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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

ON WRIT OF CERTIORARI TO GREENVILLE COUNTY

Court of Common Pleas

Honorable J. Derham Cole, Circuit Court Judge

Honorable Brian M. Gibbons, Post-Conviction Relief Judge

Appellate Case No. 2023-001191

JAMES MICHAEL JOHNSON, ... RESPONDENT,

v.

STATE OF SOUTH CAROLINA, ... PETITIONER.

APPENDIX
VOLUME 3 OF 3

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THE COURT:

STATE’S EXHIBIT #3 (DVD)

STATE’S EXHIBIT #4 (DVD)

INVESTIGATOR BROWN - DIRECT

1 A These were two weapons that were removed
2 from the pond as a result of that search.

3 Q Did you ask James Armstrong to conduct an
4 analysis on these two?

5 A I did.

6 MR. MARCHANT: The State would move 68 and 69
7 into evidence.

8 MR. ELLIS: No objection.

9 THE COURT: They are admitted.

10 (WHEREUPON, State's Exhibits 68 and 69 are
11 admitted into the record.)

12 BY MR. MARCHANT:

13 Q Why was it so significant for you to deploy
14 the dive team in this pond after these guns?

15 A It was learned that one of the potential
16 suspects was observed possibly throwing something into
17 this pond.

18 Q Who was that?

19 A Scott Lowe.

20 Q Any one of these guns match any of the
21 ballistics?

22 A It did not.

23 Q Following the analysis that comes back on
24 these guns, what was the next move you made?

25 A I decided to begin my interviews further

INVESTIGATOR BROWN - DIRECT

1 witness that provided statements originally.

2 Q Okay. Prior to -- following Ms. Berry, but
3 prior to speaking to any other folks that had been
4 interviewed in this case already, did you have occasion to
5 speak with someone who claimed some involvement?

6 A I did.

7 Q And who was that?

8 A Eric Graham.

9 Q And you recall generally the time that you
10 interviewed Eric Graham?

11 A It was around November 2012.

12 Q Did Mr. Graham give you details of the
13 crime?

14 A He did.

15 Q Did you make a charge at that time?

16 A No, I did not.

17 Q Why not?

18 A Based on his happenings of the way he said
19 that it occurred, through my experience, it just didn't
20 match up. His story was totally false. It originally
21 said he had direct knowledge and proved different.

22 Q At that time?

23 A At that time.

24 Q So after your interview with Mr. Graham,
25 who did you next speak with any investigation and

INVESTIGATOR BROWN - DIRECT

1 eventually provide some evidence in this case?

2 A Manuel Granados, Nick.

3 Q Did you speak with Tyler before --

4 A Yeah, I did.

5 Q As a result of speaking with Mr. Clark,
6 what did you, what did you do?

7 A I gained -- I gained some information from
8 Mr. Clark that a possible weapon or weapons can be in a
9 particular pond on Wade Hampton Boulevard in Taylors.

10 Q For the jury's benefit, describe where that
11 pond was associated, located in that apartment complex.

12 A It is Hampton Arms Apartment complex
13 located on Wade Hampton Boulevard. It is actually just
14 short of Taylors, just after the Liberty Life building on
15 Wade Hampton Boulevard in the County of Greenville.

16 Q As a result of your conversation with
17 Mr. Clark, what did you do?

18 A I requested assistance from the Sheriff's
19 office dive team. I contained a consent to search warrant
20 from the apartment complex and a search was conducted on
21 the pond.

22 Q I'm showing you State's 68 and 69. Do you
23 recognize those?

24 A I do.

25 Q How is it that you recognize them?

INVESTIGATOR BROWN - DIRECT

1 Q So Nick is arrested at some point in time
2 following the guns coming back as a match?

3 A Correct.

4 Q Did you have an occasion to interview Nick?

5 A I did.

6 Q Nick tell you anything in the interview
7 that advances the investigation?

8 A Yes.

9 Q Don't tell us what he said, but tell us
10 what you based off of what Nick tells you?

11 A I arrested Scott Lowe.

12 Q Did you arrest anyone else at that time?

13 A No.

14 Q Were you looking for anyone else at that
15 time?

16 A Yes.

17 Q How many other people?

18 A One.

19 Q Did you have any occasion to visit with
20 Mr. Graham again?

21 A Yes.

22 Q What was the purpose of visiting back with
23 Eric Graham?

24 A I knew that I was looking for a third
25 person. In between the first interview with Mr. Graham, I

INVESTIGATOR BROWN - DIRECT

1 learned that some of the individuals involved in this
2 incident were affiliated with a certain group in
3 Greenville. I felt the need to interview Mr. Graham
4 again.

5 Q Where did the interview take place?

6 A Greenville County Law Enforcement Center.

7 Q Where was Mr. Graham currently housed at
8 that time?

9 A At the Department of Corrections in
10 Columbia.

11 Q Can you give the jury a general physical
12 description of Mr. Graham?

13 A Mr. Graham is probably -- he is six foot
14 plus, probably 6'2, somewhere in that range, slender.
15 Maybe from his height only, he weighed 160, 170.
16 Completely covered with tattoos pretty much, face, neck,
17 arms.

18 Q Describe for the jury a little more detail
19 the extent of the tattoos on his face.

20 A He --

21 MR. ELLIS: Your Honor, may we approach
22 briefly?

23 (WHEREUPON, a bench conference is held off the
24 record.)

25 BY MR. MARCHANT:

INVESTIGATOR BROWN - DIRECT

1 with individuals that were possibly involved or gave
2 witness statements earlier in the investigation by
3 Investigator Bailey.

4 Q Did you interview Nick Granados?

5 A I did.

6 Q Where did you interview him?

7 A I interviewed him at his mother's residence
8 in Taylors.

9 Q Did you review his statement before
10 speaking with him?

11 A I did.

12 Q Did you ask him whether or not everything
13 in the statement was true and correct?

14 A I did.

15 Q Did he give you additional information at
16 that time that he had not told Investigator Bailey?

17 A He did.

18 Q Based off the information that he gave you,
19 what did you do?

20 A Based off the information he gave me, I
21 made contact with the Buncombe County Sheriff's Office.

22 Q Did you go to Buncombe County?

23 A I went to Buncombe County and retrieved to
24 weapons that Mr. Granados admitted to me. He was arrested.
25 Buncombe County confiscated these two weapons. I went to

INVESTIGATOR BROWN - DIRECT

1 retrieve them.

2 Q You also interviewed someone else during
3 this period.

4 A I did.

5 Q Who was that?

6 A Cody Cordle.

7 Q And what was the purpose of interviewing
8 Mr. Cordle?

9 A That purpose was during the interview with
10 Mr. Granados, he told me that the reason he had these
11 weapons was because he purchased them from Cody Cordle for
12 the amount of \$300.

13 Q Let's go ahead and talk about Mr. Cordle,
14 were you able to include or exclude him as a participant
15 in this crime?

16 A Exclude.

17 Q How did you subsequently eventually exclude
18 Mr. Cordle?

19 A He was interviewed. He denied it, for one.
20 Also from what I have obtained prior to this, Scott Lowe
21 and Cody Cordle were not friends at all. And just based on
22 my experience and my investigation, he was excluded.

23 Q Did Mr. Cordle provide you any alibi
24 information?

25 A He did.

INVESTIGATOR BROWN - DIRECT

1 Q Investigator Brown, was Mr. Graham so
2 covered in tattoos that there would be no way that you
3 would not be able to identify or see those tattoos on his
4 face?

5 A That's correct.

6 Q So you are interviewing Mr. Graham for a
7 second time. What was the extent of the interview and
8 what subsequently occurred?

9 A He told me that in his first statement
10 provided earlier through our first conversation that he
11 originally lied and then gave me a second version of why
12 he committed this crime.

13 Q Is that version of events consistent with
14 what had occurred?

15 A Closer, but no. There were still some
16 discrepancies.

17 Q What does he tell you his involvement in
18 the killing was?

19 A This time?

20 Q Yes.

21 A He told me he was owed an amount of money
22 from Chris Porcoro -- no, excuse me. That was the first
23 time. This time, he told me that Ms. Daniel was
24 affiliated with a certain group in Greenville and a hit
25 had been handed down on her. He knew that Scott Lowe was

INVESTIGATOR BROWN - DIRECT

1 close to Ms. Daniel. So he appointed Scott Lowe to carry
2 out the hit. He was there to observe.

3 Q Mr. Graham tells you he was physically
4 present when the killings occurred?

5 A Correct.

6 Q Did you arrest Mr. Graham?

7 A I did.

8 Q What did you charged him with?

9 A With murder.

10 Q The jury knows and was already told that
11 those charges were dismissed. Why were those charges
12 dismissed against Mr. Graham?

13 A Well, they were disproved pretty much.
14 There were still discrepancies in his description of what
15 took place. He gained representation. He was evaluated.
16 That is just the basics. He didn't appear to me to be
17 truthful. I disproved it.

18 Q Were you able to determine whether or not
19 his alleged affiliation with this group actually existed?

20 A That was believable in his testimony to me.

21 Q Were you able to determine whether or not
22 his confession that he knew Scott Lowe actually existed?

23 A The only way I could determine that was he
24 did confirm -- when showed a photo of Scott Lowe, he did
25 say that was Scott Lowe. That's it. No other connections

INVESTIGATOR BROWN - DIRECT

1 whatsoever.

2 Q With your investigation following his
3 arrest, does anybody else tie Eric Graham and Scott Lowe
4 together?

5 A No.

6 Q In a meeting prior to Mr. Graham pleading
7 guilty to Obstruction of Justice, did you then finally
8 understand or learn where he had gained some of his
9 information?

10 A Yes.

11 Q Where did he tell you that he gained some
12 information?

13 A Through media and also through playing
14 cards.

15 Q I'm going to ask you to look at what's
16 marked as 63, 4 and 5.

17 A Yes.

18 Q You recognize those?

19 A Yes. (Reviewing.)

20 Yes, I do.

21 MR. MARCHANT: The State would move 63, 4 and
22 5 into evidence.

23 MR. ELLIS: No objection.

24 THE COURT: It is admitted.

25 (WHEREUPON, State's Exhibits 63 through 65 are

INVESTIGATOR BROWN - DIRECT

1 admitted into the record.)

2 BY MR. MARCHANT:

3 Q Tell the jury what these are and where they
4 come from.

5 A It is basically playing cards. These are
6 put out through Crime Stoppers. They are a deck of cards
7 that are placed in our jail and throughout the state and
8 the country. What they have on the card is unsolved
9 homicides. These particular cards being a 10 of clubs,
10 Jack of clubs, they have the victims, Christopher Porcoro
11 and Amber Daniel and a brief synopsis of what occurred.
12 They are available to all the inmates throughout the
13 detention center.

14 Q What additional information did you finally
15 piece together with Mr. Graham of the date that he
16 referenced these events occurred on and these playing
17 cards?

18 A This crime occurred on April 3rd. He told
19 me that he was there and it happened on April 30th.

20 Q What date is listed as describing the
21 murder of Chris and Amber Porcoro on those playing cards?

22 A April 30th.

23 Q Investigator Brown, you told us you had
24 some reservations about his story. Why did you arrest
25 him?

INVESTIGATOR BROWN - DIRECT

1 A Well, it is plain and simple, I am looking
2 for a third guy. He is there admitting to a murder for
3 the second time. I couldn't let him go. I arrested him
4 until I could either prove it or disprove it.

5 Q Did you also come into possession of
6 information of other homicides Mr. Graham had confessed
7 to?

8 A Yes.

9 Q You recall what the result of those
10 investigations yielded?

11 A They were also disproved.

12 Q Do you recall roughly in the time prior to
13 Mr. Lowe pleading guilty that Mr. Graham's charges were
14 dismissed before or after Mr. Lowe pleaded guilty?

15 A I believe they were before.

16 Q And were you present for the interview
17 Investigator Bailey and myself had with Scott Lowe?

18 A I was not.

19 Q Do you recall when that occurred or do you
20 generally recall the month and year?

21 A 2014. I believe it was March.

22 Q At this point in time, Mr. Graham has been
23 dismissed, who -- who has pending murder charges against
24 them?

25 A Nick and Scott Lowe.

INVESTIGATOR BROWN - DIRECT

1 Q Is your investigation over at that point?

2 A It is not.

3 Q Following Scott Lowe being arrested, what
4 is your next move?

5 A I'm still looking for a third person.

6 Q Have you been able to eliminate everybody
7 as a suspect from this case?

8 A No.

9 Q Whose name is still in the mix?

10 A The defendant, James Johnson.

11 Q Did you have an opportunity to speak with
12 someone else out at the detention center that claimed they
13 had information about J.J.?

14 A Yes.

15 Q Who was that?

16 A Billy Joe Durham.

17 Q Do you recall the month that you spoke with
18 Mr. Durham?

19 A I believe it was around July 2014.

20 Q Mr. Scott Lowe had pled in March. Had you
21 had the opportunity to speak with Scott Lowe prior to
22 speaking with Billy Joe Durham?

23 A No.

24 Q Did you subsequently speak with Scott Lowe?

25 A I did.

INVESTIGATOR BROWN - DIRECT

1 Q That was before or after the interview with
2 Billy Joe Durham?

3 A After.

4 Q What was the purpose of you speaking with
5 Scott Lowe?

6 A Again, I was looking for a third person.
7 Based on the other information, I felt the need. I was
8 not available when he spoke to Investigator Bailey in the
9 presence of his attorney. I felt the need to do that and
10 confirm what he was telling them.

11 Q At this time in July 2014, Mr. Johnson had
12 already been arrested, correct?

13 A Correct.

14 Q I'm going to step back just a little bit.
15 Did you have the opportunity to interview Mr. Johnson in
16 2013?

17 A I did.

18 Q And do you recall when Mr. Johnson was
19 arrested for the charge of murder?

20 A It was sometime later. I can't remember
21 the exact date. I'm sorry. A year later.

22 Q Before or after Scott Lowe pled guilty?

23 A It was before -- excuse me, after. I'm
24 sorry.

25 Q State's 57 is a recording of that interview

INVESTIGATOR BROWN - DIRECT

1 with Mr. Johnson. Have you reviewed this and does it
2 fairly and accurately reflect the conversation you had on
3 that day?

4 A Yes.

5 MR. MARCHANT: Subject to our agreements on the
6 times, Your Honor, the State would move 57 into evidence
7 and publish it for the jury.

8 MR. ELLIS: No objection.

9 THE COURT: All right.

10 (WHEREUPON, State's Exhibit 57 is admitted into
11 the record.)

12 BY MR. MARCHANT:

13 Q If you would, tell the jury, one, where did
14 this interview take place?

15 A This interview occurred in the Greenville
16 Police Department interview room.

17 Q Okay.

18 A At the 4 McGee Street Law Enforcement
19 Center.

20 Q You work for the county, correct?

21 A Correct.

22 Q Why did it occur in the City Police
23 Department interview room?

24 A Being employed prior with the city, I knew
25 they had -- their interview rooms were equipped with video

INVESTIGATOR BROWN - DIRECT

1 equipment. That's why this one was used.

2 Q At this point in time, February 27, 2013,
3 was the Sheriff's office equipped at that time with video
4 recording equipment?

5 A No.

6 (WHEREUPON, State's Exhibit 57 is played for the
7 jury.)

8 BY MR. MARCHANT:

9 Q Investigator Brown, was there, in fact, more
10 information that Mr. Johnson had provided to Investigator
11 Bailey that you had not gone over with at this time?

12 A Yes.

13 (WHEREUPON, State's Exhibit 57 is continued.)

14 BY MR. MARCHANT:

15 Q Investigator Brown, who are the two pictures
16 that you had shown Mr. Johnson?

17 A The two photos were, of course, Scott Lowe
18 who he identified and the other being Manuel Granados,
19 Nick, and the other was Robbie Fraser.

20 (WHEREUPON, State's Exhibit 57 is continued.)

21 BY MR. MARCHANT:

22 Q Investigator Brown, why did you ask
23 Mr. Johnson that question at this point in time in the
24 interview.

25 A This latter question?

INVESTIGATOR BROWN - DIRECT

1 Q Yes, sir.

2 A He originally said in his original
3 statement to Investigator Bailey that he was asked the
4 same question. Excuse me. He volunteered, I believe from
5 that statement, Investigator Bailey asked him if there was
6 anything else that he needed to know or to be asked. He
7 volunteered the information himself. He said do you not
8 know where -- to some effect, did you not know where I
9 was. He asked him where were you. I was at home in bed
10 with Jordan Gary.

11 Q What were the times that he referenced?

12 A Between 6 and 10 a.m.

13 Q Investigator Brown, this was back in
14 February 2013. Did you have additional investigation
15 still left in front of you?

16 A Yes.

17 Q Did you continue the investigation
18 throughout the time the prosecution of Scott Lowe?

19 A Yes.

20 Q Subsequently, were charges handed down
21 against Mr. Johnson for murder?

22 A Yes.

23 Q After those charges were handed down, did
24 you have any other involvement from that day on up until
25 today?

INVESTIGATOR BROWN - DIRECT

1 A Yes.

2 Q Outside of our preparing for trial, was
3 there anybody you interviewed that you were able to
4 include or exclude as part of this investigation?

