

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jan 20 2023

SC Court of Appeals

Appeal from Lexington County
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ISAIAH DESHAUN BUTLER,

APPELLANT.

APPELLATE CASE NO. 2021-001272

RECORD ON APPEAL

LARA M. CAUDY
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

AMBREE M. MULLER
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

205 E. Main St.
Lexington, SC 29072

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED OCTOBER 11-14, 2021	1
OPENING STATEMENT BY MS. YONGUE	2
OPENING STATEMENT BY MS. POPOWSKI	9
TESTIMONY	
IYANA TYUS	
Direct Examination by Ms. Fuller	12
Cross-Examination by Mr. Chehoski.....	52
Re-Direct Examination by Ms. Fuller.....	69
Recross-Examination by Mr. Chehoski	79
ISAIAH “ZARIAH” OUTLAW	
Direct Examination by Ms. Fuller	81
Cross-Examination by Mr. Chehoski.....	104
Re-Direct Examination by Ms. Fuller.....	116
Recross Examination by Mr. Chehoski	122
NIKKI RODGERS	
Direct Examination by Ms. Yongue	124
Cross-Examination by Ms. Popowski.....	136
Re-Direct Examination by Ms. Yongue.....	139
KEANNA OUTLAW	
Direct Examination by Ms. Fuller	144
Cross-Examination by Ms. Popowski.....	186
Re-Direct Examination by Ms. Fuller.....	195
Recross-Examination by Ms. Popowski	198
MATTHEW PARKER	
Direct Examination by Ms. Fuller	200
Cross-Examination by Ms. Popowski.....	231
Re-Direct Examination by Ms. Fuller.....	246
LARRESIA THOMPSON	
Direct Examination by Ms. Yongue	256
Cross-Examination by Mr. Chehoski.....	263
Re-Direct Examination by Ms. Yongue.....	271
Recross-Examination by Mr. Chehoski	272

ISAAC VAN DUYS	
Direct Examination by Ms. Yongue	274
Cross-Examination by Mr. Chehoski.....	286
BRIAN TRAVIS	
Direct Examination by Ms. Yongue	287
Voir Dire Examination by Mr. Chehoski.....	290
Direct Examination by Ms. Yongue	292
Cross-Examination by Mr. Chehoski.....	314
Re-Direct Examination by Ms. Yongue.....	320
Recross-Examination by Mr. Chehoski	321
EBONY PONDS	
Direct Examination by Ms. Fuller	322
Cross-Examination by Mr. Chehoski.....	347
Re-Direct Examination by Ms. Fuller.....	360
SHANNON DYKES	
Direct Examination by Ms. Fuller	362
Cross-Examination by Mr. Chehoski.....	366
MICHAEL PHIPPS	
Direct Examination by Ms. Fuller	368
Voir Dire Examination by Mr. Chehoski.....	370
Direct Examination by Ms. Fuller	372
Cross-Examination by Mr. Chehoski.....	409
STATE RESTS	413
MOTION FOR DIRECTED VERDICT.....	414
RULING BY THE COURT.....	415
MOTION FOR COURT TO TAKE JUDICIAL NOTICE.....	417
RULING BY THE COURT.....	420
ADVICE OF RIGHTS	421
MOTION TO EXCLUDE APPELLANT’S PRIOR CONVICTIONS	427
RULING BY THE COURT.....	429
TESTIMONY	
MONEE ANDERSON	
Direct Examination by Mr. Chehoski	431
Cross-Examination by Ms. Fuller	440
Re-Direct Examination by Mr. Chehoski	468

RENEWED OBJECTION TO ADMISSION OF APPELLANT’S PRIOR CONVICTIONS ...473

TESTIMONY

ISAIAH BUTLER

Direct Examination by Mr. Chehoski	476
Cross-Examination by Ms. Fuller	504
Redirect Examination by Mr. Chehoski.....	539
Recross-Examination by Ms. Fuller	541

DEFENSE RESTS 543

RENEWED MOTION FOR DIRECTED VERDICT 544

RULING BY THE COURT.....544

CHARGE CONFERENCE.....547

MOTION TO REOPEN CASE 552

DEFENSE RESTS 553

CLOSING ARGUMENT BY MS. FULLER.....554

CLOSING ARGUMENT BY MR. CHEHOSKI.....571

CLOSING REBUTTAL BY MS. FULLER.....581

CHARGE ON THE LAW 586

MOTION FOR MISTRIAL 600

RULING BY THE COURT.....601

VERDICT 603

JURY POLL.....604

MOTION FOR A NEW TRIAL 607

RULING BY THE COURT.....607

SENTENCING 619

INDICTMENTS AND SENTENCE SHEETS.....623

CERTIFICATE OF COUNSEL 629

1 truck there that night.

2 Q. The next one I want to show you is State's Exhibit 63.
3 This is where you're talking about you're going to jail.
4 Why are you mentioning that?

5 A. That was a joke. It was just basically a joke.
6 That's why I said shaking my head I'm going to jail.
7 Basically I'm being funny.

8 Q. All right. And if it was a joke, does that indicate
9 -- what does that indicate to you in terms of understanding
10 the joke?

11 A. Laugh my fucking ass off.

12 Q. That would mean -- would you think that the joke is
13 understood then?

14 A. Yeah.

15 Q. All right. And what about talking about some pressure
16 be on Keanna. What do you mean by that?

17 A. Yeah, I was basically -- we was basically still was
18 joking, like it for real, bra. She -- I said for real bra,
19 it's dumb long, man. They probably putting some pressure
20 behind Keanna's ass, bra.

21 Q. Okay. There's one or two more I wanted to show you.
22 All right. State's Number 60, and why are you writing be
23 ready?

24 A. Because I was -- we was going to meet with her. We
25 was going -- when I left from home, when we got Nasir, we

1 were going to meet with Monee, so we could get with Monee.

2 Q. And what was the point to get with Monee?

3 A. Well, Tavares, like I said, he -- he was holding his
4 grandma's car, so we usually use Monee's car if we had
5 somewhere to go or whatever, so me and Nasir, we was
6 talking about going to see some girls and stuff beforehand,
7 before Tavares came, and we went to go get with Monee so at
8 some point we know she would let us hold her car after we
9 finished eating, so.

10 Q. All right. You just said that you and Nasir were
11 gonna go get with some girls?

12 A. Yes.

13 Q. What do you mean by that?

14 A. He wanted to go see some girl that was on Decker.

15 Q. What about you?

16 A. No, he just wanted me to ride with him.

17 Q. All right. Were you gonna go see some girls?

18 A. Well, I was gonna go with him, but as far as seeing
19 the girls I was gonna see them if I went with him, but...

20 Q. Were you gonna do anything with the girls when you saw
21 them?

22 A. No, sir.

23 Q. This next message says that at about 8:58, right here,
24 I'm sorry, that you were by Gamecock stadium. Do you
25 remember how much -- how much longer it took Monee to get

1 with you after she -- after you sent that text?

2 A. It didn't take that long. It was probably a couple of
3 minutes.

4 Q. Okay.

5 A. The Gamecock stadium is not far from Copper Beach.

6 Q. Right. And when she did arrive, did you stay in that
7 location long?

8 A. No.

9 Q. Isaiah, do you have any relationship at all with Ebony
10 Ponds?

11 A. No.

12 Q. Did you have any hatred towards her?

13 A. No. I only seen her maybe one time before the day the
14 incident happened.

15 Q. And any ill will towards her?

16 A. No, sir.

17 Q. Had you ever met Larresia Thompson?

18 A. Never.

19 Q. Any hatred towards her?

20 A. No, sir.

21 Q. Any ill will towards her?

22 A. No, sir.

23 Q. Any desire to see them get hurt?

24 A. No, sir.

25 Q. Were you the shooter at Riverbend apartments on

1 August 30th of 2018?

2 A. No, sir.

3 MR. CHEHOSKI: One moment, please, Your Honor.

4 BY MS. CHEHOSKI:

5 Q. At some point in time you did come in contact with
6 police on this matter, right?

7 A. Sir?

8 Q. Did you come in contact with police?

9 A. Yeah, once I got arrested.

10 Q. Right. And that was on September 11th?

11 A. Yes, sir.

12 Q. And did you talk with police?

13 A. Yes.

14 Q. All right.

15 MR. CHEHOSKI: One more moment, please, Your Honor.

16 Isaiah, thank you for answering my questions.

17 Please answer any questions that Ms. Fuller has.

18 THE WITNESS: Yes, sir.

19 THE COURT: Cross-examination.

20 MS. FULLER: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. FULLER:

23 Q. Just to cover a few things, something simple, you
24 testified on direct that only Keanna calls you bae. Before
25 you answer that, assume I've read every page of your phone

1 extraction.

2 A. Uh-huh.

3 Q. So other people call you bae, correct?

4 A. It may be possible, but I -- I know who I'm talking
5 to.

6 Q. And I'm not challenging that. We know Keanna sent
7 those messages, but that -- it wasn't true when you said
8 she's the only person that calls you bae, correct?

9 A. (Shakes head.)

10 Q. It was not true that she's the only person that calls
11 you bae, correct?

12 A. I haven't had that phone in a long time. I don't know
13 who was calling me what at the time.

14 Q. I want to talk about a few things -- well, a lot of
15 things actually, but we'll start. You do go by Ike,
16 correct?

17 A. Yes, ma'am.

18 Q. Your home address is [REDACTED] Romford Road, correct?

19 A. Yes, ma'am.

20 Q. Your phone number is [REDACTED]-8710, correct?

21 A. Yes, it was.

22 Q. And you only had that one phone number?

23 A. At the time.

24 Q. At the time, correct?

25 A. Yes, ma'am.

1 Q. Keanna's your girlfriend -- was your girlfriend?

2 A. At the time, yes.

3 Q. And you still have some form of relationship, correct?

4 A. Yeah, we do talk.

5 Q. Okay. When it comes to Monee, who you refer to as

6 Sissypooh, you two are close, correct?

7 A. We were close then. We don't talk --

8 Q. You were close then, correct?

9 A. Yes, ma'am.

10 Q. You consider -- I apologize. I didn't mean to cut you
11 off. What did you say?

12 A. Yes, ma'am.

13 Q. Okay. And in terms of your relationship, it was on
14 occasion a little bit more than the brother and sister
15 relationship, correct?

16 A. Can you repeat that question?

17 Q. It was more than just friends at times, correct?

18 A. More than friends with Monee?

19 Q. Yes.

20 A. No, that was just my sister. I just -- we was just
21 real cool friends.

22 Q. Okay. On August 30th, just so it's clear, you did not
23 stay the night with Keanna the night before?

24 A. No, I didn't. I did get there a little early in the
25 morning. Before noon. Before noon, yeah, I did.

1 Q. So Keanna wasn't telling the truth?

2 A. She might just not have remembered.

3 Q. Yes or no?

4 A. I can't tell you yes or no. She might not have
5 remembered. I don't know. I'm not sure.

6 Q. You did not stay there the night before, correct?

7 A. No, I didn't.

8 Q. Okay. In terms of the black Range Rover, when you
9 were at Keanna's that day, there was a black Range Rover
10 there, correct?

11 A. No.

12 Q. So you're saying there was not a black Range Rover
13 there?

14 A. No.

15 Q. The black Range Rover in your phone, you're saying you
16 know the owner of that black Range Rover?

17 A. I don't -- I don't know if he's the owner, but it was
18 his truck.

19 Q. And who is this?

20 A. He was a friend of one of my friends that stay at
21 Copper Beach.

22 Q. What's his name?

23 A. I don't remember.

24 Q. But he was a friend of a friend?

25 A. Uh-huh.

1 Q. But the owner of the truck you don't know?

2 A. No.

3 Q. And you're aware that that same black Range Rover was
4 recovered months later out of state, correct?

5 A. It might have been, yeah.

6 Q. In Georgia, correct? You're aware of this?

7 A. Yes.

8 Q. Okay. In terms of your direct testimony, you
9 indicated -- and I wrote it down because I don't want to
10 misspeak -- that you did not go back over there because
11 you did not have protection, you didn't have a firearm,
12 correct?

13 A. Yes, ma'am.

14 Q. But do you own -- you did have in your possession a
15 firearm, correct?

16 A. I was not picked up with a gun when I went to jail.

17 Q. Not my question.

18 A. I never had a gun.

19 Q. Not the question.

20 A. What -- what was the question?

21 Q. Back in August of 2018, did you have a firearm?

22 A. No.

23 Q. Looking at your phone, on August 15th what is that?

24 A. August 15th? That was weeks before August 30th, which
25 is the same gun that I said had got -- had got stolen.

1 Q. So I'm gonna ask the question and I'm gonna ask the
2 judge to instruct you to answer my question, okay?

3 A. Yes, ma'am.

4 Q. My question was in August of 2018, did you have a gun?

5 A. August of 2018 I didn't own a gun, no.

6 Q. In the month of August of 2018, you're saying you did
7 not have a gun?

8 A. I didn't own a gun. I took a picture with a gun, but
9 it was not my gun.

10 Q. So looking at this message that you sent to someone
11 who calls you bae, who you also told were laying low, what
12 does that message say?

13 A. It says laughing my ass off. That's my baby right
14 now.

15 Q. And what did you send with that text?

16 A. It was a picture of the gun that I had took a picture
17 of.

18 Q. That you referred to as my baby?

19 A. Yes.

20 Q. You like to use the word "my" a lot, but you're -- in
21 court you're saying my does not indicate that you actually
22 own something? Is that your testimony?

23 A. I use the term a lot. It don't have to actually be
24 mine is what I'm saying, yeah.

25 Q. Okay. But you do acknowledge that you sent this text

1 on August 15th with a picture of a gun?

2 A. Yes.

3 Q. And what happened to that gun?

4 A. It got stolen.

5 Q. When?

6 A. I was in Five Points one night and somebody broke in
7 the car and stole the gun.

8 Q. And you reported it?

9 A. No, I didn't report it.

10 Q. Because it's not your gun, right?

11 A. Yeah.

12 Q. Okay. Now on September 3rd, after the shooting, what
13 is that message?

14 A. That's me saying I need another stick.

15 Q. And that's another gun, correct?

16 A. Right.

17 Q. Defense asked you about -- let me make sure I find
18 them -- these messages. Now I just want to make sure I
19 understand you correctly. In State's 38, is your testimony
20 that when you said you shot at -- we shot at, you're not
21 including yourself in that we?

22 A. No, I included us as a -- like a household. That's
23 where I used to be at all the time and the guy that I used
24 to be there with got into it with some other guys that
25 stayed on the other side of the apartment complex. I say

1 "we" as us. I included -- I included myself by saying we,
2 but I didn't physically shoot a gun at anyone. My friend
3 got into a confrontation and that's how it happened.

4 Q. So my question was you did not include yourself in
5 that we, correct?

6 A. Yeah, I didn't include myself.

7 Q. But you just texted the "we"?

8 A. Yeah.

9 Q. And so in this message, if I understand you correctly,
10 you're admitting to a different shooting as a "we",
11 correct?

12 A. I didn't include myself, so I wouldn't say me.

13 Q. So even though this message is a "we", you're saying
14 this is something completely different?

15 A. That totally had nothing to do with what I'm here for.

16 Q. The message on September 7th, again, I'm just making
17 it clear, you said I'm going to jail and she laughs and in
18 response to her laughing is it your testimony that saying
19 for real isn't telling someone hey, it's not funny? Is
20 that your testimony?

21 A. Only I can tell you what I -- what I mean by
22 something, but it -- it only meant like for real. She been
23 -- she been gone for a long time, like what she got going
24 on or what -- what are they asking her.

25 Q. You would acknowledge though when someone -- when you

1 text someone something serious and they laugh, that it's
2 common for people to say hey, no, for real, I'm being
3 serious?

4 A. But it's -- it's through text. You don't have to
5 actually be correct.

6 Q. It's a yes or no question.

7 A. Repeat the question.

8 Q. Is it common, generally speaking, if you text someone
9 something serious and they laugh, when you respond with
10 hey, bra, for real, you're being -- you're trying to tell
11 them it's not a laughing matter?

12 A. No.

13 MR. CHEHOSKI: Your Honor, I'm gonna object for
14 calling for speculation.

15 MS. FULLER: I can ask the question.

16 THE COURT: He can answer the question.

17 MS. FULLER: It's cross-examination.

18 THE COURT: Overruled.

19 BY MS. FULLER:

20 Q. Did you answer the question?

21 A. No.

22 Q. Are you saying no?

23 A. (Nods head.)

24 Q. Okay. Here you talk about you're not by your truck.
25 Again, my, possessive. Is it your testimony that you're

1 not referring to something that you have possession of?

2 A. Repeat that.

3 Q. You understand the word "my"?

4 A. Yes, I understand the word "my".

5 Q. So when someone says "my", you understand that you're
6 saying it's mine, that I own it. Do you understand that?

7 A. Yeah, but you can also say "my" and it don't have to
8 be owned. You don't have to own it.

9 Q. Okay. Mr. Butler, I'm not trying to be too combative.
10 I'm really just trying to get my questions answered. So --

11 A. I'm answering them.

12 Q. So with "my", you would agree that "my" suggests
13 ownership of the person saying the word "my", correct?

14 A. Yes.

15 Q. And you wrote this text saying my truck, correct?

16 A. Yes, ma'am.

17 Q. Okay. And you wrote the text saying some stuff
18 happened, correct?

19 A. Yes, ma'am.

20 Q. That's S-H-I-T, I'm saying stuff, but correct?

21 A. Yes, ma'am.

22 Q. Then later in the same conversation you talk about
23 going to get your truck. Now you say your Rover, correct?
24 You acknowledge that?

