired that gun.
9 Is it possible that maybe he talked to somebody or shook
10 hands with somebody that had gunshot residue on their hands?
11 Possible, sure. But using common sense, ladies and
12 gentlemen the guy with the gun who is upset about people
13 coming down his driveway, who goes chasing after the gun --
14 chasing after the truck and then gunshots are fired? Ladies
15 and gentlemen, it's for you to decide where that gunshot
16 residue came from. I would ask you when you look at that,
17 to use common sense.

18 Ladies and gentlemen, on this night Allen Williams
19 attempted to kill C.D. He followed him in the
20 truck down the road and with no just legal -- no legal
21 justification, no good reason, no exigent reason, shot him
22 in the face. A child, ladies and gentlemen. He shot a
23 child in the face. He wasn't hurting anybody. He was
24 riding in the back of this truck in his neighborhood as they
25 attempted to burn off gas, just getting a truck working one

1 night. Fired at a vehicle hitting a child.

2 Now, ladies and gentlemen, he intended to kill
3 him. This was not an accident. This was not a warning
4 shot. He fired at a child with a deadly weapon intending to
5 kill him and I would ask that you return a verdict of guilty
6 in this case. Thank you.

7 THE COURT: Mr. Moore?

8 MR. MOORE: May it please the court?

9 Solicitor.

10 As I told y'all yesterday when we started this
11 trial, your duty, your role in this trial is very important
12 and I hope you thought about that some and I imagine as this
13 trial has gone on and as you go to the jury room your
14 responsibilities under the law as the jury, I hope you
15 realized how important they are.

16 And one of the things I told you yesterday, and I
17 asked you to keep in mind, is that what sets our system of
18 justice apart from other countries, lesser systems of
19 justice around the world, is that when we have an
20 individual, a citizen like Mr. Williams accused by the
21 government of committing any criminal offense, but
22 particularly something that's as serious as this, when that
23 person says they didn't do it, they are presumed innocent
24 under the law.

25 And in a minute the judge is going to instruct you

1 on the law. You heard Mr. Kendall's overview of it. I'm
2 going to say some things about it, but like Mr. Kendall
3 said, you need to listen to what the judge says. He's the
4 one that gives you the law of our state.

5 The law of our state and the law of our country
6 says that when somebody pleads not guilty and says they
7 didn't do it, they are presumed innocent. The only way that
8 changes is if you decide that they are not. You are the
9 only one that can take that away from him. And to do that
10 the State has to have provided you with enough sufficient
11 evidence to prove him guilty of this beyond a reasonable
12 doubt. All twelve of you, unanimously, have to agree or are
13 firmly convinced that what they said he did he did. Now,
14 whether that's the attempted murder, whether that's the
15 lesser-included offenses they are asking to be charged to
16 you now, the presumption of innocence and beyond a
17 reasonable doubt applies to all of them the same.

18 So their indictment alleged that he, Mr. Williams,
19 with malice aforethought attempted to kill Douglas Rising;
20 he attempted to kill W.D. he attempted to kill
21 C.D. That's what they are alleging. And they have
22 to prove that his specific intent that night, if you believe
23 their witnesses, his specific intent was to kill those three
24 individuals and he just failed. That's what they want you
25 to believe. That's what they believe the evidence shows

1 you.

2 Now, let's talk about the witnesses. Let's talk
3 about what we heard and we didn't hear.

4 Now, the first witness, C.D. That's --
5 to be honest, that's sympathetic and that's a sad situation
6 and that little boy was very brave to be here and testify
7 and I think everybody can agree to that, and there is no
8 question that he was injured and he had pellets removed from
9 him. We heard the doctor. Nobody is denying that, but the
10 question in this trial is not whether C.D. or Mr. Rising,
11 or W.D. the question is not whether they were
12 injured somehow. The question is did the State prove to all
13 of you unanimously beyond a reasonable doubt that Allen
14 Williams was the one who did it; not whether it happened,
15 but did he do it. So we have to look at the witnesses,
16 because the only -- the only evidence you can take into
17 consideration is the evidence presented, as I told you,
18 through these witnesses. Not what Mr. Kendall says, not
19 what I say, but what they said. That's the evidence. That
20 and these. This is the evidence. That's all you can
21 consider.

22 So we heard from C.D. We heard from W.D.
23 Both of them said and testified that they never saw Mr.
24 Williams. Never saw him. Both of them testified they never
25 saw anybody with a gun. Both of them said that they never

1 saw the individual who fired the gun. Both of them said
2 they never saw any bricks in the road.

3 To be very clear, there is not any evidence from
4 any of the witnesses in this case that saw Mr. Williams fire
5 the shotgun.

6 So their testimony was almost totally consistent
7 with each other. They drove around the block a few times.
8 They heard somebody yell. They put the vehicle in reverse
9 to back up and explain why they were driving around and then
10 they heard a gunshot. That's what they both said, that
11 neither one of them saw Mr. Williams and neither one of them
12 saw a shotgun. Neither one of them saw him do that. Okay.
13 Those two witnesses didn't see a shotgun.

14 What about the witnesses who did? We had
15 Christa -- or Sierra first and then Christa, sisters, and
16 Mr. Kendall would -- he would describe their testimony as
17 having small inconsistencies, and I would disagree with
18 that. With the exception of the long gun term, almost every
19 single thing they said was inconsistent. Everything.

20 Sierra said that they were very concerned about
21 what was going on. This truck kept driving around. They
22 didn't know what was going on.

23 Christa, "we weren't concerned. Just curious."

24 Sierra, "we were all yelling at the truck, or I
25 was at least yelling. I think others were too at this truck

1 to figure out why it was driving around."

2 Christa, "no nobody yelled at it. Nobody yelled
3 at the truck."

4 Okay. "Well, did you hear the gunshot?"

5 "Yeah, after we saw Mr. Williams ten to fifteen
6 minutes later we heard a gunshot." Okay.

7 Christa. "Just few seconds, gunshot."

8 Okay. "Well, how many times did he come up to the
9 house?" Sierra? "Just one time on the left side through
10 the woods."

11 Okay. Christa? "Oh, multiple times. Maybe five
12 or six up and down the road every time."

13 Okay. "Did anybody else put bricks in the road
14 besides Mr. Williams?"

15 "Oh, maybe."

16 "No."

17 Those aren't small inconsistencies, in my opinion.
18 These are the only witnesses, the only testimony that Mr.
19 Williams had a shotgun. That's all. And that's everything
20 else they said to you. And those are considered small
21 inconsistencies?

22 And Mr. Kendall asked you, and I'm asking you, to
23 use your common sense. Christa Hall sat here, or Christa
24 Woodie, and testified that he ran down the road chasing the
25 truck. Fired at it. Within seconds of chasing it down the

1 road running behind it, shot at the truck. That's the
2 State's witness. That's her testimony.

3 Now, Sierra didn't say that.

4 But their own victim said they never saw anybody.
5 They actually stopped and put the truck in reverse to back
6 up and speak to the people yelling at them. Is that
7 consistent? That's what they want you to believe. Those
8 are all their witnesses. They want you to believe that he
9 was running down the road chasing the truck with the
10 shotgun, but at the same time that truck had stopped and was
11 backing up to discuss something with people yelling at them
12 and they never saw the gun. Nobody -- their victim said
13 they didn't see that. How could that be possible? How
14 would you chase the truck down the road with a shotgun and a
15 person in the bed of the truck or the passenger in the truck
16 not see them, especially if you are going in reverse?

17 I want you to apply your common sense, too,
18 because that doesn't make sense to me. And this is too
19 important for things like that not to make sense, because
20 they are saying he attempted to murder three people and we
21 are hanging it on those two people's word.

22 Then we heard from Detective Anthony. They come
23 out there to the house, the law enforcement, the
24 investigators who investigate crimes, who collect evidence,
25 who bring it forward and let us know what happened. They

1 found nothing related to the shooting. They didn't find any
2 gun. They searched his whole house. No gun. No boxes of
3 shotgun shells. No ammunition. No shotgun shells in the
4 road. No bricks in the road. No pellets in the road.
5 Detective Anthony said "we found no physical evidence in the
6 road or at the house that indicated there had been a
7 shooting." Okay?

8 Well, they said that they were in the truck when
9 this happened. "Did you take pictures of the truck?"

10 "No, there were German shepherds so we didn't take
11 pictures of the truck." Okay.

12 "Did you go see if there was any pellets or
13 anything in the truck maybe from where the shooting had
14 happened?

15 "Oh, no, we didn't do that either."

16 Okay. "Detective Anthony, you are the lead
17 investigator here?"

18 "Oh, no, no, I'm just the -- I'm just the crime
19 scene guy." Okay.

20 Where is the lead investigator? This is a violent
21 offense. Three counts of attempted murder. Where is the
22 lead investigator who coordinated the investigation of this
23 case? Not here to testify. Not here to answer questions.

24 Sometimes what witnesses say and don't say and
25 what witnesses are called and aren't called speak volumes.

1 What about the driver, the stepfather of W.D.
2 and C.D. the victim of an alleged attempted murder? Where
3 is he? Why didn't you hear from him?

4 What do you think is reasonable to expect from our
5 government when they want to convict somebody of offenses so
6 serious? Do you think -- do you think it's reasonable to
7 expect the lead investigator to be here?

8 Do you think it's reasonable to expect that maybe
9 the victim of a crime should be here for the trial? Is that
10 not a reasonable thing to expect? But they weren't. We
11 didn't hear from them.

12 And I appreciate the agent being here from SLED,
13 and there is so much information on the GSR, you are going
14 to have to make your own determination.

15 GSR can be from shooting a weapon, from touching a
16 weapon, and it can be transferred, and she very clearly said
17 there is no way from her analysis to tell which way that one
18 particle, one particle, which is the least amount they could
19 possibly find. The only thing below that is no evidence.
20 Okay. One particle, but there is no way to tell from her
21 analysis how it got there. And Detective Anthony said when
22 he got there to collect it, he was already in handcuffs in
23 custody.

24 We just heard that we got officers with guns, we
25 have got handcuffs, we have got patrol cars, and we are told

1 that this stuff can get brushed off him easy and can get
2 brushed from one person to another easy and we have no
3 evidence as to whether or not it came from that gun on that
4 day. Just the one particle was found on the back -- or on
5 the palm of his left hand. That's all they got.

6 So intent to kill. They have alleged that he
7 intended to kill these people with birdshot from a shotgun
8 fired at a vehicle. I'm not saying that's not dangerous,
9 but it's -- are those the actions of somebody trying to kill
10 somebody? I don't know.

11 Detective Anthony, a firearms expert, he said they
12 don't use birdshot for self-defense. They don't use
13 birdshot to neutralize a lethal threat to law enforcement.
14 You don't shoot birdshot at people and kill them.

15 The doctor thinks there is -- he's a good doctor
16 and did a great job, but he did testify that these wounds
17 weren't lethal. There was no lifesaving intervention. That
18 doesn't make it any more less tragic, but we are talking
19 about the importance of making a distinction on whether or
20 not someone intended to kill somebody, and that's just one
21 person. They are saying he intended to kill three different
22 people by firing one shot of birdshot.

23 All I can ask you to do is be fair to the State,
24 be fair to Mr. Williams, and use your common sense.

25 I really think this case comes down to those two

1 ladies. Is that enough evidence? Is that enough evidence
2 to leave all twelve of you firmly convinced beyond a
3 reasonable doubt that he attempted to murder these three
4 people? That's a decision y'all are going to have to make
5 and I ask that you don't enter into it lightly. It's very,
6 very important.

7 Please listen closely as the judge instructs you
8 on the law. Apply that law to these facts and determine
9 what you think is right. Thank you.

10 (Whereupon, at 12:15 p.m., the court instructed
11 the jury panel)

12 THE COURT: Madam Forelady and ladies and
13 gentlemen of the jury, you have seen and heard the evidence
14 presented, as well as the arguments of the lawyers, and it
15 is my duty and my obligation to instruct you on the law in
16 this case. It will then be your duty and obligation to
17 begin deliberations through which process you will decide
18 the facts, apply the law as I now instruct it, and render a
19 fair and impartial verdict.

20 It is your exclusive duty to determine what the
21 facts are in this case and you will do that based on your
22 own common sense and evaluation and examination of the
23 testimony and the evidence received during the trial of this
24 case. You twelve alone will decide what effect, value and
25 weight is to be given to any testimony or evidence received.

1 Quite simply, ladies and gentlemen, your
2 obligation is is to give both the State and this defendant a
3 fair and impartial trial based on the evidence presented and
4 the law in this case.

5 The indictments in this case allege six different
6 offenses against this defendant.

7 The first indictment charges the defendant with
8 attempted murder and possession of a weapon during the
9 commission of a violent crime against C.D.

10 The second indictment charges the defendant with
11 attempted murder and possession of a weapon during the
12 commission of a violent crime against Douglas Scott Rising.

13 And the third indictment charges the defendant
14 with attempted murder and possession of a weapon during the
15 commission of a violent crime against W.D.

16 Each indictment charges two separate and distinct
17 offenses and you must decide each indictment separately on
18 the evidence and the law applicable, uninfluenced by your
19 decision as to any other indictment.

20 Madam Forelady, you will be asked to write a
21 separate verdict for this jury of guilty or not guilty for
22 each indictment.

23 Indictment ending in 1483 charges this defendant
24 with the offenses of attempted murder and possession of a
25 weapon during the commission of a violent crime.

1 First, the State alleges that this defendant
2 committed attempted murder, in that he, Allen Williams, did,
3 in Cherokee County, between the dates of May 9 and 10 of
4 2017, with malice aforethought attempt to kill C.D.
5 by shooting him with the intent to kill him, in violation of
6 state law.

7 Second, the State alleges that this defendant
8 committed the offense of possession of a weapon during the
9 commission of a violent crime, in that he did on the same
10 dates, times and place possess a firearm during the
11 commission of a violent crime, specifically attempted
12 murder.

13 Indictment ending in 1484 charges this defendant
14 with the offenses of attempted murder and possession of a
15 weapon during the commission of a violent crime.

16 The State alleges that he did commit attempted
17 murder, in that he, Allen Williams, did, in Cherokee County,
18 between the dates of May 9 and 10 of 2017, with malice
19 aforethought attempt to kill Douglas Scott Rising by
20 shooting at him, or shooting him -- shooting at him with the
21 intent to kill him, in violation of state law.

22 The State alleges that he also committed the
23 offense of possession of a weapon during the commission of a
24 violent crime, in that he did, in Cherokee County, South
25 Carolina, between May 9 and 10 of 2017, possess a firearm

1 during the commission of the violent crime, specifically
2 attempted murder.

3 Indictment ending in 1485 charges the defendant
4 with the offenses of attempted murder and possession of a
5 weapon during the commission of a violent crime and alleges
6 that he did commit this offense in the County of Cherokee,
7 State of South Carolina, between the dates of May 9 and 10
8 of 2017, with malice aforethought attempt to kill W.D.

9 by shooting the victim with the intent to kill
10 him, in violation of state law.

11 And, further, the State alleges he committed the
12 offense of possession of a weapon during the commission of a
13 violent crime, in that he did the same time period in this
14 county and state possess a firearm during the commission of
15 the violent crime, that being the attempted murder.

16 I'll remind you once again that the fact that this
17 defendant was arrested, charged, and indicted is not
18 evidence in the case and it cannot be considered by you as
19 evidence of guilt, nor does it create a presumption or
20 inference of guilt. The indictments are simply pieces of
21 paper. They are written instruments which contain the
22 charge made against him. It is the document by which this
23 case is brought before the court.

24 The defendant has entered a plea of not guilty to
25 each and every indictment, and that puts the burden on the

1 State to prove him guilty beyond a reasonable doubt.

2 A person charged with committing a criminal
3 offense in South Carolina is never required to prove himself
4 innocent.

5 I charge you that it is a cardinal, important and
6 vital rule of law that in a criminal trial, no matter what
7 the seriousness of the charge may be for which the defendant
8 stands charged, the defendant is presumed to be innocent of
9 the crime for which the indictment was issued, unless guilt
10 has been proven by evidence satisfying you of guilt beyond a
11 reasonable doubt.

12 This presumption of innocence does not end when
13 you begin your deliberations, Madam Forelady, but it
14 accompanies this defendant throughout the trial until you
15 reach a verdict of guilt, based on evidence satisfying you
16 of guilt beyond a reasonable doubt.

17 The presumption of innocence has been described as
18 being a robe of innocence placed about the shoulders of this
19 defendant, which remains with him from the moment of his
20 arrest, and it continues until it has been stripped from his
21 shoulders by evidence satisfying you twelve of his guilt
22 beyond a reasonable doubt.

23 The presumption of innocence is not mere legal
24 theory, nor is it a phrase. It is a substantial right to
25 which every defendant is entitled, unless you twelve jurors

1 are satisfied from the evidence of his guilt beyond a
2 reasonable doubt.

3 I'll remind you that during this trial you and I
4 have certain duties to perform.

5 As the trial judge it is my responsibility to
6 preside over the trial and additionally to rule on the
7 admissibility of evidence. You are to consider the evidence
8 before you, and if any evidence was ordered stricken from
9 the record, you must disregard that testimony. You are to
10 consider the testimony presented, the exhibits that have
11 been made a part of the record and any stipulations by the
12 lawyers.

13 Additionally, I have the duty to charge you on the
14 law. As presiding judge the State law makes me the sole
15 judge of the law and it is your duty to accept it and follow
16 it as I now state it to you.