5 A Yes.

6 Q Who was that?

7 A Billy Joe Durham.

8 Q You are saying Mr. Durham played a role in
9 the murders of Chris and Amber?

10 A No, he did not.

11 Q What --

12 A He provided information.

13 Q Do you recall when Mr. Durham provided you
14 information?

15 A The exact date, no. I will have to refer

16 --

17 Q The months?

18 A July.

19 Q Of what year?

20 A 2014.

21 Q Did you tell Mr. Durham -- did you speak
22 with Mr. Durham before or after you met with Scott?

23 A Before.

24 Q All right, Mr. -- Investigator Brown.
25 Please answer any questions Mr. Ellis may have.

INVESTIGATOR BROWN - CROSS

1 A Thank you.

2 CROSS-EXAMINATION

3 BY MR. ELLIS:

4 Q Good morning, Investigator Brown.

5 A Good morning to you.

6 Q I just want to get a little bit of a
7 timeline for some of the involvement from the things we
8 kind of covered here the last little bit. The murder of
9 Christopher Porcoro and Amber Daniel, that occurred April
10 3, 2011, correct?

11 A Correct.

12 Q And Manuel Nick Granados was arrested, I
13 believe, on February 5, 2013; is that right?

14 A Correct.

15 Q Scott Lowe was arrested the same day,
16 correct?

17 A Correct.

18 Q The interview that we just saw was of J.J.

19 A No, that was several days later after that
20 arrest. That was February 27, I believe, of 2013.

21 Q At that point, your plan -- your thought was
22 that J.J. was a witness, correct?

23 A That's what I was told, correct.

24 Q Again Scott Lowe?

25 A Yes.

INVESTIGATOR BROWN - CROSS

1 Q Scott later confessed to the murder and
2 robbery of Christopher Porcoro and Amber Daniel on March
3 4th, 2014, correct?

4 A Correct.

5 Q A little bit more than a year after that,
6 Scott confesses?

7 A Uh-huh.

8 Q Or whatever that story was that he told?

9 A Right.

10 Q At that point, he was basically on the eve
11 of trial himself, correct?

12 A Getting close, yes.

13 Q Just a couple of days away from going to
14 trial?

15 A Yes.

16 Q At that point as well, statements from J.J.
17 would have been included presumably in his trial
18 preparation report; would it not?

19 A Yes.

20 Q So, Scott confesses or tells his version of
21 the truth, he says, on March 4, 2014 and throws J.J. in
22 the mix at the first time at that point, correct?

23 A Correct.

24 Q J.J. gets arrested then the following day
25 March 5th, 2014, for murder?

INVESTIGATOR BROWN - CROSS

1 A Correct.

2 Q Of course, at that point, J.J. was held
3 without bond and was at that point around some of the
4 people, Billy Joe Durham, correct?

5 A Correct.

6 Q As part of your investigation, you
7 testified earlier that you had to come back. Obviously,
8 you were doing a cold case, you were there at the
9 beginning, right?

10 A That's right.

11 Q Before you could do much of anything
12 really, you had to review the file that already existed.

13 A There's a lot involved. I wasn't involved
14 in the initial investigation.

15 Q Okay. So as part of that, I imagine you
16 revisited all the forensic evidence and so forth, correct?

17 A I did.

18 Q Okay. Still, up to that point and beyond,
19 up till today, no evidence produced linking J.J. to
20 anything to do with this forensically, correct?

21 A Forensically, no.

22 Q There was nothing from any cameras, fibers
23 that were tested or anything like that?

24 A No.

25 Q There are no fingerprints still ever been

INVESTIGATOR BROWN - CROSS

1 uncovered linking J.J. to anything?

2 A No.

3 Q In fact, the only other person beyond Amber
4 and Chris, whose fingerprints were found was Ryan Wade on
5 the scene, correct?

6 A Correct.

7 Q Still, at that point no DNA linking J.J. to
8 the crime?

9 A No, sir.

10 Q Again, the DNA tests included fingernails
11 scrapings from Amber and Chris, correct?

12 A That's correct.

13 Q So basically no forensic or physical
14 evidence linking J.J. to any of this?

15 A No.

16 Q You also testified that you revisited the
17 statements of the witnesses and began trying to talk to
18 just a lot of them anyway, correct?

19 A Right.

20 Q Did you only talk to people that you
21 already spoke to before or did you talk to other people as
22 well?

23 A Only the people who have been talking to --
24 spoke to before. Others regenerated, yes.

25 Q Okay. I know that you mentioned a couple

INVESTIGATOR BROWN - CROSS

1 of people, Ann Berry, Eric Graham, Tyler Clark, those
2 people, correct?

3 A Right.

4 Q They would be available to come in here and
5 say whatever lead they had, but they have not done so,
6 correct, today in this trial?

7 A No, they're not here today, no.

8 Q You interviewed J.J. on February 7, 2014.
9 At that point, you told him that you were basically -- he
10 was under arrest, not being charged, your intent, you
11 state your intent was to use him as a witness against
12 Scott to build a case, right?

13 A Right.

14 Q And he was still being prepped and being
15 ready as a witness against Scott going into 2014; is that
16 right?

17 A Say that again.

18 Q He was basically being prepped as a witness
19 going into Scott Lowe's trial in 2014, correct?

20 A You got understand. It's tactics 101. I
21 wasn't going to tell him he was a potential suspect.
22 That's why he was always told he was a witness. He wasn't
23 being prepped as a witness, no.

24 Q Okay. Now, Scott didn't tell his little
25 story until March 2014, right?

INVESTIGATOR BROWN - CROSS

1 A Correct.

2 Q You spoke to J.J. February 2013?

3 A Correct.

4 Q So more than a year goes by, still no
5 charges against J.J.?

6 A Correct.

7 Q Scott Lowe's trial is coming up?

8 A Correct.

9 Q Not until Scott says whatever he says,
10 that's when J.J. gets charged after that, correct?

11 A Correct.

12 Q Going back to the interview with J.J. in
13 February 2013, you and Investigator Alexander went to pick
14 J.J. up at his house, correct?

15 A Correct.

16 Q I assume you arrived dressed kind of like
17 you were in the video; is that right?

18 A Yes.

19 Q Very casual, but I assume you had all the
20 badges and gun and such?

21 A We were identified, yes.

22 Q Right. You told him you were police
23 officers?

24 A Right.

25 Q You told him you wanted him to come with

INVESTIGATOR BROWN - CROSS

1 you and talk to you all?

2 A That's correct.

3 Q You didn't talk to him at his house, but
4 some neutral place?

5 A I did not talk to him at his house. No.

6 Q To come to the Law Enforcement Center?

7 A Voluntarily, yes.

8 Q He was not under arrest then?

9 A He was not.

10 Q You can see the basic sides of the room
11 there. It was a small room; would you say?

12 A An eight-by-eight, somewhere in there.

13 Q Okay. He was not given his Miranda rights,
14 was he?

15 A He was not.

16 Q He was not advised of his right to remain
17 silent?

18 A Was not.

19 Q Not advised of his right to an attorney?

20 A No.

21 Q And you kept him in the room talking for
22 about an hour; is that right?

23 A Yeah. Around that time, give or take.

24 Q Is it correct from what we just saw, and
25 your memory as well, that he told you right off the bat

INVESTIGATOR BROWN - CROSS

1 without any prompting or questioning from you, you know, I
2 didn't tell the truth the last time I spoke to law
3 enforcement. I have some more information to give.

4 A Correct.

5 Q That wasn't forced out of him, he told you
6 that.

7 A He told me that, yes. Two years later, but
8 he told me.

9 Q Again, you didn't say shut the door, all
10 right, you got more to say?

11 A No.

12 Q You sat down. The first thing he said was
13 I've got more to tell you, correct?

14 A Correct.

15 Q You would agree that there are lots of
16 reasons why people do or don't tell the police everything
17 they know sometimes?

18 A I would agree to that, yes.

19 Q Some are scared; is that fair to say?

20 A True.

21 Q Some are confuse?

22 A I would know about confused, but probably
23 scared.

24 Q Never met a confused witness?

25 A Met witnesses that, for whatever reason,

INVESTIGATOR BROWN - CROSS

1 decided not to tell the truth. I can't say they were
2 confused.

3 Q Okay. You ever had to deal with a witness
4 who has never been in that situation before?

5 A Yes.

6 Q You ever met a witness for whatever reason,
7 their upbringing or stories from friends or whatever, is
8 they don't quite trust the police very much?

9 A That would be honest to say, yes.

10 Q Ever deal with any witnesses who just kind
11 of say, I really don't want to be involved? I really
12 rather not?

13 A Yes. Sure.

14 Q You spoke to J.J. February 2013. He told
15 you several things at that point. Then he gave you more
16 information that he had previously, more information on
17 Scott, correct?

18 A Correct.

19 Q I believe he stated that he had given Scott
20 and Amber a ride together over at Chris's house before the
21 murders, correct?

22 A Correct.

23 Q That was after he and Amber already broken
24 up. They were already done. Let me stop. I don't want
25 to ask a compound question. He and Amber had already

INVESTIGATOR BROWN - CROSS

1 broken up, right? That's what he told you?

2 A I believe that is what he originally said.
3 But one of the discrepancies that were in his statement
4 that he was, part of his untruthfulness was Scott dated
5 Amber first, then him. I just want to be clear on that
6 one.

7 Q We verified that.

8 A And a ride was given. All three of them
9 went to Chris's house, yes.

10 Q How do we verify he was untruthful about
11 the order Amber dated anybody? Amber can't tell you?

12 A No, she cannot.

13 Q So you believed Scott.

14 A That's what Mr. Johnson said in his
15 original statement.

16 Q All right. Again, he told you he and Amber
17 broke up. But despite that, he was willing to give Scott
18 and Amber a ride together?

19 A They all went together, yes.

20 Q He also told you that he believed, that he
21 received information that he is passing over to you that
22 Scott was the murderer, correct?

23 A He was assuming, yes.

24 Q He told you Scott had given him information
25 and he passed it over to you?

INVESTIGATOR BROWN - CROSS

1 A Correct.

2 Q Scott confessed?

3 A Correct.

4 Q He told you that Scott indicated at some
5 point that he had thrown some clothes into a lake?

6 A Correct.

7 Q He told you he had seen Scott with a lot of
8 guns?

9 A Correct.

10 Q He told you that the Lake, pond, whatever
11 you want to call it was he thought that you were by
12 Hampton Arms, by Ther's apartment, right?

13 A Yes.

14 Q That was one of Scott's friends?

15 A It was a mutual friend.

16 Q He told you he has seen Scott trade guns
17 for drugs or vice versa.

18 A Yes.

19 Q He told you that he had nothing to do with
20 the murders, J.J. had nothing to do with the murders?

21 A Yes.

22 Q So you mentioned that you had some leads
23 about a pond around the Hampton apartments around Ther's
24 apartment. Therefore, y'all went there?

25 A Yes.

INVESTIGATOR BROWN - CROSS

1 Q Found some things in the pond, correct?

2 A Correct.

3 Q Basically, J.J. agreed to pass information
4 along to you and it turned out to be fairly accurate,
5 correct?

6 A Two years later, correct.

7 Q And you had to go to Buncombe County after
8 Nick Granados was arrested up in North Carolina, right,
9 and retrieve some firearms that Nick had and bring them
10 back?

11 A Yes.

12 Q Nobody in Buncombe County had anything to
13 say about J.J. even though they didn't know who he was,
14 right?

15 A They knew he was arrested in Buncombe
16 County.

17 A I'm sorry. Buncombe County, as part of
18 their investigation, they didn't have any information
19 about J.J.

20 A J.J., no, no.

21 Q Buncombe County know about Nick? Because
22 they charged him and convicted him.

23 A Buncombe County didn't have any information
24 on your client.

25 Q Right. You interviewed some other people,

INVESTIGATOR BROWN - CROSS

1 you mentioned Cody Cordle, Eric Graham specifically. They
2 have been linked to the crime in different ways; is that
3 right?

4 A In different ways.

5 Q Ultimately have you decided, you made the
6 decision to exclude them?

7 A I did.

8 Q Decided to trust the information that they
9 gave in some cases or not to believe them, as in Eric
10 Graham's involvement, right?

11 A It was disproved. I have an obligation to
12 prove or disprove. So, it was disproved.

13 Q Correct. After you felt like Eric Graham
14 gave you information and you felt like you disproved it,
15 he was not charged with murder anymore, right?

16 A Correct.

17 Q He was charged with obstruction of justice?

18 A Correct.

19 Q A much different charge?

20 A Much different.

21 Q I believe he got convicted of that also,
22 right?

23 A He did.

24 Q All right. It appeared to you that he may
25 have gotten his information from a couple of sources,

INVESTIGATOR BROWN - CROSS

1 right?

2 A Right.

3 Q He had seen media reports. There was
4 information in the media at the time about this case and
5 the specifics of it?

6 A Right.

7 Q There were also playing cards that had been
8 distributed into the jail?

9 A That's right.

10 Q You had some information about the crime?

11 A That's right.

12 Q Victims as well?

13 A That's right.

14 Q Their names?

15 A Correct.

16 Q A little bit about what happened?

17 A Yes.

18 Q Going back to J.J.'s interview for a
19 moment, February 2013, with you.

20 A Correct.

21 Q Also, again, it was mentioned there that
22 again the media was talking about this case. They had some
23 information they were putting out there with the various
24 aspects of the case at that time?

25 A I'm not sure if the media was mentioned. I

BILLY JOE PURHAM - REDIRECT

1 didn't say anything about media.

2 Q They told you Scott's family were reaching
3 out to try to contact J.J. at that point, correct?

4 A He said his father was reaching out to him
5 for some reason.

6 Q Right.

7 A Unclear why.

8 Q He speculated that Scott was trying to make
9 him not tell what he knew about Scott?

10 A That's what he was speculating, yes.

11 Q He told you Scott had threatened him
12 before?

13 A Correct.

14 Q Scott tried to fight him?

15 A That's what he said, yes.

16 Q You would agree that Scott is a pretty
17 scary guy?

18 A It depends on how you look at it. It
19 depends on if you are a scary person or not. I don't
20 know.

21 Q The kind of guy that would shoot two people
22 would be scary, wouldn't they, at least to the average
23 person? Maybe not to a police officer who's used to
24 dealing with them.

D 25 A I don't know. Some people get scared easy

BILLY JOE PURHAM - REDIRECT

1 and some don't.

2 MR. ELLIS: Court's indulgence, please.

3 (Pause.)

4 Nothing further.

5 MR. MARCHANT: Two matters briefly, Your
6 Honor.

7 REDIRECT EXAMINATION

8 BY MR. MARCHANT:

9 Q Investigator Brown, he mentioned --
10 Mr. Ellis mentioned Mr. Durham being housed at the
11 detention center?

12 A Correct.

13 Q Did you investigate Mr. Durham's movement
14 in the Law Enforcement Center?

15 A I did.

16 Q Excuse me, in the detention center.

17 A I did.

18 Q Did you ever find where Mr. Durham had ever
19 been housed with Nick Granados.

20 A He was not.

21 Q Scott Lowe?

22 A He was not.

23 Q Eric Graham?

24 A He was not.

25 Q James Johnson?

BILLY JOE PURHAM - REDIRECT

1 A No.

2 Q Mr. Durham ever housed with James Johnson?

3 A Yes.

4 Q Let's be clear, was he ever housed with
5 Nick?

6 A Not to my knowledge.

7 Q Scott?

8 A Not to my knowledge.

9 Q Eric Graham?

10 A Not to my knowledge.

11 Q Was he housed with Mr. Johnson?

12 A Yes.

13 Q Mr. Ellis asked you about his client being
14 confused. Did it appear to you that he was confused when
15 you questioned him about his alibi?

16 A He was pretty straightforward with the
17 alibi. I don't think he was confused. He didn't convince
18 me he was confused.

19 Q Thank you. I don't have any further
20 questions.

21 MR. ELLIS: Just briefly, Your Honor.

22 RECROSS EXAMINATION

23 BY MR. ELLIS:

24 Q Investigator, is it -- you've been a police
25 officer for a long time. I'm kind of scared to ask you.

BILLY JOE PURHAM - REDIRECT

1 Are you aware that people generally talk in the jail all
2 throughout the jail?

3 A Oh, yes. Yes.

4 Q Told stories about things that they heard
5 or somebody else said or whatever else?

6 A Yes.

7 Q It's kind of like on the street, right?
8 People on the street are constantly passing words back and
9 forth.

10 A Sure.

11 Q Given details whether they're accurate or
12 not?

13 A Sure.

14 Q There is also information as we discussed
15 briefly earlier, playing cards?

16 A Correct.

17 Q Thank you.

18 MR. MARCHANT: Nothing further, Your Honor.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you, sir.

21 THE COURT: We will take a short break before
22 we go further. I will ask the jury to go into the jury
23 room. Please do not discuss the case.

24 (WHEREUPON, the jury exits at approximately

25 THE COURT: Who is the next witness going to

BILLY JOE PURHAM - REDIRECT

1 be?

2 MS. SALISBURY: The next witness will be Jordan
3 Gray.

4 THE COURT: We will take 10 minutes.

5 (WHEREUPON, a recess is taken.)

6 THE COURT: Did I ask you if it was on or off?
7 My question was is that a telephone?

8 SPEAKER: Yes, sir.

9 THE COURT: Thank you. Turn it in to the
10 bailiff. As I said yesterday or the day before, there are
11 to be no telephones in the courtroom. I don't care if
12 they're on. I don't care if they're off. There's no
13 telephones in the courtroom. Is that clear to everybody
14 now? If not, it's gonna be a bigger problem than losing
15 your telephone. Okay.