25 A. Yes, ma'am.

1 Q. And you wrote these messages yourself, correct?

2 A. Yes, ma'am.

3 Q. No one else had your phone to send these messages,
4 correct?

5 A. No.

6 Q. And you said you're going to get it and coming back
7 and you're going to chill, correct? That's what you wrote?

8 A. Yes.

9 Q. Now in the conversation with Keanna, you said hey,
10 see if my truck is still good when you go by there. You're
11 talking about the same truck in this message, correct?

12 A. No.

13 Q. So what truck are you talking about here?

14 A. It was a truck that my friend Nasir had owned that I
15 called mine as well because we're friends. He had took it
16 to the -- Keanna's apartment complex because he couldn't
17 keep it where he stayed at, there was something wrong with
18 the engine, so he had it towed to where Keanna stayed at.

19 Q. And so you went to go get it?

20 A. Yeah, we went to go get it.

21 Q. You and Nasir?

22 A. Yes, ma'am.

23 Q. Knot-Knot?

24 A. Yes, ma'am.

25 Q. Line 39 on your phone log, this is Nasir, correct?

1 A. Yes, ma'am.

2 Q. And this is you attempting to call him the night this
3 happened at 8:30, correct?

4 A. The night --

5 Q. The night of the shooting --

6 A. Yeah.

7 Q. -- 8:30, you attempted to call him, correct?

8 A. Yes.

9 Q. And you didn't talk to him at 8:30?

10 A. No.

11 Q. Okay. Your testimony on direct was that you were with
12 -- now you were with Nasir and Monee that night, correct?

13 A. Around what time are we talking?

14 Q. Well, your testimony is after the 7:30 incident Monee
15 came and picked you up, correct?

16 A. Yes, ma'am.

17 Q. Even though she was asleep and didn't read your
18 message until 8:36, correct?

19 A. Yes, ma'am.

20 Q. But sometime between 7:30 and 7:43 or 7:45 she came
21 and picked you up, correct?

22 A. Yes, ma'am.

23 Q. Even though she didn't answer your call at 7:45,
24 correct?

25 A. Yes, ma'am.

1 Q. Even though you didn't speak to her until 8:36,
2 correct? I can show you the board. 8:36 is when you
3 finally speak to Monee that night, correct? Can you see
4 it?

5 A. Yes, that's what it says on the board.

6 Q. Well, if that's not accurate, please let me know.

7 A. No, I'm telling you that's what it says on the board.
8 Yes, I'm agreeing.

9 Q. Okay. So my direct question is that night, that is
10 when you spoke with Monee, at 8:36 PM, correct?

11 A. Yes, me and Monee spoke.

12 Q. And not before that, correct?

13 A. I can't tell you if that's something actually written
14 in the log.

15 Q. So at 8:33 Monee does not answer, correct?

16 A. Yes.

17 Q. So you did not speak to her at 8:33?

18 A. No.

19 Q. At 7:51 she doesn't answer, so you didn't talk to her
20 then either, correct?

21 A. Well, around 8:30 something, then we -- me and Monee
22 wasn't together anymore.

23 Q. Did you understand my question?

24 A. What was your question?

25 Q. At 7:51 you did not speak to her, correct?

1 A. 8:51?

2 Q. 7:51.

3 A. No.

4 Q. And at 7:45 you didn't speak to her then either,
5 correct?

6 A. I'm not sure. It says 11 seconds.

7 Q. But she didn't wake up until 8:36.

8 A. I don't know.

9 Q. So are you saying you spoke to her at 7:45? That's
10 not a good question. Did you speak to Monee at 7:45?

11 A. I can't tell you three years ago that I talked to
12 somebody on the phone.

13 Q. So back over here your testimony is when the cops were
14 there Monee came and picked you up, correct?

15 A. Yes.

16 Q. You testified on direct that you saw her before she
17 saw you. That was your testimony, correct?

18 A. Yes.

19 Q. So my question to you, at 7:45, even though she
20 acknowledged she didn't answer, are you saying you talked
21 to her at 7:45?

22 A. I mean, like I said, it say 11 seconds, so I don't
23 know if we talked or not.

24 Q. At 7:47 you text her answer ASAP. You sent that text,
25 right?

1 A. Yes.

2 Q. At 7:47 PM on August 30th, correct?

3 A. Yes.

4 Q. And I promise you I'm not asking trick questions. So
5 if you're telling her at 7:47 to answer ASAP, how did she
6 pick up? You're squinting. Do I need to bring this
7 closer?

8 A. Yeah. I just don't -- I just don't remember. I can't
9 tell you.

10 Q. Let's go back to Nasir. Looking at your call log, you
11 attempt to FaceTime him again. Where did we leave off?
12 8:30. Or he attempts to -- it looks like he attempts to
13 FaceTime you, a missed call, you didn't answer. 8:30,
14 correct? Missed call, Line 41. Do you see that?

15 A. Yes, I see it.

16 Q. Missed incoming, did not speak, so at 8:30 we can say
17 you guys were not together, correct?

18 A. I'm not sure.

19 Q. Well, your testimony is that you guys were together.

20 A. I don't know a specific time.

21 Q. Right. So that's why we're using the call log to try
22 to jog your memory. I'm trying to figure out when you get
23 together, okay? That's where I'm going with this.

24 A. Yes, ma'am.

25 Q. So then at 8:31 he attempts to FaceTime you again and

1 it's a missed call, correct?

2 A. Yes, ma'am.

3 Q. It looks like by 8:42 FaceTime connected potentially
4 for 11 seconds. So at 8:42 if you guys are FaceTiming each
5 other, are you guys together?

6 A. I don't remember.

7 Q. So your testimony on direct was that you left --
8 however you left Keanna's that day that after the 7:30
9 incident you went home. That was your testimony?

10 A. Yes, ma'am.

11 Q. And what was your testimony about getting from your
12 house to meet up with Nasir? Did he pick you up or did you
13 go to his house?

14 A. I said that Tavares came by my house. I rode with him
15 and we picked up Nasir.

16 Q. I apologize. I misunderstood that. And so Tavares
17 came and picked you up?

18 A. Yes, he was coming by and I rode with him to get Nasir
19 and then we went to Copper Beach.

20 Q. Okay. And which call is Tavares? I'm sorry.

21 A. I said that he came by. I never said that we spoke.

22 Q. Okay. So he just took the chance that you were gonna
23 be home?

24 A. He always come by.

25 Q. I don't know him.

1 A. It's something that's common.

2 Q. Right. I'm just asking. So you would agree that you
3 were on a FaceTime call potentially at 8:42 with Knot-Knot
4 -- with Nasir?

5 A. Yes, ma'am.

6 Q. Now on direct you talked about being by the Gamecock
7 stadium at 8:58 because that's when you sent the text,
8 correct?

9 A. Yes.

10 Q. And I just want to flesh that out because I was a bit
11 confused. So was the plan to meet at the Gamecock stadium
12 or was the plan to meet at Old Chicago?

13 A. I do not remember. I let her know that I was by the
14 Gamecock stadium, which was coming towards her.

15 Q. Okay. So she was waiting for you at Old Chicago?

16 A. No.

17 Q. That's why I'm asking. I was confused what you were
18 trying to say.

19 A. Can you ask -- can you ask the question again?

20 Q. So at 8:58 you sent a message saying you're by
21 Gamecock stadium. This is in response to Monee telling you
22 she'll meet you there.

23 A. Yes.

24 Q. So I'm asking what was the plan there? Was that to --
25 I got confused on your direct testimony -- was to meet you

1 there, was that supposed to be Old Chicago or did she
2 actually come to the Gamecock stadium and you guys meet up
3 there?

4 A. The plan was to meet at the Old Chicago, but he went
5 ahead and dropped us off to her.

6 Q. To her where?

7 A. On -- on Bluff Road. Copper Beach.

8 Q. So then -- so your testimony is you -- after this
9 message you were heading towards Copper Beach at 8:58?

10 A. We was -- we was by the Gamecock stadium to meet with
11 Monee.

12 Q. I'm gonna show you something and ask you the question
13 again, okay? So when you look at State's 48, down here in
14 the corner this is Bluff Road, George Rogers Stadium is
15 there. Copper Beach, Southern, is somewhere around there,
16 correct? You would agree this is down Bluff Road?

17 A. Yes, ma'am.

18 Q. Okay. And that's at 8:55?

19 A. Yes, ma'am.

20 Q. You're using -- you're making a call on this side of
21 the tower going that direction, okay? At 59 you're
22 travelling and you're on that side of the tower travelling
23 away from Cooper Beach. So my question is at 8:59 if you
24 make a call and you're travelling away from Copper Beach --
25 I'm getting a little more confused now if at 8:58 you said

1 the plan was to meet at the Gamecock stadium.

2 A. I can't give you an accurate answer for something
3 that happened so long ago. I just -- I can't remember
4 everything that was going on as -- as far as the movement.

5 Q. I promise I'm not -- I'm trying to understand what
6 you're saying. You said they ended up dropping you off at
7 Copper Beach. Who dropped you off at Copper Beach?

8 A. Tavares.

9 Q. So your testimony is that you met up with --

10 A. Monee near --

11 Q. -- Monee sometime after 8:59 at Copper Beach?

12 A. I don't know the time.

13 Q. And, again, I know that. That's why I'm showing you
14 -- giving you official records, so you are helping me fill
15 in the gap. Does that make sense?

16 A. Yes.

17 Q. Okay. So we know the official time and that's what
18 I'm trying to cover with you. At 8:36 we know she was
19 sleeping. You guys talk, you say be ready, okay. You talk
20 again at 8:55. 8:58 she tells you I'll meet you there,
21 where you at, you say by the Gamecock stadium.

22 A. Okay.

23 Q. Forget the times. We know the official times. I'm
24 asking you are you saying after that message you got
25 dropped off at Copper Beach?

1 A. I cannot remember accurately every plan or -- because
2 obviously it says I'll -- I'll meet you there, which means
3 we had a conversation on the phone. I don't know exactly
4 what was said on the phone or I can't remember the actual
5 play.

6 Q. So when -- how did we end up sitting outside with
7 other people smoking at Old Chicago? I'm trying to get
8 there. We have twelve minutes to get there and I'm trying
9 to get us there in twelve minutes. At 8:59 you're on Bluff
10 Road. At some point -- actually less than that, 9:07.
11 You've got eight minutes to get me to Old Chicago and I'm
12 just trying to get there, okay? So you said you got
13 dropped off at Copper Beach?

14 A. Yes, we got dropped off near Copper Beach.

15 Q. And you got in Monee's car? That's your testimony?

16 A. Yeah, we got with Monee.

17 Q. Okay. Then you got in her car and drove to Old
18 Chicago?

19 A. Yeah, when we got to her we went to Old Chicago.

20 Q. So now we're at 9:00, just maybe five minutes to get
21 to Old Chicago from down there? Ten?

22 A. It depends on the streetlights, traffic, which it's
23 dark, so.

24 Q. Okay. So earlier on direct your testimony was that
25 Monee was sitting outside in the car at Old Chicago, other

1 people were in another car smoking, and I thought you said
2 you went inside Old Chicago.

3 A. I never said that.

4 Q. So you never went inside Old Chicago?

5 A. I never said I went inside Old Chicago.

6 Q. Okay. You never said it, but I'm asking you did you
7 ever go inside Old Chicago that night?

8 A. No, ma'am.

9 Q. So if Monee said that you guys ordered and other
10 people -- other people ordered and you guys left, that's
11 not true then? You're saying you never went inside Old
12 Chicago?

13 A. I never went inside of Old Chicago.

14 Q. So your testimony is you drove to Old Chicago sometime
15 after 9:00 and just sat in the parking lot?

16 A. Yes. Like I said, the people that we met with there,
17 they wanted to smoke before they went in. Me and Nasir
18 got in the car with them and Monee stayed in the car by
19 herself. That's what I'm saying.

20 Q. And who were the other people there? I got Nasir, I
21 got Monee. Who were the other people in the other car?

22 A. I mean, why -- why do I have to tell you a name? They
23 was friends of you all of us.

24 THE COURT: What was the question? Say the
25 question again.

1 MS. FULLER: I ask him who he was -- who was in
2 the other car.

3 THE COURT: He can answer if he has personal
4 knowledge of it.

5 MS. FULLER: And, Your Honor, can you instruct him
6 not to ask questions from the witness stand?

7 THE COURT: Well, you know -- please answer the
8 questions posed by counsel from either side.

9 THE WITNESS: They was our friends.

10 BY MS. FULLER:

11 Q. And what are their names?

12 A. I mean, I don't understand why I have to answer that.

13 Q. Do you know the names of the people that were in the
14 car?

15 A. Yes.

16 Q. Okay. What are their names?

17 A. Kejuan Boyce, Jaquise, and they had a female friend
18 with them.

19 Q. And what's her name?

20 A. I didn't know her name. I didn't actually know her.
21 I know Jaquise and I know Kejuan.

22 Q. Okay. And then where was Tavares?

23 A. I said that he dropped us off when we got with Monee.

24 Q. So then he left?

25 A. He -- he never stayed with us.

1 Q. Okay. So Tavares picks you up from your house --

2 A. Yeah.

3 Q. -- drives you to pick up Nasir?

4 A. Yes. I said he -- he came --

5 Q. Just yes.

6 A. Yes.

7 Q. Drives you to pick up Nasir?

8 A. Yes.

9 Q. The three of you drive to Gamecock stadium, to Copper
10 Beach potentially, correct?

11 A. Potentially.

12 Q. That's your testimony?

13 A. Yes.

14 Q. And somewhere between the Gamecock stadium and Copper
15 Beach you get in Monee's car?

16 A. Yes.

17 Q. You and Nasir get in Monee's car?

18 A. Yes, ma'am.

19 Q. And Tavares goes on his way?

20 A. Yes, he went back to his grandma's house.

21 Q. Okay. So then you, Nasir and Monee are in the car
22 together?

23 A. Yes.

24 Q. And you drive to the Vista?

25 A. Yes.

1 Q. And you get to the Vista and you meet up with other
2 friends, correct?

3 A. Yeah.

4 Q. And those are those three people?

5 A. Yes, ma'am.

6 Q. And what kind of car were they in?

7 A. It was like a -- it was some kind of truck. It was
8 like a work truck that Kejuan used that him and his -- like
9 his people got a moving company truck, but it was like a
10 Jeep, kind of like a Jeep, but it had like the sticker on
11 the side with name of the company.

12 Q. So like a Jeep Wrangler?

13 A. No, not like a Jeep Wrangler, but kind of like a newer
14 Jeep.

15 Q. What are the other Jeeps? A Cherokee?

16 A. I can't tell you the name.

17 Q. So it was a five seater? Was it a five seater car?

18 A. No, there wasn't two rows.

19 Q. How many rows?

20 A. There was one row.

21 Q. So your testimony was that there were three people in
22 that car and that you and Nasir got out of Monee's car and
23 into their car because they were smoking. So where did you
24 sit in the car?

25 A. In the back seat.

1 Q. You just said there wasn't a row. I'm confused.

2 A. I said there wasn't a second row. I said it was a
3 seat. Like, you know, there's SUV's that has one seat and
4 then there's another seat behind it. It only had one row
5 of seats of which there's three us in the back and two
6 people in the front.

7 Q. Okay. So a five seater?

8 A. Yes.

9 Q. Okay. When I asked you five seater you said no.

10 A. I didn't understand.

11 Q. Okay. That's fine. That's why I got confused.

12 So at that point somewhere while you're sitting there
13 is when you got the call from Keanna?

14 A. Yes.

15 Q. And at that point you, Monee and Nasir get back in
16 Monee's car -- well, Monee was in her car. The two of you
17 get back in her car and you drive across the river to pick
18 up Keanna?

19 A. I don't remember everything that happened within the
20 time.

21 Q. Did you get back in Monee's car?

22 A. Yeah, we got back in the car with Monee.

23 Q. Okay. And Nasir was in the car with you?

24 A. Yes.

25 Q. And the three of you drove across the river to pick up

1 Keanna?

2 A. What I'm saying is I don't -- I don't know. We didn't
3 instantly move when Keanna called. Like when she called,
4 we didn't instantly get up. They actually finished
5 smoking, then we got out and we actually left to go get
6 Keanna.

7 Q. And then you go get Keanna?

8 A. Yes.

9 Q. The three of you together?

10 A. Yes.

11 Q. Okay. Do you remember on September 11th speaking
12 with investigators with the Lexington County Sheriff's
13 Department?

14 A. Yes.

15 Q. And you spoke with them for nearly two hours? It was
16 well over an hour. About an hour and forty.

17 A. I don't remember, but it was quite a while.

18 Q. It was a long time?

19 A. Yeah.

20 Q. In court today you were testifying on direct for about
21 forty-six minutes. You interviewed with law enforcement
22 for longer than that time, correct? Does that sound
23 accurate?

24 A. More than what time?

25 Q. Longer than you testified in court.

1 A. Yeah.

2 Q. Okay. And in that timeframe you did not mention going
3 to the Vista, correct?

4 A. Yes, I know.

5 Q. Okay.

6 A. Yes, ma'am. I know.

7 Q. So you knew that question was coming?

8 A. I didn't know it was coming, but, yes, I know.

9 Q. So since September 11th up to today, when did you
10 remember you went to the Vista?

11 A. When I -- when I first saw investigators, I was barely
12 twenty years old and I never went through anything where I
13 was being accused of attempted murder, so I gave them my
14 alibi, but I didn't give them every piece or I didn't tell
15 them everything because I said I was innocent. I feel like
16 they would go check my alibi or do something and I didn't
17 know that I was actually going to go to jail for it.