17 In every case tried in this courtroom before a
18 jury you twelve become the sole and exclusive judge of the
19 facts in the case. A trial judge cannot make a comment or a
20 statement to a trial jury about a fact in a case. You
21 twelve are the sole judges of the facts and you must not
22 infer from anything that I have said during this trial in
23 ruling on admissibility of evidence, or otherwise, that I
24 have an opinion in this case.

25 I tell you again, and I charge you, the law of

1 this state prevents a trial judge from having an opinion on
2 a fact in a case. That is solely for you twelve to
3 determine.

4 The State of South Carolina has the burden of
5 proving the defendant guilty beyond a reasonable doubt.

6 Now, proof beyond a reasonable doubt is proof that
7 leaves you firmly convinced of his guilt. I tell you and
8 charge you there are very few things in this world that we
9 know with absolute certainty and the law does not require
10 proof that overcomes every possible doubt.

11 A reasonable doubt may be described as the kind of
12 doubt that would cause a reasonable person to hesitate to
13 act.

14 If you have such a doubt as to the guilt of this
15 defendant, he is entitled to a verdict of not guilty.

16 Reasonable doubt may arise from evidence in the
17 case, or from the absence or lack of evidence in the case.

18 Based on your consideration of the evidence, if
19 you are firmly convinced that he is guilty of the crimes
20 charged, you must find him guilty.

21 But, if you think there is a real possibility he
22 is not guilty, you must give him the benefit of the doubt
23 and find him not guilty.

24 You twelve alone must make this determination.

25 Now, there are two types of evidence which are

1 generally presented during trial; that is, direct evidence
2 and circumstantial evidence.

3 Ladies and gentlemen, direct evidence is testimony
4 of a person who claims to have actual knowledge, such as an
5 eyewitness. It is evidence which immediately establishes
6 the fact to be proved.

7 Circumstantial evidence is a proof of a chain of
8 facts of circumstances indicating the existence of a fact.
9 It immediately establishes collateral facts from which the
10 main fact may be inferred. It is based on inference and not
11 on personal knowledge or personal observation.

12 The law in South Carolina makes no distinction
13 between the weight or value to be given either direct or
14 circumstantial evidence, nor is a greater degree of
15 certainty required of circumstantial evidence.

16 You should weigh all evidence. And after doing
17 so, if you are not convinced of his guilt beyond a
18 reasonable doubt, you must find him not guilty.

19 Now, under the Constitution of our state you
20 twelve are the finders of facts and necessarily you
21 determine the credibility of the witnesses who have
22 testified. Remember, credibility simply means
23 believability. It is your duty to analyze and evaluate and
24 determine which evidence is convincing to you.

25 In determining believability of witnesses, you may

1 believe one witness over several. You may believe several
2 over one. You may believe all of a witness' testimony. You
3 may reject all of a witness' testimony. Whatever your good
4 judgment and common sense tells you is believable is the
5 testimony you should accept and reject the remaining
6 testimony.

7 Now, our Rules of Evidence do not permit witnesses
8 to testify to opinions or conclusions, but an exception
9 exists when we qualify someone as an expert witness. That
10 person, by education, experience, may give an opinion in the
11 case. You should consider any expert opinion received in
12 this case like all other evidence and give it the weight you
13 believe it deserves. If you decide the opinion of the
14 expert is not based on sufficient education or experience,
15 or if you conclude that the reasons given for that opinion
16 are not sound, you may disregard it entirely. An expert
17 witness' testimony is given no greater weight than any other
18 witness simply because they were qualified as an expert.

19 Again, you are not required to accept the opinion
20 of the expert. That is solely up for your determination.

21 I instruct you and emphasize the fact that this
22 defendant did not testify is not a factor to be considered
23 by you during your deliberations. Madam Forelady, ladies
24 and gentlemen, that should not be discussed in the jury
25 room. A defendant has a Constitutional Right to remain

1 silent and the assertion of that right and privilege must
2 not be considered by you during deliberations.

3 The burden of proof, as I have previously stated,
4 is on the state. The defendant is not required to prove his
5 innocence.

6 Criminal intent is a necessary element of each
7 crime that must be proved by the State beyond a reasonable
8 doubt.

9 Criminal intent is a matter that must be
10 determined by you twelve from the circumstances surrounding
11 this situation. There is no way to prove with mathematical
12 certainty criminal intent. Medical science cannot dissect a
13 person's brain and determine what he had in mind. Criminal
14 intent is a state of mind, which operated jointly with an
15 act is the commission of a crime.

16 Criminal intent is a mental state. It is a
17 conscious wrongdoing, so it is up to you to determine what
18 this defendant intended to do based on the circumstances
19 presented to you.

20 I tell you the State must prove criminal intent
21 beyond a reasonable doubt, just as it must prove every
22 element beyond a reasonable doubt.

23 I tell you it is not necessary to establish it by
24 direct or positive evidence, but the intent may be
25 established by inference, in the same way as all other

1 facts, taking into consideration the acts of the parties.

2 The State may prove motive, but it is unnecessary
3 for the State to do so, but they must prove criminal intent.

4 Now, attempted murder. The defendant is charged
5 with three counts of attempted murder, which is a violent
6 crime. It is the killing of another person with malice
7 aforethought.

8 Malice is hatred. It is ill will. It's hostility
9 towards another person. It is the intentional doing of a
10 wrongful act without just cause or excuse and with the
11 intent to inflict an injury, or under circumstances that the
12 law will infer an evil intent.

13 Malice aforethought does not require malice exists
14 for any particular time before the act is committed, but
15 malice must exists in the mind of the defendant just before
16 and at the time of the act committed. Therefore, the State
17 must -- there must be a combination of previous intent and
18 act.

19 Attempted murder can only be committed when the
20 accused acts are accomplished by -- or accompanied by
21 express malice.

22 Express malice is deliberate intention to kill
23 unlawfully. It is shown when a person speaks words which
24 express hatred or ill will for another, or when a person
25 prepared beforehand to do the act which was later

1 accomplished. For example, lying in wait for a person or
2 any other act or preparation going to show that the deed was
3 within the defendant's mind would be express malice.

4 An attempt, ladies and gentlemen, is an effort to
5 accomplish a crime which does not succeed. An attempt
6 includes the specific intent to do a particular criminal act
7 along with the act falling short of the act intended.

8 The State must show more than mere preparation and
9 intent. It must be some overt act in the effort to commit
10 the crime.

11 Intent means intending the result which actually
12 occurred. Not accidentally or involuntarily occurring.

13 Intent may be shown by acts and conduct of the
14 defendant and other circumstances which naturally and
15 reasonably infer intent.

16 To prove attempted murder the State must prove
17 beyond a reasonable doubt that the defendant performed an
18 act or acts intended but failed to kill a human being. Such
19 acts must have been done with the deliberate intention to
20 kill unlawfully.

21 The State must prove each element beyond a
22 reasonable doubt as to each victim.

23 If you find the State has failed to prove that the
24 defendant is guilty of the attempted murder of C.D.
25 you must then decide whether the State has proved that the

1 defendant is guilty of assault and battery of a high and
2 aggravated nature, which is a violent crime.

3 Assault and battery of a high and aggravated
4 nature is an unlawful act of a violent injury to the person
5 of another, accompanied by circumstances of aggravation.

6 I will now read, in part, Code Section 16-3-600,
7 which says "a person commits the offense of assault and
8 battery of a high and aggravated nature if the person
9 unlawfully injures another person and great bodily injury to
10 another results, or the act is accomplished by means likely
11 to produce death or great bodily injury."

12 An assault occurs when a person unlawfully
13 attempts or offers to commit a violent injury upon another
14 person and had the apparent present ability to complete the
15 attempted injury.

16 An assault is the intentional creation of
17 reasonable fear.

18 It is not necessary that the attempted injury or
19 harm actually take place. By example, if I walk up to you
20 and when we are within arm's reach I draw back to hit you,
21 that is an assault.

22 A battery is the unlawful touching of another
23 person who has committed the assault.

24 An unlawful touching can be caused by a part of
25 the accused body or by any object the accused puts in

1 motion.

2 A battery is the completion of the assault by
3 using or applying force to another, however slight, in a
4 rude, angry, or resentful manner without legal
5 justification.

6 Using my earlier example, if I carry through the
7 assault by hitting you, that is the battery.

8 Now, great bodily injury means bodily injury which
9 causes a substantial risk of death, or which causes serious
10 permanent disfigurement, or protracted loss or impairment of
11 the function of a bodily member or organ.

12 If you find that the State has failed to prove
13 that this defendant is guilty of the attempted murder of
14 W.D. you must decide then whether the State
15 has proved that the defendant is guilty of assault and
16 battery in the first degree, and that would also be for the
17 other attempted -- I'm sorry, I'll just keep them in order.

18 If you find the State has failed to prove the
19 defendant is guilty of the attempted murder of W.D.

20 you must then decide whether the State has proved
21 that the defendant is guilty of assault and battery in the
22 first degree.

23 To prove assault and battery in the first degree,
24 the State must prove beyond a reasonable doubt that the
25 defendant unlawfully injured another and that the act

1 occurred during the commission of a robbery, burglary,
2 kidnapping, or theft; or, that the defendant offered or
3 attempted to injure another with the present ability to do
4 so and the act was accomplished by means likely to produce
5 death or great bodily injury, or occurred during the
6 commission of a robbery, burglary, kidnapping, or theft.

7 Again, great bodily injury is defined as a bodily
8 injury which causes a substantial risk of death or which
9 causes serious permanent disfigurement or protracted loss of
10 impairment or function of a bodily member or organ.

11 If you find that the State has failed to prove the
12 defendant guilty of attempted murder of Douglas Scott
13 Rising, you must then decide whether the State has proved
14 that the defendant is guilty of the assault and battery in
15 the first degree.

16 Now, possession of a firearm during the commission
17 of a violent crime. The defendant is charged with
18 possession of a firearm during the commission of a violent
19 crime. Section 16-23-490 says if a person is in possession
20 of a firearm or visibly displays what appears to be a
21 firearm during the commission of a violent crime and is
22 convicted of committing or attempting to commit a violent
23 crime as defined by law, he is guilty of the crime.

24 A firearm is defined as any machine gun, automatic
25 rifle, revolver, pistol, or any weapon that will or is

1 designed to or may readily be converted to expel a
2 projectile.

3 16-1-60 of the Code of Laws provides that
4 attempted murder, as well as the assault and battery of a
5 high and aggravated nature is a violent crime.

6 If you find the defendant guilty of the separate
7 offense of possession of a firearm during the commission of
8 a violent crime, you must first find him guilty of either
9 committing the violent crime or attempting to commit the
10 violent crime, in this case one of the two that I just
11 mentioned.

12 If you find the defendant guilty of attempted
13 murder, you must then determine whether the State has proved
14 beyond a reasonable doubt that he was in possession of the
15 firearm or visibly displayed what appeared to be a firearm
16 during the commission of a violent crime, and that would
17 also include the ABHAN, as I previously said.

18 You twelve have been selected as fair and
19 impartial jurors, sworn to try this case and determine the
20 facts, and you are to decide this case according to the
21 evidence and testimony before you.

22 Ladies and gentlemen, your verdict must be a
23 unanimous verdict. All twelve must agree.

24 Madam Forelady, when the jury agrees on the
25 verdict, you will indicate your verdict in the space

1 provided on the form that I'm going to explain to you.
2 Knock on the door, announce to the bailiff that the jury has
3 reached its verdict and we will return you all twelve to
4 this courtroom to accept your verdict.

5 During deliberations, Madam Forelady, if any juror
6 goes to the restroom to refresh themselves, or leaves the
7 area -- I know we have some smokers. If they need to go on
8 a break, then the jury must suspend its deliberations until
9 all twelve are back together. All deliberations must be
10 with all twelve together.

11 Now, this is the verdict form of which I speak,
12 Madam Forelady. This verdict form, my law clerk prepares it
13 in all the cases that we do, and it has the caption of the
14 case and it has the number and that's just so that one
15 applies to one and one to the other. It just keeps up with
16 the indictment.

17 It says we, the jury, unanimously find the
18 defendant Allen Williams, Jr., on the charge of attempted
19 murder of C.D. not guilty, or guilty.

20 I tell you there is no significance as to not
21 guilty being first, or guilty being second. They just have
22 to go in some order. I put them in that order in every
23 case.

24 It says if your verdict for question 1 is not
25 guilty, please answer the next question. That's as to

1 C.D.

2 We, the jury, unanimously find the defendant Allen
3 Williams on the charge of assault and battery of a high and
4 aggravated nature either not guilty, or guilty.

5 And then it says if your verdict for question 1
6 and 2 is not guilty, stop here and sign below.

7 But if your verdict for question 1 or 2 is guilty
8 then answer question 3.

9 So to be clear, if it's not guilty, not guilty, do
10 not reach question 3.

11 If it's guilty on 1 or 2, answer question 3.

12 Question 3 is we, the jury, unanimously find the
13 defendant, Allen Williams, on the charge of possession of a
14 weapon during the commission of a violent crime not guilty,
15 or guilty.

16 And on the second page it has a place for you to
17 certify that is the verdict of the jury.

18 On the next form it has the caption and it has a
19 different case number, which is the other indictment. It
20 says we, the jury, unanimously find the defendant, Allen
21 Williams, on the charge of attempted murder of Douglas Scott
22 Rising not guilty, or guilty.

23 And it says if your verdict to question 1 is
24 guilty, please answer the next question, question 2. But if
25 your verdict to question 1 is not guilty, stop. Do not

1 answer question 2, but continue to the next page and answer
2 question 3.

3 Again, attempted murder is a violent crime.

4 The assault and battery in the first degree is
5 not.

6 Question 3 is we, the jury, unanimously find the
7 defendant on the charge of assault and battery in the first
8 degree either not guilty, or guilty.

9 And on the last verdict form, we, the jury,
10 unanimously find the defendant, Allen Williams, on the
11 charge of attempted murder of W.D. not
12 guilty, or guilty.

13 It has the same instructions, Madam Forelady. If
14 the verdict to question 1 is guilty, please answer question
15 2.

16 If the verdict to question 1 is not guilty, stop.
17 Do not answer question 2, but continue to question 3, which
18 is the assault and battery in the first degree.

19 And if there are any questions once you are there,
20 we can bring you back in, but I will bring all twelve and
21 answer any question you might have regarding the verdict
22 form.

23 Okay. I'm going to ask you, Madam Forelady, in
24 about sixty seconds to take your jury to the jury room. Do
25 not begin deliberations.

1 We have ten exhibits. There are not that many in
2 this case. Sometimes we have a hundred and ten. We have
3 ten this time.

4 COURT REPORTER: Twelve.

5 THE COURT: Twelve. I'm sorry. We have twelve
6 exhibits. That's right. Thank you. We have twelve
7 exhibits.

8 Oftentimes it's so easy for as a lawyer, and I was
9 a practicing lawyer for many years, it's so easy to pick up
10 one of those exhibits and walk around and talk to the jury
11 and then lay it on my table and then I have it and it's not
12 yours and it's missing. Everything that was given to the
13 court and marked by the court reporter belongs to you.

14 So I'm going to ask the lawyers as soon as you
15 leave to come forward and make sure that all exhibits are
16 present. That won't take but just a second or two. Once
17 they confirm everything is there, I'm going to ask the
18 bailiff to bring these forms and all of those exhibits to
19 you. And when you receive those, that is your signal to
20 begin your deliberations, and your lunch should be on the
21 way, Ms. Terry?

22 THE CLERK: Yes, sir, it may already be here.

23 THE COURT: It may even already be here. Okay.
24 And you can have a working lunch, or whatever you choose to
25 do. All right.

1 Madam Forelady, if you would take your jury to the
2 jury room, please.

3 (Whereupon, at 12:40 p.m., the jury retired to the
4 jury room, awaiting instructions to begin deliberations)

5 THE COURT: Anything from the State?

6 MR. KENDALL: No, sir, Your Honor.

7 THE COURT: Anything from defense?

8 MR. MOORE: No, sir, Your Honor.

9 THE COURT: Gentlemen, if you would be kind enough
10 to see if everything is there?

11 (Off the record).

12 (Back on the record).

13 MR. KENDALL: Does the stipulation go back, Your
14 Honor?

15 THE COURT: Yeah. Oh, yeah. We can send it back
16 there, don't you, unless Travis thinks it ought to stay out.

17 MR. MOORE: I mean, I don't -- I don't think so.

18 THE COURT: Keep it out? Let it go?

19 MR. MOORE: Well, I don't think -- we read it out
20 loud to them. It's evidence. I don't think it matters one
21 way or the other.

22 THE COURT: I'll keep it out if you want to keep
23 it out. I read it to them.

24 MR. KENDALL: I thought it was an exhibit that
25 went back, but --

1 MR. MOORE: I can't remember if my last case if it
2 went back or not. I remember we just read it out loud,
3 announced to the jury like it was testimony, the fact like
4 testimony we all agreed to. I thought the fact it was a
5 court's exhibit was just for the record.

6 THE COURT: All right. Then if I'm going to make
7 an error and I might, I'm going to err on the side of
8 caution, so I'm going to keep it out. I read it to them.
9 I'm going to make an error, I'm going to err on the side of
10 the defense.

11 (Off the record).