16 Anybody has a phone and brings them in here,
17 that's what I want.

18 She doesn't have a driver's license?

19 SPEAKER: It's in my car.

20 THE COURT: Then we won't be able to get in
21 touch with you. Just take the phone or do whatever you
22 want to with it. It doesn't matter. Okay.

23 Can we proceed now?

24 MS. SALISBURY: Yes, sir.

25 THE COURT: Bring the jury in.

JORDAN GARY - DIRECT

1 (WHEREUPON, the jury enters at approximately

2 THE COURT: The jury is present. You may
3 proceed.

4 MS. SALISBURY: May it please the court, Your
5 Honor, the state calls Jordan Gary.

6 Ms. Gary, please come up and be sworn.

7 JORDAN GARY

8 having first been duly sworn, testifies as
9 follows:

10 THE CLERK: Please be seated and state your
11 name for the record.

12 THE WITNESS: Jordan Gary.

13 THE COURT: You can bend that microphone down
14 if you need to.

15 DIRECT EXAMINATION

16 BY MS. SALISBURY:

17 Q Ms. Gary, how old are you?

18 A 22.

19 Q Generally speaking, where do you live?

20 A Taylors.

21 Q How long have you lived in Taylors?

22 A Since I was two, three.

23 Q Did you grow up in the Greenville area?

24 A Yes.

25 Q Where did you go to high school?

JORDAN GARY - DIRECT

1 A Eastside.

2 Q Could you tell the jury how you know the
3 defendant, Mr. Johnson?

4 A I met him friends.

5 Q Do you remember when?

6 A 2009, 2010.

7 Q What was the nature of your relationship
8 back in 2009 or 2010?

9 A We started dating.

10 Q Do you remember how long the two of you
11 dated?

12 A It was on and off for about two years.

13 Q In March and April 2011, what was the
14 status of your relationship with the defendant?

15 A Friendship.

16 Q In a romantic way?

17 A Yes.

18 Q Did you frequently visit his house?

19 A I lived there.

20 Q All right. Do you remember where that was?

21 A It was right off of [REDACTED] Street. I
22 can't tell you the exact address.

23 Q Do you remember whether he lived alone?

24 A He lived with his parents.

25 Q Physically speaking, where did he live in

JORDAN GARY - DIRECT

1 their house?

2 A Basement.

3 Q Was there access to the basement from the
4 outside of the house?

5 A Yes.

6 Q Okay. You described that you were living
7 there. Do you know how long you called that your home?

8 A I kind of moved in immediately.

9 Q Immediately when?

10 A When we first started seeing each other.

11 Q Back in 2010?

12 A Yes.

13 Q So by March or April 2011, had you been
14 living there for several months?

15 A Yes.

16 Q All right. Now, focusing on the incident
17 that is the subject of this trial, do you remember
18 generally the time when this incident happened?

19 A I do remember.

20 Q All right. Specifically, with respect to
21 the Saturday, before the murders on Sunday morning, what
22 do you remember about that night?

23 A The night before the murders?

24 Q Yes, ma'am.

25 A Everything seem kind of sketchy. Just not

JORDAN GARY - DIRECT

1 right, not right. Something wasn't right.

2 Q What was happening? Where were you? What
3 were you doing?

4 A I was at the house with J.J. and one of my
5 friends, Georgia. And like he said, I don't allow Scott
6 Lowe in the house unless I'm there.

7 Q All right. Who else do you remember being
8 there that Saturday?

9 A Scott.

10 Q Well, you just told the jury you would not
11 allow Scott inside the house. So yes, Scott was there?

12 A He showed up and that's when I left.

13 Q Do you remember what time he would have
14 left the defendant's house on Saturday?

15 A It was early Sunday morning like 4 a.m.

16 Q Did you leave alone?

17 A No.

18 Q Who left with you?

19 A My friend, Georgia.

20 Q When you left the defendant's house at
21 about 4:00 in the morning, who was still there?

22 A Scott.

23 Q Was anyone else there with Scott and the
24 defendant?

25 A No.

JORDAN GARY - DIRECT

1 Q What happened next?

2 A Me and Georgia went to my house. That's
3 it.

4 Q Where's your house? You mentioned that you
5 were living with the defendant.

6 A At my mom's house which was by Eastside
7 High School.

8 Q Did Georgia go with you?

9 A Yes.

10 Q What did the two of you do when you got to
11 your mother's house?

12 A Went to sleep.

13 Q What do you remember happening next?

14 A I woke up Sunday morning. We always have
15 lunch at my grandparents' house on Sunday. So Georgia and
16 I woke up, got ready, started heading to my grandparents'
17 house. We have to pass Chris' house on the way there.
18 That's when I noticed something was going on. They were
19 fire trucks and ambulances. I called J.J., what's going
20 on at Chris' house.

21 Q Do you remember about what time you would
22 have called him that Sunday morning or Sunday afternoon,
23 whenever it was that you were on your way to your
24 grandmother's?

25 A Around 11:00.

JORDAN GARY - DIRECT

1 Q In the morning?

2 A Yes.

3 Q Do you remember your conversation with him
4 that day?

5 A I do.

6 Q What did he tell you?

7 A When I first called, he said he'd call me
8 back. He called me back and said Amber and Chris are
9 dead.

10 Q Do you remember how much time elapsed
11 before he called you back?

12 A 20 minutes.

13 Q Did he give you any other information other
14 than the fact that Chris and Amber were dead?

15 A The house was on fire.

16 Q Do you remember any other details about
17 what he shared with you during that conversation?

18 A That's just about it. It's been a long
19 time.

20 Q Sure. Now, you mentioned on Saturday night
21 or early into Sunday morning, you left the defendant's
22 house around 4:00 in the morning. What was happening
23 around that time? What was going on inside of the house?

24 A Scott, they both said they had something
25 they had to go do. I was going home to my mom's, so I

JORDAN GARY - DIRECT

1 left.

2 Q Are you and Georgia both awake?

3 A Yes.

4 Q Was the defendant awake?

5 A Yes.

6 Q We talked a little bit about the physical
7 description of the defendant's house. Do you remember how
8 Scott came into the house that night?

9 A The door in the basement -- when you come
10 into the driveway, there is a door right there. You come
11 into that door and you walk straight into the basement.

12 Q Okay. Do you remember when was the next
13 time that you saw the defendant after you left early hours
14 Sunday morning?

15 A I came over there at the left grandparents'
16 house which was about 12:30 or 1 o'clock.

17 Q Do you know what you did for the rest of the
18 afternoon?

19 A Just hung out at his house.

20 Q Now, do you remember talking to the police
21 right after this incident happened back in 2011?

22 A Uh-huh.

23 Q Do you remember talking to Investigator
24 Bailey and giving him a statement?

25 A I do.

JORDAN GARY - DIRECT

1 (WHEREUPON, State's Exhibit 72 is marked for
2 identification.)

3 BY MS. SALISBURY:

4 Q I'm going to show you what has been marked
5 as State's Exhibit 72. I would like you to take a look at
6 that. Do you recognize that document?

7 A I do.

8 Q Is your signature on that document?

9 A Yes, ma'am.

10 Q What is that?

11 A This is my first statement.

12 Q All right. Is the information that you
13 gave in that statement the truth?

14 A Some of it is not. Some of it is. Of
15 course, through the time I started learning more like what
16 had happened.

17 Q Okay. Let's figure out which parts were
18 the truth and which were not. You described to
19 Investigator Bailey that you left the defendant's house at
20 3:45 or 4 o'clock in the morning. Is that the truth?

21 A Yes.

22 Q You described going to your grandmother's
23 house for lunch and just as you have told the jury the
24 course of the events from there; is that the truth?

25 A Yes.

JORDAN GARY - DIRECT

1 Q Investigator Bailey asked you about how you
2 learned --

3 MR. ELLIS: Your Honor, objection.

4 THE COURT: Sustained.

5 BY MS. SALISBURY:

6 Q Ms. Gary, to make it easier for all of us,
7 could you review that statement? Just read it to yourself
8 right now.

9 A (Reviewing.)

10 Okay.

11 Q Have you finish reading it?

12 A Yes.

13 Q After having read that statement and
14 reviewed what you shared with Investigator Bailey, can you
15 tell the jury what it is that you told Investigator Bailey
16 that wasn't the truth?

17 A About Cody Cordle and Ryan Wade being
18 involved.

19 Q Did you tell Investigator Bailey that you
20 believed that those two gentlemen were involved --

21 MR. ELLIS: Objection, Your Honor. She is
22 leading.

23 THE COURT: Sustained.

24 BY MS. SALISBURY:

25 Q What did you tell Investigator Bailey about

JORDAN GARY - DIRECT

1 those two people?

2 A I didn't know Ryan Wade. I only knew of
3 him. I didn't personally know him. I only mentioned
4 Cody's name because that is what J.J. told me.

5 Q Is there any other part of that statement
6 to police that is not the truth about what you remember
7 from that Saturday evening into the early morning hours,
8 early Sunday morning on April 3rd?

9 A Where it says Ryan, Chris had beef and
10 Scott was involved, that Joey Shaffer told me J.J. -- that
11 Cody's red motorcycle was seen leaving the residence.

12 Q Is that not true?

13 A I don't believe that to be true.

14 Q Why did you tell that information to
15 Investigator Bailey?

16 A That's what I was told.

17 A By who?

18 A J.J.

19 Q Between hours of 6 a.m. and 10 a.m. on
20 Sunday morning hours of April 3rd, where were you?

21 A At my mom's house.

22 Q Was the defendant with you?

23 A No.

24 Q All right, Ms. Gary, answer any questions
25 that Mr. Ellis may have.

JORDAN GARY - CROSS

1 CROSS-EXAMINATION

2 BY MR. ELLIS:

3 Q Ms. Gary, you testified a moment ago that
4 you met J.J. through some friends several years ago and
5 then you all dated, correct?

6 A Yes.

7 Q I believe you describe the nature of your
8 dating as kind of off and on; is that right?

9 A Uh-huh.

10 Q And your testimony was around the time of
11 this murder is that you were not dating at that point?

12 A Yes.

13 Q Going to run through some various points
14 that you made in your first statement back on April 8th,
15 2011 to Investigator Bailey.

16 A Uh-huh.

17 Q That's what the prosecutor was presenting a
18 few moments ago?

19 A Yes.

20 Q That was a statement you gave to law
21 enforcement five days after the murder. Does that sound
22 right?

23 A Yes.

24 Q Give or take?

25 A Yes.

JORDAN GARY - CROSS

1 Q I know you don't remember the exact dates,
2 but does that sound about right?

3 A Yes.

4 Q So is it true that you told law enforcement
5 you were with J.J.

6 A Yes.

7 Q All days Saturday and I guess that would be
8 the day before?

9 A Right.

10 Q Around 3:30 in the morning Sunday morning,
11 right?

12 A Yes.

13 Q Georgia had dropped you off there earlier on
14 Saturday, right?

15 A Yes.

16 Q You left with Georgia as well, is that
17 right?

18 A She took my car and then she came back.

19 Q Going into Sunday April 3, 2011, you said
20 that your mom called you that morning and stated there was
21 something going on around [REDACTED] Road?

22 A Right.

23 Q And you were thinking that's around where
24 Chris lives.

25 A Right.

JORDAN GARY - CROSS

1 Q So you thought I need to go there and check
2 that out?

3 A Right, it was on the way to my grand parents
4 house, so I road right by it.

5 Q And you stated that you called JJ after you
6 had gone by the apartment and seen all the stuff that was
7 happening over there?

8 A Right.

9 Q Is it fair to say that law enforcement was
10 there at the time?

11 A Yes.

12 Q Was the fire department there?

13 A Yes.

14 Q EMS?

15 A I believe so.

16 Q Lots and lots of people and lights?

17 A I don't remember seeing forensics or
18 anything like that there yet.

19 Q You recognize a forensic's van?

20 A Yes.

21 Q People, neighbors, civilians, cars going by
22 anything like that?

23 A Not that I remember.

24 Q You're the only car, civilian on the road
25 right then?

JORDAN GARY - CROSS

1 A I'm sure there were other people driving by.

2 Q You mom called you and told you you might
3 want to avoid [REDACTED] Road with all the stuff that's
4 happening over there?

5 A Yes.

6 Q There was nothing impeding you from going
7 there, traffic is clear and you're the only person there
8 other than law enforcement, is that your statement today?

9 A Yes.

10 Q Okay. So you said in your statement that
11 after you had gone by [REDACTED] Road and seen all this
12 commotion you had called JJ?

13 A Yes.

14 Q You called him multiple times before he
15 answered, right?

16 A Yes.

17 Q You said you had to wake him up?

18 A Yes.

19 Q At that point you told him there's something
20 going on over at Chris's house?

21 A Right.

22 Q Let me back track a moment, did you tell law
23 enforcement that you woke up on Sunday morning at your
24 mom's house around 10:15, 10:30 in the morning?

25 A Yes.

JORDAN GARY - CROSS

1 Q And then you said earlier that you always go
2 have dinner or lunch with your grandmother on Sunday,
3 right?

4 A Yes.

5 Q So you were doing that. You said you called
6 JJ, you wake him up and you tell him there's something
7 happening at Chris's house?

8 A Uh-hum.

9 Q And he says I need to call you back?

10 A Right.

11 Q He does call you back and he says kind of
12 what he thinks he's heard, right?

13 A Yes.

14 Q You put in your statement as well, did you
15 not, you found out two people had been murdered is from
16 your mom, right?

17 A She thought it.

18 Q She told you two people had been killed?

19 A She didn't say two people had been killed,
20 she said I think something serious is going on there.

21 Q And did he say he was going to call you back
22 and what time did he call you back?

23 A Probably before 11:00 because I called him
24 as I was on my way to my grandma's house.

25 Q So he called you back at 11:00?

JORDAN GARY - CROSS

1 A Something like that, yeah.

2 Q I'm going to ask you then -- you just read
3 this right, the prosecutor just gave you this State's 72,
4 for id, right? Did you read it?

5 A I read it.

6 Q What time did you say JJ called you back?

7 A 12:30.

8 Q Not 11:00?

9 A But it was four years ago.

10 Q Ma'am, did you read this five minutes ago?

11 A Yes.

12 Q Another question about this, same exhibit,
13 how did you find out that Amber and Chris were killed and
14 when, what is the answer?

15 A That my mom said two people were murdered in
16 the house, it didn't say names or anything.

17 Q Your mom said two people were murdered and
18 just a moment ago, you tried to tell me that's not what
19 she said.

20 A I don't think she said those exact words.

21 Q You told the police officer that, didn't
22 you?

23 A And I also said that ---

24 Q Did you tell the police officer my mom said
25 two people were murdered in that house and she didn't say

JORDAN GARY - CROSS

1 any names or anything?

2 A Right.

3 Q There's writing next to that?

4 A Yes.

5 Q What is the writing?

6 A My initials.

7 Q Did you write that?

8 A Obviously.

9 Q So you acknowledge that's you told the
10 police?

11 A Yes.

12 Q So if you thought a moment ago that he
13 called you back at 11:00 and that was only about 20
14 minutes after you called him, it sounds like a lot more
15 time had gone by before he called you back?

16 A It wasn't that much time between the time I
17 called him and he called me back.

18 Q How much time went by?

19 A It was only 20 minutes. It was not long.

20 Q Are you sure about that as you wrote those
21 letters?

22 A I'm sure about it now.

23 Q Now you are.

24 A Four years later, yeah, I am.

25 Q A moment ago you said four years is a long

JORDAN GARY - CROSS

1 time and you had trouble remembering things, you remember
2 that.

3 A I've also written three different statements
4 in four years.

5 Q It changed a bit too didn't they?

6 A Yeah, they did.

7 Q Alright. So he called you back according to
8 what you told Investigator Bailey, 12:30 or 1:00?

9 A Yes.

10 Q Gives him some time to try and call around
11 to see what's going on and what people are saying, read
12 Facebook, look at tv or whatever people do, right?

13 A Sure.

14 Q He called you back and he said Chris and
15 Amber are dead?

16 A Yes.

17 Q So then you went over to JJ's house after
18 you finished with your grandmother, right?

19 A Yes.

20 Q And you testified a moment ago that y'all
21 just hung out?

22 A Yes.

23 Q A little bit more emotional, y'all weren't
24 just sitting around shooting the breeze, were you?

25 A No. We kind of talked about what was going

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1 on what was happening and kind of carried on the day.

2 Q Just no big deal?

3 A Kind of yeah.

4 Q Exhibit 72, what does that sentence say?

5 Can you read it?

6 A You want me to read it out loud?

7 Q Yes, please.

8 A We sat around and cried and talked and we
9 tried to call some of JJ's friends.

10 Q You weren't just sitting around like it's no
11 big deal or whatever, let me go grab lunch today, right?
12 You were crying and upset, right?

13 A He was more emotional than I was.

14 Q He was more upset than you were.

15 A Yes.

16 Q And how did you hear that they had been shot
17 and there was a fire?

18 A JJ.

19 Q You sure? Let's look at the statement
20 again. This is your statement, right, you did give this,
21 right?

22 A I wrote it.

23 Q The prosecutor already asked you if you
24 signed it, right?

25 A That's my signature all over.

JORDAN GARY - CROSS

1 Q I thought you'd know what's in it. Could
2 you start right here.

3 A "The only thing I heard they were shot and
4 it was a fire. And I heard that from people talking on
5 Facebook.

6 Q People talking on Facebook. People talk a
7 lot of Facebook. That doesn't say anything about hearing
8 it from JJ, right?

9 A If I'm sitting beside him you don't think
10 he's going to have anything to say?

11 Q I'm asking about the statement you gave law
12 enforcement about the investigation into some deaths five
13 days after it happened and you told LE that, correct?