18 Q. Right.

19 A. I thought I was just being questioned about it.

20 Q. But you were served with warrants. You knew you were
21 being arrested?

22 A. I didn't know how the process worked. I'd never been
23 in jail. I never got a charge for anything.

24 Q. We'll move on from there. You are correct. After
25 you spoke, law enforcement obtained your records. You

1 acknowledge this is your phone number, [REDACTED]-8710, correct?

2 A. Yes, ma'am.

3 Q. And your phone puts you in West Columbia near the
4 crime scene, correct? Correct?

5 A. It doesn't actually put me there.

6 Q. Your phone puts you utilizing a tower that services
7 [REDACTED] Riverbend, correct?

8 A. Yes, but the tower don't just belong to Riverbend.

9 Q. Right. When you spoke with law enforcement back then,
10 you did not mention the Vista, but you did tell them you
11 were by Benedict. Do you remember that?

12 A. Yeah, I told them that we got Nasir from -- by
13 Benedict.

14 Q. Yes or no?

15 A. Yes, I remember.

16 Q. And you told them that at the time that this happened
17 you were -- you were all the way by Benedict, correct?

18 A. Yes, ma'am. I explained why I said that.

19 Q. And you indicated that it took you -- let's see. You
20 said you didn't go right away, which you testified here
21 today, but it took you driving-wise from Benedict, what,
22 fifteen to twenty minutes. That's what you said?

23 A. Possibly that's what I said.

24 Q. If you remember it differently, you can certainly
25 correct me.

1 A. No, I don't remember.

2 Q. You don't remember?

3 A. No, ma'am.

4 Q. It took us probably about fifteen or twenty minutes
5 for us to come from over there to pick her up and she was
6 walking around the street in her bare feet and we picked
7 her up and went back to Copper Beach. Does that sound
8 accurate?

9 A. Somewhat, yes, ma'am.

10 Q. You can correct me if I'm wrong. And no time in that
11 conversation you indicated a pit stop in the Vista.

12 A. Yes, ma'am. I just explained why I didn't tell them
13 when I first did.

14 Q. Yes or no?

15 A. Yes, ma'am.

16 Q. No, you did not indicate a pit stop in the Vista?

17 A. No.

18 Q. Then later on in the interview when law enforcement
19 confused -- do you remember they were confused about what
20 you were saying, correct?

21 A. I don't remember.

22 Q. And you took it upon yourself to explain it again. Do
23 you remember having to explain it more than once?

24 A. It was three years ago. I don't remember everything
25 about the interview.

1 Q. Would I be wrong to say you stated where you were more
2 than once during that interview?

3 A. Maybe.

4 Q. I'm wrong?

5 A. I said maybe.

6 Q. Okay. And so if I told you when again you said you're
7 trying to twist my words, I was chilling somewhere around
8 Dillon or Denton Street by Benedict before she called me,
9 and this was over forty-five minutes into the interview,
10 when we got her we went to Copper Beach. I never said --
11 I never said I was at Cooper Beach. I said we came from
12 Dillon Street at my friend's house. Correct?

13 A. Yes, that's what was said.

14 Q. So now today you're saying you left that area, you
15 may or may not have gone to Copper Beach, then went to the
16 Vista and then went to West Columbia? Is that your
17 testimony?

18 A. And that's why I told my attorneys what actually
19 happened, yes.

20 Q. That's your testimony?

21 A. Yes.

22 Q. When you interviewed with the police, they asked you
23 about an officer seeing the Range Rover and you by it
24 earlier that day. You remember that, correct?

25 A. Yes, I remember them asking about that.

1 Q. And on cross I asked you if you saw the Range Rover
2 there. Today you said no, you didn't see it, correct?

3 A. Yes, ma'am.

4 Q. But back then you said that if there was a Rover there
5 doesn't mean I was driving it. Do you remember saying
6 that?

7 A. That's kind of pretty self-explanatory. If there was
8 a Rover there, it wasn't nothing that belonged to me, but
9 I didn't see it or I wasn't in one.

10 Q. But when the officer confronted you about the deputy
11 seeing you there, you began asking questions about the
12 Rover, correct? You remember that, right?

13 A. What kind of questions?

14 Q. Just because if I was standing there doesn't mean he
15 saw me in the Rover.

16 A. I just said if there was a Rover there, I didn't know.
17 I didn't see a Rover. I wasn't in a Rover the day of
18 incident.

19 Q. After the shooting -- I have a few more questions to
20 ask you -- you remember a family member of Ebony and
21 Ms. Thompson messaging you on Facebook?

22 A. Yes, I do.

23 Q. And you remember responding to them?

24 A. I don't remember the actual response, but I do
25 remember.

1 Q. And your Facebook account is Hot Boy Bae?

2 A. It could have been at the time, yeah.

3 Q. Go ahead and take your time to review this.

4 A. I read it.

5 Q. And you remember this communication, correct?

6 A. Yes, I do.

7 Q. And you actually deleted this communication from your
8 Facebook account, correct?

9 A. I don't remember. I may have.

10 Q. And when their cousin reached out to you about the
11 shooting, you acknowledged that you threatened their
12 cousin, correct?

13 A. I threatened who?

14 Q. On the last page, page 4.

15 A. He texted me first.

16 Q. I'm with you. That's why I asked you. Do you
17 remember him reaching out to you?

18 A. He wasn't reaching out, he was threatening me.

19 Q. Okay. We can start at the beginning.

20 A. Yes, ma'am.

21 Q. He says I want you to keep your life, give me a
22 location, I'll just whoop you're a-S-S, correct?

23 A. Yes.

24 Q. Then give me a location, Ike, correct?

25 A. Yes.

1 Q. And then you say give me your location and put emojis
2 with it?

3 A. Yes.

4 Q. I ain't kappin', where you at, you say where you at,
5 correct?

6 A. Yes.

7 Q. He says not gonna play games?

8 A. He said not gonna play games and let you talk me to
9 death, I'll wait until you slip up, man.

10 Q. And then you say location, correct?

11 A. Yeah.

12 Q. And then he says I'm gonna find you, just wait,
13 correct?

14 A. Yeah.

15 Q. And then you respond with a threat, correct?

16 A. Because I was threatened.

17 Q. He threatened to fight you, right? Whoop is fight,
18 correct?

19 A. He said I want you to keep your life threatening me.

20 Q. I want you to keep your life means live, correct?

21 A. Uh-huh.

22 Q. Correct, right?

23 A. Yeah.

24 Q. Okay. And then your threat escalated it; did it not?

25 A. We was threatening each other. I don't understand.

1 Q. It's a yes or no. Your threat escalated --

2 A. Yes. He threatened me and I threatened him.

3 Q. My question is you escalated it to death, correct?

4 Page 4.

5 A. Yes.

6 Q. Also take a minute and review that.

7 A. Okay. I see it.

8 Q. And also another Facebook message that was deleted and
9 if you look at the top --

10 A. Yeah.

11 Q. -- where the question says deleted --

12 A. Yes.

13 Q. -- what does it say?

14 A. It say yeah.

15 Q. Okay. And then over here when it says deleted, what
16 does it say?

17 A. Yes.

18 Q. Okay. And this was someone else reaching out to you
19 two days after this shooting telling you to calm down
20 little, bra, stay low, correct?

21 A. It could have been about a different situation.

22 Q. So you're involved in another situation; is that what
23 you're saying?

24 A. I can't tell you the situation. It didn't have to be
25 that serious or -- I don't remember.

1 Q. And so you're saying it's that coincidental that it
2 happened on the first two days after the shooting why we're
3 here?

4 A. That's two days after.

5 Q. Where the next day you're texting people that you need
6 to lay -- that you're laying low, you did something. The
7 day after the shooting you sent that, coincidental as well,
8 is that your testimony?

9 A. A lot of things can happen within twenty-four hours,
10 within an hour. I can't tell you.

11 Q. You're absolutely right about that.

12 MS. FULLER: I beg the Court's indulgence.

13 I'll leave it alone. No further questions at
14 this time.

15 THE COURT: All right. Ladies and gentlemen, it's
16 time for redirect. Before we start, we've been going
17 about two hours, are you good to keep going or would
18 somebody like a break? There's no wrong answer here.

19 Okay. Let's take a short break. We'll get you
20 back up here as soon as possible. Please don't discuss
21 the case while you're out. We'll see you momentarily.

22 (Whereupon, the jury retires to the jury room at
23 4:42 PM.)

24 THE COURT: I'll ask the bailiff just as soon as
25 everyone's ready to come right back up, so.

1 MR. CHEHOSKI: Can we approach on a matter off the
2 record?

3 THE COURT: Sure.

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

5 (Recess taken at 4:42 PM.)

6 (Back on the record at 4:54 PM.)

7 (Whereupon, the jury return to the courtroom at
8 4:54 PM.)

9 THE COURT: Please be seated.

10 All right, ladies and gentlemen. Welcome back.

11 We're gonna pick up with redirect examination.

12 REDIRECT EXAMINATION

13 BY MR. CHEHOSKI:

14 Q. Isaiah, how old were you in August of 2019 -- '18
15 rather?

16 A. I was nineteen. I just had turned twenty. My
17 birthday was [REDACTED], so I had just turned twenty.

18 Q. Okay. On the day of the incident you had -- you were
19 -- when is your birthday?

20 A. [REDACTED].

21 Q. You had been twenty for [REDACTED] on August 30th?

22 A. I just had turned twenty, so, yeah.

23 Q. Just turned twenty. And as a twenty-year-old, how
24 would you typically respond when someone threatened you?

25 A. To kind of react in the same way as they reacted with

1 me.

2 Q. Would it be fair to say that you would threaten back?

3 A. Yeah.

4 Q. Now on cross-examination the State talked to you about
5 a number of phone calls you made with a number of people.

6 Do you remember the specifics of -- of those calls?

7 A. No, sir.

8 Q. And they also talked about you talking with law
9 enforcement?

10 A. Yes, sir.

11 Q. How were you feeling when you were talking with them?

12 A. I was uncomfortable. My hands was behind my back the
13 whole time and I was just -- I was basically uncomfortable.

14 Q. How long did you talk with them; do you remember?

15 A. It was -- it was a long time. It was over an hour.

16 Q. How were you feeling in talking to them?

17 A. Basically like I didn't really want to talk, but like
18 I wasn't -- I wasn't feeling good at all.

19 Q. Were you nervous though?

20 A. Yeah, I was very nervous.

21 Q. Were you scared?

22 A. Yes.

23 Q. Have you owned a gun in the past?

24 A. Yes, I -- I had a gun in the past.

25 Q. Did you own a gun on August 30th --

1 A. No.

2 Q. -- of 2018?

3 A. No, sir.

4 Q. The State showed you a picture of a gun.

5 A. Yes.

6 Q. In that picture did you -- were you the owner of that
7 gun?

8 A. No, I was taking a picture with somebody else gun.

9 Q. Do you remember whose gun it was?

10 A. It was one of my friends.

11 Q. Was that gun though yours?

12 A. No.

13 MR. CHEHOSKI: Your Honor, one moment, please.

14 BY MR. CHEHOSKI:

15 Q. You said that when you were talking to the police your
16 hands were behind your back?

17 A. Yes, sir.

18 Q. Was there -- what was on your hands at the time?

19 A. Handcuffs.

20 MR. CHEHOSKI: Thank you.

21 THE COURT: Recross.

22 MS. FULLER: Briefly.

23 RECROSS EXAMINATION

24 BY MS. FULLER:

25 Q. That gun was a semiautomatic with an extended clip,

1 correct?

2 A. Yes, ma'am.

3 Q. And you referred to it as my baby, correct?

4 A. Yes, I did.

5 Q. And you had it in your lap, correct?

6 A. Yes.

7 Q. And you took the photograph, correct?

8 A. I'm not sure who took the photograph, but it was
9 taken, yeah.

10 Q. And you sent the picture of that semiautomatic with
11 an extended clip to a female saying this is my baby right
12 now, correct?

13 A. Yes.

14 Q. And your interview with the police, it lasted a long
15 time because they let you talk a long time, correct?

16 A. Yes. They would ask me questions.

17 Q. And they let you go on, correct?

18 A. Yes.

19 Q. And most of your interview with the police was you
20 trying to ask them some questions, too, correct?

21 A. I don't remember about the interview, but they were
22 asking me questions.

23 Q. Right. But you were questioning them, right, as well?

24 A. If I'm being accused of something, I want to ask
25 questions.

1 Q. Right. But you were trying to outsmart them during
2 that interview, correct?

3 A. No, I was trying to say that I was innocent.

4 MS. FULLER: No further questions.

5 THE COURT: All right. The witness may step down.

6 You're free to step down, sir.

7 (Witness excused.)

8 THE COURT: Anything?

9 MR. CHEHOSKI: Your Honor, the defense rests.

10 THE COURT: Very well.

11 Ladies and gentlemen, I've got some matters to take
12 up with the attorneys at this time. We'll go ahead and
13 break for the day. I'd like you to be in your jury rooms
14 a little bit later. I'd like you to be ready in your
15 jury rooms at 9:30 tomorrow so we can start shortly
16 thereafter. Let us know if you have any traffic snags
17 on the way in, but, otherwise, have a good evening. Do
18 not discuss the case with anyone. Do not do any
19 independent research of any of the people involved in
20 the case. Otherwise, have a pleasant evening. We'll
21 see you tomorrow morning in your jury room by 9:30.

22 Thank you.

23 (Whereupon, the jury was excused for the day at
24 5:02 PM.)

25 THE COURT: Yes, sir.

1 MR. CHEHOSKI: Your Honor, at this time the defense
2 renews its motion for a directed verdict encompassing
3 and incorporating all prior motions and objections and
4 stating the same grounds as the motions following the
5 State's case.

6 THE COURT: All right.

7 The State would just reassert its prior grounds?

8 MS. FULLER: Yes, Your Honor.

9 THE COURT: All right.

10 All right. The directed verdict motions will be
11 denied. It's 5:00. Y'all put in another hard day here.
12 What I was thinking was instead of y'all waiting around
13 now and then us having a charge conference to just be
14 here at the 8:45 in the morning and that way you can
15 get a chance to look at it and we'll get a chance to
16 make any corrections and give y'all a chance to get out
17 of the courthouse.

18 MR. CHEHOSKI: Your Honor, in the interest of
19 expediency, I have three requested charges if I can
20 pass them up.

21 THE COURT: Anything specific from the State?

22 MR. CHEHOSKI: One is for attempt, one is for
23 specific intent, and one is for circumstantial evidence.

24 THE COURT: All right. And I'll be happy to review
25 that. Would you mind just at your convenience forwarding

1 us the Microsoft Word version of it just so if we do
2 incorporate it.

3 MR. CHEHOSKI: I have hard copies.

4 THE COURT: Okay.

5 MR. CHEHOSKI: I'm just trying to --

6 May I approach?

7 THE COURT: Yes, sir.

8 (Court's Exhibit Number 5 was marked for
9 identification.)

10 MS. FULLER: And, Judge, for the record I believe
11 the standard charge covers these specific requests.

12 THE COURT: Well, admittedly, we have a draft,
13 which we can e-mail to you before we head out today,
14 and that will facilitate us being able to just bounce
15 them off each other first thing in the morning.

16 Everybody okay with 8:45?

17 MS. FULLER: Yes, Your Honor.

18 And also --

19 MR. CHEHOSKI: What time? I'm sorry.

20 THE COURT: 8:45 in the morning. Are you okay
21 being up here?

22 MR. CHEHOSKI: Yes.

23 THE COURT: Stop. We can do 9:00. I mean, I'm --

24 MR. CHEHOSKI: You are the judge. You set the
25 time. I will be here.

1 THE COURT: I told the jury to be here at 9:30
2 just to give you guys a little breathing room in the
3 morning, so that's --

4 MR. CHEHOSKI: I'll be fine, Judge.

5 THE COURT: All right. And if you're a few -- if
6 you're few minutes late, we won't hold it against you.

7 MS. FULLER: Thank you, Your Honor.

8 And then also the State would request the hand
9 of one is the hand of all charge to be included since
10 there's been testimony of multiple shooters, brass
11 wasn't recovered if there were multiple shooters.
12 Without testimony or evidence as to whose bullets
13 struck who, I just want to make sure it's covered
14 under hand of one is the hand of all.

15 THE COURT: Well, I'm familiar with the charge
16 in light of the recent case, so I'll go back and look
17 at it, but I'll have to give you an answer on that
18 tomorrow morning.

19 MS. FULLER: Thank you. Your Honor.

20 THE COURT: All right. Y'all have a good evening.
21 We'll be in recess until tomorrow morning.

22 (Whereupon, the proceedings were concluded for
23 October 13, 2021, at 5:06 PM.)

24 (The following proceedings were held October 14,
25 2021, beginning at 10:11 AM.)

1 BAILIFF: Court will now come to order. The
2 Honorable Walton McLeod presiding.

3 THE COURT: All right. Good morning. Please be
4 seated.

5 All right. We were able to get a verdict form put
6 together, which I'll be happy to review.

7 Mr. Chehoski.

8 MR. CHEHOSKI: Yes, Your Honor. I received the
9 revised jury instructions and reading from them I -- I
10 think the language could be improved. And looking
11 specifically, and I'm looking at this on my phone so I
12 don't know the page numbers or anything like that, but
13 this would be the paragraph right before the charge of
14 assault and battery of a high and aggravated.