12 (Back on the record)

13 THE COURT: Thank you.

14 Unless you want to be heard on that, I'm good.

15 MR. KENDALL: I thought it went back, but I don't
16 know.

17 THE COURT: To be quite honest with you, I don't
18 know.

19 Anything before we break for lunch?

20 Everybody stay close. If you have a cell phone or
21 whatever.

22 (Whereupon, at 12:44 p.m., the jury panel was
23 instructed to begin deliberations)

24 (Whereupon, at 12:45 p.m., proceedings were
25 recessed, pending the verdict of the jury panel).

1 (Whereupon, at 3:30 p.m., proceedings were
2 reconvened).

3 (Jury Note marked as Court's Exhibit No. 2 for
4 identification)

5 THE COURT: We ready for the jury?

6 MR. KENDALL: Yes, sir, Your Honor.

7 MR. MOORE: Yes, Your Honor.

8 THE COURT: Let's have the jury.

9 (Whereupon, at 3:32 p.m., the jury panel returned
10 to the courtroom)

11 THE COURT: Madam Forelady, ladies and gentlemen,
12 thank you for your note.

13 Because I have to be very careful about my
14 comments to a jury, I'm doing two things. Number one, I'm
15 bringing you back so we are on the record with the court
16 reporter. And number two -- I have all the lawyers here and
17 Mr. Williams. And number two, I'm going to try to explain
18 the form again, because I think I might answer your question
19 in this way.

20 As to C.D. as to C.D. if you have reached a
21 verdict on either the attempted murder -- well, on both, the
22 attempted murder and the assault and battery of a high and
23 aggravated nature, and if one of those is guilty, don't tell
24 me, but if it is, one of them, either one, then you would go
25 to question 3 about the weapon.

1 If not, you would not reach question 3. Okay.

2 Again, don't tell me what the vote is or how it
3 is, but there must be a finding of guilty on one of these
4 before you would reach the last question on C.D.

5 Okay. As to Douglas Scott Rising, you would only
6 reach the weapon if the verdict is guilty in the attempted
7 murder. You would never reach question 2, but you would
8 reach question 3, the assault and battery in the first
9 degree, if he's guilty, not guilty, whichever is the
10 verdict, but you would only reach the gun question if it's
11 guilty on Douglas Scott Rising in the attempted murder.

12 Likewise, with W.D. If there is
13 a finding of not guilty, you would never reach the question
14 about the weapon, but you would reach question 3 about the
15 assault and battery in the first degree.

16 So does that help, Madam Forelady?

17 And if you have reached a verdict on all issues
18 except that weapon, one way or another, if you have reached
19 a verdict on that, then you would need to tell me that.
20 Don't tell me what it is, but if that's the only issue, if
21 you have reached a verdict on other charges, on the charges
22 of that.

23 JURY FOREPERSON: On all charges but what?

24 THE COURT: But the weapon.

25 JURY FOREPERSON: No.

1 THE COURT: No. Okay.

2 Does that help for me to explain the form again?

3 Does that help?

4 JURY FOREPERSON: No.

5 THE COURT: Not really. Okay.

6 All right. As to C.D. he is charged in
7 the indictment with attempted murder.

8 If you find him not guilty of attempted murder,
9 then you could consider what we know in the law called a
10 lesser-included offense. It is assault and battery of a
11 high and aggravated nature.

12 If you find him not guilty of that as well, again,
13 this is to C.D. then you would not reach question 3 about
14 the firearm at all.

15 If you found him guilty of 1, question 1 or 2,
16 which is either the attempted murder or the assault and
17 battery of a high and aggravated nature, then and only then
18 would you consider the weapon charge, because the weapon is
19 used during the commission of a violent crime and both of
20 those by state law are defined as a violent crime. So only
21 reach question 3 on C.D. if there is a finding of guilt on
22 1 or 2.

23 As to Douglas Scott Rising, the indictment charges
24 him with the attempted murder.

25 If the verdict of the jury, and don't tell me, but

1 if it is not guilty, please do not consider possession of a
2 weapon. Do not consider the possession of the weapon,
3 because the lesser-included offense of assault and battery
4 in the first degree is defined as nonviolent by South
5 Carolina law.

6 So only if there is a finding of attempted murder
7 would you consider the weapon as to Douglas Scott Rising.

8 As to W.D. if your finding is not
9 guilty, you will not consider the weapon for the same
10 reason. The assault and battery in the first degree is
11 defined under our law as nonviolent.

12 So if he has been found, and I'm not asking you,
13 but if it is not guilty, please skip question 2 and then
14 consider did he, in fact, commit the offense of assault and
15 battery in the first degree.

16 Is that a little better?

17 JURY FOREPERSON: Yes.

18 THE COURT: Anything?

19 MR. KENDALL: No, sir, Your Honor.

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

21 THE COURT: Okay. If that helps.

22 Now, I'll be happy to explain it one more time, or
23 two more times, or three more times. That helped?

24 JURY FOREPERSON: Yes.

25 THE COURT: Okay. Please take your jury back and

1 resume your deliberations.

2 (Whereupon, at 3:38 p.m., the jury panel returned
3 to the jury room to continue deliberations)

4 THE COURT: For the record, anything from the
5 State or defense?

6 MR. KENDALL: No, sir. I think that's probably
7 the best we could do is to explain it to them.

8 MR. MOORE: Yes, sir.

9 (Whereupon, at 3:39 p.m., proceedings were
10 recessed, pending the verdict of the jury panel)

11 (Whereupon, at 4:40 p.m., proceedings were
12 reconvened)

13 THE COURT: I'm told we have a verdict.
14 We ready?

15 MR. MOORE: Yes, sir, Your Honor.

16 THE COURT: Everybody ready?

17 MR. KENDALL: Yes, sir, Your Honor.

18 THE COURT: We will have the jury.

19 (Whereupon, at 4:41 p.m., the jury panel returned
20 to open court to report its verdict)

21 THE COURT: Madam Forelady, has the jury reached
22 its verdict?

23 JURY FOREPERSON: We have, Your Honor.

24 THE COURT: If you would give that to the bailiff,
25 please?

1 Madam Clerk, if you will publish the verdict.

2 THE CLERK: 2017-GS-11-1483, State of South
3 Carolina versus Allen Charron Williams, Jr., we, the jury,
4 unanimously find the defendant Allen Charron Williams, Jr.,
5 on the charge of attempted murder not guilty.

6 We, the jury, unanimously find the defendant Allen
7 Charron Williams, Jr., on the charge of assault and battery
8 of a high and aggravated nature, guilty.

9 We, the jury, unanimously find the defendant,
10 Allen Charron Williams, Jr., on the charge of possession of
11 a weapon during commission of a violent crime, guilty.

12 Signed by foreperson Savannah Wilkins.

13 2017-GS-11-1484, State of South Carolina versus
14 Allen Charron Williams, Jr., we, the jury, unanimously find
15 the defendant, Allen Charron Williams, Jr., on the charge of
16 attempted murder of Douglas Scott Rising, not guilty.

17 We, the jury, unanimously find the defendant,
18 Allen Charron Williams, Jr., on the charge of assault and
19 battery in the first degree, guilty.

20 Signed by foreperson Savannah Wilkins.

21 2017-GS-11-1485, State of South Carolina versus
22 Allen Charron Williams, Jr., we, the jury, unanimously find
23 the defendant, Allen Charron Williams, Jr., on the charge of
24 attempted murder of W.D. not guilty.

25 We, the jury, unanimously find the defendant,

1 Allen Charron Williams, Jr., on the charge of assault and
2 battery in the first degree, guilty.

3 Signed by foreperson Savannah Wilkins.

4 Ladies and gentlemen of the jury, if this is the
5 verdict of you all, please indicate by raising your right
6 hand. Thank you.

7 THE COURT: Polling? Anything from the State?

8 MR. KENDALL: No, sir, Your Honor.

9 MR. MOORE: Defendant would like the jury polled,
10 Your Honor.

11 THE COURT: All right.

12 THE CLERK: When I call your name, please raise
13 your right hand.

14 Juror 139, Savannah Wilkins, is this your verdict?

15 JUROR NUMBER 139: Yes.

16 THE CLERK: Okay. Thank you.

17 Juror 70, Karen Lydon, is this your verdict?

18 JUROR NUMBER 70: Yes.

19 THE CLERK: Juror 84, Jeanette Mullinax, is this
20 your verdict?

21 JUROR NUMBER 84: Yes, ma'am.

22 THE CLERK: Juror 29, Franchisa Dawkins, is this
23 your verdict?

24 JUROR NUMBER 29: Yes, ma'am.

25 THE CLERK: Juror 69, Jeffrey Long, is this your

1 verdict?

2 JUROR NUMBER 69: Yes, ma'am.

3 THE CLERK: Juror 52, Rickey Helms, is this your
4 verdict?

5 JUROR NUMBER 52: Yes, ma'am.

6 THE CLERK: Thank you.

7 Juror 131, Kevin Upchurch, is this your verdict?

8 JUROR NUMBER 131: Yes, ma'am.

9 THE CLERK: Juror 106, David Ruppe, is this your
10 verdict?

11 JUROR NUMBER 106: Yes, ma'am.

12 THE CLERK: Juror 136, Joe Wheeler, is this your
13 verdict?

14 JUROR NUMBER 136: Yes.

15 THE CLERK: And juror 51, Jason Hawkins, is this
16 your verdict?

17 JUROR NUMBER 51: Yes, ma'am.

18 THE CLERK: Juror 59, Deborah Johnson, is this
19 your verdict?

20 JUROR NUMBER 59: Yes, ma'am.

21 THE CLERK: Juror 60, Gregory Jones, is this your
22 verdict?

23 JUROR NUMBER 60: Yes, ma'am.

24 THE CLERK: Is there anyone I did not call your
25 name?

1 (No response)

2 THE CLERK: All right.

3 THE COURT: Anything else from the State?

4 MR. KENDALL: No, sir, Your Honor.

5 THE COURT: From the defense?

6 MR. MOORE: No, sir, Your Honor.

7 THE COURT: Okay.

8 Madam Forelady and ladies and gentlemen, thank you
9 so much for your service. I have got some indictments,
10 Madam Forelady, you will have to sign. I'm going to hand
11 these to Madam Clerk. She's going to write those on there
12 and if you will sign those, and I'll just pause right here.

13 THE CLERK: This is going to conclude your service
14 this week. Thank you. You played a very important role
15 into the judicial system, so we thank you for being here
16 today. I know for somebody it's a hardship, because you
17 wasn't at work, you were not getting paid, but I can't thank
18 you enough. And the judge will tell you, this is just a
19 small token. You are worth way more to us than what this
20 pay voucher is going to show on it, but the top sheet is
21 your pay voucher. You can take that to the county
22 administration building. You may not can get over there
23 today by five, but you will take that to the treasurer's
24 office and they will pay you for your service this week in
25 cash. So make sure that you hang onto it. It's not a

1 check. It is a pay voucher. You will have to take it there
2 to get to your payment for services and the bottom sheet is
3 your work excuse.

4 THE COURT: Let me say one thing.

5 THE CLERK: Okay.

6 THE COURT: Before she gives you the pay voucher,
7 because she's going to be excusing you, I too want to thank
8 you for your service.

9 I also want to invite you to stay, if you would
10 like, but not in the jury box, because I'm going to move to
11 sentencing. I have been asked before by jurors which stay
12 with us a long time during a trial, they just kind of want
13 to see everything to an end, so once she gives you the pay
14 vouchers, you will be free to go, except for you, Madam
15 Forelady. You have got to sign the indictments, but
16 everyone else would be free to go. But if you would like to
17 stay, please just drop your badge on that table right there
18 and then just have a seat in the gallery out here, because
19 we are going to proceed to motions and sentencing.

20 (Off the record).

21 (Back on the record).

22 (Whereupon, the jury panel was discharged)

23 THE COURT: Solicitor?

24 MR. KENDALL: Your Honor, this is Mr. Williams, of
25 course. He does have a criminal history. I know the victim

1 in the case would like to address the court at the
2 appropriate time.

3 Starting first with his criminal history, Your
4 Honor. From 2012, assault and battery in the third degree.

5 Unlawful transportation of nonferrous metals.

6 Petit larceny.

7 False information from 2012.

8 2013, assault and battery in the third degree.

9 2014, manufacturing, distribution, or possession
10 with intent to distribute methamphetamine.

11 2015, public disorderly conduct.

12 Assault -- excuse me. Assault and battery by a
13 mob in the third degree.

14 It looks like also from 2015, a simple possession
15 of methamphetamine or cocaine base.

16 From out of state, I believe it was from Florida,
17 Your Honor, from 2008, trespass of structure or conveyance.

18 2009, possession of cocaine.

19 Possession of a controlled substance without a
20 prescription.

21 I believe that's it, Your Honor.

22 The victims' mother is here and she would like to
23 address the court.

24 The State would also ask as part of any sentence,
25 just so I don't forget, that any sentence include no contact

1 with the victims, specifically, obviously, the child. I
2 want to make sure that there is absolutely no contact.

3 If it's all right if she could go ahead and
4 address the court now?

5 THE COURT: Just a minute. I'm going to hear from
6 you, ladies last, if you just hold on a little bit.

7 Yes, sir, Mr. Moore.

8 MR. MOORE: Yes, sir, just briefly, Your Honor.

9 Obviously I'm not going to discuss any of the
10 facts. That's what we have done for the last two days.

11 He has been in jail for 618 days, which I believe
12 he's entitled to credit under the law for that time on any
13 sentence the court would impose.

14 You know, he's 29 years old, not married, doesn't
15 have any children.

16 His mother is here in the courtroom. She has been
17 here throughout the trial in support of him.

18 You know, he does have a drug history, it sounds
19 like, some assault and battery third degree in magistrate
20 court, but prior to this no issues with violent crimes or
21 violent tendencies or firearms, but he accepts the verdict
22 of the jury and just asks the court to have as much mercy on
23 him under the circumstances as possible, Your Honor.

24 THE COURT: Sir, would you like to speak?

25 THE DEFENDANT: Yes, sir.

1 I just want to say I accept the verdict from the
2 jury. Let the victims know I'm not holding no hard feelings
3 or nothing. I just wish the court would have as much mercy
4 as possible. Thank you.

5 THE COURT: All right.

6 Solicitor, I will be happy to hear from the
7 ladies.

8 TAMMY RISING: My name is Tammy Rising and I'm
9 C.D.'s mom. You got to meet him yesterday.

10 C.D. is a very good boy and I'm very proud of
11 him. He was very brave yesterday.

12 I know you guys got to see that part of him, but
13 what you don't get to see is that we have to take him to
14 counseling every week and that he's been diagnosed with
15 PTSD, anxiety, and panic attacks, and that he has to -- he's
16 had to be put on anxiety medicine to help prevent those
17 panic attacks. And that, you know, I have to go two or
18 three times a week to get him from school because he's had a
19 breakdown. He has to take that medicine three times a day.

20 And I know he has been in jail 618 days, but my
21 son has also suffered greatly these past 618 days. And I'm
22 just asking that you take that into consideration that this
23 is not going to go away any time soon from us. His life has
24 been forever changed by this and so has the family.

25 And I also ask that you just give him the maximum

1 possible and please give it consecutively. I don't believe
2 he deserves mercy from this court.

3 THE COURT: Ma'am, would you like to speak?

4 HELEN WILLIAMS: Yes, I'm Helen Williams. I'm
5 C.D.'s grandmother.

6 C.D. also has to take sleep medicine because of
7 the nightmares. He -- he lost his grandpa at five and he
8 was in bed with him when my husband died and then at ten
9 this happened. He told me he didn't live to be fifteen
10 because he thought something else is going to happen.

11 And I just want to say that not only did my
12 grandson's life be in jeopardy, you also about took our
13 lives, because C.D. is our life. He's the baby.

14 And like my daughter, I don't think that taking it
15 easy on him is good, because my grandson has got to live
16 like this for the rest of his life and so does my family.
17 We will never be the same.

18 And I do want to thank the jury and everybody in
19 this courtroom that has stood by us, but I'm just so glad
20 that this court deal is over.

21 THE COURT: Thank you, ma'am.

22 2017-1483, twenty years in the Department of
23 Corrections.

24 It will be consecutive to all indictments.

25 Credit for 618 days.

1 No contact with the victims.

2 2017-1483, that's the firearm. Five years

3 Department of Corrections. That would be concurrent to all
4 indictments.

5 618 days.

6 2017-1484, five years Department of Corrections.

7 Consecutive to all indictments.

8 Credit for 618 days.

9 2017-1485, Department of Corrections for five
10 years.

11 Consecutive to all indictments.

12 Credit for 618 days.

13 No contact with the victims.

14 You shot a child.

15 Good luck to you.

16 MR. KENDALL: Thank you, Your Honor.

17 (END OF REQUESTED TRANSCRIPT OF RECORD)

18

19

20

21

22

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25

CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Cherokee County, South Carolina, on the 15th and 16th days of January, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

JULY 15, 2019

Michael R. Watts

Michael R. Watts
Circuit Court Reporter

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2017A1110200106 - Count 1

DIRECT INDICTMENT - Count 2

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11-16-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 17-GS-11-01483

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

NOV 16 2017

TERM

THE STATE

vs.

ALLEN CHARRON WILLIAMS, JR.

Indictment for

ATTEMPTED MURDER-COUNT ONE AND
POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME-
COUNT TWO

SC Code: 16-3-0029, 16-23-490

CDR Code: 3410, 0549

Class FEL-A, FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2017 NOV 16 AM 10:28

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on NOV 16 2017, the
 Grand Jurors of Cherokee County present upon their oath:

ATTEMPTED MURDER-COUNT ONE

That Allen Charron Williams, Jr. did in Cherokee County between May 9, 2017,
 and May 10, 2017, with malice aforethought either expressed or implied, attempt
 to kill C.D. by shooting the victim, with the intent to kill the victim, in
 violation of §16-03-0029, OF THE CODE OF LAWS OF SOUTH CAROLINA, (1976, as
 amended).