14 A Yes.

15 Q Now, so you gave another statement to LE as
16 you mentioned a moment ago?

17 A Yes.

18 Q That would in February 2014?

19 A Yes.

20 Q That sound right?

21 A I think I gave one before then because I was
22 pregnant when Detective Brown came and took another
23 statement from me and I didn't have my son until 2012.

24 Q These are the statements I've been provided
25 and I assume I have everything the State has. In any

JORDAN GARY - CROSS

1 event you gave a statement to LE in February 2014, that's
2 probably right?

3 A Sure.

4 Q Three years after the killings, right?

5 A Yes.

6 Q Three years after you've given a statement
7 to LE, right?

8 A Right.

9 Q And at this point, this is also about a year
10 after Scott's been charged with murder, right?

11 A I guess. I didn't even know he had been
12 charged with it at that point.

13 Q I thought you were very well aware of Scott.
14 You didn't let him be around JJ or you or the house or
15 anything.

16 A I did not know he was arrested for murder.

17 Q It was being talked about with everybody you
18 hung out with, Scott's in jail?

19 A At this point I had separated myself because
20 I had a kid.

21 Q There is some different information you
22 provided to LE when you talked to them last year in 2014,
23 right?

24 A Yes.

25 Q Not the same as that statement?

JORDAN GARY - CROSS

1 A No.

2 Q Now, suddenly a couple things changed. You
3 said Scott showed up early in the afternoon the day before
4 the murders, at JJ's house, right?

5 A Yes.

6 Q And another new piece of information is that
7 Scott and JJ left to go somewhere around for about 45
8 minutes or an hour, I guess, right?

9 A Yes.

10 Q Another new piece of information is that
11 Scott and JJ came back around 5:00 p.m., is that right?

12 A As far as I can remember.

13 Q You also recall getting another new piece of
14 information that Joey Shaffer showed up and hung out there
15 for a while Saturday night and into Sunday morning.

16 A Yes.

17 Q And another new detail about Joey Shaffer is
18 that he hung out there until sometime around 2:00 or 3:30
19 in the morning and then he left?

20 A Yes.

21 Q And then yet new piece of information which
22 is that JJ said they had to go do something.

23 A Uh-hum.

24 Q None of that appears in that statement does
25 it?

JORDAN GARY - CROSS

1 A No, but there's three years ago.

2 Q Three years have gone by. Five days after
3 the that incident you didn't remember any of that
4 information when you talked with Investigator Bailey?

5 A No, I was also being fed this information by
6 JJ.

7 Q Ma'am, you know you looked at Facebook or
8 you didn't look at Facebook to find out things, JJ didn't
9 tell you that.

10 A I did look at Facebook, but that doesn't
11 mean JJ didn't tell me anything.

12 Q I'm asking you about your statements. You
13 said that JJ fed you information. These are statements
14 you made. You told LE that you called JJ -- JJ called you
15 back around 12:30 or 1:00, right?

16 A Yes.

17 Q Did JJ feed you that time?

18 A He said what he said.

19 Q Did JJ tell you what time he called you back
20 or did you know and you told Investigator Bailey?

21 A Off the top of my head I just told him what
22 I thought.

23 Q Today off the top of your head, it was 11:00
24 right?

25 A Looks to me 12:15.

JORDAN GARY - CROSS

1 Q No, today, off the top of your head it's
2 11:00 as far as the phone call, right?

3 A Yes.

4 Q You think now you know this better than you
5 did five days after this happened?

6 A No, I don't.

7 Q That would probably make better sense if it
8 was fresh in your mind.

9 I believe you testified as well that Scott
10 came around and you weren't going to be a part of it, you
11 were going to leave immediately, right?

12 A Right.

13 Q Soon as Scott showed you're out the door,
14 right?

15 A No, I stayed, JJ left.

16 Q I thought you told the solicitor a minute
17 ago that Scott came there and you left because you
18 couldn't be around him?

19 A When he came and showed up later that night,
20 yes, I did leave.

21 Q Why did you not leave in the afternoon if
22 that's what really happened?

23 A He didn't even come in the house.

24 Q How did JJ know he was there and go with
25 him?

JORDAN GARY - CROSS

1 A he has his cell phone.

2 Q Scott came by but that didn't make you leave
3 then it's only later that time that you had to leave?

4 A I didn't see Scott.

5 Q How did you know he was there?

6 A Why would my boyfriend tell me I'm going off
7 with Scott?

8 Q It's always a wonder about why you say
9 certain things.

10 MS. SALISBURY: Your Honor, I object to the
11 commentary.

12 THE COURT: Sustained.

13 BY MR. ELLIS:

14 Q You lived with JJ several months, that was
15 your statement?

16 A Yes.

17 Q If you lived with him, why does Georgia need
18 to drop you off over there?

19 A She didn't drop me off. We were hanging out
20 there and she decided to go do something else so I let her
21 take my car.

22 Q You live there and you say when Scott showed
23 up you needed to leave and go stay somewhere else?

24 A Yes.

25 Q Now, is it not true that in your first

JORDAN GARY - CROSS

1 statement to LE you didn't make any mention what so ever
2 about Scott being at JJ's house?

3 A I didn't.

4 Q Do you think that was an important piece of
5 information for LE to know?

6 A Yes.

7 Q You do think it's important?

8 A Yes.

9 Q But you didn't bother to tell them that five
10 days after the murders?

11 A No, because at this time I'm being told
12 Scott had nothing to do with it, so why bring him up.

13 Q You said it's an important piece of
14 information for LE to know, so why would you not bring it
15 up if it really happened?

16 A Why bring up somebody that was irrelevant
17 to the story. Now that I know yeah, I should have said it
18 but I didn't know. I believed everything that came out of
19 his mouth.

20 Q So in your new story you remember. When you
21 left JJ's house with Georgia, was Scott there still with
22 JJ or not?

23 A When I left at 4:00 in the morning, yes,
24 Scott was there.

25 Q Were you hear when Scott Lowe testified

JORDAN GARY - CROSS

1 earlier this week?

2 A I was not.

3 Q Would you also agree in your first statement
4 to LE five days after the murders never says that JJ and
5 Scott left at any point in the afternoon?

6 A I guess I didn't say that.

7 Q Would you agree your first statement given
8 five days after the murders never says that Scott and JJ
9 said they had to go do something together?

10 A No, it doesn't say that.

11 Q Something changed between your two
12 statements, didn't it?

13 A Yeah.

14 Q You mentioned earlier that you were pregnant
15 in 2012?

16 A Uh-hum.

17 Q You thought that was JJ's child?

18 A I never said that.

19 Q You never did.

20 A No, because I was married.

21 Q You weren't upset with him because he didn't
22 think it was his?

23 A Even if it was his, I don't care. He never
24 had anything to do with him in the first place. It wasn't
25 until he was a year old that he even thought it was his.

BILLY JOE PURHAM - DIRECT

1 Q Not long after all that you came forward and
2 gave a new statement to LE, right, and changed lots of
3 details?

4 A I guess so, yes.

5 Q Did you do it or did you not?

6 A Yes.

7 Q At that point Scott Lowe is already in jail
8 for a year when you gave your new statement for these
9 murders right?

10 A Sure.

11 Q Thank you.

12 REDIRECT EXAMINATION

13 BY MS. SALISBURY:

14 Q When you spoke to police back in 2011, did
15 the investigators asked you details about what happened
16 the Saturday before the Sunday events?

17 A Not much, no, just where was I and that was
18 it.

19 Q And in April of 2011, again, what was the
20 status of your relationship with the defendant?

21 A We were still together.

22 Q I'd like you to take a look again at State's
23 Exhibit 72. You've been asked some questions about the
24 things the defendant told you regarding the details of the
25 murders that morning. When the investigators asked you

BILLY JOE PURHAM - DIRECT

1 about what the defendant told you about the deaths that
2 had happened on [REDACTED] Road, what did you tell them?

3 A Nothing until I got to JJ's house when he
4 told me there was a fire, probably caused from a meth lab.
5 And the first person that came to his mind was Mandy
6 because Chris and Amber were having an affair.

7 Q Did you tell the police in April of 2011
8 that JJ was not with you during the morning hours of
9 Sunday April 3rd?

10 A Yes, I did.

11 Q Did you tell the police when they
12 interviewed you in February 2014 that JJ was not with you
13 during the early morning hours of Sunday morning?

14 A Yes, I did.

15 Q Thank you.

16 THE COURT: You may step down.

17 MS. SALISBURY: The State calls Billy Joe
18 Purham to the stand.

19 THE CLERK: Please come up to the stand and
20 place your left hand on the Bible and raise your right
21 hand.

22 BILLY JOE PURHAM, having been duly sworn,
23 testified as follows:

24 Please be seated and state your name for the
25 record.

BILLY PURHAM - DIRECT

1 THE WITNESS: Billy Purham.

2 DIRECT EXAMINATION

3 BY MS. SALISBURY:

4 Q Mr. Purham, how old are you?

5 A 47.

6 Q And are you from Greenville?

7 A Yes.

8 Q Jumping right into it, Mr. Purham, do you
9 remember being incarcerated at the Greenville County
10 Detention Center at some point?

11 A Yes, ma'am.

12 Q Could you give the jury an idea of what it's
13 like in the detention center, the cells and pods and that
14 sort of thing?

15 A Cramped.

16 Q How many people are in a particular cell?a.

17 A The one I was in was 12?

18 Q Was this defendant one of those people?

19 A Yes, ma'am.

20 Q About how long did you and he share this
21 cell space?

22 A I was there 66 days.

23 Q Do you remember when?

24 A Last fall is fall is all I can remember.

25 Q What was your relationship like with the

BILLY PURHAM - DIRECT

1 defendant during those 66 some odd days that you shared a
2 cell space with him?

3 A I guess being in a cell and just talking to
4 everybody. Everybody has got to get along so we played
5 cards and went out in the rec and stuff like that.

6 Q Did you have daily contact with the
7 defendant?

8 A Yes, 24 hours.

9 Q You mentioned that you played cards with the
10 defendant, where did those cards come from?

11 A The sell them on the canteen, cold case
12 cards.

13 Q What do you mean by that?

14 A Unsolved murders they're all on a deck of
15 cards.

16 Q I'm going to show you State's Exhibit 63, 64
17 and 65, were those the cards that were in the deck that
18 you played?

19 A Yes, ma'am.

20 Q Do you remember having any conversation with
21 the defendant about those cards?

22 A Yeah, we play spades and he mentioned the
23 jack of clubs that come up that was one of his.

24 Q Was that the expression that he used?

25 A Yes, ma'am.

BILLY PURHAM - DIRECT

1 Q And what information is on the jack of
2 clubs?

3 A I ain't got my glasses on. I know her name
4 is Amber Daniel.

5 Q When he made that comment to you that that
6 was one of his, how did that conversation progress? What
7 happened?

8 A He was charged with it. He also showed me
9 the 10 of clubs and he was charged with the murder of
10 Chris and Amber.

11 Q Did he tell you anything else about that
12 particular crime?

13 A Yeah, about having the co-defendant getting
14 arrested in North Carolina with two of the guns.

15 Q What specifically? Did he give you any
16 specific details about what happened?

17 A He just said that it was a robbery went bad
18 and that after the robbery they tried to burn the house
19 and it didn't consume good enough, you know.

20 Q Did he indicate to you whether he
21 participated in that robbery?

22 A He kind of changed his stories a couple of
23 times like he put himself there at one time and then he
24 would change it about the three times that we talked. He
25 told me about an alibi that he had a girl that was

BILLY PURHAM - DIRECT

1 supposed to lie about it and then she got scared and
2 changed her mind and I was wondering why you need an alibi
3 if you wasn't involved.

4 Q Did he mention who this girl was, his
5 relationship with her?

6 A No.

7 Q Did he tell you any other details about who
8 was involved in the robbery?

9 A Scott Lowe and Nick somebody.

10 Q Did he ever give you any information during
11 you conversations with him about each of those people as
12 well as he himself did during the robbery?

13 A He said that Scott was a shooter and he had
14 some guy inside the house that was supposed to let him in
15 and stuff.

16 Q You mentioned earlier that he described
17 getting rid of the guns. What did he tell you
18 specifically about how those weapons were disposed?

19 A Threw one in the pond by an apartment
20 complex on Wade Hampton and some guy took them to North
21 Carolina and get rid of them but he ended up getting
22 arrested with them.

23 Q You recall whether the defendant gave you
24 any information about a fourth individual or anyone else
25 being involved?

BILLY JOE PURHAM - CROSS-EXAMINATION

1 A No.

2 Q Obviously, you were incarcerated at this
3 time so it's apparent that you are familiar with the
4 criminal justice system. I just want to address the fact
5 that you were convicted -- you've been convicted of breach
6 of trust and grand larceny.

7 A Yes, ma'am.

8 Q Strong armed robbery?

9 A Yes, ma'am.

10 Q Earlier you were convicted of giving false
11 information to police?

12 A Yes, ma'am.

13 Q And you have pending charged with the 13th
14 circuit solicitor's office?

15 A Yes, ma'am.

16 Q Why is it that you contacted police with
17 this information about the conversation you had with the
18 defendant?

19 A I be playing solitaire a lot of times and
20 them faces just kept popping up and telling me to do the
21 right thing.

22 Q Is it your hope that your testimony or your
23 conversations with police would effect your pending
24 charges?

25 A No, ma'am, I already had a plea offer in the

BILLY JOE PURHAM - CROSS-EXAMINATION

1 mail before I was even incarcerated at this time.

2 Q Had I or Mr. Marchant made you a promise of
3 of a deal to any of those charges?

4 A No, ma'am.

5 Q Anybody promised you anything for your
6 testimony?

7 A None whatsoever.

8 Q Have you told this jury anything but the
9 truth here today?

10 A Nothing but.

11 Q Thank you.

CROSS-EXAMINATION

12 BY MR. ELLIS:

13 Q Good afternoon.

14 A Good afternoon.

15 Q You were interviewed by Investigator Brown
16 and Assistant Solicitor Lucas Marchant?

17 A Yes.

18 Q You gave your statements around July 2,
19 2014, right?

20 A Yes.

21 Q In other words, over three years after the
22 incident occurred? Do you know when the incident
23 occurred?
24

25 A 2011, '12.

BILLY JOE PURHAM - CROSS-EXAMINATION

1 Q You were not present at that location when
2 everything happened were you?

3 A No, sir.

4 Q You were around after the weeks and months
5 and years after it happened?

6 A I never met any of these people.

7 Q You met JJ while he was in jail about bond
8 waiting for his trial today, right? And you were in jail
9 for different reasons, correct?

10 A Yes.

11 Q Those are the charges you still have pending
12 right now with the State?

13 A Forgery.

14 Q Fair to say you would be interested if the
15 State would give you some kind of help?

16 A Thirty days after I got released, I already
17 had a thing in the mail for probation and PTUP probation
18 restitution.

19 Q Can hurt if the State did you a solid,
20 right?

21 A No. Mr. Martinez that owned the company
22 that I wrote a check on that's what he's wanting.

23 Q Playing cards in the jail with JJ and
24 anybody else who wanted to play, right?

25 A Right.

BILLY JOE PURHAM - CROSS-EXAMINATION

1 Q They were sold in the cantine?

2 A And they pass them out.

3 Q They make sure everybody's got some.

4 A Yes.

5 Q Lots of people talk in the jail about very
6 things on the street, right?

7 A Sometimes, yeah.

8 Q Different rumors and stories go back and
9 forth?

10 A I ain't heard no rumors.

11 Q You acknowledge that these cards here that
12 relate to this case Mr. Picaro and Amber Daniel you played
13 these cards specifically, right?

14 A Yes.

15 Q I just want to reiterate one thing, you got
16 a record, right?

17 A Yes.

18 Q Crimes involving dishonesty, right?

19 A Yes, and I honestly told the and I honestly
20 did my time for them.

21 Q Breach of trust, grand larceny.

22 A Yes.

23 Q Convicted of strong armed robbery?

24 A Yes.

25 Q Giving false information to LE, right?

BILLY JOE PURHAM - CROSS-EXAMINATION

1 A Yes, I had a warrant on me and I tried to
2 lie so I didn't go to jail.

3 Q Lie to the police. Thank you.

4 MS. SALISBURY: Nothing on redirect.

5 THE COURT: You may step down.

6 MS. SALISBURY: Your Honor, the State
7 rests.

8 THE COURT: Ladies and gentlemen, that
9 is all the testimony and evidence to be given by the State
10 at least in the case in chief. Before we go any further,
11 we're going to break for lunch for the day so be back at
12 2:00. Don't discuss the case, don't be exposed to any
13 type of media coverage, 2:00 this afternoon and we'll
14 continue.

15 (Jury exits the courtroom for lunch.)

16 Motions to address.

17 MR. ELLIS: At this time the defendant
18 would make a motion for directed verdict and renew all
19 other objections. Your Honor, we don't believe the State
20 would put forth evidence that a reasonable jury would
21 convict my client.

22 THE COURT: There's more than enough
23 evidence if the jury finds it credible that he was an
24 accomplice in the deaths of these two individuals, based
25 upon that evidence existing, I'm going to deny your motion

BILLY JOE PURHAM - CROSS-EXAMINATION

1 for directed verdict.