15 It says if you do not find that the State has
16 proven beyond a reasonable doubt the defendant is guilty
17 of attempted murder as it relates to Ebony Ponds, you
18 may find the defendant guilty of a lesser charge --

19 THE COURT: Lesser included. Okay.

20 MR. CHEHOSKI: -- of the lesser charge of assault
21 and battery.

22 What it sounds like there, and maybe it's my sleep
23 dep, maybe it's -- but it sounds like if you do not
24 find him guilty of attempted murder, find him guilty of
25 ABHAN, and it seems like -- I think if you do not find

1 him, maybe you may consider whether or not the State has
2 proven beyond a reasonable doubt that the defendant is
3 guilty of ABHAN.

4 THE COURT: We also address it at the end of the
5 ABHAN. Would it make more sense just to remove that
6 paragraph?

7 Ms. Fuller, I see -- I think you wrote us an e-mail
8 as well during the break. I have not seen it though.

9 MS. FULLER: Right, Your Honor. In the standard
10 charge book for the assault section, the part that's
11 italicized, there's a sentence in there that is, I
12 think, perfect and would just be added. It just said
13 like if you fail to find that the State -- I don't have
14 it in front of me, but --

15 THE COURT: Well, y'all seem to agree on this,
16 so come up here and let's just look at it so I'm not
17 guessing where we are.

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

19 THE COURT: Is that -- the charge otherwise --
20 y'all can note some things, but --

21 MR. CHEHOSKI: Yeah.

22 THE COURT: Mr. Chehoski, that's the only change
23 you were talking about, correct?

24 MR. CHEHOSKI: I believe so, Your Honor. I mean --

25 THE COURT: That's the only addition we made, so

1 everything should have been addressed in our conference.

2 MR. CHEHOSKI: Yes, sir.

3 THE COURT: All right. She's gonna go print that
4 out real quick. Let's see.

5 All right. We had a charge conference this morning,
6 a jury charge conference, where counsel essentially
7 agreed on mostly everything.

8 Any issues with the charge?

9 MR. CHEHOSKI: No further issues, Your Honor.

10 THE COURT: All right. Madam Solicitor?

11 MS. YONGUE: I think it's fine, Your Honor. Thank
12 you.

13 THE COURT: All right. When we bring up the jury,
14 we will -- the defense will reopen their case. I don't
15 know how much explanation I need to give for that other
16 than explaining -- I can explain to the jury this is
17 something we admitted yesterday, but outside of their
18 presence.

19 Does that seem reasonable or confusing?

20 MR. CHEHOSKI: Your Honor, I guess what we can do
21 is say, you know, yesterday outside of the jury's
22 presence the Court took judicial notice of the -- of
23 the times of the sunset on August 30th of 2018 and that
24 has been admitted into evidence as Defense Exhibit 4.
25 It's 4. I just -- I just checked it. Again, it's

1 Defense Exhibit 4 and then you can give your judicial
2 notice instruction.

3 THE COURT: All right. Madam Solicitor, good with
4 you?

5 MS. FULLER: Your Honor, that's fine. I think
6 just procedurally technically their case needs to be
7 reopened so it's actually evidence because anything
8 after we rest is not evidence.

9 THE COURT: Right.

10 MS. FULLER: So just procedurally I think it's
11 appropriate for the Court to acknowledge the defense
12 to reopen their case, they reopen, make the request for
13 judicial notice and then you can do your explanation
14 and then close the record.

15 THE COURT: All right. I think we were gonna do
16 it that anyway.

17 All right. Also there was discussion in our
18 conference this morning as far as the order of closing.
19 That was over an hour ago, but I did come in off the
20 record and inform counsel that counsel for the State
21 would go first in closing, followed by -- well, the
22 State would open -- would close in full, defendant
23 would follow and the State would have, you know, the
24 option to reply to specifics in the defendant's closing,
25 of course, without bringing up any new legal theories.

1 All right. And what I'm gonna -- we're about to
2 bring them up, but what I'll read to the jury is I've
3 taken judicial notice of the timing of the sunrise and
4 sunset and applicable twilights on August 30, 2018, and
5 that courts take judicial notice of subjects and facts
6 of general knowledge and also facts in the field of a
7 particular science capable of demonstration by resort
8 to readily available -- accessible sources of indisputable
9 accuracy.

10 That's just from the annotations of judicial notice.

11 So Defense Exhibit 5 has been admitted and is now a
12 fact for you to consider in your deliberations. 4.

13 MR. CHEHOSKI: Let me double-check again.

14 THE COURT REPORTER: Yeah, it's 4.

15 THE COURT: Well, we said 5 this morning. It's 4.
16 Got it.

17 All right. Let's go ahead and bring them up.

18 (Whereupon, the jury enter the courtroom at
19 10:24 AM.)

20 THE COURT: All right, ladies and gentlemen.
21 Please be seated.

22 Madam Forelady, ladies and gentlemen of the jury,
23 welcome back. I hope you had a pleasant evening. We'll
24 continue on today.

25 Mr. Chehoski.

1 MR. CHEHOSKI: Your Honor, with the Court's
2 permission we move to reopen our case. Yesterday
3 outside the presence of the jury the Court admitted
4 into evidence Defense Exhibit 4 and took judicial
5 notice of the time of the sunset in West Columbia on
6 August 30th of 2018 according to -- it was the almanac
7 and the National Weather Service.

8 THE COURT: And that will be Defense Exhibit
9 Number 4.

10 MR. CHEHOSKI: Defense Exhibit 4, yes, sir.

11 THE COURT: All right. The Court will take
12 judicial notice.

13 MR. CHEHOSKI: Okay. And included multiple
14 twilight times of civil, nautical, and astronomical.

15 THE COURT: Okay. And the Court admits Defense
16 Exhibit 4 and takes judicial notice thereof.

17 And, ladies and gentlemen, I've taken judicial
18 notice of the timing of the sunrise and sunset and
19 applicable twilights on August 30, 2018.

20 The Court can take judicial notice of subjects
21 and facts of general knowledge and also facts in the
22 field of a particular science which are capable of
23 demonstration by and resort to readily accessible
24 sources of indisputable accuracy.

25 So Defense Exhibit 5 {sic} has been admitted into

1 evidence and is now a fact for you to consider in
2 evidence in this case. Exhibit 4. Excuse me. 4.

3 Anything else?

4 MR. CHEHOSKI: Your Honor, again, with that the
5 defense rests.

6 And may we approach on one procedural matter?

7 THE COURT: Sure.

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

9 THE COURT: All right, ladies and gentlemen. The
10 parties have presented the evidence for their -- the
11 evidence in this case. It's now time for the attorneys
12 to make their closing arguments.

13 Now the arguments of the attorneys are not evidence
14 in this case. Their statements and arguments are meant
15 to help you understand the evidence and apply the law to
16 the evidence. You should disregard any remark, statement
17 or argument which is not supported by the evidence
18 presented during the trial or the law that I will
19 explain to you after the arguments.

20 At this time give your complete and undivided
21 attention to the attorneys as they present to you
22 their closing arguments.

23 Madam Solicitor.

24 MS. FULLER: Thank you, Your Honor. May it please
25 the Court?

1 THE COURT: Yes, ma'am.

2 MS. FULLER: Good morning. We are here today,
3 this week, simply because Isaiah Butler decided to
4 follow through and make good on his threat and his
5 promise back on August 30th of 2018. That is why we're
6 here. We're here over a mess, and that's what it is.
7 It was a mess. A messy, petty drama between two siblings
8 and a cell phone. That's what possessed that man to take
9 it upon himself to shoot into a crowd of people. That's
10 why we're here. He followed through.

11 Now I'm gonna cover a lot, and I know this has been
12 a long week, so I just ask for your patience. This is
13 the one chance I get, okay? You got to hear from Ebony.
14 She survived that day. I really don't know if she
15 didn't have that wig on that day what kind of case this
16 would have been. A gunshot wound to the head, even a
17 graze, could have taken her life. She survived that day
18 and she was brave enough to take this stand and share
19 what happened.

20 Now one thing the judge will charge you on is
21 that you guys are the sole judges of the facts in this
22 case. We present it and then it's your job. You get
23 to say what the truth is. After considering all of the
24 testimony, all of the evidence, the believability and
25 the credibility of each and every witness is solely for

1 each and every one of you to determine. If Ebony had
2 any type of motive in this case, she could have got up
3 here and said yeah, I saw him in the car, but based on
4 her vantage point, she couldn't, and she didn't. She
5 just knows it was that Range Rover.

6 You heard from Iyana, Georgia, seventeen at the
7 time, with her baby on that car where that bullet hole
8 was. He didn't care who was there. He had a target,
9 he knew people, he knew who he wanted to hurt that day,
10 and he knew they were out there without regard for who
11 else was around. And Georgia took that stand. I don't
12 know how many different ways I could have asked her,
13 are you sure you saw him, she said yes. The defense
14 questioned her and tried to attack her credibility and
15 one thing they brought up was something in a report
16 where there was a kidnapping mentioned. That was
17 probably the biggest thing. If there was more to attack
18 her, it would have come out. She had no motive.

19 One thing about drive-by shootings like this one,
20 like this case, they're hard to present. We don't know
21 who else was in the car. We know he was. I'm sure
22 there's more, there's always more that you would want,
23 but it's a drive-by. That's why they're difficult.
24 But she locked eyes on him and she's been firm.

25 What the defense would want you to believe is that

1 Isaiah, Zariah, honestly would have to be psychic. He
2 would have had to have known that from 7:30 -- actually,
3 let's start at 6:07, when he started -- the argument
4 that he started setting up for the 9:12 setting. He
5 would had to have known that this was gonna happen,
6 right? He would have to start building his case, that
7 his phone was taken. He would had to have set up the
8 whole scenario for his phone to be taken. He would
9 have had to set up the whole scenario to be threatened,
10 make up a black Range Rover, oh, and then get a police
11 officer to imagine that he saw a black Range Rover there.
12 Imagine that he saw the defendant with it. That's what
13 Zariah would have to have done in this case. And then
14 have known that a black Range Rover was gonna come and
15 do this shooting. That is what the defense wants you
16 to believe. That is what a verdict of not guilty would
17 say. That all of these prior reports, that an independent
18 officer, Matt Parker, when he saw the defendant with that
19 black Range Rover, that he made that up. And I'm leaving
20 that to you to decide because you guys ultimately are the
21 ones to make that decision and that determination.

22 Now Ms. Thompson, you got to hear her testimony,
23 and unfortunately she's not here, but her testimony, if
24 she had some motive or ulterior motive she also could
25 have said I saw the defendant, but she didn't. She

1 said that she saw more than one shooter in the car.
2 Defense harped on what time she got there. Well, use
3 the official records. The threats weren't made until
4 sometime at 7:30. She couldn't have been there before
5 the threats were made. Simple. Asking witnesses to
6 basically check the time of when they're experiencing a
7 traumatic event is unreasonable. Simply unreasonable.

8 Now what do we have in this case? When we talk
9 about that day, August 30th of 2018, law enforcement,
10 they were able to get the defendant's cell phone records
11 and they were able to extract his phone. And the
12 timeline in this case is important. That's what y'all
13 are allowed to consider when it comes to circumstantial
14 evidence, and I'll explain that shortly, because there's
15 direct evidence and there's circumstantial evidence.
16 Direct evidence, Georgia's testimony. She saw him. She
17 put him there. Circumstantial, building those facts
18 together. If not him, then who?

19 So when we start looking at the defendant's phone
20 records, that tower, Riverbend Drive. I submit to you,
21 ladies and gentlemen, if T-Mobile thought enough to put
22 a tower near Riverbend Drive, surely there are towers
23 walking distance from our State capital in the Vista.
24 If the defendant was in the Vista, his phone would have
25 put him in the Vista. You heard expert testimony about

1 this map and there's been nothing to contradict that
2 expert opinion no matter how many ways asked. Sure
3 anything is possible, but it's not probable. Proximity.
4 You are going to utilize the tower closest to you and
5 if he was down the street from the State capital, surely
6 his phone would have utilized a tower near the State
7 capital in the Vista.

8 So what do we have? Mapping his location. He
9 admits he was there, we know an officer saw him there,
10 but what's important about this map, at 7:37 he's still
11 on this side of the tower. And the cone is like this.
12 So he is still somewhere around here at 7:37. We know
13 law enforcement were on-scene sometime between 7:30 and
14 7:43 and Matt Parker says I saw him. Then the testimony
15 of the expert is that he had to have begun to move since
16 he's using that tower and going this direction, so he is
17 this V. Think of the tower that has three sides, three
18 sectors.

19 He's travelling, leaving that area, at 7:45. And
20 who is he calling? He's calling Monee Anderson telling
21 her to answer ASAP while he's travelling away. They
22 weren't in the car together. There's no way. And it
23 took us a while to get there, but finally, finally, I
24 had to get her there. If he's texting you answer ASAP,
25 her testimony is sometimes they're in the same place

1 texting or on the phone. He's calling her. Surely if
2 they're in the same car, just tap her on her shoulder,
3 answer your phone. No, he's not in the car. He's in
4 that black Range Rover, but he wants you to believe that.

5 So then we see him travelling, 7:51. The expert
6 opinion says based on this map and based on just his
7 training and experience, he's probably going up towards
8 26/20, wrapping around, and who is he calling? The same
9 person in the car with him? No. It didn't happen. It
10 simply didn't happen. That's common sense and that's
11 something y'all can take with you in the jury room when
12 you deliberate.

13 So then where does he go? We know based on
14 testimony that Romford Road is right around here, that
15 kind of triangle shaped thing, so he's somewhere at home
16 potentially by that point. Then all this happens. Bae,
17 she's calling him, no answer. FaceTime's him four times,
18 stole my money, trying to jump me, no answer. How? They
19 finally talk at 122 and I submit to you at that 8:30 call
20 that's when Keanna knows. That's when she knew that he
21 was coming. From 8:30. And where is he? Someone
22 around there by his house. Not with Monee, not in the
23 Vista.

24 So then where do we go? He starts to move and
25 when -- some of this cell phone stuff, it can be boring.

1 Technical. I know that. But you can use your common
2 sense on this direction here. When he starts to move,
3 he's on this side of these towers. Looking at the 8:33
4 call, 8:36, he's gonna be -- you just simply make a V
5 shape down. 8:38, so obviously at this point he's
6 somewhere around here. And who's he calling? The
7 person that picked him up? Okay. Great. They're in
8 the car together. Again, tap her on the shoulder, I
9 need to talk to you. They're not together.

10 Then, finally, and I'll show this to you clearly
11 again so you guys can look at it in the jury room
12 yourselves, she reads that message. You heard the
13 testimony of Mike Phipps. The extraction does not add
14 or delete content. What happened happened. Y'all know
15 about phones. It's 2021. It's -- this was on the phone.
16 She reads the message and she says I just woke up. I
17 guess they want you to believe she fell asleep while
18 driving. That's what you would have to believe because
19 they're in the car together. No, he's driving that black
20 Range Rover and he's picking up whoever he needs.

21 They finally speak. In seconds he gets the text,
22 he hits dial. While Keanna says meet me at my house,
23 she already knew he was on the way at 8:30. She knew
24 he was on the way. And what's important about that,
25 that 8:38 message, I'm on my way? Now Keanna testified

1 that she called him after that message. That's a lie.
2 You've got the records. Look at them for yourself. She
3 didn't call him. She didn't read the message.

4 The defense led her into a question saying well,
5 sometimes you can read the message on the home screen
6 and you know that won't send a read receipt, right? She
7 didn't remember that because it didn't happen. It
8 simply did not happen. That message was read after
9 the shooting. But forget that part. There's no call
10 to him saying hey, don't come because it didn't happen.

11 What does he do? I'm on the way, then he calls
12 Monee and they talk for a minute. I wonder what that
13 conversation was about? She remembered everything
14 defense asked her, but she couldn't remember what I
15 asked her. Credibility. Believability.

16 He's still moving. And look at the time gaps.
17 Look where he is. That's a reasonable time to travel.
18 Minutes. Then he texts Monee be ready. Hey, driver,
19 be ready, in the car. No. No. To find him not guilty
20 is to believe that, that they're in the car together and
21 he's texting her to be ready.

22 So when did they get together? She didn't go to
23 Riverbend between 7:30 and 7:58. There's no way. She
24 said I don't remember the time, it's been three years.
25 Got it. Forget the time. The same thing with the

1 defendant. Forget the time. I have the times. You
2 fill in the gaps for me. Fill in the gaps for you.
3 We have the time.

4 Then where does he go? Somewhere down Bluff Road.
5 I wonder what he's doing there? They speak again. I
6 asked him -- I don't know how many different ways I
7 could ask him. Finally I broke it down. I was just
8 trying to get from -- really not 8:55, it's probably
9 the next click, 8:58, to the Vista. At what point did
10 you guys decide you were hungry and gonna go to my
11 favorite place, Old Chicago? When? When? I can't
12 remember. It didn't happen.

13 I kept asking him about that 9:59 -- I mean, 8:59.
14 I'm by Gamecock stadium. We have a truth. We finally
15 have a truth there. I'm not even gonna contest that.
16 Phone records put him there. His text message a minute
17 prior puts him there. Hey, he was driving. So he was
18 driving. You can tell when you look down here -- not
19 that one. I'm sorry. When you look down here, the
20 direction he's going, and where does that go? When did
21 he abort mission? Never. He completed his mission.

22 So then we get to 9:00. And this part puzzled me
23 and it's gonna puzzle you and you guys are gonna tell
24 me what you guys think about this because you guys are
25 the factfinders. That 9:07 call. We brought it out.