**POSSESSION OF A WEAPON DURING
 COMMISSION OF A VIOLENT CRIME-COUNT TWO**

That Allen Charon Williams, Jr. did in Cherokee County between May 9,
 2017, and May 10, 2017, possess a firearm during the commission of a violent crime
 as defined in Code §16-1-60, to wit: Attempted Murder, in violation of Code §16-
 23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in
 such case made and provided.


 ASSISTANT SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2017A1110200107 - Count 1

DIRECT INDICTMENT - Count 2

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11-16-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

17-GS-11-01484

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

NOV 16 2017 TERM

THE STATE

vs.

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 COUNTY OF CHEROKEE)

INDICTMENT

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ATTEMPTED MURDER-COUNT ONE

That Allen Charron Williams, Jr. did in Cherokee County between May 9, 2017, and May 10, 2017, with malice aforethought either expressed or implied, attempt to kill Douglas Scott Rising, by shooting at the victim, with the intent to kill the victim, in violation of §16-03-0029, OF THE CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

**POSSESSION OF A WEAPON DURING
 COMMISSION OF A VIOLENT CRIME-COUNT TWO**

That Allen Charon Williams, Jr. did in Cherokee County between May 9, 2017, and May 10, 2017, possess a firearm during the commission of a violent crime as defined in Code §16-1-60, to wit: Attempted Murder, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

WITNESSES

Cherokee County Sheriff's Office



ARREST WARRANT NUMBER

2017A1110200108 - Count 1

DIRECT INDICTMENT - Count 2

ACTION OF GRAND JURY

TRUE BILL
TRUE BILL

Foreperson of Grand Jury

Date: 11-16-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

17-GS-11-01485

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

NOV 16 2017

TERM

THE STATE

vs.

ALLEN CHARRON WILLIAMS, JR.

Indictment for

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That Allen Charron Williams, Jr. did in Cherokee County between May 9, 2017,
and May 10, 2017, with malice aforethought either expressed or implied, attempt
to kill W.D. by shooting at the victim, with the intent to kill the
victim, in violation of §16-03-0029, OF THE CODE OF LAWS OF SOUTH CAROLINA,
(1976, as amended).

**POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME-COUNT TWO**

That Allen Charon Williams, Jr. did in Cherokee County between May 9,
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as defined in Code §16-1-60, to wit: Attempted Murder, in violation of Code §16-
23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in
such case made and provided.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Cherokee

VS.

Allen Charron Williams Jr

AKA:

Race: BLACK Sex: M Age: 29

DOB: SS#:

Address: Evans street

City, State, Zip: Gaffney, SC 29340

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault/Assault and Battery-1st degree

(0-10y, 1)

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45

w/minor 1st or Lewd Act)

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

ATTEST:

KENDALL, MATT

SCB77213

SC Bar#

Defendant

Moore, Travis A.
Attorney for Defendant

SCB78108

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: All indictments☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(I) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS1101484

A/W#: 2017A1110200107

Date of Offense: 5/9/2017

S.C. Code § 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: NO Contact Victim

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
 STATE VS.
Allen Charron Williams Jr

AKA:

Race: BLACK Sex: M Age: 29DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Evans streetCity, State, Zip: Gaffney, SC 29340DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault/Assault and Battery-1st degree (0-10 yrs)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS1101485A/W#: 2017A1110200108Date of Offense: 5/9/2017S.C. Code § 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST:

KENDALL, MATT

SCB77213

SC Bar#

Defendant

Moore, Travis A.
Attorney for Defendant

SCB78108

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
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☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: All indictments☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine: \$
 §14-1-206 (Assessments 107.5 %) \$
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 §50-21-114 (BUI Breath Test Fee) \$50 \$
 §56-5-2942(J) (Vehicle Assessment) \$40/ca \$
 3% to County (if paid in installments) \$ 3.75

TOTAL

\$128.75Clerk of Court/ Deputy Clerk Brandi McBarCourt Reporter: Mike Ralls

SCCA/217 (04/2018)

Presiding Judge Keith KellyJudge Code: 2167Sentence Date: 1/16/19

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

RECEIVED
Jul 14 2020
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ALLEN CHARRON WILLIAMS, JR.

APPELLANT

APPELLATE CASE NO. 2019-000123

FINAL BRIEF OF APPELLANT

SARAH SHIPE
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err by denying defense counsel's motion for directed verdict where the state failed to introduce substantial circumstantial evidence that Appellant was the individual who shot at the truck?

STATEMENT OF THE CASE

On November 16, 2017, a Cherokee County grand jury indicted Appellant for three counts of attempted murder and three counts of possession of a weapon during commission of a violent crime. R. 147.

Appellant's case was called to trial on January 15, 2019, before the Honorable R. Keith Kelly and a jury. R. 1. Travis Moore represented Appellant. R. 1. Assistant solicitor George Kendell and assistant solicitor Kimberly Leskanic represented the state. R. 1.

On January 16, 2019, the jury found Appellant guilty of assault and battery of a high and aggravated nature, two counts of first-degree assault and battery, and possession of a weapon during the commission of a violent crime. R. 137-38. Judge Kelly sentenced Appellant to twenty years' and two five-year terms imprisonment to run consecutively and a concurrent term of five years' imprisonment. R. 145-46; R. 149.

This appeal follows.

STANDARD OF REVIEW

“[W]hen the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed verdict.” *State v. Odems*, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011); *see Hepburn*, 406 S.C. at 429, 753 S.E.2d at 408 (“In cases where the State has failed to present evidence of the offense charged, a criminal defendant is entitled to a directed verdict.”). Further, when the State relies exclusively on circumstantial evidence and a motion for a directed verdict is made, the trial judge is concerned with the existence or non-existence of evidence, not with its weight. *State v. Cherry*, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (2004). The trial judge “should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty.” *Id.* “‘Suspicion’ implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.” *Id.* “However, a trial judge is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis.” *State v. Ballenger*, 322 S.C. 196, 199, 470 S.E.2d 851, 853 (1996). “On appeal from the denial of a directed verdict, [the] Court views the evidence and all reasonable inferences in the light most favorable to the State.” *State v. Butler*, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014).

ARGUMENT

The trial judge erred in denying Appellant's motion for directed verdict where there was insubstantial circumstantial evidence that Appellant was the shooter.

Introduction

One evening, two young men, Caleb and Wesley, and their step-father were driving their truck around a neighborhood. Caleb rode in the bed of the truck and Wesley and their step-father rode in the cab. R. 13, ll. 3-23; R. 26, l. 8-R. 27, l. 15. They drove around the same loop multiple times until a woman, out on her porch, yelled at them, "why [do] y'all keep driving by." They stopped the truck, and shortly after a shot was fired at the truck injuring Caleb. R. 17, ll. 10-14; R. 29, l. 12-R. 30 l. 2. When police arrived, Appellant's neighbor, Sierra McKinney, and her sister, Christa Hall, told police they saw Appellant with a gun at some point before hearing the gunshot. R. 40, l. 22-R. 43, l. 17; R. 65, ll. 8-11. Appellant was detained, his hands were tested for gunshot residue (GSR), and his residence and the surrounding area was searched. R. 80, ll. 5-9; R. 85, ll. 1-18. The results of the GSR kit showed a single particle of GSR on Appellant's left palm. No physical evidence related to the shooting was found during the search of Appellant's home or the surrounding area. R. 85, ll. 2-9; R. 90, l. 18-R. 91, l. 11; R. 115, ll. 13-21; R. 117, ll. 1-25; R. 122, l. 11-R. 123, l. 16; R. 126, ll. 11-20. Appellant was indicted on three counts of attempted murder and three counts of possession of a weapon during the commission of a violent crime. R. 147.

Relevant facts

At trial, Caleb and Wesley testified a woman yelled at them from a porch and neither saw who fired the gun. R. 17, ll. 10-14; R. 21, ll. 12-25; R. 22, l. 18-R. 23, l. 3. Wesley claimed he saw a man right before the truck turned on the street where the shot was fired but he did not see a

gun. R. 32, ll. 3-5. Sierra testified she was out on her porch that evening with Christa and they were concerned because the truck drove by multiple times. R. 39, l. 18-R. 40, l. 13. Sierra admitted they called out to the truck, “what are you doing.” R. 49, ll. 3-10. Sierra and Christa claimed they saw Appellant acting “aggravated.” R. 40, l. 22-83, l. 9; R. 63, ll. 21-25. Both women allegedly saw Appellant carrying a gun before they heard a gunshot but neither could recall exactly how much time passed between seeing Appellant and hearing the gunshot. R. 41, l. 22-R. 43, l. 22; R. 52, l. 12-R. 53, l. 9. On direct, Sierra seemed unsure about the timeline of events. She first testified that she saw Appellant with a gun ten or fifteen minutes before she heard a gunshot. Sierra later said it maybe have been less than ten or fifteen minutes. R. 43, ll. 14-17. Then, on cross-examination, Sierra admitted she did not remember much of what happened that night. R. 53, ll. 6-13. On direct, Christa claimed she saw Appellant run off with a gun seconds before hearing a gunshot. R. 67, ll. 6-17. During cross-examination, Christa grudgingly admitted she told police she saw Appellant walk away before hearing the gunshot. R. 73, l. 18-R. 74, l. 16. At trial, no one testified that they saw Appellant shoot at the truck. R. 52, ll. 6-7; R. 72, ll. 6-7. The results from the GSR kit administered on Appellant revealed a single particle on his left palm, which SLED expert admitted, could have been the product of transfer. R. 115, ll. 13-21; R. 117, ll. 1-25; R. 122, l. 11-R. 123, l. 16; R. 126, ll. 11-20. Police did not find a gun, shells, or any other physical evidence of the shooting during their search of Appellant’s residence or the surrounding area. R. 85, ll. 2-9; R. 90, l. 18-R. 91, l. 11.

Discussion

At trial, the state offered scant circumstantial evidence that Appellant was the shooter. The evidence showed Appellant was present, in the neighborhood where he lived, at the time the incident occurred, and Appellant was seen with a gun at some point before the gunshot was

heard. However, the evidence did not show who shot at the truck that night.

In *State v. Mitchell*, 341 S.C. 134, 535 S.E.2d 126 (2000), the South Carolina Supreme Court held the lower court erred in failing to direct a verdict where the only evidence presented against defendant was his fingerprint at the scene of the burglary. Similarly, in *State v. Lollis*, 343 S.C. 580, 541 S.E.2d 254 (2001), the South Carolina Supreme Court directed a verdict of acquittal in defendant's favor where the state presented no direct evidence that defendant was involved in setting fire to his home. The circumstantial evidence against defendant was that his wife admitted to the arson, defendant had placed valuables in storage prior to the fire, defendant possessed a key to the storage unit, and defendant allegedly had financial troubles. In that case the court found the evidence insufficient. *Lollis*, at 585, 541 S.E.2d at 257.

In *State v. Martin*, 340 S.C. 597, 533 S.E.2d 572 (2000), the South Carolina Supreme Court directed a verdict of acquittal in defendant's favor where the state failed to meet the "any substantial evidence" standard. In that case the state presented evidence that a car resembling the one defendant was driving was seen parked at the victim's apartment complex on the night of the murder. *Martin*, at 600, 533 S.E.2d at 573. The state also presented evidence defendant and co-defendant were late picking up defendant's girlfriend from work and when his girlfriend asked why they were late defendant replied, "some shit happened" and co-defendant added "somebody may have died tonight." *Id.*

In *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2012), the South Carolina Supreme Court held defendant was entitled to a directed verdict based upon a lack of substantial circumstantial evidence that defendant was involved in the burglary. Although defendant was in a car with other individuals who admittedly burglarized a home, the state failed to provide substantial circumstantial evidence that defendant was present during the home invasion. The witness who

saw individuals at the home claimed she saw two, not three as were found in the car. *Odems*, at 584, 720 S.E.2d at 49. Fingerprints collected from the stolen goods did not match defendant's but matched the other individuals in the car. *Id.* at 588, 720 S.E.2d at 51. One of the individuals who admitted his involvement claimed defendant was picked up after the burglary at a gas station. *Id.*

In *State v. Bostick*, 392 S.C. 134, 141, 708 S.E.2d 774, 778 (2011), the South Carolina Supreme Court held the state failed to present substantial circumstantial evidence of defendant's guilt. Rather, the state's evidence could produce only a suspicion of defendant's guilt. *Id.* Although the police found items belonging to the victim in a burn pile behind the home of defendant's mother, the court held no evidence linked defendant to the evidence in the burn pile and the prosecution presented no testimony that defendant had control over the burn pile. *Id.* at 137-141, 708 S.E.2d at 775-778. The only other evidence presented against defendant was that he had a chemical pattern that matched gasoline on his shoes and gasoline was used to start the fire at the victim's home, and DNA from blood on defendant's jeans excluded ninety-nine percent of the population, but the expert could not testify the DNA matched the victim. *Id.* at 142, 708 S.E.2d at 778.

The case at bar has less circumstantial evidence than the cases mentioned above where the court found the lower court should have directed a verdict in defendants' favor. In *Martin*, there was evidence presented that could be construed as an admission of guilt as well as a car matching the description of the car defendant was driving was seen at victim's apartment on the night of the murder. *Martin*, at 600, 533 S.E.2d at 573. In *Bostick*, the victim's belongings were found in a burn pile behind defendant's mother's home and defendant had blood on his jeans. Here, when the state closed its case, only the following pieces of circumstantial evidence had

been presented Sierra and Christa claimed they saw Appellant with a gun and one particle of GSR was found on Appellant's hand.

Conversely, the state offered no evidence that anyone saw Appellant shoot at the truck and police did not find a gun or shells during their search of Appellant's residence or the surrounding area. Certainly, Appellant was in the area at the time of the incident but so were the two neighborhood witnesses that testified at trial. Police did no investigation into the either Sierra or Christa, who claim they saw Appellant with a gun before the gunshot. Sierra and Christa are the same individuals Caleb and Wesley heard yelling at them right before their truck was shot at. Christa gave a written statement the night of the incident and then changed it when she testified at trial. Additionally, police did not search Sierra's residence where she, admittedly, had guns and police did not perform GSR testing on anyone other than Appellant. R. 53, l. 20-R. 54, l. 4. Perhaps, had there been additional investigation into the incident, more would be known about exactly what happened that night. All that is known is Sierra and Christa were out on the porch and noticed a truck kept driving by, they both claim they saw Appellant with a gun, either Sierra or Christa yelled at the truck, the truck stopped, and someone shot at the truck injuring the Caleb. The state presented zero direct evidence and insubstantial circumstantial evidence that the shooter was Appellant. Thus, the trial judge should have directed a verdict in Appellant's favor because the evidence presented only raised a suspicion of guilt.

CONCLUSION

Based on the foregoing, Appellant requests this Court reverse the trial court and grant his motion for a directed verdict.

s/ Sarah E. Shipe
Sarah Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of July, 2020.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and 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.”

July 14, 2019.

RECEIVED

Jul 14 2020

SC Court of Appeals

s/ Sarah E. Shipe
Sarah E. Shipe
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jul 14 2020

SC Court of Appeals

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALLEN CHARRON WILLIAMS, JR.

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above-referenced case has been served upon Deborah R.J. Shupe, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 14th day of July, 2020.

s/ Sarah E. Shipe
Sarah Shipe
Appellate Defender
ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jul 06 2020

SC Court of Appeals

Appeal from Cherokee County
The Honorable R. Keith Kelly, Circuit Court Judge
Appellate Case No. 2019-000123

The State,

Respondent,

v.

Allen Charron Williams, Jr.,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General
S.C. Bar No. 5098

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

Appellant failed to preserve any issue related to the sufficiency of the State's circumstantial evidence regarding the shooter's identity; but even if such an issue was preserved, the circuit court properly denied Appellant's directed verdict motion because there was sufficient evidence in the record to submit the case to the jury.

STATEMENT OF THE CASE

The State concurs with Appellant's procedural Statement of the Case.

STATEMENT OF FACTS

On November 16, 2017, the Cherokee County Grand Jury indicted Appellant Allen Charron Williams, Jr., on three counts of attempted murder, and three counts of possession of a weapon during the commission of a crime of violence, in connection with a shooting incident on May 9, 2017. The matter was called for a jury trial on January 15, 2019, before the Honorable R. Keith Kelly, Circuit Court Judge.

Victim 1 (“Caleb”)¹ testified he was working on a truck with his brother and stepfather on May 9, 2017, and they started driving the truck around their neighborhood to burn off some gas in it. Caleb was riding in the truck bed. While they were riding around, they drive down Evans Street approximately four times. Caleb stated there were no cars driving on the road, and there were not a lot of people walking around the area, (Trial Transcript [TT], pp. 54-59; Record on Appeal [R., pp. 12-17).

The last time they drove the truck down Evans Street, someone yelled “why y’all keep driving by,” and when Caleb’s stepfather stopped to tell the person why they were driving around, they heard a gunshot. Caleb was hit on the face, scalp and chest. He jumped out of the truck, and his brother pulled him through the window into the cab of the truck. They immediately drove home to wash the blood off Caleb, and then drove to the emergency room. (TT, pp. 58-60; R., pp. 16-18).

At the emergency room, the doctors used tweezers to pull one of the pellets out of Caleb’s chest. Caleb was then taken to Spartanburg Memorial Hospital by ambulance, where he had surgery to remove more of the pellets from his body. He testified he was shot in the cheek,

¹Caleb was eleven years old at the time of trial, so he was approximately 9 years old when the shooting occurred on May 9, 2017.

right above his eye, on his eye, his right ear, and his little finger. He was also shot twice in the lower abdomen, and twice in the chest area. (TT, pp. 60-62; R., pp.18-20).

Victim 2 (“Austin”) testified he was Caleb’s brother, and he was riding in the truck cab with their step-father when the shooting occurred. They were driving the truck around the neighborhood on May 9, 2017, because they had been working on the truck, and thought it might have some bad gas in it that needed to be run off. The last time they drove down Evans Street, a woman called out asking why they were driving around. Austin’s stepfather yelled they were working on the truck, and started to go back to the house in reverse when they heard a gunshot. Austin saw Caleb jump out of the truck bed, noticed Caleb was bleeding, and pulled Caleb through the window into the truck cab. He stated there was no other traffic on the street, and the only people he saw on the street were the woman who yelled at them from her porch and a man walking down the road right before they got to Evans Street, but he never saw anyone with a gun. (TT, pp. 75; R., pp. 33).

Sierra McKinney testified she had known Appellant since 2012, and he lived on Evans Street, right behind her sister’s house.² On the evening of May 9, 2017, McKinney was visiting her sister and brother-in-law, and they were sitting outside on the porch. They noticed a truck driving around the block multiple times, which was not ordinary because the streets were not well traveled. (TT, pp. 78-82; R., pp.36-40).

McKinney saw Appellant, who looked “aggravated,” and worried about the truck because he thought the people in it might be trying to start trouble. At one point, Appellant put some broken bricks in the street, and walked past McKinney’s sister’s house carrying a “long gun.”

²Appellant’s house faced Evans Street and McKinney’s sister’s house faced Rita Street, but the way the houses sat on the streets, Appellant’s house was behind and to the side of the sister’s house. (TT, pp. 79-81; R., pp. 37-39).

Shortly after Appellant walked past the house, McKinney heard a “loud boom” from the direction Appellant was walking. McKinney never saw anyone else with a gun that night, and testified she did not see who fired the shot. (TT, pp. 81-86; R., pp. 39-44).

Christa Hall testified Appellant lived behind her sister’s house, and she was visiting her sister the evening of May 9, 2017. They were sitting on the porch when they saw a truck driving around the block multiple times. She stated they were curious about what was going on, but they learned “they was just testing their truck.” (TT, pp. 104-105; R., pp. 62-63).

Hall saw Appellant that night while the truck was driving around, and he looked “jittery, nervous, sweaty.” She testified Appellant was nervous about the truck, and kept asking Hall and the others sitting on the porch “who are these people.” He then threw some broken brick pieces across the road, but “not a big pile.” When Appellant went to get the bricks, he came back with a long barreled gun. When the truck came back around, Appellant “took off running behind my sister’s house,” carrying the gun, and seconds later, Hall heard a gunshot. She did not see who shot the gun, but Appellant was the only person she saw with a gun that night. (TT, pp. 105-119; R., pp. 63-77).

Deputy Billy Anthony, a crime scene investigator with the Cherokee County Sheriff’s Office, testified he was called to the scene of a shooting incident on Evans Street in Gaffney the night of May 9, 2017. He performed a gunshot residue test on Appellant at the scene. Officers also conducted a search for the gun, but did not find it. After reviewing photographs of Caleb taken at the hospital, Deputy Anthony testified Caleb’s wounds were consistent with birdshot from a shotgun, which is generally a long gun. (TT, pp. 120-131; R., pp 78-89).

Dr. Keith Webb was qualified as an expert in pediatric surgery, and testified he conducted surgery on Caleb to remove multiple projectiles from his body which were consistent

with a shotgun injury. There were eighteen projectiles in Caleb's body, located in the head, neck and face regions, but Dr. Webb was only able to remove ten and the remaining eight projectiles remain in Caleb's body. (TT, pp. 151-158; R., pp. 100-107).

Agent Megan Fletcher of the State Law Enforcement Division testified she analyzed the gunshot residue kit from Appellant's hand submitted by Deputy Anthony in connection with the May 9, 2017, shooting incident. Her analysis revealed one particle that was "characteristic of gunshot primer residue. She testified she could not identify the type of gun the residue came from, or how it got on Appellant's hand. (TT, pp. 160-181; R., pp. 109-130).

After the State rested its case, Appellant moved for a directed verdict on the attempted murder indictments on the ground the State presented "no evidence" Appellant had "the specific intent to murder or kill anybody in this situation." The circuit court denied the motion, finding "[t]here is a question of fact as to what his criminal intent was," which "is a question for the finders of fact." (TT, pp. 184-186; R., pp. 133-135).

The jury found Appellant not guilty on the attempted murder charges, but guilty of assault and battery of a high and aggravated nature (ABHAN) and possession of a weapon during commission of a violent crime as to Caleb, and guilty of assault and battery in the first degree as to Austin and the stepfather. (TT, pp. 240-242; R., pp. 136-138). The circuit court sentenced Appellant to twenty years incarceration on the ABHAN conviction, five years concurrent on the possession conviction, and five years consecutive on each of the two assault and battery in the first degree convictions. (TT, pp. 249-250; R., pp. 145-146). This appeal followed.

STANDARD OF REVIEW

“On appeal from the denial of a directed verdict, this Court views the evidence and all reasonable inferences in the light most favorable to the State.” State v. Bennett, 415 S.C. 232, 781 S.E.2d 352, 353 (2016) (*quoting* State v. Butler, 407 S.C. 376, 755 S.E.2d 457, 460 [2014]). The Court's review is limited to considering the existence or nonexistence of evidence, not its weight. *Id.* (citing State v. Cherry, 361 S.C. 588, 606 S.E.2d 475, 478–79 [2004]); *see also* State v. Larmand, 415 S.C. 23, 780 S.E.2d 892, 895 (2015) (same).

The appellate court must find the case was properly submitted to the jury if there is sufficient direct and/or substantial circumstantial evidence reasonably tending to prove guilt. State v. Lane, 410 S.C. 505, 765 S.E.2d 557, 558 (2014); State v. Davis, 422 S.C. 472, 812 S.E.2d 423, 429 (Ct. App. 2018) (same); State v. Lynch, 412 S.C. 156, 771 S.E.2d 346, 354 (Ct. App. 2015) (same). “Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error.” State v. Arnold, 361 S.C. 386, 605 S.E.2d 529, 531 (2004); State v. Bennett, 408 S.C. 302, 758 S.E.2d 743, 745 (Ct. App. 2014) (same). When the State relies on circumstantial evidence, the appellate court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt. Davis, 812 S.E.2d at 429.

ARGUMENT

Appellant failed to preserve any issue related to the sufficiency of the State's circumstantial evidence regarding the shooter's identity; but even if such an issue was preserved, the circuit court properly denied Appellant's directed verdict motion because there was sufficient evidence in the record to submit the case to the jury.

Appellant contends the circuit court erred in denying his directed verdict motion because the State failed to produce substantial circumstantial evidence “that Appellant was the shooter.” This issue is not preserved for appellate review, but even if preserved, there was sufficient evidence regarding Appellant's identity as the shooter to submit the case to the jury.

A. Issue Preservation

In order to be preserved for appellate review, an issue must have been raised to and ruled upon by the trial court, and issues not raised and ruled upon in the trial court will not be considered on appeal. State v. King, 424 S.C. 188, 818 S.E.2d 204, 209-210 (2018). While the party does not need to use the exact name of a legal doctrine in order to preserve it, it must be clear the argument has been presented **on that ground**, and the issue must have been raised with **sufficient specificity** to bring into focus the **precise** nature of the alleged error so it can be reasonably understood by the court. State v. Dunbar, 356 S.C. 138, 587 S.E.2d 691, 694 (2003); State v. Daise, 421 S.C. 442, 807 S.E.2d 710, 714 (Ct. App. 2017); State v. Passmore, 363 S.C. 568, 611 S.E.2d 273, 281 (Ct. App. 2005). Further, a party may not argue one ground before the trial court, and argue a different ground on appeal. State v. Byram, 326 S.C. 107, 485 S.E.2d 360, 363 (1997).

The only basis for Appellant's directed verdict motion in the circuit court was the lack of evidence of “specific intent” necessary for the attempted murder charges. He never moved for a directed verdict on the ground the State failed to present sufficient circumstantial evidence to

prove Appellant was the shooter. Indeed, the directed verdict motion as stated essentially conceded Appellant was the shooter, but did not have the specific intent to kill anyone in the truck. Therefore, the issue raised on appeal is very different from the issue raised to and ruled on by the circuit court, and it is not preserved for appellate review. Even if preserved, however, Appellant's argument fails on the merits.

B. Directed Verdict

When considering a motion for directed verdict, the trial court is concerned with the existence of evidence, not its weight. State v. Walker, 349 S.C. 49, 53, 562 S.E.2d 313, 315 (2002). The trial court's task is to simply determine "whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt. State v. Bennett, 415 S.C. 232, 781 S.E.2d 352 (2016).

"It is a fundamental concept of criminal law that the State must prove beyond a reasonable doubt all the elements of the offense charged against the defendant." State v. Brown, 360 S.C. 581, 602 S.E.2d 392, 397 (2004). Ultimately, the question is whether, in view of the evidence in the light most favorable to the State, a rational trier of fact could find all the elements beyond a reasonable doubt. State v. Robinson, 310 S.C. 535, 426 S.E.2d 317, 318 (1992) (finding any rational trier of fact could have found all the elements of the crime beyond a reasonable doubt in affirming the denial of a motion for directed verdict and citing Jackson v. Virginia, 443 U.S. 307 (1979)).

The United States Supreme Court noted the following:

[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. . . . This familiar standard gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable

inferences from basic facts to ultimate facts.

Jackson, at 319 (emphasis in original).

In the instant case, it was undisputed Appellant was the **only** person seen in the vicinity of the shooting who was carrying a long gun, and he appeared nervous and agitated by the truck driving around the block several times, to the extent he threw broken bricks on the road in an effort to slow down or stop the truck. It was also undisputed the gunshot was heard within seconds after Appellant, with the long gun in his hands, ran in the truck's direction the last time it drove around the block. Based on those undisputed facts, a reasonable juror could easily find Appellant was the "shooter," even though no one actually saw him pull the trigger.

An illustration frequently used by trial judges to explain circumstantial evidence is instructive. If all outside surfaces are dry when a person goes to bed at night, but they are wet when the person goes outside the next morning, people can reasonably find it rained at some point between the time the person went to bed and the time the person got up. Similarly, if Appellant was the only person carrying a long gun the evening of May 9, 2017, and a gunshot rang out seconds after he was seen running toward the area from which the gunshot came, people can reasonably find Appellant was the person who fired the shot.

The sufficiency of the circumstantial evidence to prove Appellant was the person who fired the gunshot that lead to Caleb's injuries was not preserved for appellate review. As demonstrated above, however, even if the issue was preserved, the evidence in the record was more than sufficient to send the case to the jury.

CONCLUSION

Based on the foregoing reasons, the State respectfully submits the circuit court's ruling and Appellant's convictions should be affirmed.

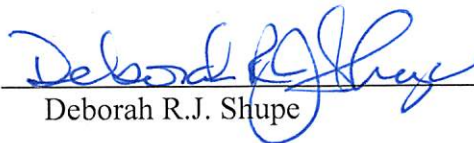
Respectfully submitted,

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BY:


Deborah R.J. Shupe

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ATTORNEYS FOR RESPONDENT

July 6, 2020

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jul 06 2020

SC Court of Appeals

Appeal from Cherokee County
The Honorable R. Keith Kelly, Circuit Court Judge
Appellate Case No. 2019-000123

The State,

Respondent,

v.

Allen Charron Williams, Jr.,

Appellant.

CERTIFICATE OF COUNSEL

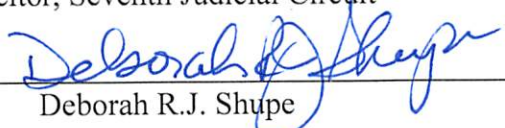
The undersigned certifies that Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled, "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Findings."

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Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

Barry J. Barnette
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BY:


Deborah R.J. Shupe

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ATTORNEYS FOR RESPONDENT

July 6, 2020

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Allen Charron Williams, Jr., Appellant.

Appellate Case No. 2019-000123

Appeal From Cherokee County
R. Keith Kelly, Circuit Court Judge

Unpublished Opinion No. 2021-UP-204
Submitted May 1, 2021 – Filed June 9, 2021

AFFIRMED

Appellate Defender Sarah Elizabeth Shipe, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Deborah R.J. Shupe,
both of Columbia, for Respondent.

PER CURIAM: Allen Charron Williams, Jr. appeals his convictions and sentences of twenty years' imprisonment for assault and battery of a high and aggravated nature, two consecutive sentences of five years' imprisonment for two counts of first-degree assault and battery, and a concurrent sentence of five years'

imprisonment for possession of a weapon during the commission of a violent crime. On appeal, Williams argues the circuit court erred by denying his directed verdict motion when the State failed to introduce substantial circumstantial evidence showing he was the shooter. We find this issue is not preserved for appellate review because Williams raises a different argument on appeal than the argument he raised to the circuit court. Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal."); *id.* at 142, 587 S.E.2d at 694 ("A party need not use the exact name of a legal doctrine in order to preserve it, but it must be clear that the argument has been presented on that ground."); *id.* ("A party may not argue one ground at trial and an alternate ground on appeal.").

AFFIRMED.¹

LOCKEMY, C.J., and HUFF and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

22CP-110770

STATE OF SOUTH CAROLINA

County of Cherokee CountyWillie Gerald Williams Jr 36534

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2022 NOV 15 AM 10:41

BRANDY W. MCBEE

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legible handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Cherokee County Detention Center
2. Name and location of Court which imposed sentence Cherokee County Court at General Sessions 1 125 E Floyd Peter Blvd. Cary SC 29542
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017GS1101483
 - (b) 2017GS1101484

- (c) 2017/GB101485
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 1-19 20 years
- (b) 1-19 5 years
- (c) 1-19 5 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. Supreme Court of South Carolina
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. ~~Had been my appellate attorney appealed the wrong thing denied~~
- ii. ~~Filed the petition for writ of Certiorari Denied~~
- iii. Based on the vote of the Court, the petition for writ of Certiorari is denied.
- (c) the date of each such result:
- i. June 29, 2021
- ii. ~~June 29, 2021~~ January 13, 2022
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. the issue is not preserved for appellate review because Williams raised a di-
- ii. Court unable to discover that any material fact of law has been over-
- iii. looked or disregarded.
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Effective assistance of counsel Appellate Counsel
- (b) Effective assistance of trial Counsel. Amend
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) The Appellate court, and the South Carolina Court of Appeals and the
- (b) issue my appellant attorney raised was not preserved for appellate
- (c) review. Rule 220(b), SCRAP: State v. Gumbert
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Travis A. Moore
 ii. Sarah Shipes Division of Appellate Defense, 1330 Lady Street, Suite 401, Columbia SC 29201-3332
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. Pre trial and trial
 ii. Appeal
 iii. _____

19. State clearly the relief you seek in filing this application:

I am seeking a dismissal of all indicted charges due to 4th amendment
violations and a evidentiary hearing.

20. Are you now under sentence from any other court that you have not challenged?

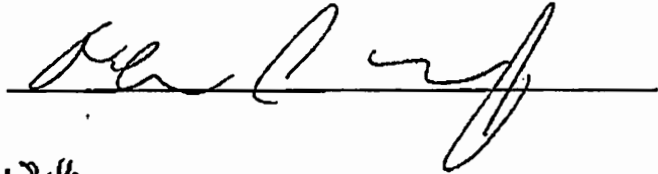
NO

STATE OF SOUTH CAROLINA)

County of Cherokee)

VERIFICATION

I, Miller-Charles Williams Jr, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 18th
 day of October, 2022

 (L.S.)
 Notary Public

My Commission Expires: 2/17/24

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Allen Chester Williams Jr, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Allen C Williams Jr 9.15.22
Applicant

SWORN or affirmed to and subscribed before me this

18th day of October, 2022

Sarah J. [Signature]
Notary Public

My Commission Expires: 2/17/24

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Allen Williams, Jr., #365344,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2022-CP-11-0770

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on November 15, 2022, by Allen Williams, Jr. (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its November 2017 term, the Cherokee County Grand Jury indicted Applicant for three counts of attempted murder (count one) and three counts of possession of a weapon during the commission of a violent crime (count two) (2017-GS-11-01483, -01484, -01485). Applicant was represented by Travis A. Moore, Esquire. Assistant Solicitors Kimberly Leskanic and George Matthew Kendall, Esquires, of the Seventh Circuit Solicitor's Office prosecuted the case. On January 15, 2019, Applicant proceeded to trial before the Honorable R. Keith Kelly, circuit court judge, and a jury. Applicant was found guilty of the lesser-included offense of first-degree assault and battery on the -1484 and -1485 charges, the lesser-included offense of assault and battery of a high and aggravated nature on the -1483 offense, and as indicted on the weapons' possession charge. Judge Kelly

sentenced Applicant to twenty years' and two-five-year terms of imprisonment, to run consecutively and a concurrent term of five years' imprisonment.

Applicant filed a timely notice of appeal on January 28, 2019, that was perfected by Sara E. Shipe, Esquire. Briefing concluded on July 14, 2020. The South Carolina Court of Appeals affirmed Applicant's convictions by unpublished opinion. *State v. Williams*, 2021-UP-204 (S.C. Ct. App. filed June 9, 2021). A petition for rehearing was filed on June 24, 2021 and denied on June 29, 2021. Applicant filed a petition for writ of certiorari in the South Carolina Supreme Court, which was denied on January 13, 2022. The remittitur was issued on January 18, 2022.

II. Statement of Facts

Victim 1 ("C.D." testified he was working on a truck with his brother and stepfather when they started driving to burn off some gas. C.D. was in the truck bed. While they were riding around, they drove down Evans Street about four times. C.D. stated there were no cars on the road, and few people walking in the area. (R. 12-17). The last time they drove the truck down Evans Street, someone yelled "why y'all keep driving by," and when C.D.'s stepfather stopped to tell them they heard a gunshot. C.D. was hit on the face, scalp, and chest. He jumped out of the truck, and his brother pulled him through the window into the truck cab. They immediately drove home to wash the blood off C.D. and drove to the emergency room. (R. 16-18).

Doctors used tweezers to pull one of the pellets out of C.D.'s chest. C.D. was then taken to Spartanburg Memorial Hospital, where he had surgery to remove more of the pellets from his body. He testified he was shot in the cheek, right above his eye, on his eye, his right ear, and his little finger. He was shot twice in the lower abdomen, and twice in the chest. (R. 18-20).

Victim 2 ("W.D." testified he was C.D.'s brother and was riding in the truck cab with when the shooting occurred. The last time they drove down that street, a woman asked why they

were driving around. W.D. stepfather yelled they were working on the truck and started to go back to the house when they heard a gunshot. W.D. saw C.D. jump out of the truck bed, bleeding, and he pulled C.D. through the window into the truck cab. He stated there was no other traffic, and the only people he saw were the woman who yelled at them and a man walking down the road. He testified that he never saw anyone with a gun. (R. 33).

Sierra McKinney testified she had known Applicant since 2012, and he lived on Evans Street, right behind her sister. On the evening of May 9, 2017, McKinney was visiting her sister and brother-in-law, and they were on the porch. They noticed a truck driving around the block multiple times, which was unusual on the scarcely traveled streets. (R. 36-40). McKinney saw Applicant, who looked "aggravated," and worried the people in the truck might be trying to start trouble. At one point, Applicant put some broken bricks in the street and walked past her sister's house carrying a "long gun." Shortly after Applicant walked past the house, McKinney heard a gunshot from the direction Applicant was walking. McKinney never saw anyone else with a gun that night and testified she did not see who fired the shot. (R. 39-44).

Christa Hall testified Applicant lived behind her sister's home, whom she was visiting. They were on the porch when they saw a truck driving around the block multiple times. She stated they were initially curious, but learned they were "testing the truck." (R. 62-63). She testified Applicant was nervous about the truck and kept asking Hall and the others who they are. He threw some broken brick pieces across the road, but "not a big pile." When Applicant went to get the bricks, he came back with a gun. When the truck came back around, Applicant took off running while carrying the gun. Hall heard a gunshot seconds later. She did not see who fired the gun but stated that Applicant was the only person she saw with a gun that night. (R. 63-77).

Deputy Billy Anthony, a crime scene investigator with the Cherokee County Sheriff's

Office, testified he was called to the scene. He performed a gunshot residue test on Petitioner. After searching, the gun was not recovered by officers. After reviewing photographs of C.D. taken at the hospital, Deputy Anthony testified C.D.'s wounds were consistent with birdshot from a shotgun, which is generally a long gun. (R. 78-89).

Dr. Keith Webb, an expert in pediatric surgery, testified he removed multiple projectiles from C.D.'s body consistent with a shotgun injury. Eighteen projectiles were found in his body, but Dr. Webb was only able to remove ten. (R. 100-107).

Agent Megan Fletcher from SLED testified she analyzed Petitioner's gunshot residue kit. Her analysis revealed one particle characteristic of gunshot primer residue. She testified she could not identify the type of gun it came from, or how it got on Petitioner's hand. (R. 109-130).

III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons:

1. Ineffective assistance of trial Counsel.
2. Ineffective assistance of Appellate Counsel.
 - a. The appeal court and the South Carolina Court of Appeals found the issue my appellate attorney raised was not preserved for appellate review.

Attached to and incorporated herein are Applicant's Cherokee County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, direct appeal records, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

IV. Argument

Ineffective Assistance of Trial Counsel

Applicant has raised many ineffective assistance of trial counsel allegations in his

application. In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. See *Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the

range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); see *Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, “[t]he likelihood of a different result must be *substantial*, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before

examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Respondent contends that Applicant likely cannot meet his burden of proof concerning this allegation but requests a full evidentiary hearing to fully resolve the matter.

Ineffective Assistance of Appellate Counsel

Applicant claims Appellate Counsel was ineffective for failure to raise a preserved issue on appeal. A defendant is constitutionally entitled to effective assistance of appellate counsel. *Evitts v. Lucey*, 469 U.S. 387 (1985). “Generally, in analyzing a claim of ineffective assistance of appellate counsel, this Court applies the *Strickland* test just as it would when analyzing a claim of ineffective assistance of trial counsel. *Bennett v. State*, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). Applicant must show appellate counsel’s performance was deficient, and he was prejudiced by the deficiency. *Gilchrist v. State*, 364 S.C. 173, 612 S.E.2d 702 (2005); *Anderson v. State*, 354 S.C. 431, 581 S.E.2d 834 (2003); *Thrift v. State*, 302 S.C. 535, 537, 397 S.E.2d 523, 525 (1990).

Appellate counsel has a professional duty to choose among potential issues according to their merit. *Jones v. Barnes*, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. *Tisdale v. State*, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004) (quoting *Jones v. Barnes*, 463 U.S. 745, 754 (1983) (“For judges to second-guess reasonable professional judgments and impose on . . . counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very goal of vigorous and effective advocacy. . . .”)). Respondent contends that Applicant likely cannot meet his burden of proof

concerning this allegation but requests a full evidentiary hearing to fully resolve the matter.

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include "a short and plain statement of the facts showing that the pleader is entitled to relief." Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

VI. Other Allegations Denied

Each and every other allegation in Applicant's PCR application not explicitly admitted, qualified, or explained in this return is hereby denied by Respondent.

VII. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent

from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant’s allegations.

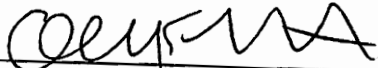
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
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By: 
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January 11, 2023

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Allen Williams, Jr. #365344

Applicant,

vs

State of South Carolina,

Respondent,

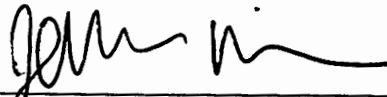
IN THE COURT OF COMMON PLEAS

2022-CP-11-0770

CERTIFICATE OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney Wade Richey, Esquire
Richey & Richey, PA
33 Market Point Dr, Greenville, SC 29607
Post Office Box 10916
Greenville, SC 29603-0916

DATED this the 11th day of January, 2023.


Jordan Hickman, Legal Assistant
 For Respondent

BRANDY W. MICE

2023 JAN 13 P

 2023 JAN 13 P
 CLERK OF COURT
 CHEROKEE CO UNF

1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS
3 COUNTY OF SPARTANBURG) OF THE SEVENTH
4) JUDICIAL CIRCUIT
5 ALLEN CHARRON WILLIAMS, JR.,)
6 Applicant,) TRANSCRIPT OF RECORD
7 vs.) 2019-CP-11-0000547
8 THE STATE OF SOUTH CAROLINA,)
9 Respondent.)
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February 13, 2023
Spartanburg, South Carolina

B E F O R E:

HONORABLE BRIAN M. GIBBONS, Judge.

A P P E A R A N C E S

RODNEY W. RICHEY, ESQUIRE
For The Applicant

CHELSEY F. MARTO, ASSISTANT ATTORNEY GENERAL
For Respondent

ALSO PRESENT:

Julie A. Cendroski,
Circuit Court Reporter III
Seventh Judicial Circuit

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EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1 ALLEN WILLIAMS, JR VS. THE STATE OF SOUTH CAROLINA

2 THE COURT: All right. Madam Attorney General.

3 MS. MARTO: Yes, Your Honor. May it please the
4 Court? We are here today in the case of Allen Williams
5 versus The State of South Carolina, 2022-CP-11-770.

6 He's confined in the South Carolina Department of
7 Corrections. And in November 2017, he was indicted for
8 three counts of attempted murder and three counts of
9 possession of a weapon. He was represented by Travis
10 Moore. And Kim Leskanic and Matt Kendall prosecuted the
11 case.

12 Proceeded to trial January 15th, 2019, before
13 Judge Kelly and was found guilty of the lesser included
14 offense of first degree of assault and battery, two
15 attempted murders, and then the lesser included offense
16 of ABHAN on the third. He was also found guilty as
17 indicted on the weapons possession charge. He was
18 sentenced to 20 years and two five-year terms of
19 imprisonment, all running consecutive, along with the
20 concurrent term of five years imprisonment for the
21 weapons possession charge.

22 Filed the Notice of Appeal brief and concluded
23 July 14th, 2020. The Court of Appeals confirmed the
24 conviction. The petition for re-hearing was filed, and
25 that was denied. He also petitioned the Supreme Court,

1 and that was denied January 13th, 2022. The remittitur
2 was issued January 18th, 2022.

3 This application was filed November 15th, 2022,
4 and the State's return was made January 11th, 2023.
5 With that, I'll turn it over to Mr. Richey.

6 THE COURT: All right, Mr. Richey.

7 MR. RICHEY: I call Mr. Williams.

8 THE COURT: All right, Mr. Williams.

9 (Witness comes forward.)

10 Just have a seat behind the microphone there,
11 sir.

12 THE WITNESS: Yes, sir.

13 THE COURT: All right. Do you swear or affirm
14 that the testimony you give today will be the truth, the
15 whole truth, and nothing but the truth so help you God?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right, thank you. Just keep
18 talking loud for me, okay?

19 THE WITNESS: Yes, sir.

20 ALLEN CHARRON WILLIAMS, JR.,
21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. RICHEY:

24 Q. Sir, would you state your name, please?

25 A. Allen Charron Williams, Jr.

DIRECT EXAMINATION OF ALLEN WILLIAMS BY MR. RICHEY

1 Q. And, Mr. Williams, are you currently in the
2 Department of Corrections?

3 A. Yes, sir.

4 Q. And who represented you on your case?

5 A. Travis A. Moore.

6 Q. Okay. And you believe that he did not
7 effectively represent you; is that correct?

8 A. Yes, sir.

9 Q. And you filed an application with postconviction
10 relief because you believe the Court should set aside
11 your convictions, correct?

12 A. Yes, sir.

13 Q. This was a case that involved an alleged
14 shooting; is that correct?

15 A. Yes, sir.

16 Q. And, and the shooting took place with the --
17 there was some guys that was driving around the
18 community trying to test drive the truck. Do you recall
19 that? No, I'm not saying that you -- from the case.
20 I'm not saying --

21 A. That's what was said.

22 Q. -- at the time from the case. And as a result of
23 them driving around, somebody shot at them, correct?

24 A. That's what they said.

25 Q. And the State alleged that you were that person,

1 correct?

2 A. Yes, sir.

3 Q. But you denied that, didn't you?

4 A. Yes, sir.

5 Q. And at your trial there was no witness who, who
6 pointed you out as a shooter or anything, correct?

7 A. Correct.

8 Q. And, and basically, the evidence that the State
9 has on you was essentially, these two girls with
10 different stories saying one saw you with the gun and
11 all this stuff, correct?

12 A. Correct.

13 Q. So, there was no direct evidence to tie you to
14 this crime, correct?

15 A. Correct.

16 Q. And you talked to your lawyer about that,
17 correct?

18 A. Yes, sir.

19 Q. And, and when you talked to your -- let me ask
20 you this, did you and your lawyer go over the evidence
21 in the case?

22 A. Yes, sir.

23 Q. Okay. And did he tell you what strategy he was
24 gonna use at trial?

25 A. Yes, sir.

DIRECT EXAMINATION OF ALLEN WILLIAMS BY MR. RICHEY

1 Q. Okay. And what strategy did he tell you he was
2 gonna use?

3 A. We was gonna go basically off of the Rule 5 in
4 which substantiated there was no substantial evidence on
5 this. That's what his whole argument was gonna be.

6 Q. So, the argument was going to be that they didn't
7 have any evidence on you?

8 A. Right.

9 Q. And, and was there any other way he was gonna
10 pursue the case?

11 A. I, I don't understand the question.

12 Q. Okay. The question is that he was gonna pursue
13 the case that said there was no substantial evidence
14 against you, correct?

15 A. Correct.

16 Q. Did you all talk about anything else?

17 A. No, sir.

18 Q. Okay. In terms of the witnesses in your case,
19 were there any witnesses who could show where you were
20 or anything like that?

21 A. Yes, sir.

22 Q. And who were they?

23 A. Kayla Brown.

24 Q. And how do they, how do they help your case?

25 A. Well, Kayla at the time was my girlfriend and she

1 was currently residing with me at [REDACTED] Edmond Street.

2 Q. Say it again, I'm sorry.

3 A. Kayla Brown, Michaela Brown (phonetic) was
4 currently staying with me at my residence at [REDACTED] Edmond
5 Street.

6 Q. Okay. And she could testify that you didn't do
7 the shooting?

8 A. Right.

9 Q. Okay. On this date in question, nobody actually
10 saw you shoot at these parties, right?

11 A. According to the witnesses and victims, nobody
12 saw it.

13 Q. Right. Nobody saw you shoot, but yet you were
14 still convicted of these cases, right?

15 A. Right.

16 Q. Okay. What other things did you ask your lawyer
17 to do?

18 A. To, as far as investigate?

19 Q. Yes, sir.

20 A. Like, if the witness, a girl, on the night of the
21 alleged incident, you had two girls who wrote a
22 statement saying that they thought they saw me with a
23 long gun and that I walk back to my home and five to ten
24 minutes later they heard a gunshot. Well, on the date
25 of the trial, the trial that one girl stuck to her

DIRECT EXAMINATION OF ALLEN WILLIAMS BY MR. RICHEY

1 story, the other girl changed her statement as saying
2 that, wow, the victim was riding in a circle; that I was
3 standing on the top of the road and when the victims
4 rode past me, that I began -- she said that I began to
5 chase after this vehicle with this long gun. And then
6 seconds later, she heard a gunshot. But the victims,
7 nor anybody else seen me do any of this.

8 Q. Great. And so, did you and him discuss the
9 discrepancies of those statements?

10 A. During trial?

11 Q. Yes.

12 A. Yes, sir.

13 Q. Okay. One thing in this case, you filed an
14 appeal; is that correct?

15 A. With Sarah Shipe (phonetic), yes, sir.

16 Q. Okay. And in that appeal, the appeals court did
17 not address the issue that you wanted addressed,
18 correct?

19 A. Correct.

20 Q. Do you know what -- the Court of Appeals did not
21 address your issue because it said wasn't raised in a
22 lower court, correct?

23 A. Correct.

24 Q. And was that issue, there was not any substantial
25 circumstantial evidence for conviction?

1 A. Correct.

2 Q. Okay. And did your lawyer argue that issue?

3 A. My appellate attorney or my trial attorney?

4 Q. Trial counsel.

5 A. No, he did not argue that.

6 Q. Did trial counsel, do you recall what his
7 argument was?

8 A. His ended argument? In the beginning he was
9 questioning the witness and he was going for that point,
10 but then at the end, his end statement, he was like that
11 -- well, before he made a statement, he and the
12 solicitor went up to the judge, said whatever they did.
13 They came back and he made a statement saying something
14 like the defendant -- does the statement prove that the
15 defendant had intent to murder somebody.

16 Q. Okay. He argued that you didn't have the, that
17 you didn't have the intent to do attempt of murder; is
18 that correct?

19 A. Correct.

20 Q. Okay. And so, do you believe that that argument
21 was effective in your case and the proper argument?

22 A. If we're gonna try for my innocence, it's no way
23 that -- I was -- see, I'm not an attorney, but there's
24 no way that I would go to trial, and then at the end of
25 the trial say that my client didn't intend to murder

CROSS-EXAMINATION OF ALLEN WILLIAMS BY MS. MARTO

1 somebody. That's just my opinion of it.

2 Q. So, do you think your argument should have been
3 that you were innocent and you didn't shoot or do
4 anything?

5 A. That's what the evidence said, yes, sir.

6 Q. Okay. And you believe that by arguing the point
7 that you didn't have specific intent to do attempted
8 murder, that that argument ultimately led to your
9 conviction?

10 A. Yes, sir.

11 Q. Okay. And that, also, that argument would not
12 let you appeal the lack of evidence --

13 A. Right.

14 Q. -- argument, correct?

15 A. Correct.

16 Q. What's that?

17 A. Yes, sir.

18 Q. You've got to answer. Okay. So, you would want
19 your issue to bring that issue before the Court,
20 correct?

21 A. Correct.

22 Q. Okay. All right. Answer the questions the
23 attorney general has for you.

24 CROSS-EXAMINATION

25 BY MS. MARTO:

1 Q. Good afternoon, sir.

2 A. Good afternoon, ma'am.

3 Q. So, is it fair to say the strategy you all
4 discussed prior to trial was the strategy in which he
5 raised at the trial?

6 A. Not at the end of the trial.

7 Q. Okay. So did the strategy change throughout the
8 course of the trial, to the best of your knowledge?

9 A. Well, on the paperwork it states that it
10 drastically changed.

11 Q. Okay. And so did you all get to the end of the
12 trial thinking you were gonna make an argument, but
13 there wasn't enough evidence --

14 A. No.

15 Q. -- and then that changed during closing?

16 A. No. The argument was for my innocence, period.

17 Q. Okay. Now, you stated you wanted Ms. Michaela
18 Brown called, correct?

19 A. Correct.

20 Q. And she wasn't called at your second trial,
21 correct?

22 A. Correct.

23 Q. She was called at your first trial, correct?

24 A. Yes, sir [sic].

25 Q. And the place where this crime allegedly

CROSS-EXAMINATION OF ALLEN WILLIAMS BY MS. MARTO

1 occurred, was that on a fairly quiet road, would you
2 say?

3 A. Technically its, I wouldn't want to say quiet
4 road, but I mean, at night time, you know, of course it
5 would be quiet. I'm saying -- what are you trying to
6 say? I want to be clear.

7 Q. Is there a lot of traffic and a lot of people who
8 get lost on that road?

9 A. Yeah.

10 Q. It's a busy road?

11 A. It's not busy like a main street, no. But, I
12 mean, you have people that come in, house-to-house doing
13 stuff, so yes.

14 Q. Okay. Did you live close by to that house?

15 A. I lived at [REDACTED] Edmonds Street.

16 Q. Okay. And a couple of people that testified at
17 your trial, they were your neighbors, correct?

18 A. Yes. Yes, ma'am.

19 Q. And so, you've met them before, correct?

20 A. I caught a charge on one of the witnesses back in
21 2014, and I slept with both of them, yes.

22 Q. Okay. And so they would be able to identify you
23 pretty easily, correct?

24 A. Yes, sir -- yes, ma'am.

25 Q. And they both testified that they saw you with a

1 gun?

2 A. That's what they said.

3 Q. And one of them said that they saw you chasing
4 after the truck?

5 A. That's what she said.

6 Q. And they said they saw you took -- take off
7 running and within a matter of seconds or minutes, they
8 heard gunshots?

9 A. That's what she said, which her state -- well,
10 her testimony contradicts her statement, her sister's
11 statement, and the victim's statement.

12 Q. Were you there that night?

13 A. At my residence, yes.

14 Q. And that's on that road, correct?

15 A. Of course.

16 Q. And did you have a gun on you that night?

17 A. No. Oh, the thing about this is, if we take the
18 victim's word as is, if the victims, see them, they
19 never see that the victim never saw me.

20 Q. But other people that were on the road saw you,
21 correct?

22 A. The alleged witnesses said they saw me, but the
23 victim said they did not see me, not at no time. So
24 somebody's lying.

25 MS. MARTO: No further questions.

CROSS-EXAMINATION OF ALLEN WILLIAMS BY MS. MARTO

1 REDIRECT EXAMINATION

2 BY MR. RICHEY:

3 Q. You're, in fact, innocent, correct?

4 A. Yes, sir.

5 Q. Okay, thank you.

6 THE COURT: All right. Thank you, sir. You can
7 step down.

8 THE WITNESS: Yes, sir.

9 (Witness leaves witness stand.)

10 THE COURT: While we're waiting on another
11 witness to come up, can you all point me to the -- Judge
12 Kelly, I believe gave a Logan Charge as to
13 circumstantial evidence or did trial counsel ask for a
14 Logan Charge? I'm -- it said volume II. I'm just
15 looking to see. I just didn't know if you all would
16 know if that's the issue. Did the Court of Appeals --
17 you're saying the Court of Appeals did not address that?

18 MR. RICHEY: Yes, sir.

19 THE COURT: Because it wasn't preserved?

20 MR. RICHEY: Yes, sir.

21 THE COURT: All right. Okay. I see what you're
22 saying. All right. Call your next witness.

23 MR. RICHEY: We call Mr. Moore.

24 (Witness comes forward.)

25 THE COURT: All right, sir. Do you swear or

1 affirm that the testimony you give today will be the
2 truth, the whole truth, and nothing but the truth so
3 help you God?

4 THE WITNESS: Yes, sir.

5 THE COURT: Thank you, sir.

6 TRAVIS MOORE,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. RICHEY:

10 Q. Sir, would you state your name, please?

11 A. Travis Moore.

12 Q. And, Mr. Moore, do you recall representing
13 Mr. Williams?

14 A. Yes.

15 Q. Okay. And, and, let me just give you some basic
16 facts about the case. Back -- this was a shooting; is
17 that correct?

18 A. Yes, that's correct.

19 Q. Okay. And they allege that Mr. Williams was the
20 shooter; is that correct?

21 A. Correct.

22 Q. And there was -- was there any direct evidence of
23 him doing the shooting, firing the gun?

24 A. GSR on his hands.

25 Q. Okay. Was it a large amount on him?

DIRECT EXAMINATION OF TRAVIS MOORE BY MR. RICHEY

1 A. It was not. It was a small amount of GSR.

2 Q. I'm sorry, I can't hear you.

3 A. It was a small amount of GSR.

4 Q. All right. And, and -- but in terms of any
5 witnesses to him doing the shooting, was there any
6 witnesses at all of him doing the actual shooting?

7 A. Actually pulling the trigger?

8 Q. Right.

9 A. Not to my knowledge, no.

10 Q. But there were some witnesses that had various
11 stories about him carrying a gun and all this, correct?

12 A. My, my -- I recall there being two neighbors who
13 testified. At least one of them, if not both, testified
14 that he was placing bricks on the road because this
15 vehicle was apparently making circles. They had, I
16 guess, been repairing the truck and were driving
17 essentially around in circles to test drive it. One of
18 the victims testified that they had seen Mr. Williams
19 prior to the shooting nervous, sweaty, asking why this
20 truck kept coming up and down the road.

21 That witness testified that he was taking pieces
22 of bricks and stacking them in the road, apparently to
23 slow down the vehicle. I think that was the same
24 witness that testified she had seen him with a long gun
25 when he was putting the bricks in the road.

1 Q. Okay. And was there some discrepancy in the
2 bricks not being found on the road? The witness
3 testified to that, but when the cops went out there,
4 they was unable to find any evidence of it?

5 A. The cops didn't take any pictures of it. I know
6 that came out on cross-examination. I don't know if
7 they said there were no bricks or they didn't -- I know
8 I specifically asked them if they took pictures of it,
9 and they acknowledged they did not take pictures of it.

10 Q. Okay. And, and so, basically this case came down
11 to the women sitting on the porch testimony, correct?

12 A. I mean, it came down to a combination of things,
13 but that was, that was the big thing.

14 Q. Right.

15 A. Yeah. There was, I believe, a nine or
16 ten-year-old who had been shot in the face with a
17 shotgun in the bed of a truck.

18 Q. Right.

19 A. There was -- somebody had shot a shotgun. Two
20 witnesses said they saw Mr. Williams with a long gun
21 immediately preceding this child being shot in the face.
22 And he had a minimal amount of GSR on his hands.

23 Q. And, and wasn't that testimony kind of -- the
24 reason why I'm doing this, I'm trying to pick this up,
25 but wasn't there testimony of him running behind the

DIRECT EXAMINATION OF TRAVIS MOORE BY MR. RICHEY

1 truck disputed by the people in the truck who did not
2 see him?

3 A. Yes.

4 Q. Okay.

5 A. And, I think, when I look back at my notes, I
6 think he and I were discussing during the trial that
7 there were inconsistencies between the statements given
8 the night of the incident and their testimony,
9 specifically related to timing. Number of shots. I
10 think one person said they only heard one shot.
11 Somebody said they might have heard multiple shots.

12 Q. So, so, this case pretty much was, would you
13 agree, this was a circumstantial evidence case?

14 A. I mean, it's kind of a hybrid. I mean, nobody's
15 testified that they saw him pull the trigger directly,
16 but somebody saw him with a gun at the scene at the time
17 somebody was shot, and then there was GSR on his hands,
18 so I mean, the GSR is direct evidence, in my opinion.
19 But, I guess, overall it was circumstantial. Nobody
20 said that they saw him next to the road pull the
21 trigger, that's correct.

22 Q. All right. So, this was kind of connect the
23 dots. The neighbor said this, but when you put all the
24 circumstances together, then that led to his conviction?

25 A. Correct.

1 Q. Okay. And so, and I'm gonna ask in this directed
2 verdict motion -- I'm just trying to find it. I don't
3 know if you recall the directed verdict motion where you
4 argued that the State did not prove that he had intent
5 to kill someone.

6 A. Correct.

7 Q. Murder someone. Do you recall that?

8 A. I do.

9 Q. And is that the position of a case where you
10 framed it in terms of an intent case, versus a lack of
11 evidence case?

12 A. Yeah. And I'll just briefly -- I mean, I don't
13 want to take up too much of your time, but just to give
14 you the background.

15 Q. Yes, sir.

16 A. You know, there was also a search warrant
17 executed on his house which found multiple drugs, and
18 they wanted to try all these together. So, back in
19 October I made a motion to sever, because they wanted to
20 try the drug cases and the attempted murders together.
21 The judge granted that, so we tried the drug cases first
22 in October of 2018. If I remember correctly, we got a
23 mistrial or a hung jury. They couldn't come to a
24 verdict on those. So then we came back in January.

25 So I just want to -- just so you understand, that

DIRECT EXAMINATION OF TRAVIS MOORE BY MR. RICHEY

1 we had -- we had some history in trying cases together
2 and working on his discovery and his defenses, but in
3 between that time, it was always our position this was
4 not an attempted murder case. These should have never
5 been attempted murder charges, because he never had --
6 even if you believe their facts, he never had the
7 specific intent to murder anybody, if you accepted what
8 they were alleging.

9 So that was the -- I mean, that was the focus of
10 the directed verdict motion was based off of -- I can't
11 remember the case. I think it's Juaheem King (phonetic)
12 or something like that, that you have to have a specific
13 intent for attempted murder.

14 So that was the point we were making in the
15 directed verdict motion was that they had not
16 established that. Those were the charges they had
17 decided to go forward on. They had had the opportunity
18 to, to indict him on the appropriate charges and chose
19 not to, and decided to go forward on the attempted
20 murder anyway.

21 Q. Okay. Mr. Williams, his position was that he
22 didn't even fire a gun, correct?

23 A. That's correct.

24 Q. And that he was totally innocent of all the
25 charges, correct?

1 A. Yes.

2 Q. Okay. And so, so when you look at that issue,
3 did you believe a strong argument was intent, not lack
4 of evidence?

5 A. We didn't have any evidence to present on our
6 side.

7 Q. Right.

8 A. So all the evidence before the jury, once we got
9 at the end of the day, whatever day that was, was them
10 having witnesses saying they saw him with a gun. You
11 know, an 11 year old who testified that was shot in the
12 face, and then the pediatric surgeon. I mean, I felt
13 the evidence was pretty stacked up against us. And we
14 discussed that. And we talked about whether or not he
15 was gonna testify or not. Whether we had any witnesses
16 to call or not. And at that point, since they had gone
17 for it on attempted murder, you know, we had discussed
18 it going forward on intent saying being the stronger.
19 But we pointed out -- we clearly pointed out the
20 inconsistencies in the statements and, you know, those
21 types of issues, you know, on cross-examination of each
22 of the witnesses as well.

23 Q. And, and what, in terms of the evidence in the
24 case, these -- there was more than one person in that
25 truck, correct?

CROSS-EXAMINATION OF ALLEN WILLIAMS BY MS. MARTO

1 A. I believe there at least three. I think it was
2 two adults in the front and then a child or two in the
3 bed.

4 Q. And they had also presented evidence that none of
5 them saw Mr. Williams shoot her, correct?

6 A. My understanding is, if I remember correctly,
7 they might have testified to a gunshot, but I, I think
8 they just remember, you know, the bleeding. You know,
9 bleeding on the face, taking him home. I think they
10 testified they took the child home and, you know, wiped
11 the blood or washed the blood off his face and then took
12 him to the emergency room.

13 Q. And that, that contradicted some of the testimony
14 about him running, chasing the truck down the road with
15 a gun, right?

16 A. I don't think anybody ever said anything about
17 running down the road until that one witness testified.
18 I don't believe it was in any other witness's testimony.
19 I don't believe there's any written statements.

20 Q. Okay. And so -- thank you. Answer any questions
21 the Attorney General has.

22 THE COURT: All right.

23 CROSS-EXAMINATION

24 BY MS. MARTO:

25 Q. Good afternoon, sir.

1 A. Hey, good afternoon.

2 Q. How long have you been doing criminal defense
3 work for?

4 A. Oh, 12 years. I think 12.

5 Q. Roughly, how many trials have you had?

6 A. In General Sessions probably, probably 15 or 16.

7 Q. So, how do you typically go about selecting a
8 defense for trial strategy?

9 A. Well, I mean, obviously it depends on the case,
10 but I mean, typically -- typically when I go with
11 discovery with a client, particularly if we're getting
12 ready for trial prep, typically, I mean, it becomes
13 pretty clear whether or not it's gonna be a plea, if
14 negotiations have been exhausted. If you're going
15 forward with a trial. And in trial prep, you know, you
16 look, obviously, for legal defenses, absolute legal
17 defenses. And I didn't feel we had one in this case.

18 But, you know, then looking to kind of try to
19 poke holes in the State's case, you know, maybe steps
20 that they did not take that they should have taken in
21 their investigation. Other versions of the
22 circumstances, which could lead the jury to having some
23 reasonable doubt about what had actually happened there
24 that night, I mean, generally.

25 Q. Is it fair to say you felt the lack of intel was

CROSS-EXAMINATION OF ALLEN WILLIAMS BY MS. MARTO

1 the strongest argument you had in defense?

2 A. I did. I mean, we were defending attempted
3 murder. That's what we were there for. I mean, we were
4 defending attempted murder, and that's what I felt was
5 the strongest argument at the time. And we discussed
6 that. Yeah.

7 Q. Did you think -- now, you represented him at his
8 first trial too, correct?

9 A. Correct.

10 Q. Did you think Michaela Brown was going to be a
11 favorable witness for you all?

12 A. I don't recall her being in the discussion for
13 this incident. I don't recall that. I mean, it could
14 have happened. We could have discussed that, but it was
15 not, it was not something I found in my notes that she
16 had some key testimony which was gonna, you know, help
17 us.

18 I remember in the first case there was an issue
19 about whether or not other people had been in the house.
20 It was his house, so when you've got drugs in your
21 house, it's hard to say they're not yours. But our
22 position was, there had been a party and he had people
23 over, like a birthday party. She was gonna -- I think
24 she and some others testified to that. There were
25 pictures. The sink had pots and pans and cups

1 everywhere, so it looked like there had been a party.

2 So in that case we were trying to argue that, you
3 know, many -- several people in addition to Mr. Williams
4 had access to his freezer, I believe, and it could have
5 been somebody else and that was successful. But I don't
6 remember her having any evidence to provide as to the
7 actual testimony regarding the shooting.

8 Q. And the location of the shooting, is it fair to
9 say it's a relatively quiet road?

10 A. I don't -- I think compared to the road right
11 here, yes. I mean, it could have a decent amount of
12 foot traffic, you know, from the people that lived
13 there, but it was a smaller road. I don't recall it
14 having markings, stripes on it or anything like that. I
15 think it was a pretty low level type road.

16 Q. Do you recall anybody else testifying at trial
17 that somebody else was in possession of a gun that
18 night?

19 A. I don't recall anybody testifying to somebody
20 else having a gun.

21 Q. To the best of your knowledge, is Mr. Williams
22 the only person people identified as having gun?

23 A. In the witnesses, yes. That's the only person I
24 remember being identified as having a gun by any of the
25 witnesses.

CROSS-EXAMINATION OF ALLEN WILLIAMS BY MS. MARTO

1 Q. And I think they concluded that the bullet fired
2 likely stemmed from a long shotgun, correct?

3 A. Well, it would have been a shotgun. I mean, it
4 wouldn't have been a bullet, it would have been pellets
5 because that's the kind of, you know -- I don't know
6 what size, but that's what the nature of the injuries
7 were to the victim's face.

8 Q. Did you request a Logan charge by chance? Do you
9 recall?

10 A. I don't recall one way or the other whether we
11 did. I know, as Judge Kelly typically does, typically
12 do that at most trials, but I don't -- I'm trying to
13 think back to our charging conference. I mean, he kind
14 of, when he takes you in there, he usually says here's
15 the ones we always do and here's the ones that apply to
16 this case and do we have other suggestions and things
17 like that. And that's one of the ones he normally does,
18 but specific to this case, I can't recall if he did or
19 not.

20 THE COURT: Page 221, lines 7 through 18 of
21 volume II of the transcript.

22 MS. MARTO: Yes, Your Honor.

23 THE COURT: It's not a Logan charge.

24 MS. MARTO: Thank you, Judge.

25 BY MS. MARTO:

1 Q. Yeah. So you wouldn't be surprised if the charge
2 was unsubstantial evidence then, correct?

3 A. I would not be.

4 Q. Okay. And, again, that's customary of Judge
5 Kelly to charge, correct?

6 A. Correct.

7 Q. And, again, you didn't think that arguing of Mr.
8 Williams was not the shooter, was the strongest strategy
9 to have, correct?

10 A. No, I did not believe so.

11 MS. MARTO: No further questions.

12 MR. RICHEY: Just a couple more.

13 THE COURT: Yes, sir.

14 REDIRECT EXAMINATION

15 BY MR. RICHEY:

16 Q. Let me understand this. That street that this
17 shooting happened on, those neighbors, none of those
18 neighbors said they saw him actually firing a gun?

19 A. I don't believe so, no.

20 Q. Okay. And at the time the shooting would have
21 occurred on this street, they didn't see him at the time
22 of the shots would have been fired? None of the
23 neighbors saw it?

24 A. I can tell you what I recall and I can look back.
25 What I recall them testifying to is them seeing him

1 prior to the shooting --

2 Q. Right.

3 A. -- with a gun.

4 Q. Right.

5 A. You know, however they described him, agitated,
6 nervous, all those adjectives they used, and they saw
7 him with a, quote, long gun. She said that she didn't
8 know what type of gun, but it was a long gun. She said
9 like a hunting gun. And he wanted to know why that
10 truck kept driving around. They said they thought he
11 was paranoid and that he was putting bricks in the road.

12 And then, depending on whose testimony you
13 believe, a few minutes later they heard a gunshot.

14 Q. So they -- so they still, they didn't see him
15 shoot, fire the shot?

16 A. That's my understanding, correct.

17 Q. Okay. And nobody out there saw him shoot a gun,
18 correct?

19 A. I don't believe there are any direct witnesses
20 who testified that they personally observed him shoot
21 the gun.

22 Q. So, at the time of the shooting he was pretty
23 much out of sight to everybody, correct?

24 A. Either he was out of sight to them, or they were
25 back inside somewhere else, I don't know.

1 Q. And so, so this case was a case that they put the
2 circumstance together saying we saw him earlier with a
3 gun and then the gun powder residue, so those were the
4 circumstances that got him convicted or could have
5 gotten him convicted?

6 A. I agree. I think when you said earlier, we're
7 talking minutes. One testified seconds, but, yes.

8 Q. Okay. Thank you.

9 MS. MARTO: No recross, Your Honor.

10 THE COURT: All right, thank you, sir. You can
11 step down.

12 MR. RICHEY: No other witnesses.

13 THE COURT: All right. Any further evidence from
14 the State?

15 MS. MARTO: Yes, Your Honor. Because Mr. Richey
16 raised ineffective assistance of an appellate counsel
17 claim, I think we need to call ---

18 MR. RICHEY: No. No, we're not going on
19 ineffective assistance of counsel, because we actually
20 are gonna argue what she wrote.

21 MS. MARTO: Okay.

22 THE COURT: All right. So the applicant's
23 abandoning that cause of action?

24 MR. RICHEY: Yes.

25 MS. MARTO: Okay.

1 THE COURT: All right. Let the record reflect
2 then, whatever order the Court issues, that that part of
3 the application is abandoned.

4 MS. MARTO: Thank you, Your Honor.

5 THE COURT: All right. So the only issue then is
6 -- well, Mr. Richey, I don't want to put words in your
7 mouth. You tell me what the issue is or what relief
8 your client seeks.

9 MR. RICHEY: Your Honor, we believe the issue is
10 counsel's ineffective for not arguing the insufficiency
11 of the evidence to the jury. We, we believe, based on
12 this case, there's an argument, that's the more viable
13 argument, and that is outlined through the Court's
14 appellate opinion in this case where the Court did not
15 take up that argument because it was not properly argued
16 and preserved.

17 THE COURT: Okay. All right. I guess my
18 question is, that's the issue of the circumstantial
19 evidence?

20 MR. RICHEY: Yes, sir.

21 THE COURT: So, although the application doesn't
22 mention the Logan charge. I mean, I mentioned that at
23 the outset of the hearing. I guess that's where I'm
24 kind of nailing it on and on the issue in front of the
25 Court today is, is the failure to object to the

1 circumstantial evidence charge given by the judge not
2 being a Logan charge, does not rise to the level under
3 Strickland to entitle them to a new trial. Is that the
4 issue?

5 MR. RICHEY: That's the issue. And that's the
6 issue that we raise. And it's our position, I think,
7 when we even look at the State's, the State's brief in
8 the appeal, they lay out applicant failed to preserve
9 any issue related to the sufficiency of the evidence, so
10 that the State used the lack of that to argue the case
11 against them. Your Honor, that would be our position in
12 this case.

13 THE COURT: Okay. Madame AG.

14 MS. MARTO: Yes, Your Honor. I think Mr. Moore
15 properly testified that he didn't think that argument
16 was going to hold weight with the jury because they have
17 two witnesses that ---

18 THE COURT: He said it was a hybrid issue. He
19 had some direct evidence, as well as some
20 circumstantial. But, you know, I don't want to undercut
21 your argument, but as you all know, Logan says to the
22 extent the State relies on circumstantial evidence, it
23 must be substantial. Anyway, go ahead.

24 MS. MARTO: Yes, Your Honor. I think Mr. Moore
25 testified that he didn't see a way in which he could

1 argue that Mr. Williams was not there, he was not the
2 person carrying the gun, he was not the shooter. He
3 stated that there was, he believes, substantial
4 evidence, so much so that he thought that this was going
5 to be a plea as opposed to a trial, because he didn't
6 think there was a valid trial approach to be held, but
7 to the extent that there was one, he stated that the
8 best he had was proven specific intent.

9 And, frankly, I think that the results kind of
10 speak for themselves in the sense that the jury found
11 him guilty of two counts of first degree A and B, as
12 opposed to two counts of attempted murder, which he was
13 charged for, as well as one count of ABHAN. And so, I
14 think Mr. Moore was very effective in his approach in
15 arguing there was no specific intent. So much so that
16 the jury bought that.

17 Now, really the only other avenue they would have
18 had was a full finding, you know, of not guilty. But at
19 the same time, the evidence they had was substantial in
20 the sense that there were two witnesses that knew him
21 intimately. Mr. Williams testified to that effect.
22 That they saw him with a shotgun. They saw him looking
23 nervous. That he was the only person seen with a
24 shotgun. That SLED analysis showed that the bullet was
25 fired from a shotgun. And GSR showed that Mr. Williams

1 was carrying a gun. There was no testimony of anybody
2 else having a gun.

3 THE COURT: So the fact that nobody else actually
4 saw him shoot the rifle, that was brought out obviously
5 as well, but there's a substantial amount of evidence in
6 the record indicating guilt, which should, you know,
7 support this verdict?

8 MS. MARTO: Yes, Your Honor. Very seldom is
9 there a case that shows somebody seeing someone directly
10 shooting another person. That's particularly true so it
11 would hold them back, isn't dispositive in this case,
12 and that all the other evidence should be to support,
13 you know, a substantial amount of evidence leading to
14 his guilt. So, for that reason, we would just request
15 you deny relief.

16 MR. RICHEY: Judge, I believe the testimony was
17 clear that nobody saw him shoot the people. The people
18 driving a truck did not see him shoot. And I think the
19 argument, the argument that was made, the problem with
20 it is, it concedes that he shot the gun.

21 See, that's the problem with argument made at
22 trial, because when you say he didn't have an intent,
23 you concede the fact -- you're basically telling the
24 jury he shot the guy, he just didn't have the intent to
25 shoot him. That's, that's what we believe the argument

1 fails itself, because there was no direct evidence that
2 he shot anybody. Zero.

3 I think the witnesses testified they didn't see
4 him shoot them. The people in the truck. So there was
5 no direct evidence of the shooting. So, his position is
6 that, if the client argues the circumstantial argument,
7 he doesn't concede the fact that Mr. Williams shot the
8 guy, because that's the point the State had proved
9 beyond a reasonable doubt that he was the shooter.

10 Now, we believe that his counsel did concede that
11 issue by saying he didn't have the intent, that the
12 State couldn't meet their burden of the substantial
13 circumstantial evidence beyond a reasonable doubt
14 because they had nobody to testify that they saw this
15 gentleman shoot them. That's, that's the problem with
16 that argument, is you're conceding him being the
17 shooter.

18 And, and when you concede him being the shooter,
19 now you can take the circumstantial evidence part out of
20 it because you concede we shot the guy, we just didn't
21 have intent. And that's where the argument fails,
22 because it's Mr. Williams' position at all times he
23 didn't shoot the people. And there was no direct
24 evidence to that. Thank you, Your Honor.

25 THE COURT: Any reply to that?

1 MS. MARTO: We would just, again, reassert that
2 there was enough circumstantial evidence to support
3 conviction and request you deny ---

4 THE COURT: All right, thank you. I'll take it
5 under advisement and issue my decision at a later time.
6 Thank you very much.

7 MS. MARTO: Thank you, Your Honor.

8 THE COURT: All right. That concludes this
9 hearing.

10 MR. RICHEY: Thank you, Your Honor.

11 THE COURT: All right, thank you.

12 (Hearing concluded at 2:33 p.m.)

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14 --- THIS ENDS REQUESTED TRANSCRIPT ---

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1 COURT REPORTER CERTIFICATE

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3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability the foregoing is a true, accurate,
7 and complete transcript of record of all the proceedings
8 and evidence introduced in the hearing and/or trial of
9 the captioned case, relative to appeal, in the Court of
10 COMMON PLEAS for Spartanburg County, South Carolina, on
11 the 13th day of February, 2023.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14
15
16
17
18
19 *s/o Julie A Cendroski*

20 _____
21 Julie A. Cendroski
22 Circuit Court Reporter III
23 Seventh Judicial Circuit
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
)

Allen Williams, Jr., #365344,)
Applicant,)
)

v.)
)

State of South Carolina,)
Respondent.)
)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2022-CP-11-0770

ORDER OF DISMISSAL

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2023 MAR 27 A 11:10
BRANDY W. MCBE

This matter comes before this Court by way of Applicant's post-conviction relief application filed November 15, 2022. Respondent made its return on January 11, 2023, requesting an evidentiary hearing be convened. An evidentiary hearing was held on February 13, 2023, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Travis A. Moore also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its November 2017 term, the Cherokee County Grand Jury indicted Applicant for three counts of attempted murder (count one) and three counts of possession of a weapon during the commission of a violent crime (count two) (2017-GS-11-01483, -01484, -01485). Applicant was represented by Travis A. Moore, Esquire. Assistant Solicitors Kimberly Leskanic and George Matthew Kendall, Esquires,

of the Seventh Circuit Solicitor's Office prosecuted the case. On January 15, 2019, Applicant proceeded to trial before the Honorable R. Keith Kelly, circuit court judge, and a jury. Applicant was found guilty of the lesser-included offense of first-degree assault and battery on the -1484 and -1485 charges, the lesser-included offense of assault and battery of a high and aggravated nature on the -1483 offense, and as indicted on the weapons' possession charge. Judge Kelly sentenced Applicant to twenty years' and two-five-year terms of imprisonment, to run consecutively and a concurrent term of five years' imprisonment.

Applicant filed a timely notice of appeal on January 28, 2019, that was perfected by Sara E. Shipe, Esquire. Briefing concluded on July 14, 2020. The South Carolina Court of Appeals affirmed Applicant's convictions by unpublished opinion. *State v. Williams*, 2021-UP-204 (S.C. Ct. App. filed June 9, 2021). A petition for rehearing was filed on June 24, 2021, and denied on June 29, 2021. Applicant filed a petition for writ of certiorari in the South Carolina Supreme Court, which was denied on January 13, 2022. The remittitur was issued on January 18, 2022.

Summary of Relevant Facts

Victim 1 ("C.D. testified he was working on a truck with his brother and stepfather when they started driving to burn off some gas. C.D. was in the truck bed. While they were riding around, they drove down Evans Street about four times. C.D. stated there were no cars on the road, and few people walking in the area. (R. 12-17). The last time they drove the truck down Evans Street, someone yelled "why y'all keep driving by," and when C.D.'s stepfather stopped to tell them they heard a gunshot. C.D. was hit on the face, scalp, and chest. He jumped out of the truck, and his brother pulled him through the window into the truck cab. They immediately drove home to wash the blood off C.D. and drove to the emergency room. (R. 16-18).

Doctors used tweezers to pull one of the pellets out of C.D.'s chest. C.D. was then



taken to Spartanburg Memorial Hospital, where he had surgery to remove more of the pellets from his body. He testified he was shot in the cheek, right above his eye, on his eye, his right ear, and his little finger. ~~He was shot twice in the lower abdomen, and twice in the chest. (R. 18-20).~~

Victim 2 ("W.D.") testified he was C.D.'s brother and was riding in the truck cab with when the shooting occurred. The last time they drove down that street, a woman asked why they were driving around. W.D.'s stepfather yelled they were working on the truck and started to go back to the house when they heard a gunshot. W.D. saw C.D. jump out of the truck bed, bleeding, and he pulled C.D. through the window into the truck cab. He stated there was no other traffic, and the only people he saw were the woman who yelled at them and a man walking down the road. He testified that he never saw anyone with a gun. (R. 33).

Sierra McKinney testified she had known Applicant since 2012, and he lived on Evans Street, right behind her sister. On the evening of May 9, 2017, McKinney was visiting her sister and brother-in-law, and they were on the porch. They noticed a truck driving around the block multiple times, which was unusual on the scarcely traveled streets. (R. 36-40). McKinney saw Applicant, who looked "aggravated," and worried the people in the truck might be trying to start trouble. At one point, Applicant put some broken bricks in the street and walked past her sister's house carrying a "long gun." Shortly after Applicant walked past the house, McKinney heard a gunshot from the direction Applicant was walking. McKinney never saw anyone else with a gun that night and testified she did not see who fired the shot. (R. 39-44).

Christa Hall testified Applicant lived behind her sister's home, whom she was visiting. They were on the porch when they saw a truck driving around the block multiple times. She stated they were initially curious, but learned they were "testing the truck." (R. 62-63). She testified Applicant was nervous about the truck and kept asking Hall and the others who they are.



He threw some broken brick pieces across the road, but "not a big pile." When Applicant went to get the bricks, he came back with a gun. When the truck came back around, Applicant took off running while carrying the gun. Hall heard a gunshot seconds later. She did not see who fired the gun but stated that Applicant was the only person she saw with a gun that night. (R. 63-77).

Deputy Billy Anthony, a crime scene investigator with the Cherokee County Sheriff's Office, testified he was called to the scene. He performed a gunshot residue test on Petitioner. After searching, the gun was not recovered by officers. After reviewing photographs of C.D. taken at the hospital, Deputy Anthony testified C.D.'s wounds were consistent with birdshot from a shotgun, which is generally a long gun. (R. 78-89).

Dr. Keith Webb, an expert in pediatric surgery, testified he removed multiple projectiles from Caleb's body consistent with a shotgun injury. Eighteen projectiles were found in his body, but Dr. Webb was only able to remove ten. (R. 100-107).

Agent Megan Fletcher from SLED testified she analyzed Petitioner's gunshot residue kit. Her analysis revealed one particle characteristic of gunshot primer residue. She testified she could not identify the type of gun it came from, or how it got on Petitioner's hand. (R. 109-130).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Ineffective assistance of trial Counsel.
2. Ineffective assistance of Appellate Counsel.
 - a. The appeal court and the South Carolina Court of Appeals found the issue my appellate attorney raised was not preserved for appellate review.

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of trial counsel for:
 - a. failure to argue there was no direct evidence tying Applicant to the crime at trial.
 - b. Failure to argue on directed verdict that there was no direct evidence tying

Applicant to the crime at trial.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant testified that he thought Counsel was ineffective for failure to argue that there was no direct evidence linking Applicant to the crime. He stated that there were a couple witnesses that saw him in the area with a gun, but no one saw him shoot the victim. He stated he was previously intimate with both female witnesses that identified him as running nearby with a shotgun. He stated he wanted this argument made at trial, but Counsel elected to raise a claim about how the State could not prove specific intent instead.

Counsel Testimony

Counsel testified that he thought there was substantial evidence placing Applicant on scene. He stated that he did not think he could argue Applicant was not the shooter, because based upon the evidence he clearly was. He stated that arguing that the State could not prove specific intent was the best argument available.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are Applicant's Cherokee County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, direct appeal records, and the current PCR application. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set

forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny

of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "only in the rarest case" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a "reasonably substantial investigation" into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* "[W]hen counsel's assumptions are reasonable given the totality of the

circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial." *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not exist at the time of trial, or another avenue of defense existed. *See McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by the scientific community).

Applicant claims Counsel was ineffective for failure to argue that the State did not have any direct evidence tying Applicant to the crime. Applicant also claims Counsel was ineffective for failure to make this argument on direct verdict. However, Counsel credibly testified that he thought he raised the best defense he could, given the evidence. Specifically, Counsel reasonably concluded that there was substantial circumstantial evidence tying Applicant to the crime and that he could not reasonably circumvent that at trial. Additionally, even if Counsel was not reasonable, no prejudice was established. The jury was instructed that circumstantial evidence

alone is sufficient to convict and this Court finds that, even if Counsel's chosen defense was different, the jury would have concluded there was enough evidence to convict. This Court also finds that this argument on directed verdict would not succeed for the reasons outlined above and, accordingly, there was no prejudice. Accordingly, relief is denied on this ground.

Conclusion

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this _____ day of _____, 2023.

BRIAN M. GIBBONS
Presiding Judge
Seventh Judicial Circuit

_____, South Carolina.

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2023 MAR 27 A 11:40
BRANDY W. MCBEЕ