2 Is Mr. Johnson going to testify?

3 MR. ELLIS: From my information, he is
4 not.

5 THE COURT: Mr. Johnson have you and
6 Mr. Ellis discussed the fact that when you are charged
7 with a crime as you are today when your case comes to
8 trial before a jury you have an absolute right to remain
9 silent. At the same time you have the right to testify if
10 you want to.

11 Have you gone through that right?

12 DEFENDANT JOHNSON: Yes, sir.

13 THE COURT: Has he explained to you the
14 advantages and disadvantages of testifying and not
15 testifying?

16 DEFENDANT JOHNSON: Yes, sir.

17 THE COURT: You understand if you choose
18 to testify you have not only have to answer your questions
19 but the questions to the extent they are relevant by the
20 prosecutor even if the responses may prove you guilty of
21 some crime you may have committed.

22 DEFENDANT JOHNSON: Yes, sir.

23 THE COURT: And you understand if you
24 decide not to testify they can't hold that against you or
25 consider that in their deliberations in any way?

State versus James Johnson

1 DEFENDANT JOHNSON: Yes, sir.

2 THE COURT: Did you have plenty of time
3 to discuss this with Mr. Ellis?

4 DEFENDANT JOHNSON: Yes, sir.

5 THE COURT: Do you need any additional
6 time to do so?

7 DEFENDANT JOHNSON: No, sir.

8 THE COURT: Time to reflect upon your
9 decision?

10 DEFENDANT JOHNSON: Yes, sir.

11 THE COURT: Have you made one?

12 DEFENDANT JOHNSON: My decision is not
13 to testify.

14 THE COURT: You made that decision of
15 your own free will and accord?

16 DEFENDANT JOHNSON: Yes, sir.

17 THE COURT: We'll take a lunch be back
18 at 2:00.

19 (Lunch recess.)

20 THE BAILIFF: All rise, court is now in
21 session.

22 THE COURT: Thank you, take your seats.
23 Bring in the jury.

24 (Jury enters the courtroom.)

25 THE COURT: Ladies and gentlemen, it is

State versus James Johnson

1 now time for the attorney's closing arguments.

2 In just a few moments, the case will be
3 yours to decide. You will each have a chance to
4 deliberate and unanimously decide whether there has been
5 sufficient evidence to convict the defendant, James
6 Johnson, of guilty of two counts of Murder and two counts
7 of Possession of a Weapon During the Commission of a
8 Violent Crime.

9 Now, before the judge instructs you on the law,
10 this is my only opportunity to speak to you about the
11 evidence that was presented during this trial and why it
12 is our hope that the evidence leaves you convinced of the
13 defendant's guilt. Before I talk specifically about the
14 evidence that we have seen over the last few days, I want
15 to briefly mention something that my co-counsel,
16 Mr. Marchant mentioned in his opening statement. The idea
17 that the hand of one is the hand of all.

18 The judge is going to instruct you on this theory
19 of law, this accomplice liability component of our law
20 here in South Carolina. He is going to tell you that in
21 South Carolina, if two or more people combine to commit a
22 crime, one assist the other, one aids another, one helps
23 prepare, plan to commit a crime, the act of one of those
24 defendants is the act of all. If you will recall the
25 example of the bank robber where only one person goes

State versus James Johnson

1 inside and the other stays in the car, both are
2 responsible for the bank robbery.

3 But more importantly, and just take it a step
4 further, if something goes wrong during that crime, all
5 the people who participated in the planning, the
6 conceiving, the execution of that crime are responsible
7 for the natural, foreseeable, probable consequences of
8 that plan. When three people decide to undergo an armed
9 robbery and they arm themselves with firearms, it is a
10 natural reasonable and probable consequence that someone
11 may end up shot and, as a result, someone might die. That
12 is exactly why this defendant, even if you believe he
13 never fired a shot, even if you believe he never wielded
14 that computer monitor to deliver a fatal blow to Amber
15 Daniel, nonetheless, he is responsible for those murders.

16 It should have been the perfect crime. No
17 witnesses, an inside man, a victim that police may not
18 have ever learned of. If someone sells drugs and has a
19 lot of money, is it likely that they will call police if
20 they are robbed? Is it likely that even if they do call
21 police, the police will bother to investigate the crime?
22 After all, they were involved with drugs. They targeted a
23 victim who was likely to be vulnerable and incapacitated.
24 There was to be no evidence left behind.

25 Even when things got off the rails, even when

State versus James Johnson

1 things went sideways, they set a fire to destroy the
2 evidence to make sure there was nothing left behind. To
3 make sure there were no witnesses, distribute those guns
4 back in the stream of criminal commerce somewhere in North
5 Carolina. If everyone had done what they were supposed to
6 do, it would have been a perfect crime. It is for that
7 reason that cases like this are only ever solved from the
8 inside out. There is no forensic evidence to which we can
9 point and link. Unfortunately, we have to rely on the
10 testimony and the cooperation of those people involved.

11 The evidence that you have heard has been tedious
12 and lengthy. I would like to briefly discuss some of that
13 before we move into the discussion of the law. I would
14 like you to focus on some specific things these witnesses
15 said that I hope you will take back to the deliberations,
16 that you keep in mind as you decide the evidence in this
17 case and whether you believe there is sufficient evidence
18 to convict the defendant.

19 You heard early on in this trial after the fire
20 department and the sheriff's department, heard from
21 Mr. Jason Vendetti who described that he was at the
22 Porcoro residence until the early morning hours of Sunday.
23 The testimony was that he left at 7 a.m. He described
24 that when he left, Amber, Chris and Nick were there. He
25 told you that he received text messages from Nick

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1 throughout the morning about what was going on in the
2 house, what was happening. And that the final text
3 message he received from Nick was that Nick was gone. He
4 left about 9:30 in the morning. And when he left,
5 everybody was fine, everything was okay. We know that to
6 be untrue.

7 You have heard testimony that Nick pled guilty.
8 You may be wondering why you haven't heard from Nick. The
9 reality is that not all defendants who admit their guilt
10 choose to cooperate with the prosecution and the other
11 co-defendants. Nick has admitted to being involved in the
12 robbery and has admitted to his role as being the inside
13 man.

14 Now, you also heard testimony that he pled guilty
15 to a lesser offense, voluntary manslaughter, just like
16 Scott Lowe pled guilty to a lesser offense of voluntary
17 manslaughter. There are certainly no satisfaction to how
18 to resolve this particular case. It is frustrating for
19 everyone involved. But it was always the objective of law
20 enforcement to make sure that everyone involved was
21 accountable and not be satisfied with just being able to
22 arrest and charge one person.

23 Sometimes negotiations are made and sometimes
24 deals with admittedly very violent people are made. That
25 is the reality of the system. But none of that changes

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1 the fact that both Scott and Nick have admitted to being
2 involved intimately with how this execution -- with how
3 this robbery was conceived and ultimately executed.

4 Now, obviously the elephant in the room, the big
5 show of this trial was testimony from Scott Lowe. He
6 described for you in detail how this robbery was planned,
7 what the objective was and what everyone was supposed to
8 do. If you will recall, he testified that he and his
9 friend, the defendant, discussed that Chris Porcoro would
10 make a good target. They knew he had money. They knew he
11 had likely more drugs in the house. It made him a target.

12 It would be an easy robbery. And what's better, his
13 friend had an inside man, someone they can reach out to
14 that would leave the door unlocked, make sure everybody
15 was asleep, et cetera.

16 He described for you that they planned to go
17 inside, get the money, get the drugs and get out. But as
18 you know, as we all know, it didn't quite work out that
19 way. Scott described to you that when he walked in, Chris
20 was not unconscious as he was supposed to be. He saw
21 Chris reach down. He assumed reaching for a gun. He
22 responded. He shot Chris twice. At least, he said, 2 to
23 3 times. I don't know that he even knows how many times
24 he shot Chris.

25 He described to you that he then turned and saw

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1 James Johnson struggling with Amber. He described to you
2 that he saw James Johnson hit Amber with that computer
3 monitor. Then he described to you how he shot her several
4 times. He shared with you that he provided this defendant
5 with a .380 automatic handgun, but he is not sure whether
6 it was fired. He told you that he heard other shots being
7 fired and the evidence suggests that another weapon was
8 used to shoot both Chris and Amber, the rat shot that we
9 heard about that could have come from a .22.

10 He was very candid with you about his
11 responsibility and explained to you why he struggled to
12 finally, ultimately, arrive at telling police the truth.
13 He told you that when he was first questioned, he was
14 willing to do, to say anything to avoid being arrested.
15 He wanted to distract and deflect and put attention
16 anywhere else but on himself. As he found himself
17 cornered and as he found himself days before trial, where
18 the rubber would meet the road, where he finally told
19 police what happened and that's how we get here today.

20 I think it is significant and I hope you will
21 note, you will have a chance to review these photographs
22 that are in evidence, Amber was covered with a blanket.
23 Scott told you exactly why they did that. They didn't
24 want to look at her. Both he and the defendant had a
25 romantic, intimate relationship with her. I imagine it

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1 was very difficult for both of them to have to face what
2 they had done. As a matter of fact, early on in this
3 trial, when we discussed the computer monitor and how it
4 was utilized, seeing that again had a very visible effect
5 on the defendant.

6 You heard some testimony from Dr. Fulcher, the
7 medical examiner, and James Alexander, the ballistics
8 examiner, about the firearms in the case and the wounds.
9 You heard testimony from Dr. Fulcher that Chris Porcoro
10 was shot twice, but those projectiles were recovered at
11 the autopsy, and the Amber was shot five times. Three of
12 those projectiles were recovered from the couch. So, we
13 have seven shots and six projectiles.

14 Is it possible that another shot came from the
15 .380? At the end of the day, it doesn't matter, given the
16 defendant's participation in the planning and conception,
17 execution and concealment of evidence in this case. It is
18 not necessary that you find that he fired one shot. But
19 the evidence certainly suggests that it's possible that he
20 did.

21 You have heard about some additional injury to
22 each, Chris and Amber, with the rat shot. Dr. Fulcher
23 described the powder burn, soot. He was able to tell you
24 that the shots were taken inches from each of the victims'
25 faces. Again, I suggest to you that is certainly

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1 indication that there was some personal connection between
2 the shooters and the victims.

3 Now, you have got earlier today to see the
4 interview of the defendant that law enforcement did with
5 the defendant. And much of it is likely what you would
6 expect. He denies being involved, offered some
7 suggestions about who it may be. All of which law
8 enforcement has been able to exclude. For example, we
9 heard suggested throughout the trial that Cody Cordle is a
10 responsible party. Yet the defendant tells Investigator
11 Brown during the interview that Scott and Cody hated each
12 other. Is it reasonable that Cody Cordle would have
13 committed this crime was Scott?

14 There's been some discussion of Ryan Wade. After
15 all, Ryan Wade's fingerprint was found on an ashtray in
16 the house. The defendant told you in that same interview
17 that Ryan Wade wanted to kill Scott. Is it reasonable to
18 believe that Ryan Wade would have committed this crime
19 with Scott? Isn't it more likely that someone so close to
20 Scott Lowe that he trusted so much as his accomplice?
21 Someone he characterized as his boy and likely his best
22 friend at the time.

23 One thing that I think is worth noting about the
24 interview and I hope that you will consider is the fact
25 that the defendant started the interview by attempted to

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1 be very candid and forthcoming. I wanted to let you know
2 from the outset that I wasn't completely truthful when I
3 spoke with Investigator Bailey. When pushed a little bit
4 further, he said what he left out from his first interview
5 with Investigator Bailey was this confession that's got me
6 to him, the "you know I did it".

7 When asked to describe a little bit about when
8 that happened, he tells Investigator Brown that he had no
9 contact with Scott Lowe for five days after this murder.
10 Five days of no contact. Remember, he is interviewed by
11 Investigator Bailey two days after these murders, on April
12 5th. If he has left out this confession from his
13 interview and his discussion with Investigator Bailey on
14 April 5th, when did he have this conversation, this
15 confrontation with Scott Lowe? How could that had
16 happened? Instead, consider that that was an effort to
17 deflect as the lies began to close in, as the lies begin
18 to crumble. That was an effort to save himself. Scott was
19 already arrested at that point. Couldn't save Scott.
20 Might as well deflect and at least get it off of him.

21 The other critical component of the interview is
22 the defendant's adamant position. He is insistent that he
23 was in bed at home with Jordan Gary. He challenges
24 Investigator Brown to call her and she will tell you I was
25 with her. What the defendant doesn't know is that

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1 Investigator Bailey already talked to Jordan back in 2011.
2 In 2011, Jordan Gary told Investigator Bailey, I went
3 home. I left J.J.'s house at 4 o'clock in the morning.
4 He wasn't with me.

5 So when the police interviewed her again,
6 Investigator Brown interviewed Jordan Gary again in 2014.
7 She again told him I was at home. He wasn't with me.
8 This alibi that he thought was going to help him again
9 crumbling. His efforts to deflect and put this on anyone
10 else was falling apart.

11 I think it is also curious, if you recall from
12 Ms. Gary's testimony early today when she described the
13 conversation she had with J.J. in those hours right after
14 the murders. There was a lot of squabble about what time
15 the phone call was made, when things were happening. But
16 she told you she was on her way to her grandparents' house
17 to have lunch and she does every Sunday. She remembers
18 having this conversation with J.J. where he told her that
19 there was a fire, that Amber and Chris were dead and that
20 it was supposed to be a meth lab explosion. Certainly a
21 curious detail for J.J. to have offered hours after these
22 murders were committed. That's exactly what Scott Lowe
23 told you that they did, to make it look like a meth lab.
24 The fire department didn't even know what was going on,
25 let alone a bystander who claims to have been nowhere near

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1 the scene.

2 Finally, the last witness that you heard from was
3 Mr. Billy Joe Durham. Mr. Durham is the one who shared
4 his cell with Mr. Johnson at the detention center last
5 summer. He told you details about the murders that are on
6 these playing cards. You will have a chance to look at
7 these when you deliberate. You will see the short snippet
8 that law enforcement has included on these cards about the
9 general gist of the case and the fact that there are
10 eliciting help solving these cases.

11 Mr. Durham knows about the lake where the .380
12 was thrown. Mr. Durham knows about the alibi, the
13 girlfriend alibi. Mr. Durham knows about the fact that
14 the guns were supposed to go back to North Carolina.
15 Conveniently, where Nick was arrested. He doesn't know
16 that from those playing cards. How does he learned that
17 unless that information came from the defendant? More
18 importantly, what reason does he have to lie? He didn't
19 describe to you any animus or ill will to the defendant
20 that they have been in some sort of fight or there was
21 some sort issue at the detention center. He told you that
22 as he was in solitary, those cards kept coming up and it
23 bothered him. He wanted to do the right thing and tell
24 somebody.

25 Now, the judge is going to instruct you generally

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1 about the law. He is also going to tell you about the
2 State's burden. The State is required to present to you
3 evidence that convinces you of the defendant's guilt
4 beyond a reasonable doubt. The State is not required to
5 prove the defendant's guilt with absolute doubt, without
6 any doubt, but proof that overcomes reasonable doubt. The
7 challenge for you will be to determine what is a
8 reasonable doubt.

9 You have heard evidence of the defendant to offer
10 an alibi. Standing alone, would alibi be -- would the
11 fact that the alibi is not true, that it was a fake alibi
12 that it was offered as a lie, would that be enough by
13 itself to convince you that the defendant is guilty?
14 Probably not. Standing alone, would it be enough that the
15 defendant provided a detailed confession to his cellmate
16 at the detention center? Maybe. Would it be enough that
17 his co-conspirator, co-defendant and best friend, Scott
18 Lowe, testified, admitted to what he did and described in
19 detail what the other two defendants, James Johnson and
20 Nick Granados, did? Possibly. But those things together,
21 without being in isolation, compound on top of one
22 another.

23 It is not reasonable to believe that Billy Joe
24 Durham was able to develop these details on his own. It
25 is not reasonable to believe that the defendant offered

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1 this alibi that we know to be untrue because of a mistake
2 or confusion. But instead, an attempt to make sure that
3 he was not implicated. It is not reasonable to believe
4 that Scott Lowe would admit to his guilt and implicate his
5 best friend in a crime he didn't commit.

6 To believe that Scott Lowe's lying about James
7 Johnson's involvement in these murders, you have to
8 believe two things. First, you have to believe that he is
9 willing to implicate someone, an innocent person, that a
10 crime has been committed. That person happens to be his
11 best friend. But you also have to believe that he is
12 willing to let the other attacker go and not be held
13 accountable. Is it reasonable to believe that Scott Lowe
14 would accept responsibility, admit to his own guilt and
15 then be satisfied that the other people who participated
16 in the crime are not accountable? Is it more likely that
17 he would want to implicate anyone he could?

18 If he was here to try and pack a sentence or get
19 some benefit as a result of his testimony, why not make
20 James Johnson the shooter? Why not make him more
21 responsible than he tells you he was? He told you they
22 talked about planning this crime together, that they went
23 in together. They set the fire. They disposed of the
24 gun. If Scott Lowe's objective was to lie on Johnson, why
25 not make it even stronger than that? Why not make it

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1 bigger than that so that James Johnson has to do the same
2 punishment for a crime that he didn't commit? Is that
3 reasonable?

4 His testimony is not credible and believable
5 because he is a standup guy, because he is a good person,
6 because he decided to do the right thing. Scott Lowe is a
7 murderer. But the reality is, so is James Johnson. Billy
8 Joe Durham told you that when this card came up with Amber
9 Daniel's picture on it, James Johnson's reaction was
10 that's one of mine. He wants credit for this murder. You
11 should give it to him.

12 The evidence in this case, as I said, is tedious.
13 There has been a lot of discussion about many different
14 names, many different leads, where this investigation went
15 and the fact that it took us years to finally get here.
16 We have given you the best evidence that we have to show
17 that this defendant prepared and participated in this
18 robbery. And because of that, he is responsible for the
19 natural, reasonable, foreseeable probable consequences of
20 that armed robbery, and that was the unfortunate and
21 tragic murder and execution of Chris Porcoro and Amber
22 Daniel.

23 I'd ask that each of you consider carefully the
24 evidence that has been presented. It is our hope that you
25 return a verdict that finds the defendant guilty. Thank

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1 you.

2 THE COURT: Mr. Ellis.

3 MR. ELLIS: Thank you, Your Honor. Please the
4 court.

5 Counsel.

6 Ladies and Gentlemen, when we first started this
7 trial, the Solicitor stood in front of you just like
8 Solicitor Salisbury just did a moment ago and told you
9 this was supposed to be a perfect crime. If Scott Lowe
10 pulled it off, he would probably be happy. Everything
11 started to unravel on him. He got arrested. He got
12 charged and the trial is coming. Three days before trial,
13 the pressure is on. He knew he was in trouble. He knew
14 he was going to be tried and probably convicted of murder.
15 He knew he was looking at what might have been a sentence
16 of life without parole in prison.

17 So he looked out for Scott. Just a few days
18 before the murder, suddenly, he has information to share
19 with the State. He knows what witnesses are against him.
20 He told you he had a lawyer that he thought was very good.
21 He prepped them for trial. He knew what evidence he was
22 facing. He knew that one of the people who was going to
23 say Scott had confessed, he had evidence against Scott, my
24 client, James Johnson, J.J. He also knew, at that point,
25 the State have been looking at J.J. So he did what was

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1 best for Scott. He gave up J.J.

2 He came up with one of his many versions of the
3 truth. J.J. did this. J.J. did that. As a continuum, law
4 enforcement said I don't believe you. This doesn't seem
5 right. J.J. said maybe he didn't do that, he did this
6 other thing. They went back and forth. The stories
7 changed and changed and changed.

8 He knew for him to get away from this murder
9 trial with that conviction staring him in the face for
10 murder, in order to get the deal that he wanted from the
11 State, he needed to give them something. He gave them one
12 of his versions of the truth and put J.J. in it. Quite
13 frankly, Ladies and Gentlemen, he knew what the State
14 wanted. He tried to give it to them. He did it for
15 himself. He didn't do it for the truth. He didn't do it
16 to clear his conscience. He did it to save himself as
17 much as he could. So, he gave them what he seemed to win
18 just like he did when he went to Amber's funeral. That's
19 what the State wanted.

20 He gave him what he wanted, reduced the charge of
21 murder down to manslaughter. It reduces exposure on
22 manslaughter from 30 years down to 20. He told himself on
23 the stand that's a great deal. A great deal. Quite
24 frankly, Ladies and Gentlemen, this particular instance,
25 law enforcement sold the devil. That devil is Scott Lowe.

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1 The kind of person that can sit there and tell
2 you I don't care for people that much. I like animals
3 better. It doesn't matter to me what anybody thinks
4 including the jury. Don't care. I've got my 20. I'm
5 good. That's the guy that the State sold out to. And so,
6 in the end, all of Scott's various versions of the truth
7 were bought and paid for by the State's deal. Here we
8 are. The State led an animal -- that's the only way I can
9 describe him, and animal, like Scott Lowe, off easy.

10 J.J. can't even be placed at the scene of the
11 crime at all except my Scott Lowe. No one else put him
12 there. The truth is, Ladies and Gentlemen, J.J. wasn't
13 guilty in 2011 when this happened. He didn't do it. It
14 wasn't guilty during the four years, and he is not guilty
15 today.

16 Now, the State has the only burden of proof in
17 this case. You may recall the judge telling you that when
18 we first started this case. He will tell you some more
19 about that in a little bit. The only party that has any
20 burden to prove a thing to you is the State. That's it.
21 And they just don't have to prove something to you to make
22 you think maybe something happened.

23 A moment ago, the solicitor was going through
24 different facts of the case and trying to tell you, well,
25 there was this and we had that. You can suppose this

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1 happened. There's a suggestion, a gut feeling that maybe
2 you think this happened. If you take these maybes, that
3 might be okay. That's not their burden. They have a very
4 high burden of proof. In civil court, if you sue
5 somebody, you have to prove basically that it more likely
6 happen than not. More likely that it happened then
7 didn't. We're not in civil court. This is a criminal
8 case.

9 The U.S. Constitution controls what you have to
10 believe in order to find my client guilty. You have to
11 find him to be guilty beyond a reasonable doubt. The
12 solicitor said it didn't have to be beyond any possible
13 conceivable doubt, any reasonable doubt that you might
14 have. If you have any doubt in your mind to make you
15 reasonably think I'm not sure he did it, you have to give
16 him the benefit of the doubt and find him not guilty.
17 Under our Constitution, that is the law. If you have any
18 reasonable doubt whatsoever about my client's guilt, no
19 matter for what reason, then he is not guilty.

20 You all will have to agree that he is guilty
21 beyond a reasonable doubt for him to be guilty. It's not
22 enough for a few of you. Everybody has to be convinced.

23 There have been different standards or versions,
24 sayings about what beyond a reasonable doubt means. The
25 judge is going to tell you about that as well. I've heard

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1 a couple of definitions about it that I like. One will be
2 that the evidence the State presented to you, the evidence
3 the State presented to you leaves you firmly convinced of
4 my client's guilt, you have to find him guilty. It is not
5 enough just to think he might have done it or I won't like
6 this that much. You have to be firmly convinced of his
7 guilt.

8 Another way of describing beyond a reasonable
9 doubt, that standard, would be by saying any reasonable
10 doubt is any doubt that will cause a reasonable person to
11 hesitate to act. I'm assuming you are all reasonable
12 people. I'm sure you are.

13 If you have any hesitation about my client's guilt, he is
14 not guilty. Plain and simple.

15 It is not enough for the State to sit here and
16 suggest to you that maybe the evidence could mean this.
17 Maybe there is a suspicion here. We should do process of
18 elimination because we're not certain he might've been
19 involved. That's not their burden. They've got to prove
20 it to you. That's their job. I submit they didn't. I
21 would submit they did not prove it to you. My client is
22 not guilty.

23 Now, there is another -- well another thing about
24 this is it not enough to believe that he was maybe there.
25 Mere presence is not enough. Just thinking maybe he was

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1 there maybe he wasn't, that's not enough. You have to be
2 firmly convinced beyond a reasonable doubt of his guilt or
3 he is not guilty.

4 Now, there is another important right that all of
5 us have in the Constitution which is presumption of
6 innocence, ironclad, no exception. Every person in this
7 country, including my client, has a presumption that they
8 are innocent of any crime until the State proves their
9 guilt beyond a reasonable doubt.

10 That presumption of innocence that stays with him
11 is a real thing. There is a court case that described a
12 presumption of innocence as a cloak wrapped around a
13 defendant in a trial. It protects them, unless the jury
14 removes that clothing and you can only do that if you
15 think he is guilty beyond a reasonable doubt.

16 Now, in order for the State to prove to you that
17 J.J. did this, there is one thing that you have to assume
18 right off the bat. They said, as if it is a fact from the
19 start, they told you you should accept this, just trust
20 me. We're the government. We would never mislead you.
21 They have told you from the beginning that there are three
22 people who committed this crime. Not one, not two, three.
23 Just trust us, there's three. How do you know that?

24 The only people -- first of all, the only
25 evidence was two guns. Only two. We had an inside man

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1 who pled guilty. You had a killer, Scott Lowe. He pled
2 guilty. How do you know there was a third person or
3 fourth person or anything like that? They want you to
4 accept that as a fact. There is no evidence that tells you
5 that is true. None.

6 Furthermore, the solicitor wants to tell you a
7 moment ago if you participated in the planning about it
8 and that he knew about it, that is enough, that gets you
9 there. No. To be guilty of murder, you have to go there
10 and be part of it in some way. Actually do it. Not enough
11 just to have heard somebody talk about it or listen about
12 after it happened, you actually have to be firmly
13 convinced that he went there as an actor, principal actor
14 and that he did it. If you are not from the convinced of
15 that, he is not guilty.

16 Let's go through some of the evidence briefly.
17 As you heard some of the witnesses say, including
18 investigators who worked this case for four years, there
19 is no forensic evidence, there is no physical evidence of
20 any kind that connects my client to this crime, none.
21 There are no fingerprints. There is no DNA. Nothing like
22 that exist that goes back to J.J. whatsoever.

23 You heard me ask a couple of times in talking to
24 the officers about fingernail scraping that they did on
25 the victims' bodies around the time of the autopsy

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1 basically. Take a little stick and they scraped
2 underneath a person's fingernail and it left some DNA on
3 it. They take it to the lab and analyze it and compared
4 two people's DNA that they think might be in the case.

5 Why do they do that? Because if you are in a
6 physical fight with somebody, particularly, if you have
7 any type of nails like some females, in particular, and
8 you have to grab somebody, scratch somebody, anything like
9 that, there is DNA from your skin underneath your
10 fingernails.

11 The solicitor wants you to accept Scott Lowe's
12 story that J.J. wrestled and fought with Amber. You heard
13 the police tell you, different officers, that there was no
14 DNA from J.J. underneath Amber's fingernails. None.
15 There is not anywhere else either. Why is that? Because
16 J.J. didn't fight with her. Didn't wrestle with her.
17 J.J. wasn't there. If he wrestled with Amber, there is
18 DNA under her fingernails, and there is not any. There is
19 no videos, there is no surveillance, no hair fibers,
20 nothing like that. They have no evidence, physical
21 evidence or evidence of any kind at all related to J.J.
22 None exists.

23 Now, the solicitor once you to listen to Jordan,
24 believe her. She couldn't even tell you what her own
25 statement said five minutes after she read it. After she

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1 had been knowing this trial was coming, given multiple
2 different statements to law enforcement, wildly different
3 statements with radically different information in it.
4 They want you to believe that person.

5 They want you to believe Billy Joe Durham was a
6 man who gives information about the case. All the stories
7 around that Investigator Brown conceded happen in jail.
8 They talk just like on the street. Words get passed,
9 stories get shared and everybody hears something about
10 some cases.

11 Why should we believe Billy Joe Durham, was a man
12 who's been convicted over and over and over again of
13 dishonesty, of lying? He got convicted four months ago of
14 lying to police. Here is the police telling you to
15 believe that the man. Today. They didn't believe him
16 four months ago. They convicted him of it. Today though,
17 they tell the jury we should believe him. It doesn't make
18 sense. Let's see about some of the other evidence. They
19 had Dr. Fulcher, the pathologist. He came in and told you
20 about the autopsy, what he found and where he stand in the
21 death of these two people. He cannot tell you how many
22 shots came from a .38. He doesn't know. It could be
23 five. It could be six. It could be seven. He can't say.

24 He told you that it is very possible that Amber's
25 injuries could possibly come for Scott Lowe using the butt

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1 of that gun and hitting her in the head over and over
2 again. He said yeah. He testified that he did. The
3 pathologist told you yeah, that would do it. That would
4 damage somebody's head pretty good.

5 Dr. Fulcher told you the kill shots on both
6 victims were from a medium caliber weapon he described as
7 a .38. Described a .22 as a small caliber weapon. He
8 described a .38 as a mid-caliber weapon. He told you the
9 kill shots on both victims came from a .38. Who had the
10 .38? Scott Lowe.

11 Dr. Fulcher also told you that each victim had
12 one significant wound to the head. Very close range from
13 a .38. Kind of wound where you shoot somebody who is
14 standing over there and you walk right up to them with a
15 gun right in their face and pulled the trigger. Execution
16 style. Put the gun right next to the head of the other
17 person and shoot him too. Execution style.

18 You saw Scott Lowe up there. Soulless,
19 heartless, without remorse. Almost mocking the system
20 about this deal after he did that. That's the kind of man
21 that does that kind of thing.

22 You heard from James Armstrong, the State's other
23 expert witness. He tested the firearm and matched them
24 against the projectiles fired. He said that the shots he
25 gave he analyzed. He said that four of them definitely

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1 came from the .38 that Scott had. The other two very
2 likely could have too.

3 Another thing that he said in contrast to what
4 the solicitor told you a minute ago. The solicitor said
5 we've got a theory that may be -- maybe -- maybe the .380
6 got fired. Maybe it did. Problems with that. First of
7 all, the bullets that were found only go to a .38 special.
8 James Armstrong told you that a .38 special round will not
9 fit into a .380. If it did, it wouldn't fire unless you
10 done something pretty significant. He called that highly
11 unlikely. That's the State's witness that said that.

12 The other thing about the .380 was the solicitor
13 told you that .38 is an automatic. The firearm -- the
14 automatic, Mr. Armstrong also said the casing, cartridge
15 was shot out of the gun. Unless you pick it up, it just
16 stays there. Unlike a revolver, the revolver you take the
17 cartridges with you. If you fire, they are still in the
18 gun. Automatic takes them out. My client had a .380.
19 The .38 shot, you found the casings. And for a .380 on the
20 scene, none of that is true.

21 The State just want you to believe that maybe it
22 did happen, hoping it is enough for you. There was a .380
23 there. Even if there was a .380 there, it wasn't my
24 client. He wasn't there.

25 Scott Lowe, another version of the truth trying

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1 to make the State happy. He knew where the .380 was. He
2 is the one that threw it in the pond. Why not admit a
3 story about a .380, somebody else having a gun? He knew
4 they would find it and he knew where it was put. Very
5 convenient.

6 Another thing though, Scott Lowe said in every
7 version of the truth, every single one, he does not
8 remember J.J. ever shooting at all. That's about the only
9 thing he was consistent all -- about. The only thing.
10 That J.J. never fired, according to Scott Lowe. Why did
11 he not fire? Because he wasn't there.

12 Now, Investigator Brown and Investigator Bailey
13 again told you there was no hard evidence that J.J. did
14 this. Not at all. There is some that Scott Lowe did it;
15 a lot that Scott Lowe did it. Investigator Brown did not
16 arrest J.J. until Scott Lowe came forward with his version
17 of the truth, whichever version you want to believe.
18 Until Scott Lowe came forward with that, he could not
19 arrest J.J. They had all the rest of the evidence pretty
20 much already. It wasn't enough for you to make an arrest.

21 If you don't believe Scott Lowe, if you have a
22 doubt, a hesitation about Scott Lowe, you have a doubt or
23 hesitation about their case, then my client is not guilty.
24 Most witnesses you heard from, you heard they did not even
25 mention J.J. If they did, I asked did you ever hear of

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1 him. They said no, I don't know who he is. They bought
2 up several witnesses who couldn't even say anything about
3 J.J.

4 The only one witness that could even put him at
5 the scene, Scott Lowe. He's the only witness. Only one
6 witness ever claim -- ever claimed J.J. had a gun, not
7 even around this crime, ever in his life, there is only
8 one person that said that. Scott Lowe. Only one person
9 was known to have any guns, might have any guns in this
10 case was Scott Lowe.

11 The other man who got charged, the other man who
12 pled guilty. How do we know this? Nick was found with
13 guns. J.J. never got found with guns. They kept them.
14 Nick has got the guns. Scott gave him the guns. Scott
15 testified that he gave Nick the guns. Was only proof of
16 two guns being fired, Scott's .38 and Nick's .22. Two men
17 who were also charged with murder. Both got deals from
18 the State. Both pled guilty for manslaughter.

19 Now, it is interesting, I want to draw your
20 attention to a couple of things the State could have
21 shown, but chose not to. Ask yourself why. The State,
22 obviously, has access to some cell phone records. You've
23 seen some. Part of the cell phone records showed various
24 things, calls, text messages, data usage. On the cell
25 phone records, they also have this little thing on the

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1 side, most of them anyway that talks about location, cell
2 tower location. Don't you think the State -- let me back
3 up.

4 You saw how often J.J. gets calls on his phone.
5 He got two just during his interview with the police
6 officers. The phone was a blowing up. Don't you think if
7 they had cell phone tower location that showed J.J. was
8 anywhere near Chris' house, any time he was remotely near
9 at the time of those murders, they would have shown it to
10 you? They could have. They didn't. Why do you think
11 that is?

12 There were two people who were charged. Both
13 took plea deals. Both Scott Lowe -- you saw him. The
14 other is Nick Granados. Never saw him. Never came in
15 here. Never testify. The truth of the matter is the
16 State has the power of subpoena. They can make somebody
17 come to court. If you don't come, the police can find
18 you. That is why.

19 They also told you at the beginning of this case
20 that Nick Granados pled guilty on Monday. It's not that
21 they can't find him. He was here Monday. He was here.
22 They could bring him over here anytime they want to and
23 put him on the stand. Ask him what happened. They didn't
24 do it. The inside man, the guy who was the person to make
25 it all happen for Scott Lowe, the guy was on the inside of

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1 the house and was going to let Scott be the other shooter.
2 He would be in a great position to know is there a third
3 person at all. If there is, is it J.J.? You never heard
4 him at all. Ask yourself why that is. What might Nick
5 have said that made the State not want to call him?

6 Ladies and Gentlemen, the simple fact is the only
7 person that could put J.J. remotely to the scene is Scott
8 Lowe. Scott Lowe gave them everything they wanted,
9 everything they thought they needed. They heard J.J.'s
10 name from people on the street from Day 1. They said I
11 bet that guy did it. They gonna find a way to shoehorn
12 that in there some way, that would be great. They gave
13 the idea of three people. Gave the idea that J.J. was
14 going to be doing something. Never ever got any proof of
15 it at all until Scott Lowe decided to take his sweet deal
16 and give the State what they wanted. Ladies and
17 Gentlemen, Scott Lowe is a liar. Scott Lowe is a cold-
18 blooded killer period who only looks out for himself and
19 does not care about anybody else. He is not believable.
20 He is not credible. My client sits there right now an
21 innocent man. He is not guilty.

22 In a moment, the judge is going to charge you on
23 the law. He will give you certain instructions about what
24 you should ensure and consider. I ask you to pay careful
25 and close attention to what he says just like you have

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1 throughout this trial. You gonna go back and you gonna
2 begin to talk to each other and evaluate the evidence that
3 the State has brought forward and their intent to show my
4 client is guilty.

5 I have, like I told you at the beginning, that we
6 are in, right now, the court that uses the best judicial
7 system in the world. It's not perfect, but it is very
8 good. It has lasted for a long time because of that. It
9 is because of people like you could use your common sense,
10 good common sense, your life experience. You can now go
11 back and evaluate everything you heard and saw and talk
12 about this.

13 Knowing that you are reasonable people and that
14 you paid close attention, you gonna look at all the
15 exhibits, testimony and everything else, I have no doubt
16 at all that when you go back there, you will consider the
17 evidence the State provided you, and you will agree that
18 my client will only be found not guilty. Thank you.

19 THE COURT: Mr. Foreman, Ladies and Gentlemen
20 of the jury, you, of course, have heard and seen all the
21 evidence in the case. You have now heard the final
22 summation of the lawyers, and, therefore, now it because
23 my duty and obligation to instruct you on the law that you
24 are to apply in the case, and you'll be asked to go back
25 and begin with your deliberations. And through that

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1 process, you will examine the evidence, decide the facts
2 and apply the law and arrive at a fair and just decision,
3 whatever that decision may be.

4 It is your exclusive duty to determine what the
5 facts are. You do that through your own commonsense
6 examination and evaluation of all the testimony and other
7 evidence received during the course of this trial. You 12
8 jurors alone will decide what weight, value, effect to
9 give any particular witness' testimony or other evidence
10 in the case. Your sole objective again is to simply
11 render a fair and impartial decision.

12 In this case, as you know, the State has charged
13 the defendant by way of two separate indictments with the
14 crimes of Murder and Possession of a Firearm During the
15 Commission of a Violent Crime. There are two separate
16 indictments. That's because there are two different
17 people who are alleged to be victims.

18 Indictment 2000 -- 2201 charges Mr. Johnson with
19 having committed the crime of murder and that he did on
20 April 3rd, 2011 unlawfully and with malice aforethought
21 kill one Christopher Porcoro by shooting him with a
22 handgun and that he died as a proximate result thereof.
23 Count two of the indictment also alleges possession of a
24 firearm during the commission of a violent crime.

25 They allege again on April 3rd, 2011 he did

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1 possess or visibly display a handgun during the commission
2 of a violent crime. That violent crime alleged to be
3 murder as is set forth in Count one of the indictment.
4 There is a similar indictment that alleges the victim to
5 be Amber Daniel. Again, he is charged with murder in that
6 indictment and possession of a firearm during the
7 commission of that violent crime, the violent crime being
8 murdered.

9 Just -- so there are four separate crimes that
10 you would be considering. They will be four separate and
11 distinct verdicts that you will be called upon to render
12 in the case. The allegations in the indictment and the
13 indictments themselves are not evidence of anything. They
14 don't prove anything. It is simply means by which any
15 person who is accused of a crime, where the jurisdiction
16 lies in this court, is brought into this courtroom to
17 stand trial in that particular charge. It serves to put a
18 defendant on notice as to what crime the State claims he
19 has committed.

20 But the indictment serve no purpose so far as the
21 jurors are concerned. They will be in the jury room
22 because it is on the back of these indictments Mr. Foreman
23 that you will be indicating the jury's unanimous decision
24 as to the particular charge alleged in those indictments.
25 But other than serving as the verdict forms, the

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1 indictments serve no purpose as far as you jurors are
2 concerned.

3 Now, as to the allegations contained in each of
4 those indictments and as to the charges set forth, the
5 defendant has entered a plea of not guilty. As you know,
6 that plea of not guilty has placed upon the State the
7 burden of proving the allegations that they have made by
8 way of these indictments. The burden of proving each of
9 the essential elements of the crime set forth in each of
10 these indictments and, therefore, the burden is upon the
11 State to establish the defendant's guilt to the
12 satisfaction you 12 jurors beyond a reasonable doubt
13 before any verdict of guilty can be returned as to any of
14 the separate charges.

15 No person accused of a crime is to be presumed
16 guilty. Every person charged with a crime is always
17 presumed innocent. That is because the Constitution
18 requires that anytime somebody makes an accusation or the
19 State brings an accusation against another alleging they
20 have committed some type of crime, the burden is upon them
21 to establish the allegations and to establish that crime
22 to the satisfaction of a jury panel beyond a reasonable
23 doubt.

24 A person accused of a crime is never to be
25 charged with proving their innocence or to prove that they

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1 are not guilty because in many cases, that might not be
2 possible. The burden is always upon the State because
3 they made the charge to establish the defendant's guilt to
4 your satisfaction beyond a reasonable doubt.

5 It is a vital, important and Cardinal rule of law
6 that every defendant in a criminal trial, no matter how
7 serious the offense might be for which that person stands
8 charged, that person shall always be presumed innocent of
9 that charge. That presumption of innocence remains with
10 any defendant, as it does with this defendant, from the
11 time that he is placed under arrest, throughout the course
12 of the criminal process and even throughout the course of
13 the actual trial in this case.

14 As I have told you, that presumption of innocence
15 will be with Mr. Johnson even as you go back in your jury
16 room to begin deliberations in this case at this trial's
17 conclusion. That presumption of innocence will be with
18 him in the jury room and it will be with him forever,
19 unless you 12 jurors determine that he is no longer
20 entitled to that presumption of innocence. In other
21 words, after you have carefully considered all the
22 evidence in the case and from the evidence you determine
23 the facts and upon deciding those facts, you apply the law
24 that I have provided you, if you 12 jurors unanimously
25 determined that he is guilty as to a particular charge

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1 that has been proven beyond a reasonable doubt, then he
2 would no longer be entitled to the presumption of
3 innocence as it relates to that particular charge. But it
4 is only if, unless and until you 12 are satisfied of his
5 guilt beyond a reasonable doubt that the presumption of
6 innocence would no longer be applicable.

7 Now, while the State does have the burden of
8 proving the defendant's guilt to your satisfaction beyond
9 a reasonable doubt, that does not mean that the State has
10 to prove his guilt to your satisfaction beyond all doubt
11 or beyond any possible doubt. But it does require the
12 State to prove his guilt to your satisfaction beyond a
13 reasonable doubt.

14 The term a reasonable doubt should be given its
15 plain and ordinary meaning. A reasonable doubt is the
16 kind of doubt that would cause a reasonable person to
17 hesitate to act upon the information provided. A
18 defendant in a criminal trial is entitled to any
19 reasonable doubt that arises from the evidence or lack of
20 evidence in the case. And if, upon any factual issue
21 essential to a finding of a verdict of guilty, you have
22 some reasonable doubt as to how the issue should be
23 resolved, it would be your duty to resolve that reasonable
24 doubt in favor of the defendant.

25 Therefore, if, upon your consideration of the

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1 whole case, you have a reasonable doubt as to his guilt as
2 it relates to a particular charge, you must resolve that
3 doubt in his favor and return a verdict of not guilty.
4 And at the same time, after you have considered all the
5 evidence and decided the facts and applied the law, if you
6 have a reasonable doubt as to his guilt as it relates to a
7 particular charge, it would be your corresponding duty to
8 find him guilty of any crime that has been proven to your
9 satisfaction beyond a reasonable doubt.

10 Now, the same law that provides you are the
11 judges of the facts also provides that I am the judge of
12 the law. That simply means that nobody is going to tell
13 you how to arrive at your determination of facts in this
14 case. You do that, as already stated, through the
15 exercise of good judgment and common sense conscientiously
16 applied to the testimony and evidence received during the
17 course of the trial. You must, however, under your oath
18 as a juror accept the law as I provide it to you as being
19 the law that you are to apply in the case. In other
20 words, you are not to concern yourself with what you
21 thought the law was before you came to serve as a juror
22 this week or what you think the law to be.

23 Under your oath as a juror, you must simply
24 accept the law as I provide it to you as being the law
25 that you are to apply in the case. Then you simply take

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1 that law you apply it to the facts as you 12 jurors
2 determine those facts to be based upon your commonsense
3 examination and evaluation of the evidence in the case.

4 Now, as I told you, you are the sole judges of
5 the facts in this case. You are necessarily the sole
6 judges of the credibility and the believability of any
7 witness that has testified during the course of this
8 trial. You 12 jurors alone will decide what weight,
9 value, effect to give any particular witness' testimony or
10 even some portion of a witness' testimony.

11 But there are several factors which you should
12 consider in arriving at your assessment as to a particular
13 witness's credibility. I'm going to list those factors
14 for you. You should consider the demeanor of the witness,
15 that is, how the witness appeared to you as the witness
16 testified from the witness stand. Was the witness
17 straightforward in responding to questions or was the
18 witness hesitant? How did the witness respond to questions
19 that were asked of that particular witness? Simply put,
20 did the witness appear to you to be telling the truth and
21 to have knowledge of the facts to which that witness has
22 testified?

23 You should also consider whether or not the
24 testimony of a witness is consistent or is inconsistent
25 with that witness' his own testimony provided here in

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1 court or is it consistent or inconsistent with statements
2 made by the same witness, whether those statements were
3 made inside of court or outside of court. You should also
4 consider whether or not the testimony of a witness is
5 consistent or is inconsistent with other witnesses
6 testimony or other evidence received during the course of
7 the trial?

8 You should also consider how the witness came to
9 know the facts to which that witness has testified. In
10 other words, what was a particular witness' opportunity
11 and ability to perceive the existence of those facts to
12 which that witness has testified and what is that witness'
13 ability to be able to come into court and to accurately
14 recollect to you as to what they had previously perceived?

15 You should also consider any bias or prejudice or
16 interest that you find a witness might have with regard to
17 a case. In other words, do you find some reason that
18 particular witness will come into court and would testify
19 one way or another to help or hurt one side or the other?
20 You may consider any interest the witness might have in
21 the outcome of the case, if you determine that a witness
22 does have such an interest and you find that interest
23 would bear upon that particular witnesses credibility.
24 You should also consider whether or not the testimony of a
25 witness was strengthened or was it weakened by other

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1 testimony or other evidence received during the course of
2 the trial.

3 Now, during the course of this trial, you have
4 heard certain evidence related to one or more of the
5 witnesses who have testified as having prior criminal
6 convictions for certain types of terminal offenses.
7 Ordinarily, evidence of prior convictions are not allowed
8 to be admitted during the trial of the case because is not
9 relevant to anything that the jury has to decide.

10 However, where a witness does have criminal convictions
11 for certain types of criminal offenses, that is, those
12 that involve dishonesty and/or false statement and where
13 that witness takes the witness stand and testifies, the
14 evidence of those convictions may be bought out.

15 The jury can determine the credibility and the
16 believability of a witness' testimony. So, if you find
17 that a witness does have such prior conviction you
18 determine that those convictions -- prior convictions are
19 probative on that particular witnesses ability to tell the
20 truth or propensity to tell the truth or likelihood to
21 tell the truth, then you may consider. In other words, you
22 may consider for purposes of assessing the credibility of
23 that witness' testimony. That is why it is being offered,
24 oftentimes to impeach the credibility of a witness. If
25 you find those convictions credible and you find they do

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1 bear upon the witness' credibility or believability, then
2 you may consider it for that purpose.

3 In other words, you have to determine the
4 credibility and the believability of every witness who has
5 testified in order for you to determine the facts of the
6 matter. You, as the finders of the facts, and you, as the
7 judges of the credibility of each witness, are permitted
8 to believe as much or as little of what a witness has
9 testified to as you deem is appropriate. Therefore, you
10 may believe everything that a witness has testified to,
11 you may choose to believe none of it. You may believe one
12 portion of a witness' testimony and reject some other
13 portion of that same witness' testimony. You could
14 believe one witness as opposed to several or several as
15 opposed to one. But whatever your good judgment and
16 common sense tells you is the most believable and credible
17 testimony is the testimony you should accept.

18 You should reject any testimony or other evidence
19 that you find not to be credible or believable. Again,
20 your sole objective is to render a fair and impartial
21 decision based upon the evidence and the law received
22 during the trial.

23 Now, in this case, as you know, the defendant is
24 charged with two counts of murder and two counts of
25 possession of a firearm during the commission of a violent

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1 crime. I would just instruct you one more time as it
2 relates to the crime of murder and as it relates to the
3 crime of possession of a firearm during the commission of
4 a violent crime. The application of that law will apply
5 to both of the indictments.

6 Murder is defined in section 16-3-10 of the Code
7 of Laws of South Carolina as the killing of any person
8 with malice aforethought, either expressed or implied. In
9 order for you to find the defendant guilty of a crime of
10 murder, it would be necessary that the evidence in this
11 case establishes to your satisfaction beyond a reasonable
12 doubt that the defendant or an accomplice -- and I will
13 define the term accomplice for you later on in this
14 instruction. But you must find that the defendant or an
15 accomplice did commit some act or acts which proximately
16 or directly caused the death of the decedent -- in this
17 case, Christopher Porcoro is alleged in one indictment and
18 Amber Daniel as alleged in a separate indictment -- and
19 that the killing was done with malice aforethought.
20 Malice aforethought is an essential element of the crime
21 of murder.

22 So what is malice aforethought? Well, malice, as
23 an essential element of the crime of murder, is a state of
24 mind connoting an ill will and having anything to do harm.
25 Intent means the state of a person's mind which directs

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1 his actions towards a specific object or goal. Intent
2 would include those consequences which represent the very
3 purpose for which an act is done as well as those
4 consequences which are known to be substantially certain
5 to result whether actually intended or not. Malice is
6 a technical term importing wickedness and excluding just
7 cause or legal excuse. It is something which springs from
8 depravity, from a heart devoid of social duty and fatally
9 bit on mischief. It is a state of mind indicating an
10 extreme disregard for or in extreme indifference to human
11 life. Malice may be likewise defined as a state of mind
12 which indicates a formed purpose and design to do a
13 wrongful act under circumstances that exclude any legal
14 right to do it.

15 The word expressed or implied malice do not meet
16 different kinds of malice, but merely the manner in which
17 malice may be shown to have existed, that is, to say
18 either by direct evidence or by circumstantial evidence of
19 a crime or inferring the existence of malice.

20 An inference is simply a deduction of fact which
21 may logically and reasonably be drawn from the proof of
22 some other fact or set of facts. In other words, you may
23 have inferred that a particular event occurred or that a
24 particular fact exists based upon proof of sufficient
25 factual circumstances which would reasonably warrant you

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1 are arriving at a particular conclusion. Malice maybe
2 expressed. Where there is an expressed threaten to kill or
3 lying in wait or where the circumstances show directly
4 that a purposeful intent to kill was entertained by the
5 killer.

6 Malice may be inferred though no expressed intent
7 to kill is proven or by direct evidence where the facts
8 and circumstances which have been proven by the evidence
9 in the case satisfies you beyond a reasonable doubt that
10 malice was present in the mind of the killer at the time
11 any killing took place. The existence of malice may be
12 inferred from acts, declarations of conduct of the killer,
13 from any other circumstances shown to have existed at the
14 time of the event for which you may reasonably infer the
15 existence of malice. Often the state of a person's mind
16 can only be proven by circumstantial evidence.

17 The State is required to prove malice just as it
18 must prove any other essential element of the crime
19 charged. It is for you 12 jurors to determine whether or
20 not the evidence in this case establishes malice in this
21 case beyond a reasonable doubt.

22 The law does not require that malice be shown to
23 exist for any appreciable length of time before the
24 commission of the act directly causing a fatal result.
25 Indeed, it may be conceived at the very moment that the

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1 act is committed. It is sufficient in the law so long as
2 the State does prove beyond a reasonable doubt both the
3 existence of malice and the commission of an act or acts
4 by the defendant for an accomplice which directly caused
5 the fatal result. You must determine whether or not
6 malice aforethought existed based upon your consideration
7 of all the evidence in the case as well as any reasonable
8 inferences that might be drawn from the evidence.

9 You are further instructed that one who is
10 charged with the commission of a crime may be convicted
11 under the legal theory of accomplice liability. An
12 accomplice is one who knowingly and voluntarily and with
13 common intent with a principal offender unites with the
14 principal offender in the commission of a crime. An
15 accomplice is also referred to as an aider or an abetter
16 in the commission of the crime.

17 In this case, the State alleges that the
18 defendant is guilty of a crime of murder either as a
19 principal or as an accomplice. You are therefore
20 instructed that where two or more people act together with
21 common intent and purpose and conspire, plan or otherwise
22 agree to the commission of a crime, each person who is
23 present to aid, abet, assist or otherwise participate in
24 the commission of the crime are all guilty of any crime
25 accomplished thereby. The act of one is then to be the

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1 act of all.

2 Any person who joins with another or others to
3 accomplice an illegal purpose is held to be criminally
4 responsible for everything done by any other person which
5 occurs as a natural and probable consequence of the acts
6 done pursuant to and in furtherance of the common plan and
7 purpose. And therefore, where two or more persons are
8 acting together and they are aiding and abetting,
9 assisting and participating with each other in the
10 commission of a crime, the acts of one become the acts of
11 all or the hand of one becomes the hand of all and all
12 equally guilty of any crime accomplished.

13 In order to be guilty as an accomplice in the
14 commission of a crime, one must be present at the scene of
15 the crime with the intention of aiding, abetting,
16 assisting or participating in the commission of the crime,
17 and that crime is accomplished.

18 Mere knowledge by the defendant that some person
19 is intending to commit a crime without more is not
20 sufficient to make him guilty of the crime which he may be
21 shown to have had knowledge. Likewise, the very presence
22 of the defendant at the scene of the crime or in close
23 proximity thereto even with knowledge that another is
24 intending to commit a crime is not sufficient standing
25 alone to prove the defendant guilty of the crime as an

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1 accomplice.

2 In order for the defendant to be found guilty of
3 the crime under the legal theory of accomplice liability,
4 it must be proven beyond a reasonable doubt that the
5 defendant was present at the scene of the crime with the
6 intention of aiding, abetting, assisting and participating
7 in the common plan or scheme which culminates in the
8 commission of the crime. Therefore, under the law of
9 accomplice liability, two or more persons may be guilty of
10 an unlawful homicide even though only one person actually
11 commits the act which is directly responsible for the
12 death of another.

13 Therefore, when two or more persons combine,
14 conspire or agree to the commission of a felony, such as
15 arm robbery, and the commission of criminal acts done in
16 furtherance of that crime, a homicide is committed by one
17 or more of the participants, which is a natural and
18 probable consequence of those acts done in furtherance of
19 the common plan, all who are present and participating in
20 the criminal acts are equally as responsible as the one
21 who actually committed the fatal act.

22 The common purpose may not have been to kill
23 anyone at all. But if during the commission of a felony,
24 a homicide is committed by one of the participants which
25 is a natural and probable consequence of the acts done in

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1 furtherance of the common plan, each person who is
2 present, aiding abetting, assistant and participating in
3 the common plan is equally guilty. As I said, the act of
4 one is the act of all. The hand of one is the hand of
5 all.

6 A criminal intent is also a necessary element
7 which has to be proven beyond a reasonable doubt, for
8 there must've been a common design or intent to commit a
9 crime. And the crime must have been committed pursuant
10 thereto with the defendant directly committing the crime
11 or aiding, abetting or assist in the commission of a crime
12 through the assistance of some overt act. A criminal
13 intent is the state of mind that operates with the
14 commission of an act or acts which culminates in the
15 perpetration of a crime. Criminal intent is a mental
16 state of conscious wrongdoing, in contrast to the
17 commission of some act which is the result of accident,
18 inadvertence or mistake. That's the law as it relates to
19 the crime of murder.

20 Count two of each indictment also charges the
21 defendant with possession of a firearm during the
22 commission of a violent crime. That is a statutory
23 offense set forth in section 16-23-490 of the Code of Laws
24 of South Carolina. That statute provides that it shall be
25 unlawful to possess a firearm or to visibly display what

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1 appears to be a firearm during the commission of a violent
2 crime. Section 16-1-60 of the Code of Laws provides that
3 a crime of murder is classified as a violent crime under
4 the law.

5 Therefore, in order for the defendant to be found
6 guilty of a violation of this particular section of law,
7 it would be necessary that the evidence in this case has
8 established to your satisfaction beyond a reasonable doubt
9 that the defendant did commit the crime of murder and that
10 during the commission of the crime, he did possess a
11 firearm or did visibly display what appeared to be a
12 firearm.

13 You are further instructed, and I emphasize to
14 you, that the fact that a defendant did not testify during
15 the course of a criminal trial is not a fact or
16 circumstance that may be considered by the jury in any way
17 during your deliberations or in your determination as to
18 whether or not his guilt has been proven beyond a
19 reasonable doubt. As I have stated previously, the burden
20 is on the State to prove the defendant to be guilty.

21 The burden is not upon the defendant to prove he
22 is not guilty or to prove that he is innocent. Because in
23 some cases, that may not be possible. Therefore, you are
24 not to allow the fact that a defendant does not testify to
25 weigh in the slightest degree against the defendant. The

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1 burden is not upon the defendant to prove anything.

2 Therefore, you are not permitted to draw any inference or
3 reach any conclusion from the fact that a defendant does
4 not testify during the trial of the case, nor is that to
5 be considered by you in any way, nor would that be
6 discussed by you while you are engaged in your
7 deliberation.

8 Now, Mr. Foreman, Ladies and Gentlemen, I am not
9 in any way concerned with what your decisions are, but you
10 are instructed that the verdict of the jury must be
11 unanimous. All 12 of you must be in agreement before any
12 decision may be returned.

13 Mr. Foreman, as you know, you will be charged
14 with the responsibility of presiding over jury
15 deliberations in the jury room simply to ensure that those
16 deliberations are carried out in some orderly fashion, but
17 all jurors are expected to participate in deliberations
18 because, as I said, the verdict of the jury is the
19 unanimous and consensus opinion of all 12 of you.

20 Mr. Foreman, you will have these indictments in
21 the jury room. On the back of each indictment, you will
22 see in the lower left-hand corner, the word "verdict". I
23 know you can't see it there perhaps, but you will see that
24 the word "verdict". I have written in there Count one and
25 Count two. Count one is the count of charge of murder.

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1 Count two is the count charge of possession of a firearm
2 during the commission of a violent crime.

3 You will be rendering two separate and distinct
4 verdicts as it relates to each of the separate
5 indictments. With respect to each count, you have two
6 potential verdict forms. Those potential verdict forms
7 are guilty and/or not guilty. Whatever the decision is
8 inserted in the space provided.

9 The only qualification for that is if you find
10 the defendant to be not guilty of Count one of the
11 indictment, then he obviously cannot be guilty of Count
12 two of the indictment. You will also sign your name as a
13 foreperson, place the appropriate date on it. Once you
14 have your decisions, if you will, just knock on the door.
15 Let the bailiff know you have reached a decision. We will
16 bring you back to receive your verdict.

17 Now, during deliberations, there may come a time
18 when you have some question about the facts or the
19 evidence in the case. You may even need something else
20 out there that would benefit you that you would like to
21 have. Please understand all the evidence to be introduced
22 on the trial of this case has been introduced. No
23 additional evidence may be received now that you are going
24 back to begin with their deliberations. So if you don't
25 have it in the jury room and it was not introduced during

State versus James Johnson

1 a trial of the case, you can't get it now, even if it does
2 exist. So don't ask me about any additional evidence.

3 Now, if you think something was introduced but
4 you don't think you have it in the jury room -- we going
5 to verify the exhibits before we send them back, but if
6 you think something was introduced or you understood
7 something was introduced but you don't have it, you can
8 let me know about that. But no additional evidence may be
9 received.

10 If you ever have a question about testimony that
11 you have heard already, I don't have transcripts to send
12 back to you. But if you have a question about a witness'
13 testimony and you think that question can be answered by
14 having that testimony replayed in its entirety or some
15 portion of that is all you need, if you will, let me know
16 through the bailiff of that fact. We will bring you back
17 into the courtroom to have that witness' testimony
18 reheard.

19 If, at anytime, you have a question about the law
20 that is applicable, I am permitted to answer those
21 questions. So should you need a re-instruction on any
22 point of law or if you need for me to give you an
23 explanation of some point of law or clarification of some
24 point of law that I provided, I will be happy to do that.

25 So Mr. Foreman, if at any time you need to direct

State versus James Johnson

1 some comment to me, if you will, write it on a piece of
2 paper. Give it to the bailiff. He will provide it to me,
3 and I will be happy to respond to the issue or answer that
4 question for you.

5 I don't know if we have smokers on the jury. But
6 if we do, you can't smoke in the jury room, but you can go
7 outside to smoke. You are instructed that if anybody is
8 outside of the jury room for an authorized purpose, the
9 deliberations have to stop. They may only be resumed when
10 all 12 jurors are present so that all may participate. So
11 if anytime a juror is absent, stop the deliberations and
12 only resume when that juror or jurors have returned.

13 I think that covers everything. But in the event
14 it doesn't, I'm sure one of these lawyers will respond
15 that I neglected to tell you something. And if that's the
16 case, I will bring you back to provide you with additional
17 information. If I don't need to bring you back, I will
18 send word, by way of the bailiff, that you may begin with
19 your deliberations. In that event, he will bring to the
20 jury room all of the exhibits that were introduced in the
21 trial in to you, Mr. Foreman. He would also bring the two
22 indictments which will serve as the verdict form.

23 Now, Mr. Kraeger, you are an alternate, so I'm
24 going to ask you to stay here in the courtroom with me.
25 I'm going to ask the original 12 jurors to go with the

State versus James Johnson

1 bailiff to the jury room, but don't begin deliberations
2 until I send you word to do so.

3 (WHEREUPON, the jury exit the courtroom.)

4 THE COURT: Now Mr. Kraeger, as you know, you
5 cannot participate in the jury deliberations because all
6 the original 12 were able to do that, but that doesn't
7 mean that your service is complete. We don't know what
8 might happen during deliberations. If one of the jurors
9 become ill and can't continue while those deliberations
10 are in progress, you will still be called upon to take
11 that juror's place.

12 So what you are going to be doing, you can go
13 with the bailiff to a separate room. You won't be with
14 the jury. You will be by yourself in another room. You
15 just wait there until we need you. Once the jury has
16 reached a decision, if you're not participating in that,
17 we will bring you back at the time the jury comes back
18 with the verdict. But you still can't talk about the case
19 with anybody or read about it or hear about it. So if you
20 will, go with the bailiff to a separate room to
21 accommodate you during deliberation, we will let you know
22 as soon as we can or otherwise bring you back in. Thank
23 you.

24 (WHEREUPON, the alternate juror exits the
25 courtroom.)

State versus James Johnson

1 THE COURT: Are there any exceptions taken to
2 the instruction or request for additions to the
3 instructions by the State?

4 MR. MARCHANT: None from the State, Your
5 Honor.

6 THE COURT: From the defendant?

7 MR. ELLIS: No, sir.

8 THE COURT: Let me ask you to verify all the
9 exhibits please.

10 THE COURT: Is counsel satisfied that all the
11 exhibits are accounted for?

12 MR. MARCHANT: The State is, Your Honor.

13 MR. ELLIS: Yes, sir.

14 THE COURT: All right. Send them back. Tell
15 the jury to begin deliberations and tell them to notify us
16 when they conclude.

17 We will be at ease while the jury is
18 deliberating.

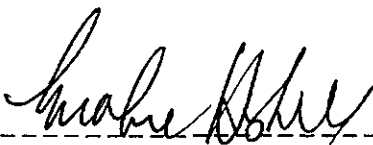
19 Send the exhibits back. Tell the jury to begin
20 deliberations and notify us when they conclude.

21 (WHEREUPON, deliberation of the jury begins at
22 approximately 3:40 p.m.)
23
24
25

State versus James Johnson

1
2 I, the undersigned Caroline Hiskell, Official
3 Court Reporter for the Thirteenth Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 proceedings had and evidence introduced in the trial of
7 the captioned case, relative to appeal, in Court of
8 General Sessions, Greenville County, this 15 th day of
9 May, 2015.

10 I do further certify that I am neither of kin,
11 counsel, nor interest to any party hereto.

12
13 
14 -----

15 Caroline Hiskell
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J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
Greenville, South Carolina 29601

Telephone: (864) 282-1292
Facsimile: (864) 271-6035

February 6, 2017

Jenny Abbott Kitchings
Clerk of Court
1015 Sumter Street
Columbia, South Carolina 29201

RECEIVED

FEB 09 2017

Re: State v. James Michael Johnson,
Appellate Case No.: 2015-001615

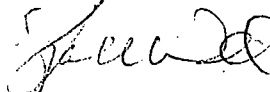
SC Court of Appeals

Dear Ms. Kitchings,

I have reviewed the record in this case and concluded that there are no issues preserved for appellate review. I have discussed this with my client and have his permission to dismiss the direct appeal.

I am therefore requesting that the appeal be dismissed so to allow me to initiate a post conviction relief action on behalf of Mr. Johnson.

Sincerely,



J. Falkner Wilkes

c.
Alan McCrory Wilson, Esq.
Donald J. Zelenka, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

James Michael Johnson, 00340206
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

The South Carolina Court of Appeals

The State, Respondent,

v.

James Michael Johnson, Appellant.

Appellate Case No. 2015-001615

The Honorable J. Derham Cole
Greenville County

Trial Court Case No. 2014GS2302201, 2014GS2302203

ORDER

Counsel for Appellant has filed a letter indicating Appellant wishes to withdraw his appeal. Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

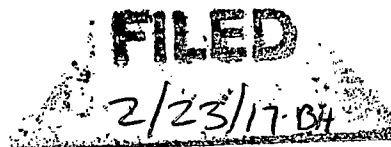
FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
J. Falkner Wilkes, Esquire
Donald J. Zelenka, Esquire





The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 13, 2017

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: The State v. James M. Johnson
Lower Court Case No. 2014GS2302201, 2014GS2302203
Appellate Case No. 2015-001615

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
J. Falkner Wilkes, Esquire
Donald J. Zelenka, Esquire

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER AND POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

MAR 18 2014

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

COUNT ONE

MURDER

That JAMES MICHAEL JOHNSON did in Greenville County, on or about the 3rd day of April, 2011, unlawfully and with malice aforethought kill CHRISTOPHER PORCORO by means of shooting him with a handgun, and that CHRISTOPHER PORCORO died as a proximate result thereof. This is in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JAMES MICHAEL JOHNSON did in Greenville County, on or about the 3rd day of April, 2011, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WAB

WITNESSES

A L Bailey

Greenville County Sheriffs Office

3/5/2014

ARREST WARRANT NUMBER

2014A2330201956, 2014A2330201960

**ACTION OF GRAND JURY
TRUE BILL**

Ricky T. Hall

FOREMAN GRAND JURY :

Foreperson of Grand Jury

VERDICT

COUNT I: Guilty

COUNT II: Guilty

Donald F. Woodward 7-16-15

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-
LCM

002201

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2014

THE STATE

vs.

JAMES MICHAEL JOHNSON

✓ ✓ Indictment for
0116, 0549

**MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME**

VIOLATION § 16-03-0010 and § 16-23-0490

ENTERED
ACCT
LBH

1137

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER AND POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **MAR 18 2014** the Grand Jurors of Greenville
County present upon their oath:

COUNT ONE

MURDER

That JAMES MICHAEL JOHNSON did in Greenville County, on or about the 3rd day of April, 2011, unlawfully and with malice aforethought kill AMBER DANIEL by means of shooting her with a handgun, and that AMBER DANIEL died as a proximate result thereof. This is in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JAMES MICHAEL JOHNSON did in Greenville County, on or about the 3rd day of April, 2011, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

DEB

WITNESSES

A L Bailey *15

Greenville County Sheriffs Office

3/5/2014

ARREST WARRANT NUMBER

2014A2330201957, DIRECT PRESENTMENT

2014G52302203A

ACTION OF GRAND JURY

TRUE BILL

Ridgely T. Hall

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

COUNT I: Guilty

COUNT II: Guilty

Donald J. Woodward 7-14-15

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-

LCM

002203

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2014

THE STATE

vs.

JAMES MICHAEL JOHNSON

Indictment for

✓
0116, 0549

MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME

VIOLATION § 16-03-0010 and § 16-03-0490

ENTERED
ACCT. LBH

1139

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

James Michael Johnson

AKA:

Race: WHITE Sex: M Age: 26

DOB: -1989 SS#: 100-00-0000

Address:

City, State, Zip: Greer, SC 29650

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder (gs)

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The pleas: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Marchant, Lucas

72742
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.00
TOTAL	\$	\$ 133.00

days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: *linked*

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2053

Sentence Date: 1/16/15

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
James Michael Johnson

AKA:

Race: WHITE Sex: M Age: 26DOB: -1989 SS#:

Address:

City, State, Zip: Greer, SC 29650DL#: 1A00000000 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Poss. Weapon During Violent Crime

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2302201A/W#: 2014A2330201960Date of Offense: 4/3/2011S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST:

Marchant, Lucas

72742

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
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§ 14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114(BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	3.90
TOTAL		\$	133.90

PTUP

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Wishell

SCCA/217 (03/2011)

Paul B. Wickens

Presiding Judge

Case Code: 2053Sentence Date: 7/16/13

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
James Michael Johnson

AKA:

Race: WHITE Sex: M Age: 26

DOB: 1989 SS#: 200-56-2666

Address:

City, State, Zip: Greer, SC 29650

DL#: 200-56-2666 SID#: 200-56-2666

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder (gs)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2302203

A/W#: 2014A2330201957

Date of Offense: 4/3/2011

S.C. Code § : 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Marchant, Lucas

72742

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
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§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.40</u>

PTUP

 days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk Paul B. Wickens

Court Reporter: Hickel

SCCA/217 (03/2011)

Presiding Judge 2057

Judge Code: 1/14/13

Sentence Date: 1/14/13

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
James Michael Johnson

AKA:

Race: WHITE Sex: M Age: 26DOB: -1989 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Greer, SC 29650DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST:

Marchant, Lucas

72742

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years 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.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Wickens

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 20573Sentence Date: 7/16/15