1 The line was open. The line being open puts him in
2 West Columbia, but the line being open, I'm like why
3 would he keep the line open? Maybe for the jury. Maybe
4 for the jury. The line being open keeps him there in
5 the very location where we know he used the phone after
6 the 7:30 incident, where the cops saw him. He admits
7 it's his phone and he had his phone because he wants you
8 to believe that good old Columbia's gonna only rely on a
9 tower in West Columbia in our State's capital. No. No.
10 No cell phone company would run the risk in our capital
11 to not have towers. And he eventually goes back to
12 Copper Beach and he's talking to Monee again.

13 When he testified, he acknowledged that when he
14 spoke to law enforcement for longer than he was even on
15 this stand, he didn't come up with the Vista. Do you
16 want to know why? Because after his interview on the 7th
17 -- I mean, on the 11th, law enforcement got his mapping.
18 He came up with that for you guys. So specific. Old
19 Chicago, okay? Because it would -- it would be at the
20 end of the potential strength of the tower. Genius.
21 Not Benedict where he told the police he was, by
22 Benedict College in Columbia, because the strength of
23 the tower potentially can't reach that far. He did
24 that for you.

25 Now these messages about the Range Rover. This was

1 interesting. My. According to him "my" does not mean
2 "my". "My" means "his", okay? But this is where common
3 sense comes in and you can tie in these messages. See
4 if my truck is still good out there. She says okay.
5 She says she goes back there to Riverbend, so we know
6 that "there" is Riverbend. Says it's a red truck
7 belonging to a friend. Then he says I'm going to go get
8 it now. My truck. The engine on that truck doesn't
9 work. He's talking about the Range Rover. The Range
10 Rover was not recovered that night. He ditched it
11 somewhere in West Columbia apparently. So it would
12 have been great to these messages. Law enforcement
13 probably could have expanded the search, but didn't
14 know.

15 Then here, again, this "my" word. Even when
16 talking about a paper tag for "my" truck, his truck. I
17 was helping my friend out, a friend of a friend who has
18 the Range Rover. Do you know the owner? No. And you
19 saw his smile, right? He couldn't answer that question
20 because no, he didn't know the owner of the Range Rover.

21 Some stuff happened. I'll have to tell you about
22 it. And this is the morning after the shooting. We're
23 looking at maybe thirteen hours later. His testimony is
24 something else happened. You give that the weight that
25 you want to give it. Something else happened in the

1 neighborhood. Says the truck you want is in Keanna's
2 neighborhood. Not "your" truck or "his" truck, the one
3 you want. The truck he was going to go check on, that's
4 his friend's truck. But at first he didn't drive over
5 there, then when asked about the truck he drove. When?
6 A week prior. You give it the weight you want to give
7 it.

8 Where's yours? Down the street from there. And
9 then I'll back up. There? In Keanna's neighborhood.
10 Down the street from Keanna's neighborhood. Down the
11 street from Riverbend.

12 He sends a picture. Not only is he such a good
13 friend he parks the car in his driveway, now he's
14 helping him sell it, but he doesn't drive it. He does
15 haven't one. He just has a picture of one parked in
16 his driveway. And then he calls it a Rover, but it's
17 not his. "My" equals "his".

18 So back to Zariah being psychic, right? That's
19 what y'all have to believe. Zariah had to know that on
20 August 28th the defendant had a black Range Rover parked
21 in his driveway and that the picture would be on his
22 phone. You'll have a copy of the extraction report.
23 Didn't publish the date. You guys can look at that and
24 see when law enforcement found the picture. No, not
25 psychic. If he is, he might need to play the lottery.

1 Messages about laying low and the shooting. What's
2 up? Laying low. I done did -- and, again, no
3 punctuation, so you guys have to fill that in and figure
4 out if it's a separate sentence or one or talking about
5 something different, but, again, your common sense.

6 This is the next night. So you've got to believe
7 that something else happened intervening. That's some
8 bad luck to have that much going on in a day.

9 And then the response is not on here, but you'll
10 have it, what did you do? They're putting the West
11 Columbia shooting on me, but it's he said she said.
12 That's what he was banking on because it's a drive-by.
13 That's what he's banking on because of the hurdles and
14 the obstacles in this type of drive-by shooting.

15 Here, I'm gonna go get my Rover -- I'm gonna go
16 get his Rover and bring it back to Copper and I'm gonna
17 chill for real. Because he did something. Nobody sends
18 that type of text if they didn't do anything.

19 Now this message, when he was on cross I asked him
20 about a message from the day before from a family member
21 of Ebony, and this was why. He said he was -- the
22 person texted him I want you to keep your life, I'm
23 just gonna whoop your tail, I mean, a family member,
24 shot him, hey, and his response was escalating it to
25 death. Just the day before this. He wants you to

1 say other side means the neighborhood. No, nobody
2 says that. Other side's another community, other side
3 is another city, the other side is across the river.
4 If he got into it with someone in his neighborhood, it
5 would be I got into it with someone in here, not the
6 other side. So that's what he wants you to believe.

7 We shot. Again, "we" does not include him according
8 to him, but if y'all want to believe he's talking about
9 doing another shooting, then don't consider this message.
10 But he wants to be holed up in response to the message
11 from the day before where he threatened them because
12 you know why? Because he got rid of the gun he used.
13 That's why law enforcement couldn't recover it. That's
14 why I showed him another message where he says he needs
15 another stick, he needs another gun because his that he
16 had -- well, it wasn't his, it was just in his lap in a
17 photo on his phone and he referred to it as "my baby",
18 but it wasn't really his baby, someone else's, on
19 August 15th was stolen. That's some bad luck, right?
20 It was stolen before the shooting out of his car. I
21 didn't even follow up on that I because I wanted you
22 guys to catch that. Someone broke into his car, a car
23 that he said he didn't have because he doesn't drive.
24 I didn't even follow up. He said his gun was stolen out
25 of his car in Five Points, but it's not his gun and it's

1 not his car. He doesn't have a car.

2 I'm going to jail. We know Keanna was talking to
3 the police on the 7th. I'm going to jail. Monee's
4 response is laughing. He now wants you to say that
5 for real, no. Common sense. If someone's laughing at
6 you when the matter is serious no, bra, I'm being for
7 real, stop laughing, that's what that meant. That's
8 not a -- there's no L-O-L, there's no L-L-S. There's
9 nothing. It's for real. For real. They're putting
10 pressure on her on the 7th. Keanna might decide to tell
11 the truth, but we know she didn't.

12 So back to this alibi. I pointed out for you to
13 see for yourself because I don't want you to take my
14 word for it alone, when you look at an extraction report,
15 and I probably beat it like a dead horse, I just didn't
16 want you to miss it, time sent, when it was read. That's
17 where you find it. Any one of those you want to go back
18 and read, look at when it was sent and when it was read.
19 Answer ASAP was not read until 8:36 while he was in the
20 vicinity of Columbia near his home. When did he go to
21 the Vista?

22 What's wrong? I just woke up. I submit to you,
23 ladies and gentlemen, that is a true statement, not what
24 you heard in court today. Look at the sent time, look
25 at the read time, look at when she responded. No alibi.

1 Now the law. The law's boring, but it's the law.
2 The judge is gonna charge you on it. Some of it is
3 simple. It's simple. Attempted murder. When it comes
4 to the charges in this case, I, the State, we have to
5 prove to you beyond a reasonable doubt the elements.

6 Now beyond a reasonable doubt is not proof beyond
7 all doubt. It's proof that leaves you firmly convinced
8 of someone's guilt. Of his guilt.

9 So attempted murder. This is the statute. To
10 attempt to kill another person there has to be a
11 specific intent. It's complicated and it's simple at
12 the same time. Specific intent as to Ebony because of
13 the threats made prior and then carried out later.
14 That's specific intent. So as to Ebony, you have the
15 threats and then you have the intent and then malice.
16 Malice is hatred, ill will. It's evil. There is nothing
17 worse than pulling a gun on someone and pulling the
18 trigger. Nothing. The intentional doing of a wrongful
19 act. There's no just cause for it. There's no just I
20 did what I had to do as your man. Your ex wouldn't have
21 done what I did. He would have wanted to talk. Well,
22 what's more than talking?

23 Now assault and battery, as to Ms. Thompson, of a
24 high and aggravated nature. You heard the testimony.
25 Ms. Thompson was not there for the threats, so the law

1 recognizes her differently. That's the law. She stayed
2 in the hospital for nine days, she went into shock, she
3 survived that shooting, but it's still assault and battery
4 of a high and aggravated nature. The unlawful injury of
5 another person and great bodily injury resulted or the
6 act is accomplished by means likely to produce. And
7 then the definition of great bodily injury, it causes
8 substantial risk of death, and I submit to you we have
9 proven that.

10 I'm gonna stop talking, but I want you guys to take
11 your time back there. Ebony and Ms. Thompson, they've
12 been waiting for justice. Consider all of the direct
13 testimony and circumstantial. Circumstantial is like a
14 chain, a chain of facts. It's kind of like when you are
15 inside. When you go inside your home, it's dry outside.
16 When you come back out, it's wet. You didn't see it
17 rain, you didn't hear it rain, you didn't hear the
18 sprinklers or you didn't see the sprinklers, but you
19 know something happened. Circumstantial. And no one
20 can tell you something didn't happen. Does that make
21 sense?

22 I'm gonna stop talking now, I'm gonna stop, but
23 I'll have a brief moment to get back up after the
24 defense goes, but when they're speaking focus on the
25 facts, focus on the timeline and ask yourself when.

1 When? If not him, then who? You have an eyewitness,
2 you have the threats, and I'm asking you to find him
3 guilty on both counts.

4 MR. CHEHOSKI: Your Honor, may we approach?

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

6 THE COURT: All right, ladies and gentlemen. We've
7 just -- let's everybody just stand up real quick. We've
8 heard from the State and let's just stretch a little bit
9 and we'll have a seat down -- have a seat and hear from
10 the defense.

11 Thank you.

12 MR. CHEHOSKI: One moment to rearrange the
13 courtroom, Your Honor.

14 THE COURT: All right.

15 MR. CHEHOSKI: May it please the Court?

16 THE COURT: Yes, sir.

17 MR. CHEHOSKI: We told you at the beginning that
18 there were going to be two reasons that you should find
19 Isaiah Butler not guilty. Inconsistent eyewitness
20 testimony and incomplete law enforcement investigation.
21 I am here to tell you right now that those are the
22 reasons that you should find Isaiah Butler not guilty
23 and these are the matters that I am going to be
24 speaking to you about during my closing and I ask you
25 to be thinking about them and consider them after the

1 State talks, after the judge gives his instructions,
2 as you hear about what the burden of proof is and what
3 reasonable doubt is.

4 Ask yourself is it a real possibility that Isaiah
5 Butler had no involvement in this shooting? More than
6 anything else there are two key points and two key facts
7 that should give you real pause in convicting Isaiah
8 Butler. The first is he was on the phone with Monee
9 Anderson at the time of the shooting. The first call
10 happened at 9:12. The evidence shows that from 9:07
11 for eight minutes and 15 seconds, so to about 9:15 or
12 9:16, he is on the phone with Monee Anderson. It's the
13 one piece of evidence that the State cannot get to fit
14 in their theory. Therefore, they have to come up with
15 something else because if Isaiah's on the phone with
16 Monee Anderson and he's driving the Rover, he doesn't
17 have a hand to do the shooting. It doesn't fit. And
18 the State cannot get to fit that fact into their theory.

19 They can talk to you about the cell phones and the
20 tower information. The tower information is completely
21 consistent with our theory. Brian Travis told you that
22 even though that cell tower that Mr. Butler's phone
23 connected to is in West Columbia, Riverbend apartments
24 does not have a monopoly on that tower. He told you
25 that there are lots of factors that determine which cell

1 tower is used and he could not say anything for certain.
2 If there's high usage or anything. He told you that this
3 kind of tower has a range of about three miles and that
4 tower is not constrained by rivers, it's not limited by
5 county lines, and so that this range would extend into
6 Richland county and into the Vista and into the area
7 where Isaiah Butler told you he was at the time of the
8 shooting.

9 And on a Thursday night, a night before this
10 pandemic when it was a popular night to go out and
11 socialize in a popular area of the city where people
12 would gather to socialize, he could not -- Brian Travis
13 could not tell you for certain that that call originated
14 from West Columbia and he certainly could not tell you
15 and would never presume to tell you the exact location
16 of that phone. That was not his job.

17 The second piece of evidence on which you can base
18 your verdict of not guilty specifically involves the
19 lack of any investigation by law enforcement. The lead
20 investigator, Albert Lyons, sitting right here at this
21 table the entire trial, Isaiah Butler told the same
22 investigator that he was with Monee less than two weeks
23 after the shooting. He did absolutely nothing with that
24 information. You never heard from him in this trial and
25 I have to wonder if that's a reason why because not one

1 time, not in September of 2018 or October or November or
2 December or 2019 or 2020 did he ever reach out to Monee
3 Anderson to try and verify this information. Not once
4 did he request the cell tower records of Monee Anderson's
5 cell phone to get her location data and not once did the
6 State arrange a face-to-face meeting with Monee to try
7 and verify. You heard her tell you on the stand that
8 they called her while she was in school. In school.

9 In this day and age with all the resources that
10 the State has at their disposal, you, as jurors, cannot
11 fail to excuse this lapse in work ethic, this lapse in
12 investigation, this lapse to seek the truth.

13 When you heard Matt Parker discuss confirmation
14 bias, this is a perfect example of it. A perfect
15 example. The State only looked for evidence that would
16 fit their theory, disregarding and ignoring all other
17 evidence that could point to someone else. Could point
18 to the fact that the real shooter is still out there.

19 And this incomplete investigation goes beyond this
20 most grievous error. This error alone is sufficient
21 for you to find a verdict of not guilty, but even
22 beyond that, the fact that the State did not call any
23 law enforcement save for Matt Parker, who was not a
24 specialist, on his shoulders and on his shoulders
25 alone, the State is presenting you with the work of the

1 Lexington County Sheriff's Department with all their
2 resources did on this case.

3 At the time Matt Parker was weeks out of the
4 academy, pretty much a baby -- a baby law enforcement
5 officer. He had the training though fresh in his mind
6 to be complete and accurate and thorough when he's
7 documenting an incident properly, and these are qualities
8 that are necessary because it might take three years
9 for a case to come to trial, and memories fade. As
10 Ms. Fuller says, this is common sense. Use your common
11 sense. He acknowledged that he omitted writing down the
12 paper tag. He had to because he didn't write it. He
13 talks about how it was pointed out to him that this is
14 suspicious, yet it was not so suspicious that they would
15 remember to think about it later or check on this
16 suspicious person when they cleared the scene twenty
17 minutes later. He could not explain why his report is
18 dated six months after the incident and so you have to
19 ask yourselves why did he wait six months? Is it
20 because of a computer error or because it somehow fits
21 the State's theory?

22 I do want to talk about the inconsistent witness
23 testimony now, the other important reason you can base
24 your verdict of not guilty. There is one witness out of
25 many who took that stand who says that Isaiah Butler is

1 the shooter. And Iyana Tyus was in no better position
2 than any of the other witnesses to see what she says she
3 saw. And she had her baby to worry about. She's a
4 mother. Of course she's gonna be worried about her baby.
5 That's her highest priority, not some car that's coming
6 through the neighborhood. And this is the same Iyana
7 Tyus that's making threats to Isaiah and to Keanna and
8 by her own standards is inserting herself into an
9 argument that she had no business joining. It was dark.
10 There were only two streetlights and visibility into a
11 moving vehicle is almost impossible. Plus, she testified
12 that as soon as that vehicle entered the lot, that's when
13 the shooting began and when the shooting began, everybody
14 ran.

15 And then she said that -- that Isaiah Butler had
16 puffs in his hair where Matt Parker said his hair was
17 combed into an Afro, but ask yourself is it a real
18 possibility that Iyana Tyus is not identifying the
19 shooter, but rather the person who was dating her former
20 roommate? The former roommate whom she had just got into
21 an argument and had been threatening in this whole chaotic
22 situation. And she even testified that her identification
23 was influenced by that earlier confrontation.

24 In addition to that though, you also have testimony
25 that there are multiple shooters. You have testimony

1 that the windows were rolled up and that they were tinted,
2 not rolled all the way down, and it was reported to 9-1-1
3 that there were three light-skinned black males involved.

4 There is other witness testimony that is missing
5 and it's from people who were clearly present, including
6 Nashaun Thompson. Not only as -- not only identified as
7 being present by multiple people, but also armed with a
8 gun, and this is consistent with Keanna Outlaw's testimony
9 as to the reason why she called him, why she called
10 Isaiah telling him not to come because there's someone
11 there waiting for him and he's waiting for him with a
12 gun.

13 Keanna Outlaw is a State's witness and she's also
14 credible in other important matters. She agreed that --
15 with other witnesses that Isaiah Butler broke up that
16 fight, put her in the apartment, that Zariah was not
17 only taller than her and weighed more than her, but had
18 been physically abusive with her in the last twenty-four
19 hours and that she called Isaiah Butler from a stranger's
20 phone and Monee Anderson was with Isaiah Butler and Monee
21 was driving when she picked her up across the street
22 from the chicken farm.

23 There are other witnesses that you didn't hear from.
24 Areauna Lindsey, the supposed best friend of these people,
25 the lessee of the apartment where Zariah and Iyana stayed

1 the previous night. Instead, all we have really are the
2 witness testimony of three close friends who have a motive
3 to protect each other, to support each other, and to do
4 that against the person they just had an argument and an
5 altercation with and her boyfriend and have -- so it's
6 really just called a -- they're kind teaming up on him.

7 And that altercation was one that they had initiated
8 when they went over to Keanna's apartment. Three grown
9 people do not need to be going over there to pick up
10 belongings, much less a cell phone. They were starting
11 something, they were going there to start something.

12 Now I do have to address the extraction and the State
13 puts a heavy emphasis on it. There are three important
14 details that I really, really want you to remember when
15 considering this testimony. First, Mike Phipps said that
16 there are items that can be deleted and never recovered.
17 Second, there are -- text messages are really just
18 excerpts and they do not provide the whole context and
19 they even be taken out of context. Isaiah Butler at this
20 time is twenty years old. He's talking big, talking with
21 girls, trying to impress them, and these conversations,
22 they can exist and Isaiah Butler can still not be the
23 shooter.

24 Lastly, Phipps admitted that he only knows that
25 these calls and messages originated from the device and

1 that multiple people could be using the device. It's
2 not Mike Phipps's job to identify all the people in
3 the conversation, no. But whose job is that? The
4 investigators. The sheriff's department. Their job.
5 And what did they do with it? Nothing. They didn't
6 call them, they didn't get the context. Nothing.

7 Lastly -- not lastly. A couple of more things.
8 Isaiah Butler took the stand even though he was under
9 no obligation to do so. He did it anyway. He wanted
10 to tell you his story. He told you that when he gets
11 threatened it's his default to threat back -- to threaten
12 back. Again, that might not be the best decision and
13 he took the stand knowing that there were these text
14 messages out there and without the context of what was
15 happening in his life, they look bad, but he took the
16 stand, he provided the context, he explained what they
17 meant even if they still did not cast him in the best
18 light.

19 But again, he told you where he was that night. He
20 told you who he was with. The cell tower records put
21 him on a path that is consistent with that testimony.
22 And when he initially talked to law enforcement, he
23 had just turned twenty. He was in that room for over
24 an hour with his hands cuffed behind his back, he was
25 nervous and scared, and still he told them he was with

1 Monee and the evidence shows he was on the phone with
2 Monee at the time of the shooting.

3 Isaiah gave law enforcement the information that
4 they needed to show that he was not guilty. Isaiah
5 Butler is giving you the information that you need to
6 find him not guilty.

7 In discussing what a reasonable doubt is, let us
8 remember that, again, right now, this moment, Isaiah
9 Butler is presumed innocent. In a football game when
10 a coach wants to challenge a call in the field, he
11 throws out the red flag and the standard that they have
12 to meet is that there has to be indisputable video
13 evidence to overturn the call; otherwise, the call on
14 the field stands. In this case, the call on the field
15 is not guilty and it should remain not guilty because the
16 State has failed to prove their case beyond a reasonable
17 doubt.

18 As I stated at the beginning of my remarks, there
19 are two key facts that are more than important, more
20 than enough, to find Isaiah Butler not guilty. He was
21 on the phone with Monee Anderson at the time of the
22 shooting. And just as Ms. Popowski told you in her
23 opening, look for what's not there, and in this case
24 what's not there is law enforcement never doing a full
25 and complete investigation, following up with a person

1 who could point them in the right direction because the
2 real shooter may still be out there, and this piece --
3 these pieces of evidence, along with the inconsistent
4 witness testimony and the other lapses in investigation
5 keep the State from carrying their burden. And believe
6 me, it's a heavy burden. The call on the field should
7 stand. You should find Isaiah Butler not guilty.

8 Thank you.

9 THE COURT: State.

10 MS. FULLER: Thank you, Your Honor. May it please
11 the Court?

12 THE COURT: Yes, ma'am.

13 MS. FULLER: I beg the Court's indulgence.

14 Isaiah Butler got on that stand and told you his
15 story. That's correct. Because it was a story. A
16 story he did not tell law enforcement when he first
17 met with them. A story that he told for the first
18 time in this courtroom. For the first time in this
19 courtroom.

20 Defense counsel wants to talk about the
21 investigation. Well, let's talk about the
22 investigation and what we do have. After the
23 interview with Isaiah, you can look at his phone to
24 know that he was not with Monee when he said he was. If
25 there's anything that defense counsel says or that I say

1 that is different than what you recollect, it's all being
2 recorded.

3 This is important. Justice is important, so I
4 implore you to take your time and if there's anything
5 that you need to hear again, you can. Monee Anderson,
6 if she was with Isaiah Butler, then she was with him
7 in West Columbia. Monee Anderson, if she was with
8 Isaiah Butler, they were in West Columbia. There are
9 many things you can fight, but you can't fight tower
10 location. On his phone when she said she just woke up
11 at 8:36, she just woke up at 8:36.

12 Defense wants to talk about inconsistencies.
13 You're driving in a car, a normal day, with your family
14 in the car, someone's in the front seat, someone's in
15 the back seat, someone's in the passenger seat. Based
16 on your life experiences, based on your age, based on
17 what's on your mind that day, I can guarantee you each
18 and every one of you are gonna remember something
19 different; about a car that may drive by, about
20 something. Think about it. Hey, did you just see that?
21 No, what was it? How often does that happen?

22 You want to talk about inconsistencies? Let's
23 talk about the defense. Yeah, we called Keanna in our
24 case, but Keanna's his girlfriend. We didn't want to
25 hide her and didn't want to be accused of hiding her,

1 but they weren't consistent. Monee, the defendant
2 and Keanna were not consistent. It wasn't until the
3 defendant took the stand that we learned that Nasir also
4 came to pick up Keanna. Monee didn't say that. Keanna
5 didn't say that. So, well, who was consistent and who
6 was inconsistent?

7 You heard from Investigator Shannon Dykes. When
8 he found Butler, who was with him? Who had time to
9 talk about that night? And they all acknowledge that
10 Monee was there, too, in that time period.

11 The investigation. After phone records came back
12 and his phone put him there, that's when he said he was
13 in the Vista. Don't forget that. Don't forget that.
14 Sure there are gaps. There's things -- it's a -- this
15 isn't a movie. This isn't someone writing out a script.
16 This isn't someone saying hey, this is what we're gonna
17 do next. No, this is real life. This is real life.
18 And that's important to remember. Law enforcement's just
19 trying to do their jobs. Hindsight, trial, of course,
20 things are always 20/20, but if you have any problems
21 with what was done or was not done in this case, do not
22 hold that against Ebony and Ms. Thompson. Do not hold
23 that against them. Look at what you do have.

24 When we talk about Matt Parker -- they want to talk
25 about Matt Parker and his experience. You don't need

1 training to remember someone's face. Specifically asked
2 do you have any problems with Isaiah Butler, he said no.
3 He actually cheered up. No. So what dog does he have
4 in this fight? I want you to think about that. And why
5 deny the Range Rover as much as they did? Think about
6 that. A Range Rover that was seen earlier, driven by
7 him, less than two hours later comes back and does this
8 shooting and shoots the very same people that he
9 threatened. Think about that. Consider that. Consider
10 that.

11 Look -- you have his entire call log. Defense
12 talked about his extraction and said that Investigator
13 Phipps said things can be added or deleted. By the
14 user, not by the extraction. But what you would have
15 to believe is that even though you have all the calls
16 between Keanna and him that day that he chose to delete
17 that one call after the "I'm on my way" text. It didn't
18 happen. The call didn't happen. It just didn't happen.

19 Isaiah Butler carried out his promise. He admitted
20 on the stand -- whether he wants to say he was threatened
21 first and then he responded, but he admitted to making a
22 threat. That's intent. And then it just so happens
23 coincidentally a Range Rover with a paper tag -- and it
24 wasn't just that it was a paper tag. You heard from
25 the custodian from the dispatcher. They said it was a

1 Great Choice Automotive paper tag and who has that in
2 their phone?

3 Look through the evidence. Remember how you viewed
4 the testimony, the credibility of each witness, and you
5 give it the weight that you deem appropriate. Defense
6 counsel is right. This is our burden. It's a burden
7 that I carry in this case and every case to prove to
8 you beyond a reasonable doubt that that man is guilty.

9 And he's also right that he is presumed innocent.
10 Presumption of innocence is different than guilt. Only
11 you guys speak the verdict. Yes, he's presumed innocent.
12 He sits there right now with a cloak of righteousness
13 over him and only you-all get to remove that.

14 And I know that's a tough job, I know his age,
15 but Ebony was twenty-one, Georgia was seventeen, her baby
16 was out there and other people were out there, too, and
17 he did not care. He did not care. He was a man that
18 day. A man. You-all have no friends to reward, no one
19 to punish. You just have a tough job to do, and I know
20 it, it is to speak a verdict that brings justice to
21 Ms. Thompson and brings justice to Ebony.

22 Thank you.

23 THE COURT: Ladies and gentlemen, before I charge
24 you on the law of the case, I'm gonna ask you to stand
25 up.

1 Be seated.

2 All right. Ladies and gentlemen of the jury, it's
3 now my duty as the trial judge to instruct you on the
4 law applicable to this case and in that regard it is
5 your duty as jurors to accept and apply the law as I now
6 state it to you. Furthermore, it is your exclusive duty
7 to decide all the issues of fact in this case and to
8 determine the effect, value, weight and truth of the
9 evidence. All the parties have the right to expect that
10 you will carefully consider and evaluate the evidence and
11 apply the law of this case to it so that in the end all
12 receive a fair and impartial trial.

13 During this trial you and I have separate duties to
14 perform. As the trial judge, it is my responsibility to
15 preside over this trial and to rule upon the admissibility
16 of evidence offered during the trial. In that regard,
17 you are to consider only the evidence before you; thus,
18 you are to consider only the testimony which has been
19 presented from the witness stand together with any exhibits
20 admitted into the record of this case.

21 If you have any preconceived ideas as to what the
22 law is or what you think the law ought to be and it does
23 not agree with what I tell you the law is, you are
24 obligated under your oath to abandon these preconceptions
25 because you are sworn to accept the law as I now state it

1 to you.

2 In this trial, you are the sole and exclusive judge
3 of the facts. Do not infer that I have an opinion about
4 the facts in this case from anything I have said or done
5 during the course of this trial. In this regard, the law
6 simply does not permit me to have an opinion about the
7 facts. As jurors, it is your duty alone to determine the
8 effect, value, weight and truth of the evidence presented
9 during the course of this trial.

10 The evidence from which you are to decide what the
11 facts -- decide what the facts are consists of in this
12 case, one, the sworn testimony of witnesses both on
13 direct and cross-examination, the exhibits which have
14 been admitted into evidence, and any facts which all the
15 attorneys have agreed to stipulate in.

16 Now what is not evidence? The following things
17 are not evidence and you must not consider them as
18 evidence in deciding the facts of this case. Number
19 one, statements and arguments of the attorneys. Two,
20 questions and objections of the attorneys. And, three,
21 any testimony that I instruct you to disregard. While
22 the argument of counsel is a beneficial part of every
23 trial, you should remember that the statements made by
24 counsel are not evidence. In presenting arguments,
25 counsel often refer to the evidence; however, you should

1 base your verdict on the evidence as you remember it.
2 Therefore, if there are any conflicts between the
3 recollection of counsel about the evidence and your own
4 recollection, you should rely upon your own understanding
5 of the evidence.

6 Now there are two types of evidence which are
7 generally presented during a trial. Direct evidence and
8 circumstantial evidence. Direct evidence directly proves
9 the existence of a fact and does not require deduction.
10 Circumstantial evidence is proof of a chain of facts and
11 circumstances indicating the existence of a fact. The
12 law makes no distinction between the weight or value to
13 be given to either direct or circumstantial evidence;
14 however, to the extent that the State relies on
15 circumstantial evidence, the circumstances must be
16 consistent with each other and when taken together point
17 conclusively to the guilt of the accused beyond a
18 reasonable doubt. If these circumstances merely portray
19 the defendant's behavior as suspicious, the proof has
20 failed.

21 The State has the burden of proving the defendant
22 guilty beyond a reasonable doubt. This burden rests
23 with the State regardless of whether the State relies
24 on direct evidence, circumstantial evidence or some
25 combination of the two. It is your job as jurors to

1 determine the credibility or believability of the
2 witnesses who have testified in this case. You must
3 evaluate the evidence and determine which evidence
4 convinces you of its truth.

5 In determining the believability of witnesses who
6 have testified in this case, you may believe one witness
7 over many or many over one. You may believe a part of
8 the testimony of a witness and reject the remaining part.
9 You may believe the testimony of a witness in its
10 entirety or reject it in full. You may consider whether
11 the witness had an interest in the result of the trial,
12 whether the witness is prejudiced toward either party,
13 the opportunity for the witness to have seen the matters
14 and things about which the witness may have testified,
15 and the way the witness acts on the witness stand.

16 Now the rules of evidence ordinarily do not permit
17 witnesses to testify to opinions or conclusions. An
18 exception to this rule exists for witnesses we call
19 expert witnesses. A witness who by education and
20 experience has become an expert in some art, science or
21 profession may give an opinion as to the subject which
22 the witness claims to be an expert in and may also give
23 the reasons for the opinion.

24 You should consider any expert opinion given by a
25 witness like any other evidence. Give it the weight

1 you think it deserves. If you decide that an expert
2 witness's opinion is not based on sufficient education
3 and experience or if you decide that the reasons given
4 in support of the opinion are not sound or that the
5 opinion is outweighed by other evidence, you may
6 disregard the opinion entirely. An expert witness's
7 testimony is to be given no greater weight than that of
8 other witnesses simply because the witness is an expert
9 and you do not have to accept an expert witness's opinion
10 even though it is uncontradicted.

11 The defendant in this case is presumed innocent.
12 This is no mere legal theory. Is it a fundamental and
13 substantial right to which everyone is entitled. It is
14 like a robe of righteousness placed around the defendant
15 that remains with him through every stage of the trial,
16 continues with him after you retire to the jury room to
17 deliberate and continues to exist so that the defendant
18 is presumed innocent unless and until you, the jury,
19 determine that the State has proved the guilt of the
20 defendant beyond a reasonable doubt.

21 A defendant is not required to prove his innocence.
22 He is not required to prove anything. The burden is
23 upon the State to prove the guilt of the defendant
24 beyond a reasonable doubt and it is required that every
25 essential element of an offense charged be proven by the

1 State beyond a reasonable doubt. The State is not
2 required to prove the guilt of the defendant beyond all
3 doubt or beyond every doubt; however, the appropriate
4 standard of proof is beyond a reasonable doubt.

5 Now the State has the burden of proving the defendant
6 guilty beyond a reasonable doubt. Some of you may have
7 served as jurors in civil cases where you were told it
8 is only necessary to prove that a fact is more likely
9 true than not true, such as by the greater weight or
10 preponderance of the evidence. In criminal cases, the
11 State's proof must be more powerful than that. It must
12 be beyond a reasonable doubt. Proof beyond a reasonable
13 doubt is proof that leaves you firmly convinced of the
14 defendant's guilt. There are very few things in this
15 world that we know with absolute certainty and in criminal
16 cases the law does not require proof that overcomes every
17 possible doubt. If, based on your consideration of the
18 evidence, you are firmly convinced that the defendant is
19 guilty of the crime charged, you must find that defendant
20 guilty. If, on the other hand, you think there's a real
21 possibility that the defendant is not guilty, you must
22 give the defendant the benefit of the doubt and find him
23 not guilty.

24 The defendant has raised the defense of alibi. In
25 order to establish an alibi, it must be shown that the

1 defendant was at another specified place at the time
2 the crime was committed and that it was, therefore,
3 impossible for the defendant to have been at the scene
4 of the crime. Mere denial of presence at the scene of
5 a crime does not constitute an alibi.

6 There is no burden on the defendant to prove an
7 alibi. The burden is on the State to prove beyond a
8 reasonable doubt that the defendant was actually present
9 at the scene of the crime, actually participated in, and
10 was not somewhere else. In other words, the State has
11 the burden of negating the defendant's alibi defense.
12 If after consideration of all the evidence, you have a
13 reasonable doubt that the defendant was present at the
14 time the crime was committed, you must find the defendant
15 not guilty.

16 The indictments in this case allege two different
17 offenses against the defendant. Excuse me. Against
18 the defendant. I remind you that the indictments
19 themselves are not evidence. The charges are attempted
20 murder and assault and battery of a high and aggravated
21 nature. Each indictment charges a separate and distinct
22 offence. You must decide each indictment separately on
23 the evidence and the law applicable to it uninfluenced by
24 your decision as to any other indictment. The defendant
25 may be convicted or acquitted on any or all of the offenses

1 charged. You will be asked to write a separate verdict
2 of guilty or not guilty for each indictment.

3 In order to establish criminal liability, criminal
4 intent is required. For example, the mental state
5 required to be proven by the State for a particular
6 crime might be purpose, intent, knowledge, recklessness
7 or criminal negligence. The dictionary defines intent
8 as the state of a person's mind that directs his actions
9 toward a specific object. Criminal intent must be proven
10 by the State beyond a reasonable doubt. Criminal intent
11 is always a matter that must be determined by the jury
12 from the circumstances surrounding the situation.

13 There is no way to prove intent to a mathematical
14 certainty. There is no medical science that can dissect
15 a person's brain and determine what the person had in
16 mind, so the law says that criminal intent may be inferred
17 from the circumstances shown to have existed. This is
18 how you make a determination of whether or not the element
19 requiring intent was present. It is not necessary to
20 establish intent by direct and positive evidence, but
21 intent may be established by inference in the same way
22 as any other fact by taking into consideration the acts
23 of the parties and all the facts and circumstances of
24 the case. Criminal intent is a mental state, a conscious
25 wrongdoing. It is up to you to determine what the

1 defendant intended to do based on the circumstances shown
2 to have existed.

3 Criminal intent can either be specific or general.
4 General intent crimes are crimes that only require the
5 doing of some act and do not require that any specific
6 result was intended by the defendant. Criminal intent
7 only requires that the prescribed act taken by the
8 defendant be voluntary in nature. A specific intent
9 crime requires that the defendant had the intent to
10 cause a particular result or that the defendant had the
11 specific intent in committing the act. A person's act
12 with specific intent -- a person acts with specific
13 intent when his conscious objective is to cause the
14 specific result prescribed by the statute defining the
15 events.

16 Now I'm gonna charge you on the law as it applies
17 to the charges against the defendant. Attempted murder.
18 The defendant is charged with attempted murder. In order
19 to prove this crime, the State must prove the defendant
20 attempted to kill Ebony Ponds with malice aforethought.
21 Malice is hatred, ill will or hostility toward another
22 person. It is the intentional doing of a wrongful act
23 without just cause or excuse and with an intent to injure
24 another and indicates a wicked or depraved spirit intent
25 on doing so -- on doing wrong.

1 Malice aforethought does not require that malice
2 exists for any particular time before the acte is
3 committed. Malice must exist in the mind of the defendant
4 at the same time as the act and cannot develop after the
5 act occurred; therefore, there must be a combination of a
6 previous evil intent and the act.

7 Attempted murder can be committed only when the
8 defendant's act or acts are accompanied by express or
9 inferred malice. Express malice is shown when a person
10 speaks words which express hatred or ill will for another
11 or when -- it is the performance of an act or acts which
12 intend but fail to kill a human being.

13 Specific intent means that the defendant consciously
14 intended the completion of the killing of another but
15 failed to do so. If you, the jury, find that the State
16 has proven beyond a reasonable doubt that it was the
17 defendant's specific intent to kill another with express
18 malice, then you must find him guilty. If, on the other
19 hand, the State has -- if you do not find that the State
20 has proven beyond a reasonable doubt that the defendant
21 is guilty of attempted murder as it relates to Ebony
22 Ponds, you may consider the lesser included offense of
23 assault and battery of a high and aggravated nature.

24 Now the defendant has been charged with the assault
25 and battery of a high and aggravated nature as relates

1 to Larresia Thompson. A person commits the offense of
2 assault and battery of a high and aggravated nature if
3 the person unlawfully injures another person and, A,
4 great bodily injury to another person results or, B, the
5 act is accomplished by means likely to produce death or
6 great bodily injury.

7 Great bodily injury means bodily injury which causes
8 a substantial risk of death or which causes serious
9 permanent disfigurement or protracted loss or impairment
10 of the function of a bodily member or organ. Again,
11 ABHAN is lesser included offense of attempted murder.
12 If you do not find that the State's proven beyond a
13 reasonable doubt that the defendant is guilty of the
14 attempted murder of Ebony Ponds, you may consider the
15 lesser included offense of assault and battery of a high
16 and aggravated nature.

17 Now let me say something about your deliberations.
18 Deliberation is defined as careful consideration,
19 weighing up with a view to decision. The genius of our
20 jury system is that it allows twelve good men and women
21 from different backgrounds, life experiences and
22 perspectives to consider the evidence, talk about it,
23 and ultimately reach a verdict. We call them
24 deliberations for a reason. You are not to consider
25 the evidence in this -- excuse me. You are -- let me

1 rephrase that.

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

12 When you retire to the jury room, you should discuss
13 the case with your fellow jurors to reach an agreement
14 if you can do so. Your verdict must be unanimous. Each
15 of you must decide the case for yourself, but you should
16 do so only after you have impartially considered all of
17 the evidence, discussed it fully with other jurors and
18 listened to the views of your fellow jurors. Do not be
19 afraid to change your opinion if the discussion persuades
20 you that you should, but do not come to a decision simply
21 because other jurors think it is right. It is important
22 that you attempt to reach a unanimous verdict, but, of
23 course, only if you can do so after having made your
24 own decision. Do not change an honest belief about
25 the weight and effect of the evidence simply to reach

1 a verdict. In other words, do not change your opinion
2 solely for the sake of reaching a unanimous verdict.

3 Now a verdict in this case may not be based upon
4 sympathy, passion, prejudice or emotion or some other
5 consideration not found in the evidence. I charge you
6 that as jurors you must decide the issues involved in
7 this proceeding based solely upon the evidence which
8 you hear during the course of the trial. Your verdict
9 must be without bias and without prejudice to any party.
10 You cannot allow yourselves to be governed by sympathy,
11 by prejudice, by passion, by public opinion or some other
12 consideration not found in the evidence.

13 Now I'll give you a copy of these instructions in
14 written form during your deliberations and you may refer
15 to the instructions to guide your decisionmaking. You
16 must consider the instructions as a whole and not follow
17 some and ignore others. Please return the instructions
18 to the Court at the time your verdict is rendered.

19 Now there are two possible verdicts you may find
20 in this case. Guilty or not guilty. There is no
21 significance whatsoever in the order in which I state
22 the possible verdicts. It is simply that one must be
23 stated first.

24 Ladies and gentlemen, your verdict must be a
25 unanimous one. Madam Forelady, when the jury agrees on

1 a verdict, you will write the verdict on the verdict
2 form, then knock on the jury room door and inform the
3 bailiff that you have reached a verdict. At that time
4 we will receive you back into the courtroom.

5 I ask that you now return to your jury room, but do
6 not begin your deliberations until you are told to by
7 the clerk or bailiff. There are some matters that I
8 must take up with the attorneys before you begin your
9 deliberations.

10 Also, I will be sending the verdict form back to
11 you, Madam Forelady. At this time you can retire to the
12 jury room. Do not discuss the case yet.

13 We do have -- we do have your lunch waiting on you.
14 Please don't discuss the case yet, but somebody will be
15 down there momentarily to update you on that.

16 Please go to your jury room, but don't discuss the
17 case.

18 Thank you.

19 (Whereupon, the jury retires to the jury room at
20 12:00 PM.)

21 THE COURT: Any issues with the charge before we
22 gather all the evidence?

23 MS. FULLER: None from the State, Your Honor.

24 MR. CHEHOSKI: None from the defense, Your Honor.

25 I do want to --

1 THE COURT: Oh, yeah.

2 MR. CHEHOSKI: -- note for the record my -- an
3 objection that was --

4 THE COURT: Made at the bench?

5 MR. CHEHOSKI: -- made at the bench after -- after
6 the State's closing, before the defense's closing, where
7 the solicitor stated that -- that if it's not -- if it's
8 not the defendant, then who, and I've objected to that
9 on the grounds of burden shifting.

10 Even though we have presented a case, there's still
11 -- Mr. Butler still enjoys the presumption of innocence
12 and we argue that the State's comments at that point
13 shifted the burden to us that we had to show that if it
14 was not Mr. Butler, then who -- then who was it, and we
15 argue that that's improper.

16 And I think for -- because it is constitutional,
17 Your Honor, I think for the record I have to make a
18 motion for a mistrial as well.

19 THE COURT: Madam Solicitor.

20 MS. FULLER: Thank you, Your Honor.

21 In the context of the whole trial, as well as what
22 I was showing in my closing argument, was a timeline and
23 I was pointing to the board and referencing that, and
24 the whole scene was based on the timeline, based on the
25 testimony and did not mean -- it was not burden shifting.

1 I think it's been very clear that the burden is on the
2 State. I think a mistrial at this point would be highly
3 inappropriate. If Your Honor thinks it's slightly burden
4 shifting, then I think some curative instruction -- I
5 think your charged cleared that up, but I don't believe
6 it's appropriate at this time.

7 If Your Honor needs more argument, I can pull some
8 case law on it, but I really don't believe it was burden
9 shifting. It definitely wasn't the State's intent.

10 THE COURT: Anything else, Mr. Chehoski?

11 MR. CHEHOSKI: Your Honor, I think I've made my
12 arguments for the record and I don't want to talk
13 anymore.

14 THE COURT: Well, we've all talked -- all talked
15 a lot this week, so.

16 I -- I didn't think that it rose to a level that
17 denied the defendant of a fair trial certainly. The
18 motion for mistrial is denied and the objection is
19 overruled, but you certainly noted your arguments for
20 the record, so.

21 Can y'all work together and gather up all of the
22 evidence and make sure we've got it ready to go down to
23 the jury?

24 I do want to commend the attorneys for both the
25 State and the defendant for arguing a -- vigorously

1 arguing the respective parties' cases. I just wanted
2 to tell y'all that.

3 MS. FULLER: Thank you, Judge.

4 MR. CHEHOSKI: Thank you, Judge.

5 (Court's Exhibit Number 6 was marked for
6 identification.)

7 (Recess taken at 12:08 PM.)

8 (Whereupon, the alternates were released and the
9 evidence was submitted to the jury at 12:35 PM.)

10 (Back on the record at 1:24 PM.)

11 BAILIFF: Court is back in session.

12 THE COURT: Good afternoon. Please be seated.

13 All right. It's my understanding the jury's reached
14 a verdict.

15 Any issues before I bring the jury -- any issues
16 before I bring the jury up?

17 MS. FULLER: None from the State, Your Honor.

18 MR. CHEHOSKI: None from defense.

19 THE COURT: All right. Let's bring them up,
20 please.

21 (Whereupon, the jury return to the courtroom at
22 1:28 PM.)

23 THE COURT: Please be seated.

24 Madam Forelady, it's my understanding the jury's
25 reached a verdict. Is that correct?

1 FOREPERSON: Yes, Your Honor.

2 THE COURT: Is your verdict unanimous?

3 FOREPERSON: Yes, Your Honor.

4 THE COURT: Please hand it to the bailiff.

5 Madam Clerk.

6 THE CLERK: On Indictment 2019-GS-32-2879 and 2880,
7 the State versus Isaiah Butler, as to the indictment of
8 2019-GS-32-2879, we, the jury, in the above-captioned
9 case on the charge of attempted murder of Ebony Ponds,
10 unanimously find Isaiah Butler guilty.

11 As to the indictment of 2019-GS-32-2880, we, the
12 jury, in the above-captioned case, on the charge of
13 assault and battery of a high and aggravated nature of
14 Larresia Thompson, unanimously find Isaiah Butler guilty.

15 It is so signed by the foreperson and dated
16 October 14, 2021.

17 Ladies and gentlemen of the jury, if these are your
18 verdicts and they are still your verdicts, please
19 indicate by raising your right hand.

20 (Jurors raise hands.)

21 THE CLERK: Thank you.

22 THE COURT: Anything else for the jury before I
23 discharge them?

24 MR. CHEHOSKI: Request to poll the jury, Your
25 Honor.

1 THE COURT: Very well.

2 THE CLERK: Okay. When I call your number, I will
3 ask you if this is your verdicts and are they still your
4 verdicts and if you'll just answer -- reply, please.

5 Juror Number 144, were these your verdicts and are
6 they still your verdicts?

7 JUROR NUMBER 144: (Nods head.)

8 THE COURT: Yes?

9 JUROR NUMBER 144: I'm sorry. Yes.

10 THE COURT: All right.

11 THE CLERK: Juror Number 190, were these your
12 verdicts and are they still your verdicts?

13 JUROR NUMBER 190: Yes.

14 THE CLERK: Juror Number 37, were these your
15 verdicts and are they still your verdicts?

16 JUROR NUMBER 37: Yes.

17 THE CLERK: Juror Number 33, were these your
18 verdicts and are they still your verdicts?

19 JUROR NUMBER 33: Yes.

20 THE CLERK: Juror Number 110, were these your
21 verdicts and are they still your verdicts?

22 JUROR NUMBER 110: Yes.

23 THE CLERK: Juror Number 132, were these your
24 verdicts and are they still your verdicts?

25 JUROR NUMBER 132: Yes.

1 THE CLERK: Juror Number 138, were these your
2 verdicts are they still your verdicts?

3 JUROR NUMBER 138: Yes.

4 THE CLERK: 181, were these your verdicts and are
5 they still your verdicts?

6 JUROR NUMBER 181: Yes.

7 THE CLERK: Juror Number 3, were these your
8 verdicts and are they still your verdicts?

9 JUROR NUMBER 3: Yes.

10 THE CLERK: Juror Number 14, were these your
11 verdicts and are they still your verdicts?

12 JUROR NUMBER 14: Yes.

13 THE CLERK: Juror Number 152, were these your
14 verdicts and are they still your verdicts?

15 JUROR NUMBER 152: Yes.

16 THE CLERK: Juror Number 147, were these your
17 verdicts and are they still your verdicts?

18 JUROR NUMBER 14Y: Yes.

19 THE CLERK: Thank you.

20 All jurors polled, Your Honor.

21 THE COURT: Anything else before discharging the
22 jury?

23 MR. CHEHOSKI: Nothing for the jury, Your Honor.

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

25 THE COURT: Ladies and gentlemen, thank you for

1 your service this week on jury duty. Your participation
2 in the justice system is critical to the justice system
3 working, so on behalf of all of us thank you for your
4 service this week, thank you for your attention, thank
5 you for your being here on time every day and being here
6 some days a little later than you may have wanted to be.
7 We certainly recognize that there were other places you
8 could have been this week, but we are very appreciative
9 for your service here this week.

10 You're free to go at this time. The -- the bailiff
11 will take you back down to get your belongings if you
12 need to. That said, you're also free to stay. I
13 anticipate we'll get into the next stage of the case in
14 a few -- in a short amount of time.

15 I also need to get the forelady's signature on some
16 documents before you depart, if you decide to depart,
17 but...

18 Do they have all their belongings up here already?

19 BAILIFF: Yes.

20 THE COURT: Okay. Well, what I'll do is I'll have
21 you exit the courtroom and you're free to go or you're
22 free to stay if you see fit. You're certainly free to
23 discuss the case with whomever now when you depart the
24 courtroom.

25 Thank you again. Everyone can depart.

1 Madam Forelady, if you could just come up here.

2 Hang back. The Clerk of Court will meet you out there.

3 (Whereupon, the jury was discharged at 1:32 PM.)

4 THE COURT: Okay. Any motions?

5 MR. CHEHOSKI: Your Honor, at this time the defense
6 moves for a new trial incorporating all the prior motions
7 and objections. In light of the forty-five minutes by
8 my calculation that the jury was out, the number of
9 exhibits that were admitted, the testimony, Your Honor,
10 I -- I feel this was a rushed verdict and, Your Honor, I
11 feel at this time that the only remediable -- appropriate
12 remedy is a new trial.

13 THE COURT: Okay. Any response from the State?

14 MS. YONGUE: Nothing from the State other than that
15 it's not the State's position that this was a rushed
16 verdict at all. They heard all the testimony, they saw
17 the evidence that was presented, and they came to the
18 right conclusion, Your Honor.

19 THE COURT: All right. In light of the -- the
20 defendant's motion for a new trial is denied. I think
21 there was -- the jury had the evidence and they -- they
22 weighed it as they saw fit. That was their province.

23 From here how much time do we need before we
24 transition to sentencing?

25 MS. YONGUE: Just a few minutes, Your Honor. I

1 believe we just need to do the sentencing sheets and
2 get everything in order for victim impact.

3 THE COURT: All right. We'll just stand in recess.
4 Come and get me when you're ready.

5 MS. YONGUE: Will do. Thank you.

6 (Recess taken at 1:35 PM.)

7 (Back on the record at 1:42 PM.)

8 BAILIFF: Court will come to order. Keep your
9 seats.

10 THE COURT: All right. Please be seated.

11 All right, Madam Solicitor.

12 MS. FULLER: Thank you, Your Honor.

13 In terms of sentencing, Your Honor, we do have
14 several people who want to speak, Your Honor, and then
15 I'll have some remarks at the end.

16 First I'll start with Ebony.

17 THE COURT: Yes, ma'am.

18 MS. PONDS: I feel like Mr. Butler should be
19 sentenced because of this last -- my mom's last three
20 years of living she wasn't able to do anything she
21 wanted to do because she was constantly in fear. We
22 can't work where we want to work. I switched to working
23 remotely because I don't feel comfortable being near
24 anyone to do with him because I don't know who Mr. Butler
25 knows. There's just a lot of stuff we don't feel

1 comfortable doing any longer. Like little things like
2 sitting in the parking lot and a car's driving by too
3 fast or too slow and I just feel like we're all dealing
4 with the PTSD and even while he was on house arrest he
5 wasn't abiding by what he was supposed to do and that was
6 one of the reasons my mom was so scared because he was
7 actually riding around and he was supposed to be on house
8 arrest.

9 So I do feel like he should pick up consequences for
10 his actions because I feel like we've picked up a lot of
11 consequences and we've owned up to how things could have
12 been handled different and they're still not owning up
13 to their parts in the situation.

14 THE COURT: Thank you.

15 MS. FULLER: Next, Your Honor -- next, Your Honor,
16 I know Chief Investigator James Sullivan would like to
17 share a few words on behalf of the victim.

18 INVESTIGATOR SULLIVAN: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 INVESTIGATOR SULLIVAN: You'll have to bear with me.
21 I haven't done this in twenty-three years, so this is
22 new to me.

23 In my time in law enforcement and military career,
24 I've dealt with a lot of people who deal with stress
25 and trauma and I've had the opportunity to be a part of

1 organizations that deal with people with PTSD.

2 During the course of this case in three years, the
3 victim advocate left and I took on primary communication
4 with Ms. Thompson and the family, and I got to know
5 Ms. Thompson very well. And she was an amazing lady,
6 Your Honor. I would get calls every week telling me
7 -- or asking me how the case was going and tell her how
8 diligently we were working to get her case before this
9 Court and how hard the Court was working to get this
10 case solved -- or resolved.

11 And then I get the call in the middle of the night,
12 Your Honor, in the early morning hours where as her
13 daughter just said, she was in crisis. She was scared.
14 She was living in fear. As Your Honor knows, the --
15 post-traumatic stress and the people who are afflicted
16 with it may not have a rhyme or reason as to what they
17 feel due to the actions that somebody did to them. In
18 our line of work we -- we're prepared for that, even in
19 the service we're prepared for that, but Ms. Thompson was
20 not. She lived in fear constantly, but through that fear
21 she was the nicest, sweetest lady. And she would vent
22 and we'd talk about it and she persevered and she pushed
23 on knowing that one day justice would be heard as before
24 you, Your Honor.

25 The last couple of years of her life were not

1 pleasant, Your Honor. She struggled, but I'm -- I'm
2 glad to see, and I think she would be proud, that her
3 daughters got up here and told the truth and saw this
4 through and let justice take its course. It was my
5 pleasure to have known her.

6 Thank you, Your Honor.

7 THE COURT: Thank you.

8 MS. FULLER: Thank you.

9 At this time on behalf of Lexington County
10 Sheriff's Department addressing the Court prior to
11 sentencing, Investigator Albert Lyons.

12 INVESTIGATOR LYONS: Your Honor, I was the lead
13 investigator on this case. The night of the incident
14 when I was dispatched to meet both Ms. Thompson and
15 Ms. Ponds that was just by mere coincidence because a
16 fraction of an inch I may not have had the chance to
17 speak with them and interact with them during my
18 investigation.

19 I've had several telephone conversations with
20 Ms. Thompson and I, too, can attest that she did live
21 in fear after of what would happen. She was apprehensive
22 of, you know, something like this happening again.

23 I also note that during my investigation at no
24 time did the defendant show any remorse or ownership for
25 his actions. It's because of those reasons that the

1 sheriff's department would ask for no leniency on
2 sentencing, Your Honor.

3 Thank you.

4 THE COURT: All right. Thank you.

5 MS. FULLER: And, Your Honor, in terms of this
6 case, and I know you know it's a little over three years
7 old and it's been a long journey, this family has been
8 patient with me. We have fussed. We have -- we have
9 been through it. And one thing when I meet victims, I
10 always tell them, you know, this is my case and I always
11 say I'm gonna go down swinging, but I tell them it's
12 their lives and I want them to get from the process and
13 -- and find some closure and some healing and when I got
14 word that Ms. Thompson passed, you know -- like she --
15 she looked at me and said you know, I was mad at you,
16 she just wanted the case closed. She was like -- she
17 just wants closure, she wants Mr. Butler to be held
18 accountable.

19 And one thing she said, she was like I just want
20 to get him one time and give him a good butt whipping,
21 like why would he do this, you know, why was he so --
22 why didn't he care, and it hurt that I couldn't give
23 her that closure while she was living.

24 And the last time I saw her, you know, after we
25 had the jury issue on our attempt to go forward, she

1 was upset, but she became almost -- and I'm not trying
2 to get too serious, but she became almost filled with
3 the Holy Spirit and she looked at me and said it's gonna
4 be okay, she said it's gonna be okay. And when we had
5 the bond hearing in September, on September 16th, she
6 wasn't feeling well and she couldn't come to court and
7 then just ten days later to pass before seeing this case
8 to closure has been tough.

9 And I know that woman has lived in true fear and
10 the hardest part, too, is the struggle because we tried
11 to get this case up so many times and I always said okay,
12 what am I missing, why is there always a delay? You
13 know, Ms. Thompson's life wasn't easy, but she lived a
14 redemption story.

15 When I reviewed her medical records, and I know the
16 family's okay with this and they know this, she struggled,
17 you know, when she was younger, but she was sober for
18 twenty-six years and she was proud of that. So being
19 nine days in the hospital and she said don't give me any
20 narcotics. She didn't want anything in her system that
21 strong. She lived a true redemption story and so I
22 thought, you know, maybe I'm supposed to use my
23 discretion to give that to Mr. Butler, you know, and
24 we talked about that. We talked about that, he was
25 young, but as time went on what was revealed was

1 Mr. Butler's lack of remorse and care. His -- recently
2 listening to him speak and communications with people,
3 including his mom, he thought this would just go away
4 with her death and actually spoke about karma and in that
5 moment I realized he's not learned a thing in these last
6 three years.

7 You know he has self-proclaimed on his Facebook
8 and other places to be affiliated with the Bloods, the
9 G-Shine, and it's like he has this gang mentality that
10 led to this type of behavior, that said this is how you
11 resolve and solve problems. Over a phone.

12 And that type of behavior, Judge, you've been a
13 part of our protecting our youth stuff that we've done
14 and it's like you wonder how at nineteen could he have
15 been reached to not be in this situation, but I stand
16 here to say and I'm asking -- I'm not asking for leniency.
17 He has no remorse. He has no respect for the Court.
18 He's had bond and violated. He now has an outstanding
19 warrant. He almost took two people's lives.

20 You've heard the facts of this case, you've heard
21 how many people he put in danger by his actions, and I
22 just ask for the appropriate sentence, Your Honor.

23 THE COURT: Very well. Thank you.

24 Anything else from the State?

25 MS. FULLER: Nothing else from the State, Your

1 Honor.

2 THE COURT: All right. Mr. Chehoski.

3 MR. CHEHOSKI: Thank you, Your Honor.

4 As you're aware, Mr. Butler is twenty-three years
5 old. He's a high school graduate from Eau Claire High
6 School in Columbia. He's single with no children. His
7 mother, Victoria Butler Smith, is in the courtroom. Has
8 been in the courtroom for the entire trial.

9 Your Honor, of course, we're sorry for what
10 happened to Ms. Thompson and Ms. Ponds. Of course,
11 especially for Ms. Ponds losing her mother recently,
12 there's -- how can you not feel for them? It's -- it's
13 not deserved, they didn't deserve this, and, Your Honor,
14 I -- I don't want to take that as lack of remorse.
15 we're here as the defense, we're here representing, and
16 Mr. Butler is proclaiming his innocence. If he's being
17 accused and he says he's not guilty, of course there's
18 not gonna be any remorse for what he did because he said
19 he didn't do it. We ask that you not take that into
20 account.

21 Your Honor, the State tried this case well.
22 Ms. Fuller and I have, you know, gone to trial now a
23 couple of times, she's a formidable opponent, and it's --
24 he's -- and now Mr. Butler is here and gonna be facing
25 judgment.

1 He's been convicted of a serious and a most serious
2 crime. The attempted murder carries with it mandatory
3 active time. Any sentence you give, Your Honor, he'll
4 have to serve 85 percent. He will be subject then to
5 two years of community supervision upon his release
6 with the remaining balance hanging over his head, Your
7 Honor.

8 You heard he has a minimal prior record. I've
9 represented Mr. Butler now for three years. Both in
10 custody and out, and I'll get into that in a minute for
11 his time served. He's been nothing but respectful.
12 He's been nothing mild mannered. Never lost his temper
13 with me. He was a -- he was a good client to represent.
14 He always showed up for court. I mentioned that in prior
15 hearings, from the bond hearing to the previous trial,
16 and, of course, you're aware that this was the seventh
17 time this case has been put on the docket. Always showed
18 up for court. I don't get to say that about all my
19 clients. Always showed up for meetings at my office. I
20 don't get to say that about all of my clients, Your Honor.
21 He took this case seriously. He did what I asked.

22 As far as his time served, Your Honor, I do not
23 have the exact number of days. It gets a little messy
24 because he was arrested in 2018. By my count he was in
25 custody for about four or five months before he was able

1 to make bond. In 2019 is when he got involved in the
2 arrest that led to his conviction for possession of
3 stolen motor vehicle. He was in custody for over a
4 year. I believe it was four or five months after he was
5 arrested on that charge the Court revoked his bond here
6 and so he was -- I want to say, again, it was -- it was
7 over a year that he was in custody. Mr. Butler tells me
8 it was a year and ten days. Then, of course, in August
9 his bond got revoked again after the -- the mistrial.

10 So, Your Honor, the minimum I think is eighteen months.

11 It's difficult, Your Honor, and I think part of this
12 right now is just we're all spent. We've been going at
13 it, energy, joking with Ms. Fuller earlier this morning
14 that she's responding to e-mails at 3:00 AM and I was
15 tempted to respond at 4:30.

16 So it's exhausting, and that's for us and we're not
17 directly involved. For them, I can't imagine. I'm sorry
18 for you. We all have a job to do.

19 Your Honor, I'm asking for a sentence that metes
20 the needs of justice, yet finds mercy where it's
21 available.

22 Ms. Butler, do you want to address the court?

23 MS. SMITH: I don't really want to say anything,
24 but --

25 THE COURT: I can't hear her.

1 MR. CHEHOSKI: Come forward.

2 THE COURT: Yes, ma'am. If you could just come up
3 to the microphone right here and just tell us your name.

4 MS. SMITH: Okay. Right here?

5 MR. CHEHOSKI: Yes, ma'am.

6 MS. SMITH: My name is Victoria Butler Smith and
7 obviously I'm the mother of defendant, Isaiah Butler.
8 I didn't really want to say anything, but I am human.
9 I did want to say I apologize for -- I mean, I'm sorry
10 that you -- you lost your mom.

11 I'm not really -- I don't like to talk in front
12 of people, but I apologize that we have to be here over
13 something that started out with such silliness, but I
14 don't want the picture of my son to be painted as if
15 he's some -- something or something that he's not.

16 So, yes, that's my youngest son. I have three
17 sons, that's my baby, and sometimes good people make bad
18 decisions. I'm not the type that will sit here and hold
19 anything that's wrong or anything like that, but I will
20 say that he is not any type of monster or anything that's
21 -- you know, that's been -- I understand that that's
22 your job to try to prove that a person is a bad person,
23 but he's not a bad person. I don't want anybody to
24 think that -- and I'll never have anybody think that
25 about any opinion that I have about anything on my own

1 and he did take this very seriously no matter what
2 anybody may have thought, heard or anything like that,
3 but I just wanted to make sure that nobody thought that,
4 you know, my son is any type of monster. He's very --
5 he's a good person. He's a very good person. Despite
6 any type of bad decisions, he's a good person. That's
7 it.

8 THE COURT: Thank you.

9 Would your client like to say anything, Mr. Chehoski?

10 MR. CHEHOSKI: To my understanding he does not,
11 Your Honor.

12 THE COURT: Mr. Butler, I just need to let you --
13 would you like to address the Court today?

14 THE DEFENDANT: No, sir.

15 THE COURT: Anything else from the defense?

16 MR. CHEHOSKI: Nothing further from the defense,
17 Your Honor.

18 THE COURT: All right. I'm gonna take a very short
19 break and I'll be back momentarily.

20 Thank you.

21 (Recess taken at 2:04 PM.)

22 (Back on the record at 2:09 PM.)

23 THE COURT: Keep your seats.

24 Obviously, I tell -- well, first, let me just, to
25 the families that have endured this over the last few

1 years, and I'm sorry that y'all have had to endure this,
2 and I'm sorry that Ms. Thompson isn't here for this
3 today.

4 I -- I get these cases usually a week at a time,
5 sort of like the jury did today -- this week and, you
6 know, I'm always -- these cases affect you. And the
7 reason I bring that up is, again, I did this outside
8 the presence of everyone earlier, but, again, I want to
9 commend the lawyers for both the parties and the people
10 involved in this case on both sides who have been living
11 this case also for the last three years. It takes a lot
12 of work and heart to do the job they do and I certainly
13 appreciate it.

14 To Ms. Butler, I'm -- I'm sorry you have to be in
15 this position today. No parent wants to be in this
16 courtroom when their child, their youngest child, is in
17 the position they're in right now, so I just want you to
18 know that I'm sorry you have to be here as well today,
19 too.

20 You know we heard a lot this week. The jury heard
21 a lot. You know, it was brought up that the defendant
22 is not a monster and no one's here to say that he is;
23 however, this was a violent crime. This is -- it just
24 doesn't get more violent than pointing a firearm at
25 people and opening fire. I wish we had less crime to

1 deal with in this building, but that is a violent crime
2 and it is -- it is fortunate that that bullet did not
3 stray another inch for Ebony or this would be an entirely
4 different case. And it was very fortunate for
5 Ms. Thompson, who obviously incurred serious injury but
6 survived, but the violent act speaks for itself and, you
7 know, I have to take that into consideration.

8 As far as the previous time served, I'm just gonna
9 go with the box on the sentencing sheets. I also wrote
10 the specific time's unknown at sentencing because I
11 didn't want to guess, but if we need to -- I think they
12 can figure that out after today, but if not, come back
13 and let me know.

14 At the end of the day this is a situation where a
15 person fired a gun into a group of people. No one was
16 killed, but it doesn't get any closer. It doesn't get
17 any more serious in my opinion. I recon -- I've tried
18 to consider the defendant's age. He had just turned
19 twenty at the time this happened and, you know, certainly
20 they made note that his prior record is minimal. Also
21 he's still very young. You know, whatever sentence he
22 receives today he'll have the opportunity to serve that
23 sentence and -- and at some point get out and when you
24 do I hope you'll certainly learn from this experience
25 and take advantage of services that are offered by the

1 State of South Carolina Department of Corrections. I
2 hope that at the conclusion of your sentence you'll come
3 out and not be in this position again. That's -- that's
4 all of our hopes.

5 As to Indictment 2019-GS-32-02880, on the charge of
6 assault and battery of a high and aggravated nature, the
7 sentence is twenty years.

8 On the charge of attempted murder, Indictment
9 2019-GS-32-2879, you will be committed to the Department
10 of Corrections for a period of twenty-eight years.

11 That is it all. Court's adjourned.

12 MR. CHEHOSKI: Concurrent, Your Honor?

13 THE COURT: Huh? Concurrent, correct.

14 MS. FULLER: Thank you, Your Honor.

15 (Whereupon, the proceedings were concluded at
16 2:15 PM.)

17

18

19

20

21

22

23

24

25

WITNESSES

Lexington County Sheriffs Department

Albert P Lyons IV

Law Enforcement Case #: 18017711

SF

ARREST WARRANT NUMBER

2018A3211000274

ACTION OF GRAND JURY

VERDICT

TRUE BILL

Guilty
Foreperson of Petit Jury *Sandra Blackmon*

Date: 10-14-2021

DOCKET NO. 2019GS3202879

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Isaiah Deshaun Butler

CDR #: 3410

Indictment for

Attempted Murder

§ 16-03-0029

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Attempted Murder

§ 16-03-0029

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Isaiah Deshaun Butler**, in Lexington County, South Carolina, on or about August 30, 2018, did, with the intent to kill, attempt to kill another person with malice aforethought, to wit: the Defendant did repeatedly and excessively shoot into a crowd of people with a firearm in the parking lot of an apartment complex located at [REDACTED] Riverbend Drive, West Columbia, and did strike Ebony Ponds in the head, in violation of section 16-03-0029 of the Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

0-30110

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2019 - GS - 32 - 02879Isaiah Deshaun ButlerAW#: 2018A3211000274

AKA:

Date of Offense: 8/30/2018Race: Black Sex: M Age: 23S.C. Code §: 16-03-0029DOB: 1998 SS#: [REDACTED]CDR Code #: 3410Address: Romford RdCity, State, Zip: Columbia, SC 29203-3638

SENTENCE SHEET

DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / Attempted MurderIn violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

ATTEST:

 100730
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #
WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 28 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ 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. days/months SPECIFIC TIME UNKNOWN AT SENTENCING☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

WITNESSES

Lexington County Sheriffs Department

Albert P Lyons IV

Law Enforcement Case #: 18017711

SF

ARREST WARRANT NUMBER

2018A3211000275

ACTION OF GRAND JURY

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date: 10-14-2021

DOCKET NO. 2019GS3202880**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Isaiah Deshaun Butler

CDR #: 3410

Indictment for

Amended: Assault + Battery High + Aggravated Nature

Attempted Murder

§ 16-03-0029

S.R. Hubbard III, SOLICITOR

State v. Isaiah Deshaun Butler
Motion to Amend Attempted Murder Indictment – 2019GS3202880
Victim: Larresia Thompson

STATE OF SOUTH CAROLINA	)	INDICTMENT language for
	)	
COUNTY OF LEXINGTON	)	Assault and Battery of a High
	)	and Aggravated Nature
		§ 16-03-0600(B)(1)

That **Isaiah Deshaun Butler**, did, in Lexington County, South Carolina, on or about August 30, 2018, unlawfully injure another person, and great bodily injury to another person did result or the act was accomplished by means likely to produce death or great bodily injury, to wit: the Defendant did repeatedly and excessively shoot into a crowd of people with a firearm in the parking lot of an apartment complex located at [REDACTED] Riverbend Drive, West Columbia, and did strike Larresia Thompson resulting in wounds to her abdomen, chest, and arm area, in violation of §16-03-600(B) of the Code of Laws of South Carolina (1976, as amended).

0-20418

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2019 - GS - 32 - 02880Isaiah Deshaun Butler

AKA:

AW#: 2018A3211000275Race: Black Sex: M Age: 23Date of Offense: 8/30/2018DOB: -1998 SS#: [REDACTED]S.C. Code §: 16-03-0029Address: Romford RdCDR Code #: 3410City, State, Zip: Columbia, SC 29203-3638DL#* [REDACTED] SID# [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Assault / Assault & Battery of a High & Aggravated NatureIn violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

ATTEST:

[Signature] 100730
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #
WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 20 days/months/years Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ 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.
 days/months SPECIFIC TIME UNKNOWN AT SENTENCING☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

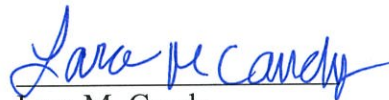
Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 20th day of January, 2023.

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

RECEIVED

Jan 20 2023

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT