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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

Honorable George M. McFaddin, Circuit Court Judge

TRENTON M. BARNES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001267

APPENDIX

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1 I have no objection to using them as demonstratives,
2 but introducing that as her report --- which puts some
3 sort of special significance or on her actual report
4 compared to anyone else's reports that are clearly not
5 in evidence.

6 THE COURT: Whose would those be?

7 MR. SCHNEE: Well, any of the law enforcement
8 officers. We don't have the 1,036 page phone dump.

9 THE COURT: This is an expert.

10 MR. SCHNEE: Right. We also don't have the
11 autopsy report in evidence. All we have is a simple
12 hand drawn diagram that does aid the jury. The jury
13 is certainly capable of remembering what testimony is.
14 Certainly I hope they are anyway. I object to their
15 introduction as there is no valid purpose to introduce
16 her report in that form. I understand for
17 demonstrative purposes and I have no problem that. I
18 understand going in front of the jury in a room that
19 puts a huge emphasis on that, but that's not
20 admissible.

21 THE COURT: You haven't told me the reason it's
22 not admissible.

23 MR. SCHNEE: Well, Judge, it's not a summary of
24 her findings. It's her own report.

25 THE COURT: Right. She's available for

1 cross-examination and it contains no hearsay, so why
2 is it not admissible? It's her report. She
3 testifying to it. She is present. You're able to
4 confront her.

5 MR. SCHNEE: Judge, I'm not arguing about the
6 content. I'm arguing about the content, I'm arguing
7 about admissibility of just those charts. I think
8 that would be a cumulative introduction of evidence
9 compared to her own testimony. Entirely unnecessary
10 and I think it unfairly highlights that as important
11 testimony compared to anybody else's.

12 THE COURT: All right. Pursuant to the proper
13 foundation, it's admissible. She is an expert. It's
14 her report and I mean, it's not like there's --- I
15 mean, the difference between this and an autopsy
16 report is an autopsy report contains hearsay. It
17 contains information provided to the pathologist by
18 law enforcement, by the coroner's office or other
19 extraneous information that the pathologist would have
20 no way to know. I mean, I assume this is her actual
21 physical, for lack of a better scientific term that I
22 can think of at the moment of what she did.

23 MS. SIMPSON: That would be correct, Your Honor.

24 THE COURT: Why don't you let me see them so I
25 will can look at them?

1 I think it's different if they contain hearsay or
2 I mean, this obviously isn't an investigator's report
3 where they're taking statements from people or taking
4 notes.

5 THE COURT: Okay. My ruling stands.

6 MS. SIMPSON: Thank you, Your Honor.

7 THE COURT: All right. Bring them back in.

8 (WHEREUPON, the jury entered the courtroom at
9 4:41 P.M.)

10 THE BAILIFF: The jury is seated, Your Honor.

11 THE COURT: Call your next witness.

12 MS. SIMPSON: The State calls Suzann Cromer.

13 SUZANN CROMER,
14 after being duly sworn, testified as follows:

15 THE CLERK: Please have a seat and state your
16 full name for the record.

17 THE WITNESS: My name is Suzann Cromer,
18 C-R-O-M-E-R.

19 DIRECT EXAMINATION:

20 BY MS. SIMPSON:

21 Q Ms. Cromer, where are you employed?

22 A I'm employed with the South Carolina Law
23 Enforcement Division, commonly referred to as SLED.

24 Q And what is your position with SLED?

25 A I am a firearm and toolmark examiner in the

1 forensics services laboratory.

2 Q And what all is included in your forensic
3 laboratory as a whole?

4 A We have an evidence control department, a
5 firearms department, a question document department,
6 a latent prints department, a crime scene unit, a
7 toxicology department, a trace department, a DNA case
8 work and DNA CODIS unit or database unit.

9 Q You work in the firearms and tool marks
10 identification area.

11 A Yes, I do.

12 Q What exactly is a firearms and tool marks
13 identification examiner --- what do they do?

14 A What I do is we call firearms identification. I
15 look at ammunition components, bullets, cartridge
16 casings, shotgun shells, cartridges, wadding to
17 determine whether they were fired by or loaded into
18 and extracted out of a specific firearm. We also give
19 what we call GRC lists. That is a general rifling
20 characteristic list. If we do not have a firearm and
21 we have a projectile that's marked well enough to be
22 able to give an investigator that. What it is, it
23 takes all the information from that projectile. We
24 plug it into a database and it will give us a list of
25 possible firearms that could have fired that specific

1 projectile.

2 We also do tool mark identification, bolt cutters
3 on a padlock. Pry marks with a crowbar, pry marks on
4 a window. We also do serial number restoration where
5 we can raise or attempt to raise a serial number that
6 has been obliterated from a firearm. We have also
7 destroy firearms and ammunition for most of the state.

8 Q And with SLED, do you receive a number of, I
9 guess, different types of cases from different
10 counties all over the state?

11 A Yes, ma'am. We have received evidence from all
12 over the state.

13 Q So you work with a number of different law
14 enforcement agencies, not just the Columbia Police
15 Department?

16 A That is correct.

17 Q Tell the jury a little bit about your educational
18 background and training?

19 A Okay. I have a bachelors degree from Clemson
20 University. I went to the University of South
21 Carolina and did some graduate work there. I was
22 hired on at SLED and completed their in-house training
23 program, which is a three to five year intense study
24 program. It's more of an apprenticeship, if you will,
25 where I worked under five qualified firearms

1 examiners. We take written tests, oral tests,
2 practical exercises and prepare cases for examiners.
3 Upon completion of the course of study, we are given a
4 comprehensive final exam, which is graded by our
5 training officer and then by our lieutenant. I have
6 taken classes with the Association of Firearm and Tool
7 Marks Examinations, which is called AFTE. That is an
8 international organization for our profession that
9 meets once a year to talk about relevant issues in our
10 field. They meet for a week long seminar. Also, they
11 offer extra work shops. I've taken extra work shops
12 through AFTE like barrel making, machine gun
13 conversion, ethics.

14 I've also taken classes with the South Carolina
15 chapter of the International Association of
16 Identification. Most pertinent being two different
17 three day shooting reconstruction work shops. I've
18 taken classes with the Bureau of Alcohol, Tobacco and
19 Firearms on serial number restoration and the
20 integrated ballistics identification system. We call
21 it IBIS and it's a searchable database of images of
22 bullets and cartridge cases.

23 I am the state coordinator for our IBIS system.
24 I also have attended several conferences, user
25 conferences, with the ATF and represented North and

1 South Carolina. I've also taken classes and toured
2 firearm manufacturers. I've toured Smith and Wesson,
3 FN, Ruger. I've also been a certified Glock armorer,
4 which means I can work on and repair that firearm
5 since 2003.

6 Q Okay. So you said respect to Glocks you've
7 actually been --- what was it termed?

8 A An armorer.

9 Q So you can actually dismantle it?

10 A I can.

11 Q Describe what that is for the jury?

12 A That means I can take it apart, order parts for
13 it, fix it and put it back together.

14 Q So you're very familiar with Glocks?

15 A Yes, ma'am.

16 Q Have you ever testified as an expert in the field
17 of firearms and tool marks identification?

18 A Yes, ma'am, I have.

19 Q Approximately how many times have you testified
20 as an expert?

21 A Approximately 80.

22 Q And do you actually continue to participate in, I
23 guess, continuing educational requirements to keep
24 your training and education up to date?

25 A Yes. We --- well, there are no continuing

1 educational requirements for our field, but we are
2 always, you know, trying to take classes, looking at
3 classes and reading professional journals that come
4 out.

5 MS. SIMPSON: Your Honor, at this time I'd like
6 to offer Ms. Cromer as an expert in the field of
7 firearms and tool marks identification.

8 MS. BAMBACH: No objection.

9 MR. SCHNEE: No objection.

10 THE COURT: All right. Ladies and gentlemen,
11 this witness will be qualified as an expert in the
12 area of firearms and tool mark identification. She
13 will be allowed to give opinion testimony in that
14 area. That does not mean that you have to accept her
15 opinion but it is evidence for you to use in any way
16 you see fit and give it the weight and credibility you
17 deem as appropriate as you are required to do with
18 each and every witness.

19 Ms. Simpson.

20 MS. SIMPSON: Thank you, Your Honor, Your Honor.

21 BY MS. SIMPSON:

22 Q With respect to firearms and tool marks
23 identification, what actually makes it possible. We
24 heard some terms like rifling characteristics and
25 things of the nature.

1 A When you're talking about firearms ID, what we're
2 looking at are defects that can be imprinted on the
3 bullet or the cartridge case by the process of being
4 fired by that firearm.

5 As you can imagine, the manufacturing process has
6 hard steel tools working on a hard steel barrel or
7 breach face of a firearm. That can leave defects that
8 can be passed to those ammunition components. Also
9 wear and tear. Some people aren't nice to their
10 firearms and they don't clean them with the proper
11 things and they can leave defects inside of that
12 barrel that are unique to that firearm.

13 Q And, were you actually requested and did, in
14 fact, examine some evidence in this case?

15 A Yes, ma'am, I did.

16 Q How did this evidence come to you?

17 A It was submitted to our lab through Columbia PD.
18 I receive most of my evidence through either Amy
19 Stevens in our evidence control department or Betty
20 Butler, who is a technician, I believe, in our
21 evidence processing unit.

22 Q Okay. I want to show you what's been introduced
23 into evidence as --- let me get these. As State's
24 Exhibit 336, 335, 334, and 333. Do you recognize
25 these items as being some of the items that you were

1 asked to analyze?

2 A What I'm looking for is I actually scribe on the
3 evidence with an electric pencil, my lab number, my
4 item number and my initials. This was my Item (6),
5 and you can see it's still in a sealed container with
6 my initials and seal date.

7 Q And what are these items as you to through them?
8 My apologies.

9 A Okay. This is a fired 45 GAP caliber cartridge
10 case.

11 Q Okay. And if you need scissors to open anything,
12 let me know.

13 A Again, this was my Item (8) and it is still in a
14 sealed container with my initials and seal date. This
15 is another fired 45 GAP caliber cartridge case. Again
16 this is my Item (9) still in a sealed container with
17 my initials and seal date. It's another 45 GAP
18 caliber cartridge case.

19 This is my Item (10), again in a sealed container
20 with my initials and seal date, another 45 GAP caliber
21 cartridge case.

22 Q I'll also going to show you what's been
23 introduced as State's 331 and 332. Do you recognize
24 these items? While you're looking at that, when an
25 item of evidence comes to you, is it properly sealed

1 and packaging other than any processing that may have
2 been done for your purposes?

3 A Yes. Actually when I get evidence, I will take a
4 picture of container it comes in, I open it and then
5 take a picture of any internal packaging and check the
6 seals and I take notes on that, so all of this was
7 sealed when I received it.

8 This is my Item 12. It is a fired 40 caliber S&W
9 cartridge case, again still in a sealed container with
10 my initials and seal date, and this is my Item 11 also
11 another fired 40 S&W caliber cartridge case with my
12 initials and seal date.

13 Q And then in State's Exhibits 342, 341 and 338,
14 did you examine these item, as well? And again, do
15 you know --- well, let me ask you, do you necessarily
16 know where these items come from with respect to a
17 particular crime scene?

18 A Not unless it's labeled on the container that I
19 receive it in, I may not know where it came from or if
20 it's placed on our intake documents, but I believe in
21 this case, I was not --- I did not have any direct
22 indication of where they came from for these items.
23 Again, these are marked on the base with my lab
24 number, item number and initials. These were my Items
25 7, 13, and 16. Again, still all inside a sealed

1 envelope with my initials and seal date at the top.
2 These are three fired 45 caliber projectiles or fired
3 bullets.

4 Q And then also State's 339, 340 and 337?

5 A Let me double check my notes.

6 This was my Item 14. This is a fired bullet
7 jacket fragment. Again, it is in a sealed envelope
8 with my initials and seal date.

9 This is Item 15. Again, sealed container with my
10 initials and seal date. It is a lead fragment.

11 And this is my Item 17. Again, another fired
12 bullet jacket fragment in a container sealed with my
13 initials and seal date.

14 Q And then we're nearing the end, State's 401, 371,
15 and 346. Did you receive these items, as well?

16 A Yes. State's Exhibit 401 was my Item 13. Sorry,
17 my Item 37, which is an unfired 40 caliber cartridge
18 head stamped LDLELD.

19 State's Exhibit 371 was my Item 35. Again, it's
20 another unfired 40 caliber S&W cartridge headstamped
21 ELD. State's Exhibit 346 was my Item 20. It is a
22 fired projectile still in a container sealed with my
23 initials and seal date.

24 Q And then finally State's 370 and 372, did you
25 have these items, as well?

1 A Yes, ma'am, I did. State's Exhibit 372 was my
2 Item 38 and State's Exhibit 370 was my Item 36, and it
3 is an unfired 45 GAP caliber cartridge headstamp CBC.

4 Q And after you received these items, did you in
5 fact, conduct some testing on all of these items?

6 A Yes, ma'am, I did.

7 Q And did you formulate a report to document those
8 findings?

9 A Yes, ma'am, I did.

10 Q I'm going to show you what's been marked as
11 State's 444 through 450. Have you had a chance to
12 review these items?

13 A Yes, ma'am, I have.

14 Q And do they fairly and accurately depict your
15 results?

16 A Yes, ma'am, they to.

17 Q Would it assist you in testifying to the jury
18 about those results if you could use those charts and
19 diagrams?

20 A Yes, ma'am.

21 MS. SIMPSON: Your Honor, at this time the State
22 would offer State's 444 through State's 450 into
23 evidence?

24 THE COURT: Over defendant's objection.

25 MS. SIMPSON: Thank you, Your Honor.

1 (WHEREUPON, State's Exhibit Numbers 444 though
2 450 were admitted into evidence.)

3 MS. SIMPSON: Permission for the witness to step
4 down?

5 THE COURT: That's fine.

6 BY MS. SIMPSON:

7 Q Okay. We'll start. I'm going to show you.
8 Actually, if you'll stand on this side and speak up so
9 the court reporter can hear you. State's 444 will be
10 what we're referencing. Before we get there, can you
11 tell the jury just a little bit about what is
12 contained in an unfired, I guess, bullet?

13 A Well, what we have is when you have an unfired
14 piece of ammunition it's called a cartridge. A
15 cartridge contains a bullet, propellant powder, the
16 cartridge contains a bullet, propellant powder, the
17 cartridge case and a primed. That primer is struck by
18 the firing pin of the firearm, causing an initial
19 spark. It goes through a flash hole in the cartridge
20 case which ignites the gunpowder. It causes great
21 pressure, pushes the bullet down the barrel of the
22 gun, but also pushes that cartridge case back into the
23 breach base of the firearm. So that's the components
24 of a cartridge.

25 Once it's fired, you can have a bullet, which is

1 the actual round thing that's left and then you have a
2 cartridge case.

3 Q Is the bullet often referred to as a projectile
4 or the entire ---

5 A I've heard people refer to entire cartridge as a
6 bullet and then I've heard them refer to the actual
7 projectile as a bullet. People use that
8 interchangeably.

9 Q With respect to this case, I want to backtrack
10 just a little bit. Did you actually receive any
11 firearms to test?

12 A No, ma'am, I did not.

13 Q Is it uncommon to not get a firearm?

14 A No, sometimes we get a firearm. Sometimes we do
15 not.

16 Q Does it hinder your ability to test these items
17 with respect to identifying certain aspects of them
18 and coming to conclusions with respect to them?

19 A No. I can actually look at that cartridge case,
20 the fired case that's left behind and try to give
21 investigators an idea of how many firearms were fired.
22 Also, as I said before, I can look at those fired
23 bullets, get the information that the rifling gives to
24 me and possibly potentially give those investigators a
25 list of particular firearms that would be looking for.

1 Q We'll talk about these in a grouping. First with
2 respect to Items 6, 8, 9, and 10, all of these were
3 the fired 45 GAP caliber cartridge cases. Tell the
4 jury what exactly that was and what your findings---
5 what you did and what your findings were?

6 A When I am comparing ammunition, first off these
7 were four fired 45 GAP caliber cartridge cases,
8 meaning it's that shell that I talked about and we
9 first look at caliber and 45 GAP is a specific caliber
10 that refers to the dimension of the bullet that's in
11 it and the length of the cartridge case, so when you
12 see caliber it usually refers to more things than just
13 that ammunition.

14 So I look at those. I take notes from those,
15 what type of case was it. What type of primer did it
16 have? So then I mark all that down, and then I'll go
17 to my comparison microscope. I also look at the
18 firing pin impression itself. You can have different
19 class characteristics of firing pin impressions. You
20 can have hemispherical, you can have a Glock type, you
21 can have a circle type or a rectangular type. There
22 are different types.

23 First when I look at them I'll screen them and
24 see if they all have the same type of firing pin
25 impression and then I'll go to my comparison

1 microscope and I'll actually compare the markings on
2 those cartridge cases to each other.

3 Q And was that actually done in this case with
4 respect to these four items first?

5 A Yes, it was.

6 Q And you mention in your results also Item 12.
7 Before we get there let me show you State's 333. I
8 believe this is your Item 10. This is the casing that
9 we're talking about, as well, as Item 9 just as an
10 example of what you were looking at?

11 A Yes, ma'am.

12 Q And all these along with Item 6 and 8 were
13 actually compared to one another?

14 A Yes, ma'am, they were.

15 Q And what were your findings, with respect to the
16 comparisons that you made in the examination?

17 A Based on my microscopic examination of the firing
18 pin and the firing pin shear on these cartridge cases,
19 they were all fired by the same gun.

20 Q Okay. And with respect to 45 GAP caliber, as a
21 firearms expert tell us what that means to you?

22 A 45 GAP is not something I've seen very often.
23 I've been with SLED --- I've been in the firearms
24 department 16 years. I've been in the firearms
25 examiner training side and then as a firearms examiner

1 for over 14 years now. Typically, I think I've only
2 seen 45 GAP in non-police involved shootings once,
3 maybe twice. 45 GAP is a new caliber that came out in
4 about --- it was invented around 2002. It came out
5 for commercial use in 2003, and it was really marketed
6 towards the law enforcement community, so it's not
7 something that we see very often.

8 Q Okay. Then I'm going to show you State's 445
9 specifically referencing the other fired cartridge
10 cases that you received, Items 11 and 12, tell us
11 about those items, what they were and what your
12 testing showed with respect to comparison with the
13 other items?

14 A Okay. First off, 11 and 12 were two fired 40
15 caliber S&W fired cartridge cases. Right away I knew
16 they were not fired by the same firearm that fired the
17 45 GAP caliber cartridge cases.

18 40 S&W caliber is approximately about .40 in
19 dimension. 45 GAP is about .451 in dimension, so
20 right then and there --- and then your chamber, the
21 chambers of firearms are built specific to the size of
22 ammunition that they're going to fire because you want
23 those walls of the chamber to be tight to support that
24 cartridge case during the firing process.

25 These were not the same caliber, so they were not

1 the same size. They also had a different class of
2 firing pin so then I took them to the microscope. I
3 compared them to each other and determined that they
4 were fired by one firearm, but not the firearm that
5 fired the 45 GAPs.

6 Q So each Item 11 and 12, the 40 caliber cartridge
7 case, those were fired by the same weapon and the 45
8 GAP was fired by the same weapon, just two separate
9 weapons?

10 A That's correct.

11 Q Did you also --- tell the jury --- I want to turn
12 your attention to when you refer to Items 11 and 12
13 may be suitable for identification with the firearm
14 which they were fired or with another fired cartridge
15 case or casings, what is meant by that?

16 A That means that we had enough of those individual
17 markings for me to first off compare it to another
18 cartridge case, but if a suspect weapon was ever
19 identified, I want whoever is reading the report to
20 know that they can bring it to me, and I could try to
21 potentially match it to a specific firearm.

22 Q Are all casings that you receive necessarily
23 suitable for comparison?

24 A No, ma'am, they're not.

25 Q I want to turn your attention to Items 7 and ---

1 I keep going to the wrong stack. I'm sorry. State's
2 446, your examination of Items 7, 13, and 16. Just
3 move onto State's 446.1

4 A 713 and 16 are fired bullets. They're a little
5 different to look at than the cartridge case. What I
6 do is, I measure their diameter and determine their
7 caliber. I weigh them, and we weigh in grains, which
8 we measurement where it takes 7,000 grains to equal
9 one pound. I do all that and determine if they're the
10 same caliber. It's kind of like a step ladder. I
11 have to have the same caliber first, potentially.
12 Then I look at the rifling specification.

13 Q What is the rifling specification?

14 A Rifling, first off you have to understand
15 rifling. Rifling is what's put in the gun barrel by
16 the manufacturer to put rotary motion on that bullet.
17 Very similar to a quarterback who throws a football
18 that want to get it into a tight spiral, that's so it
19 will go a little more accurate towards the target.
20 That is the premise behind rifling. They want that
21 bullet to go into a tight spiral so it will go more
22 accurately through the air instead of tumbling end
23 over end. In rifling you can have --- it's made up of
24 lands and grooves. You can have any number of lands
25 and grooves. These three bullets all had what we call

1 eight lands and grooves with right twists meaning that
2 bullet is going to spin to the right. Also, there's
3 two types of rifling. There is what we call
4 conventional rifling that uses right angles or
5 polygonal rifling, which is more of a rounded type of
6 rifling. So these bullets were polygonal rifling
7 eight lands and grooves, right twist bullets.

8 Q I want to show you State's 341 and 342, two of
9 the items, I believe, this is what was you're
10 referring to as the projectile or fired bullet?

11 A Yes, ma'am. These were solid copper projectiles,
12 as well.

13 Q And I believe you noted hollow point bullets?

14 A Yes, ma'am.

15 Q What does that mean?

16 A That means in what we call the nose area, the
17 nose area of the bullet has a hallowed out cavity.
18 Typical design of a hollow point bullet is for it to
19 hit its target, extend its energy in that target and
20 stay. That's why it has the open nose cavity.

21 Q So it expands almost upon impact essentially?

22 A When it hits something it's supposed to expand or
23 mushroom, is what we call it.

24 Q And with respect to 7, 13, and 16, what did you
25 find as far as what they would be loaded into for

1 purposes of being loaded into. They were consistent
2 with being a 45 caliber bullet. The thing is,
3 45 caliber bullets can be loaded in 45 GAP or 45 auto,
4 so without a cartridge case, without it being loaded
5 in a cartridge case, I cannot tell you specifically it
6 was loaded in a 45 GAP or 45 auto.

7 Q Did you notice something with respect to once the
8 rifling characteristics, the type of firearms that
9 could have fired Items 7, 13, and 16?

10 A Yes, ma'am, when I went to my computer program
11 and plugged in 45 caliber eight right polygonal, the
12 only known manufacturer at this time to use that is a
13 Glock firearm.

14 Q Okay. So a Glock would have been the only gun
15 that could have fired this at the time of manufacture?

16 A At the time, yes.

17 Q And then with respect to fibers on 13.21, I guess
18 they were just collected?

19 A Yeah, they were embedded in the nose and I just
20 collected them.

21 Q And those were not actual analyzed?

22 A No.

23 Q Okay. Actually moving on to Item 14, the one
24 fired bullet jacket fragment, what was your finding
25 with respect to that one?

1 A First off, when I had this fragment, it was not
2 consistent with the fired bullets that I have because
3 the fired bullets, like I said, were a solid copper
4 projectile. This was a drawn copper jacket, so at
5 some point in time, it had a lead core. When I talk
6 about jacketed bullet, I think the easiest way for me
7 to describe it is an M M. You have your chocolate
8 inside and your hard candy shell on the outside. Very
9 similarly, you have your lead on the inside and your
10 copper jacket on the outside. So right away I knew
11 that this was different from the solid copper hollow
12 point bullets that I had and my Items 7, 13, and 16,
13 but it was so badly damaged that I couldn't --- let me
14 check my notes. I couldn't determine its caliber or
15 say that it was suitable, so it was unsuitable for
16 identification because of the limited markings from
17 the rifling that were on it.

18 Q And with respect to Item 15, the lead fragment, I
19 believe you also found that was unsuitable for
20 identification, as well?

21 A Yes, like I said, that lead core doesn't come in
22 contact because it has that jacket or that coating on
23 the outside so it never comes in contact with anything
24 that would mark it for identification purpose.

25 Q And then Item 17 one fired bullet jacket

1 fragment.

2 A Yes, this fragment was also more consistent with
3 being a part of a jacket instead of a solid copper
4 projectile. It did have markings on it that I could
5 use for identification purposes, but it was
6 inconclusive with any of my other bullets and also I
7 could not determine the caliber.

8 Q And that was just the nature of the condition you
9 received that item in?

10 A Yes, ma'am.

11 Q Moving on to State's --- I did it again. State's
12 447 and Item 20, the one fired bullet labeled as from
13 the deceased victim, Kelly Hunnewell. Tell us about
14 that item and your results?

15 A This is a copper jacketed hollow point bullet.
16 It was consistent with being either a 40, S&W or ten
17 millimeter auto caliber. Again, the same size bullet
18 could be loaded in either cartridge case. That's why
19 I have to say I can't differentiate.

20 Q But it is consistent with a 40 caliber Smith and
21 Wesson?

22 A Yes.

23 Q Similar to what you examined earlier with respect
24 to the casings?

25 A I'm sorry, I don't understand the question.

1 Q The same type caliber as the casings?

2 A Yes, ma'am.

3 Q Is that correct?

4 A Yes, ma'am.

5 Q And what were your findings?

6 A This --- let me review my notes really quick.
7 Okay. I found first off that this may be suitable for
8 identification. It was not fired by the same firearm
9 that fired those 45 GAP. I'm sorry, the 45 caliber
10 bullets that I had and spoke about earlier. This was
11 a 40 and like I said before very specific in size. I
12 tried to compare it to, I believe it was my Item 17,
13 that bullet jacket and then also with inconclusive
14 results.

15 Again, there was just not enough what we call
16 individual matching characteristics for me to say yes,
17 this was fired by the same firearm, but I also
18 couldn't rule it out. I did give them a list of
19 potential firearms that could have fired this bullet.

20 Q And what were those potential firearms? Are we
21 referring to manufacturers of the gun?

22 A Yes, we're referring to manufacturers, Glock,
23 Heckler and Koch, or H and K, IMI is military
24 industries, Carr and Bender.

25 Q Okay. Now you also, moving to Item 36, had an

1 unfired 45 GAP caliber cartridge?

2 A Yes, ma'am.

3 Q What were your findings, with respect to that
4 item?

5 A Again, I was asked to look at that cartridge to
6 see whether or not it was loaded into and extracted
7 out of the same firearm of the fired 45 GAP cartridge
8 cases that I had at the scene. I did not have enough
9 individual marks on this unfired piece of ammunition
10 to say that it was loaded into the same firearm. It
11 could have been because they were the same caliber,
12 but I could not say.

13 Q So it was with respect to Items 6, 8, 9 and 10,
14 which would have been the 45 GAP fired, still
15 consistent in caliber and construction, what is meant
16 by that?

17 A When I say consistent in caliber and construction
18 first off I'm talking caliber the 45 GAP.
19 Construction I'm talking about talking about the
20 material that makes that makes up that case. Is it
21 brass, is it nickel. In this case they were brass
22 cartridge cases. Primers also can be brass or nickel.
23 They were brass primers, premarked primers with a seal
24 on them, but they were consistent in construction from
25 the fired cartridge cases that I had.

1 Q And then on State's 449, your Item I believe
2 36.2, just a swab, that was actually returned without
3 analysis?

4 A Yes, I had 36.1 and 36.2, which items --- Item 36
5 came to me, and it was the only piece of they'd did
6 not go through evidence processing first, so I just
7 went ahead and swabbed it myself.

8 Q And then moving to Item 45 the unfired Smith and
9 Wesson cartridge case, and we'll talk about these
10 because you received both Item 35 and 37 which are the
11 same, correct?

12 A Correct. Again, 35 and 37 were unfired 40
13 caliber S&W cartridges. I was asked to look at them
14 to see whether they were loaded in and extracted out
15 of the same firearm as --- from evidence at the scene.
16 Whet I found were matching striations, but I could not
17 give an origin for them. So I cannot say where these
18 tool marks came from. Could it have been from being
19 in the same firearm? Yes. Could it have been from
20 the ammunition manufacturing process or when they're
21 the loading the powder or when they're loading the
22 cartridge into the cartridge trays from the
23 manufacturer? Yes. I just could not tell you where
24 these marks were, but I found matching striations tool
25 marks on 35, 37 and my Items 11 and 12 fired cartridge

1 casings from the scene.

2 Q So let's get to that. You actually learned
3 during the course of this that 11 and 12 were actually
4 collected from the scene itself?

5 A Yes.

6 Q And then these matched those items or excuse me,
7 matched with respect to striated tool marks?

8 A I found matching striated tool marks on all four
9 items.

10 Q And as I said your only other options, while you
11 can't be specific, would have been in the
12 manufacturing process with respect to loading,
13 handling or packaging?

14 A If it was from a firearm which I cannot rule out,
15 it could have been from the ammunition manufacturing
16 process.

17 Q And then finally getting to that Item 38 the one
18 Magtech First Defense ammunition box.

19 A Yes.

20 Q Tell us what you observed and what you did with
21 respect to that item.

22 A That ammunition box was consistent with the
23 ammunition that I received in this case, and the 45
24 caliber bullets that I had were all consistent with
25 the 160 grain solid copper hollow point projectiles.

1 Q These are the 45 GAP?

2 A Yes, ma'am.

3 Q And this box is actually consistent with that
4 type of ammunition, the Magtech First Defense.

5 A Yes.

6 Q Thank you. You can have a seat. And with
7 respect to all of your items, is that the extent of
8 your testing of the actual physical evidence that was
9 presented to you?

10 A Yes, ma'am. The only other thing I did is I put
11 Item 12, which is one of the fired 40 caliber
12 cartridge cases into the integrated ballistics
13 identification system.

14 Q And again the Glock, I guess 45 GAP, you said is
15 pretty rare to see with respect to outside of law
16 enforcement?

17 A That's correct and also I did not put one of
18 those into the IVIS and the integrated ballistics
19 identification system because at this time it wasn't
20 recognized by IVIS.

21 Q And I want to turn your attention --- were you
22 asked to also review a video in this case?

23 A Yes, ma'am, I was.

24 Q A video that contained a firearm.

25 A Yes, ma'am, I was.

1 Q And I'm going to show you what I believe has been
2 introduced as State's 425, 426 and 232. Do you
3 recognize those photos?

4 A Yes, ma'am, I do.

5 Q And you actually reviewed --- what are these
6 photos first?

7 A Yes. What are they of?

8 Q Yes.

9 A This is a photograph of what is State's 425.
10 This firearm is consistent with a Glock firearm.
11 It appears --- as you can see, it's very fuzzy, but it
12 appeared to look like the Glock symbol and that he is
13 potentially where it could be on the firearm. The
14 Glock symbol is, it looks like a big circular "c" with
15 Glock written in the middle of it. You can see the
16 Glock patented trigger safety mechanism, the slide
17 stop, the slide retainer and the grip, the grip
18 striations on this Glock.

19 Q And again you actually had a chance to review of
20 these. These are still shots from the video that you
21 reviewed, correct?

22 A That's correct.

23 Q And the video actually in addition --- was it
24 clear in the video or easier to identify?

25 A Yes, ma'am, it was.

1 Q And this weapon is consistent with a Glock,
2 correct?

3 A Yes.

4 Q And that's in State's 425 and what are we seeing
5 in State's 426?

6 A 426, again this is a picture of a firearm and it
7 is a little fuzzy, but it's consistent with a Glock.
8 Again, you have your slide stop, your Glock trigger,
9 trigger safety, your accessory rail.

10 Q That's a closer up version or, I guess, a fuller
11 version?

12 A Yes.

13 Q State's 432 actually you can see a little more
14 detail on this. You can see the Glock symbol, the
15 trigger safety, the slide stop. You can kind of see
16 writing in here. This is where the caliber of the
17 firearm would be.

18 Q Okay. And when you're pointing, you're saying
19 there is writing there, but you can't make it out just
20 due to the quality of the picture?

21 A That's correct. That's where the caliber would
22 be and what's the model would be.

23 Q And I'm going to show you --- and again this
24 firearm is consistent with?

25 A A Glock firearm.

1 Q And not having it in front of you, can you
2 actually say that this firearm is the one that fired
3 any of the items that you analyzed?

4 A No, I cannot.

5 Q But it is consistent with the firearm that could
6 have fired those items?

7 A Yes, ma'am, it is.

8 Q Let me show you briefly real quickly the video?

9 MS. BAMBACH: Your Honor, I'm going to object to
10 showing this video again. The jury panel has seen it
11 about four times now.

12 THE COURT: The still shots are sufficient. We
13 don't need to see the video again.

14 MS. SIMPSON: Okay. As long as she can refer to
15 the audio. It's also important.

16 THE COURT: It's been played three times. You
17 need to move on.

18 BY MS. SIMPSON:

19 Q With respect to the video, do you recall the
20 audio portion of it?

21 A Yes, I do.

22 Q What is being said that is of significance? Do
23 you remember?

24 A They talk about a Glock 45 which is consistent
25 with a Glock 45 caliber.

1 Q And that's consistent with shooting that Glock
2 GAP 45 ammunition?

3 A It's consistent with 45 GAP or 45 automatic.

4 Q And quickly too just to make a distinction with
5 respect to shell casings and how they're ejected what
6 is the difference between a revolver versus a
7 semiautomatic?

8 A A semiautomatic, if I may.

9 Q Yes.

10 A A semiautomatic has the slide. When you pull the
11 trigger, it releases the firing pin. The firing pin
12 strikes the primer. It strikes the ammunition. That
13 burning up of the pressure will push the slide
14 backwards. When the slide comes back, it's going to
15 eject that cartridge case. The cartridge case is held
16 into the slide by what we call an extractor and then
17 it will come back backwards, hit what we call an
18 ejector and it will turn it to come out the ejection
19 port.

20 We don't have a picture of an ejection port, but
21 it's whole other side of the slide. It's going to do
22 that. Then when the slide is under spring tension,
23 when it flies forward it's going to as, long as
24 there's other unfired cartridges in the magazine, it's
25 going to push another cartridge into the chamber so

1 you can fire again. That's a semiautomatic. One pull
2 of the trigger, it will fire a bullet, eject a
3 cartridge case and then as long as they are unfired in
4 the magazine, it will load another into the chamber.

5 A revolver is very similar to the cowboy movies
6 that you might have seen, Clint Eastwood, Dirty Harry.
7 A revolver has what we call a cylinder. It is a round
8 part that has several chambers in it that holds your
9 unfired cartridges. Those unfired cartridges rotate
10 around one and their not ejected when fired. They
11 stay in that cartridge until you dump them out or you
12 physically take them out.

13 Q Okay. So I would have to pull out the barrel and
14 essentially dump them on the floor for them to come
15 out of the revolver?

16 A Usually you push a cylinder release. Sometimes
17 you have an ejector rod or you just turn it upside
18 down and tap that.

19 Q Thank you. You can have a seat. Beg the Court's
20 indulgence.

21 (Pause.)

22 MS. SIMPSON: Thank you, Ms. Cromer.

23 THE COURT: Ms. Bambach.

24 MS. BAMBACH: Thank you, Your Honor.

25 CROSS-EXAMINATION:

1 BY MS. BAMBACH:

2 Q Ms. Cromer, you got some instructions for this
3 testing from Investigator McCoy and CPD, right?

4 A No, ma'am. I believe all of the evidence was
5 submitted by --- let me check my notes.

6 Q Well, SLED first, right?

7 A Excuse me?

8 Q SLED. I mean, through --- originally it came
9 from the investigation of the Tommy Circle?

10 A Yes. Well, it was dropped off and delivered to
11 the laboratory by an Officer Carol.

12 Q Okay. And you had --- I know you talked about
13 this before, but you had some bullets found at both 93
14 Tommy Circle and then some unfired bullets found at a
15 different location, right?

16 A Cartridges, yes, ma'am.

17 Q I'm sorry, with the cartridges, the bullets, the
18 casings. You have your reports with you, right?

19 A Yes, ma'am.

20 Q So --- and you began your testing on July 3rd,
21 right, 2013?

22 A Yes, ma'am, I did.

23 Q And at that point, you had the 45 GAP cartridge
24 casings, right?

25 A Let check my notes.

1 THE COURT: Ya'll approach real quick.

2 (WHEREUPON, a bench conference was held in the
3 presence, but not within the hearing of the
4 jury.)

5 THE COURT: Go ahead.

6 BY MS. BAMBACH:

7 Q Okay. I'm sorry. So to repeat, you knew the 45
8 GAP cartridge were found at this point?

9 A Yes, ma'am.

10 Q And the gun that shot these bullets was never
11 found, right, to your knowledge?

12 A Not to my knowledge.

13 Q All right. So you never had an actual gun to
14 compare to?

15 A No, ma'am I did not.

16 Q And then you tested some unfired bullets on
17 July 5th, right?

18 A Yes, unfired cartridges.

19 Q Unfired cartridges, sorry again. Then on
20 July 5th of 2013, you told Investigator McCoy that the
21 results were inconclusive and maybe if you had the gun
22 you might be able to do more examination?

23 A I don't recall that. Do you know the SLED
24 narrative where it says your log.

25 A Yes, ma'am.

1 Q Do you have that with you?

2 A No, I don't. Can I see that, please?

3 Q Sure.

4 Q Oh. Sorry. Permission to approach?

5 THE COURT: Yes, ma'am.

6 BY MS. BAMBACH:

7 Q I think it starts right there and goes on to the
8 next page.

9 A Okay.

10 Q I've got it on the top of page three?

11 A Yes, ma'am, I was just looking because I did not
12 specify what I was talking about with my inconclusive
13 results.

14 Q Uh-huh.

15 A That could have been for the fired bullets.

16 Q Oh, yes, this would have been before the unfired?

17 A Yes.

18 Q On your report, it's dated August 15th of 2013.
19 On page two, it states that the fired bullet is most
20 consistent with a 45 caliber sold under C.B.C.
21 Magtech, right?

22 A That's correct.

23 Q And on page three it states that the unfired 45
24 GAP cartridge was C.B.C. Magtech, right?

25 A That's correct.

1 Q Do you know you can purchase the 45 GAP Magtech
2 ammunition at Palmetto State Armory here?

3 A I'm not surprised by that.

4 Q Are you surprised you can purchase it at Academy
5 Sports and Outdoors at two locations in Columbia?

6 A I'm not surprised by that.

7 Q Are you surprised you can purchase the 45 GAP
8 Magtech at Lexington Firearms and Gun Works here in
9 Columbia?

10 A No, ma'am, I'm not surprised.

11 Q You can also purchase the 45 GAP ammo at Decker
12 Pawnshop here in Columbia?

13 A I'm not surprised. I'm not familiar with that
14 one, but I'm not surprised.

15 Q Would it surprise you that I personally spoke
16 with the district manager of C.B.C. Magtech and that
17 he was --- (talking over each other)

18 MS. SIMPSON: Objection, Your Honor.

19 MS. BAMBACH: Because ---

20 THE COURT: Sustained. Disregard that last
21 statement.

22 BY MS. BAMBACH:

23 Q Your report also states that the only known
24 manufacturer of 45 GAP caliber and all the 45 auto
25 caliber is Glock, right?

1 A The only potential firearm with those rifling
2 specifications that is known at this time is Glock.

3 Q Okay. And there are four different models of
4 Glock that can fire a 45 GAP, right?

5 A There's the 37, there is the Gen IV 37, which is
6 just a newer model of the 37. There is the 38 and the
7 39.

8 Q Okay. And all of those models have similar
9 external dimensions, don't they?

10 A Well, actually the 37 is the larger frame.

11 Q Uh-huh.

12 A The 38 is what they call the compact and then the
13 39 is the subcompact, the smallest.

14 Q And the 37 and the 37 Gen IV do have a few
15 inches --- a few millimeters difference?

16 A In size, yes.

17 Q Yes, and the 38 is not that much smaller. Seems
18 like about half an inch?

19 A I would have to check my notes.

20 Q You said that, let's see. Page three of your
21 report under Item 36, that's when you said due to the
22 limited marks, the value results of these comparisons
23 were inconclusive and that Item 36 could loaded into
24 the same firearm or firearms as 6, 8, 9, and 10 at
25 some prior time, right?

1 A Yes, ma'am.

2 Q But these were all similar to --- they're all
3 characteristics similar to Glock, right? We
4 specifically know Glock is --- has the same
5 characteristics?

6 A As fired bullets.

7 Q As fired cartridges and bullets?

8 A The fired bullets were eight right, polygonal
9 which is a characteristic with the known only
10 manufacturer at the time is Glock. The fired
11 cartridge cases had the firing pin impression
12 consistent with a Glock firing pin and that was on the
13 45 GAP caliber cartridge cases.

14 Q And the 45 auto caliber can also fire the 45
15 caliber GAP?

16 A Potentially, yes.

17 Q Okay.

18 A As long as the 45 GAP does not go further down
19 into the chamber where it will not be reached by the
20 firing pin.

21 Q So a Glock 21 could potentially fire a 45 caliber
22 GAP?

23 A Let me double check.

24 Yes, Glock 21 is the 45 caliber, 45 auto caliber
25 Glock. It could possibly fire the 45 GAP.

1 Q Also, the Glock 21 Gen IV could possibly fire ---

2 A Yes.

3 Q --- could have possibly fired it?

4 A Yes, ma'am.

5 Q The Glock 21 SF could possibly fire it?

6 A Yes, ma'am.

7 Q The Glock 30 could ---

8 A Can I finish my ---

9 Q Sure. I'm sorry.

10 A There could be problems with the loading and
11 extracting of sub sequential fires or shots.

12 Q Okay. The Glock 30 Gen IV could potentially fire
13 it?

14 A Yes, ma'am.

15 Q Glock 30 FN could potentially fire it?

16 A You said Glock 30?

17 Q SF?

18 A Yes, ma'am.

19 Q Glock 30 S could potentially fire it?

20 A Yes.

21 Q Glock 36 could potentially fire it?

22 A Potentially, yes

23 Q And Glock 41 Gen IV could potentially fire it?

24 A You said Glock 31?

25 Q Forty-one.

1 A Forty-one. I'm not as familiar with Glock 41.

2 MS. BAMBACH: I have nothing further at this
3 time.

4 MR. SCHNEE: May it please the Court.

5 CROSS-EXAMINATION:

6 BY MR. SCHNEE:

7 Q Is there anything from all the testing you've
8 done and comparisons you've done that would indicate
9 who fired any of these shots?

10 A No, sir.

11 MR. SCHNEE: Thank you.

12 MS. SIMPSON: I just have two brief redirect
13 questions, Your Honor.

14 REDIRECT EXAMINATION:

15 BY MS. SIMPSON:

16 Q Is it unusual for you not to have a firearm?

17 A No, it's not, ma'am.

18 Q With respect to everything she named out as a
19 possibility of firing that 45 GPA caliber ammunition,
20 what was the manufacturer of all those that she named?

21 A Glock Firearms.

22 Q Thank you, Ms. Cromer.

23 THE COURT: Okay. Ladies and gentlemen, we're
24 going to break for the evening. We ran a little bit
25 longer than normal tonight. I do apologize. We are

1 going to break for the evening. If you'll be in your
2 jury room tomorrow morning at 9:15 ready to go. You
3 are not to discuss the case with anyone in any way,
4 shape, or form. You are to keep an open mind about
5 the case. You have not heard all the testimony in the
6 case at this point that I know of and the lawyers have
7 not had a chance to make their closing arguments to
8 you and I have not told you what the law is, so you
9 are to still have an open mind about the case.

10 You will recall that previously I have told you
11 in great detail that you are to decide this case based
12 upon the evidence that is presented in this courtroom
13 and nothing more. Because we're about to take a
14 break, I'm going to remind you of that warning and ask
15 you to commit to each other, the parties and to the
16 court that you will not discuss this case with anyone,
17 read any news account about this cases, via print
18 paper, internet, radio, television or anything else as
19 you have done throughout this entire trial.

20 Thank you for your service. We'll see you
21 tomorrow morning at 9:15. Everyone remain seated
22 while the jury is dismissed.

23 (WHEREUPON, the jury left the courtroom at 5:44
24 P.M.)

25 THE COURT: Thank you, Ms. Cromer. You may step

1 down.

2 (WHEREUPON, there was an off-the-record
3 discussion.)

4 THE COURT: Any potential jury charges you want
5 you need get to me in the morning so I can look at it.
6 I already got copy from the State. Did you get a copy
7 of it?

8 MR. KRZYSTON: We did, Your Honor, somewhere over
9 here.

10 MR. SCHNEE: We did. I would like an opportunity
11 obviously to read through them.

12 THE COURT: Yes, sure.

13 MR. SCHNEE: I think my only objection would be
14 to any of those in terms of cumulative.

15 MS. CAMPBELL: There's a couple I've gone over
16 that are cumulative.

17 THE COURT: Some of them looked like different
18 wordings of the same issue. Anything you want to
19 submit, get that that to me in the morning so we can
20 look at it and go through it.

21 MS. GARFIELD: Judge, I just want to put
22 something on the record in response to Mr. Schnee's
23 discovery violation insinuation, as well, as having an
24 opportunity to review our notebook, I found an email I
25 sent to all counsel, including counsel for Mr. Young,

1 Barnes and Mr. Stevenson dated October 28th, 2014, at
2 11:29 A.M. where I said attached is a copy of
3 discovery that I personally did not have my notebook.
4 In that were Investigator McCoy's handwritten notes
5 where he does have entries through November and
6 December. The November entries are --- to the typed
7 entries of his report and the December entry is just
8 perceived statement from Lorenzo Young from Lieutenant
9 Williams. Mr. Schnee was provided a copy of that
10 statement. I also have a copy of an email from
11 Mr. Schnee dated October 27th, 2014, at 5:31 P.M.
12 where he acknowledges receiving it.

13 THE COURT: Okay.

14 MS. GARFIELD: Thank you.

15 MR. SCHNEE: In that regard yes, I did receive
16 the handwritten notes. My objection was purely for
17 the typed out report that I never received until in
18 court.

19 THE COURT: All right. Anything else?

20 MS. SIMPSON: Thank you.

21 MS. GARFIELD: Not from the State, Judge.

22 MR. KRZYSTON: Nothing for Mr. Young.

23 THE COURT: All right. Nine o'clock in the
24 morning.

25 NOVEMBER 18, 2014

1 THE COURT: Okay. Anything before we get started
2 this morning?

3 MS. GARFIELD: Actually, Judge, we have some
4 motions. Ms. Ambroziak and I got together last
5 evening to look at the exhibits, and I just want to
6 clarify some things. First of all, State's
7 Exhibit 379, 384 and 355 were marked and the State is
8 withdrawing those and then, just to clarify,
9 Ms. Ambroziak did not have State's Exhibit Number 398
10 into evidence. This was introduced. This was the
11 blow up of the phone log. It was introduced through
12 Sergeant Pegram and if my memory is correct, it was
13 introduced without objection from both trial counsel
14 after revisions were made before the witness
15 testified.

16 MR. SCHNEE: That's my recollection, as well.

17 THE COURT: You wanted some stuff taken off and
18 that was taken off.

19 MS. SIMPSON: And then lastly, Judge --- and I
20 think this is just simply my fault, Ms. Ambroziak had
21 426 marked. I moved 428 into evidence. That's
22 because I thought this was an eight. Ms. June tells
23 me it's her six, so that just needs to be corrected.

24 THE COURT: Let me see it.

25 MS. SIMPSON: This was introduced through

1 Investigator VanHouten. It was the still shot of the
2 firearm that was seen in the video taken from the cell
3 phone from Lorenzo Young.

4 THE COURT: So it's 426 not 428?

5 MS. GARFIELD: That's correct.

6 MR. SCHNEE: If I may ask, which is the other 428
7 --- is just to be sure?

8 MS. GARFIELD: I'll have to find it.

9 THE COURT: Okay. So 426 is in over defendant's
10 objections. What else I?

11 COURT REPORTER: So 426 is in. in addition to 428
12 or instead of?

13 MS. GARFIELD: Just 426.

14 (WHEREUPON, State's Exhibit Number 426 was
15 admitted into evidence replacing State's Exhibit
16 Number 428 due to unreadable exhibit number.)

17 MS. GARFIELD: Our records indicate that there is
18 not a 428 that's in. The number was ---

19 Judge, we believe with our next witness or one of
20 our next witnesses, Sergeant Reese, defense counsel
21 yesterday in their examination of Investigator McCoy
22 and counsel, being Mr. Young's counsel, did do into
23 questioning about still photos taken at Lexington
24 County. Your Honor ruled that's not admissible.
25 There's now been reference to those. We now believe

1 we can go into those.

2 THE COURT: Let me see them.

3 MS. GARFIELD: I don't want to go against any
4 prior rulings. Those are not marked.

5 THE COURT: Mr. Krzyston.

6 MR. KRZYSTON: Yes, Your Honor.

7 THE COURT: What's your position?

8 MR. KRZYSTON: I've not seen the photos.

9 THE COURT: The still photos from the bakery,
10 inside the bakery.

11 MR. KRZYSTON: What are they, just like a
12 snapshot, if you will?

13 (Pause.)

14 Judge, my position would be that I object to the
15 introduction of those photos based on the fact they
16 are cumulative evidence at this point. I believe they
17 were originally excluded based on their cumulative
18 nature, furthermore the only reason I mentioned
19 Lexington County is because Investigator McCoy brought
20 it up in answering one of my questions, so I don't
21 know that our referencing them defeats the fact that
22 they are still cumulative. The entire video is in
23 evidence and I tend to think that is the best evidence
24 of the actual event and again just no reason to throw
25 this additional evidence up there.

1 MR. SCHNEE: Judge, my recollection of McCoy's
2 testimony is essentially that it was brought to
3 Lexington County to attempt to enhance the quality to
4 see if they could get any more useful information. I
5 think he even testified that could not get anything
6 useful out of it, and I would also say that these
7 photos are cumulative and that's what I remember, Your
8 Honor, declaring as to why they are inadmissible. I
9 don't see how anything has changed.

10 THE COURT: Well, it changes because the
11 impression is out there that there's all these photos
12 that exist that the State hasn't bothered to put in of
13 the crime scene.

14 MS. GARFIELD: That's our contention.

15 THE COURT: I mean it was brought up in cross-
16 examination with little to no evidentiary basis in any
17 way, shape, or form, but the jury is left with the
18 impression that the government is in possession of all
19 these photos of the crime that haven't been admitted,
20 so all of them are in. Mark them.

21 MS. GARFIELD: Thank you, Your Honor.

22 THE COURT: All right. What else?

23 MS. GARFIELD: Judge, this is more of a asking
24 for guidance. There's been questioning by defense
25 counsel through our witnesses about several people

1 that were never interviewed and there's also a mention
2 of a Marcus Brown. As Your Honor is aware, Marcus
3 Brown is on our witness list. He was living at the
4 home of Lorenzo Young, I believe, in a relationship
5 with his mother at the time of this incident and did
6 give information to law enforcement. As Your Honor is
7 aware or as I will remind you, you signed a bench
8 warrant for his arrest last week. He is under
9 subpoena and has failed to come to court at this
10 point. I'm just seeking guidance, before I ask any
11 questions. I'd like to be able to ask Sergeant Reese
12 if Mr. Brown gave him information and has he appeared
13 in court so the jury is not just wondering where is
14 this person that's been referenced.

15 THE COURT: Okay.

16 MR. KRZYSTON: Judge, I believe the only
17 reference to Mr. Brown was the fact that it was a
18 question to a SLED agent. I believe that question
19 was, were you aware that Mr. Brown wears a size 12
20 shoe. That in no way alludes to the information that
21 Mr. Brown provided to police and simply points how
22 that another individual in the house could have been
23 the person to whom those shoes belong. I just do not
24 see any purpose at this point ---

25 THE COURT: Well, McCoy was cross-examined

1 extensively on Marcus Brown as being a witness and
2 Marcus Brown not being talked to.

3 MR. SCHNEE: No, Judge, we were talking about
4 Marcus Johnson.

5 THE COURT: Marcus Brown was mentioned too,
6 because there was a whole conversation where McCoy was
7 talking about that may be the stepfather or the
8 stepdad or the boyfriend or the old boyfriend or the
9 current boyfriend.

10 MR. KRZYSTON: I believe that was ---

11 MR. SCHNEE: That's Marcus Johnson.

12 THE COURT: That's Marcus Johnson?

13 MR. SCHNEE: That's Marcus Johnson, Your Honor.
14 Marcus Brown is Lorenzo Young's stepfather, who did
15 talk to law enforcement and did give a statement. We
16 haven't talked to any of the witnesses, but for
17 reference to shoe size, about Marcus Brown.

18 THE COURT: We may need pull up that testimony.
19 There's so many Marcuses that I may be a little lost.

20 MS. GARFIELD: And I certainly don't want to
21 mislead the court, but that was my recollection.

22 THE COURT: I thought that was all about ---

23 MR. KRZYSTON: No, Judge.

24 THE COURT: There's multiple Marcuses and there
25 is a Marquis, who people say his name wrong.

1 (WHEREUPON, the Court Reporter accessed the
2 requested testimony relating to Marcus Brown.)

3 THE COURT: It's not in Mr. Krzyston's cross.
4 It's in your direct that it comes up. In the litany of
5 people you were talking to, you did not go talk to
6 him. His name is not mentioned.

7 No, it's not that I don't believe anybody or
8 didn't believe anybody, there's just so many Marcuses.

9 MS. GARFIELD: I understand.

10 MR. SCHNEE: I understand, Judge.

11 THE COURT: The part about the stepfather or
12 father or dad or what ever he was, was on direct.
13 That's where my mind was triggering from. All right.
14 What else?

15 MS. CAMPBELL: Your Honor, at this point based on
16 things that developed yesterday, we would ask for a
17 Denno hearing and we would be intending on asking to
18 offer parts of Trenton Barnes' statements limited to
19 his participation in the crime.

20 THE COURT: Okay.

21 MS. CAMPBELL: Your Honor, I'll call up Sergeant
22 Reese, and it would hand up this up to the court, Your
23 Honor, since it would be easier at this point to
24 follow transcripts.

25 THE COURT: Okay.

Direct of Reese by Campbell
(Denno)

1 MS. CAMPBELL: And I would also hand them to
2 defense counsel. I marked them (1), (2), (3).
3 They're all the same transcripts.

4 HE COURT: I'm confused as to what one, two, and
5 three are. Three different people transcribed ---

6 MS CAMPPELL: They are all the same, from one
7 interview. Those are just the order to keep them ---

8 MR. SCHNEE: Judge, there are three separate
9 portions. If you look at the titles, it says on
10 number(1) there is no title. On number (2) it says
11 Trenton Barnes' confession number two.

12 THE COURT: All right.

13 MR. SCHNEE: That is the second interview.

14 THE COURT: Okay.

15 MR. SCHNEE: Trenton Barnes' second recorded
16 transcript, that actually is a copy of one of them
17 essentially and the two ---

18 MS. CAMPBELL: There are two recorders, right.

19 THE COURT: I understand it now.

20 MR. SCHNEE: But I think they all picked up sight
21 different things.

22 MS. CAMPBELL: There were multiple different
23 recorders used.

24 SERGEANT KEVIN REESE,

25 after being duly sworn, testified as follows:

DIRECT EXAMINATION:

(DENNO)

BY MS. CAMPBELL:

Q Sergeant Reese, I want to turn your attention to Friday July 5th, did you come in contact with Trenton Barnes in this case?

A Yes.

Q Was he transported down to Columbia Police Department?

A Yes, he was.

Q At that point, did you and Investigator McCoy interview him?

A We did.

Q Prior to interviewing him or asking questions about what happened, were you present when he was advised of his rights?

A Yes, ma'am, I was.

Q Who actually was talking as far as the advice of rights went?

A It would have been Investigator McCoy.

Q McCoy?

A That's right.

Q And while you were there, referring to page two of the transcript, were those the rights that were advised to Mr. Barnes?

1 A It is.

2 Q And what rights specifically did Mr. McCoy advise
3 him of?

4 A His Miranda rights. Do you want me to read them?

5 Q Yes, for the record.

6 A Okay. McCoy told him that before we ask any
7 questions, you must understand your rights. He said,
8 "You have the right to remain silent." He said,
9 "Anything you say can and will be used against you in
10 court. You have the right to talk to a lawyer for
11 advice before we ask you any questions and to have him
12 with you during questioning." He also advised him
13 that him, "If you cannot afford a lawyer, one will be
14 appointed for you before any questioning if you wish.
15 If you decide to answer questions now without a lawyer
16 present, you still have the right to stop answering
17 questions at any time. You also have the right to
18 stop answering questions at any time until you talk to
19 a lawyer." He asked him, "Do you understand that?"

20 Q Did he then ask him to acknowledge that?

21 A Yes, he did and I also asked him did he
22 understand that and his reply --- Mr. Barnes' reply
23 was, "Yes, sir."

24 Q At that point what did Investigator McCoy ask him
25 to do?

1 A At that point he asked him to put his initials on
2 each line before each right that was read to him.

3 Q And at that point, did Trenton Barnes ask you a
4 series of questions about going to jail and things of
5 that matter?

6 A Yes, ma'am.

7 Q Were those answered for him?

8 A They were.

9 Q And on the next page, did he indicate that he
10 used to be in classes but he worked his way up?

11 A Yes, he did.

12 Q And then did Investigator McCoy read him a
13 statement of his rights?

14 A That's right, he did.

15 Q And what was that?

16 A He said, "I have read this statement of my
17 rights. I know what my rights are. I am willing to
18 make a statement and answer questions. I do not want
19 a lawyer at this time. I understand and know what I
20 am doing. No promises or threats have been made me
21 and no threats or coercion has been used against me."

22 We asked him do you agree with that? If you do,
23 sign right here. McCoy was showing him where to sign.

24 Q Now, at that point did you tell him to take his
25 time?

1 A I told him to take his time and read it.

2 Q Did Trenton Barnes then ask you a question?

3 A Yes, he did.

4 Q And what question did he ask you?

5 A He asked, "Instead of a lawyer, can I have my
6 mama." Those were his words.

7 Q What did you tell him?

8 A I told him as soon as she gets there he could see
9 his mama.

10 Q And at that point were you waiting on his mom to
11 show up?

12 A We were waiting on his mom.

13 Q During that period of time, did he also ask you,
14 on the top of the next page, about whether he would
15 wait and sign it when his mother got there?

16 A Yes, he asked, "Can I sign it when my mama gets
17 here."

18 Q What did you indicate to him?

19 A I told him you can sign it when your mama gets
20 here. Do you want --- and I asked him, "Do you want
21 to talk to us now."

22 Q And was his mother brought into the room with him
23 when you all interviewed him?

24 A Yes, she was.

25 Q And I'm going to show you State's Exhibit Number

1 464. To you recognize this?

2 A I do. That is waiver form of the rights we
3 normally read.

4 Q And the rights that you read to him, do those
5 come off of this form at that point?

6 A Yes.

7 Q Did Trenton Barnes ever want to sign that form?

8 A No, he didn't want to sign it.

9 Q Did he agree to talk to you all once his mother
10 got there?

11 A Yes.

12 Q Was his mother made aware of what was going on?

13 A Yes, she was. She was informed.

14 Q Was Trenton Barnes, I believe, he was 16 at the
15 time of this interview?

16 A Sixteen.

17 Q Did he make the decision to talk to you?

18 A Yes.

19 Q And that was recorded?

20 A Yes, it was.

21 Q I want to move on to the reported transcript that
22 I've got marked number (2) on the top.

23 (this is not on the exhibit.)

24 And we're going to limit this specifically to
25 what Trenton said about his involvement in the robbery

1 was. Did he indicate to you what the plan was that
2 night, on page two?

3 A Yes, he did.

4 Q And what was the plan initially?

5 A The plan was they were going rob the Ale House.

6 Q Then was he asked what happened?

7 A When that question was asked, his answer was the
8 cars started pulling out.

9 Q Pulling out?

10 A Meaning the parking lot. The large parking lot
11 in front of the Ale House and that's what he was
12 talking.

13 Q And then was he asked what happened after that?

14 A Yes, and his answer was --- we're still on page
15 two?

16 Q Yes, sir. What was his role in the actual
17 robbery of the bakery?

18 A He said all he had to do was sit at the door and
19 to yell if he saw anybody. He just needed to yell.

20 Q Then he said --- and you can't go any further in
21 front of the jury about what he said everybody else
22 did --- moving on to page four. Did you ask him if he
23 watched what happened?

24 A McCoy asked him that and his answer was, "Yes,
25 sir."

1 Q And then finally moving to the third transcript,
2 did y'all ask him if he knew if anybody was inside
3 building?

4 A What page?

5 Q Page four.

6 A I asked him did he know if anybody was inside of
7 the building.

8 Q What did he indicate to you?

9 A He just said, "I was just supposed to sit and
10 lookout."

11 Q And then finally on page 17 of that transcript?

12 A Seventeen?

13 Q Uh-huh. Limit it to what he said he did?

14 MR. SCHNEE: Did you say 17?

15 MS. CAMPBELL: Seventeen of number three.

16 MR. SCHNEE: Oh, number three.

17 MS. CAMPBELL: I'm sorry. I'm on the next one.

18 I apologize.

19 BY MS. CAMPELL:

20 Q Did he indicate what the plan was?

21 A The plan was to rob the Ale House.

22 Q And then what happened?

23 A They argued and start to pull out.

24 Q And then at the top of the next page, does it
25 indicate what he was supposed to do in the bakery

1 robbery?

2 A Again, he indicated that he was just supposed to
3 sit by the door. If he saw anybody, yell.

4 Q And that was the statement that he gave you
5 back --- or the substance of what he said his
6 participation was back on July 5th when you
7 interviewed him?

8 A That's right.

9 Q And this was all audio recorded?

10 A Yes, ma'am.

11 MS. CAMPBELL: Your Honor, that would be the
12 substance of what we would be asking him. We will try
13 to be very careful about the Bruton issues here. We
14 would limit it to only his role in the robbery.

15 BY MS. CAMPELL:

16 Q The person that you interviewed, do you see him
17 in the courtroom?

18 A I do.

19 Q Can you point him out for the judge?

20 A He is at the end of the defense table with a
21 black and white grayish shirt.

22 Q Sitting next to his attorney?

23 A That's correct.

24 MS. CAMPBELL: Thank you.

25 MR. SCHNEE: May it please the Court.

CROSS-EXAMINATION:

BY MR. SCHNEE:

Q Investigator Reese, you were handed up State's 464. That's the advice of rights form?

A Yes.

Q If I understand you correctly, Trenton Barnes never signed the a waiver of rights?

A That would be correct.

Q Now these recorders that you have, there are actually two separate interviews, were there not?

A Yeah, that would be right.

Q Okay. So the first interview ---

A I'm sorry, one was just a continuation of the beginning of the interview.

Q Okay. Well, the first very one is when you do the advice of rights and he doesn't sign them?

A That's right.

Q At that point you and McCoy wait for his mother to get there?

A Yeah, but while we were in the room with him, his mother showed up downstairs.

Q Right. Okay. And there is a pause, right?

A Okay.

Q And if I'm understanding this correctly, there is quite a lengthy pause in the recording itself. There

1 was an error with recording; is that right?

2 A An error, I believe so.

3 Q There is a huge chunk missing from essentially
4 the middle of this extended conversation?

5 A I don't really recall that.

6 Q You don't recall that?

7 A I don't know how much of a chunk that you're
8 talking about. I don't recall.

9 Q Well, let's see. You ended the first one while
10 still waiting for his mother, right. The first
11 recording ended while you're still waiting for his
12 mother to show up, right?

13 A I don't know when it ended, but here is how it
14 went. He asked again about his mom. At that point, I
15 got on the phone to start calling the officers that
16 were on the scene at the house that we picked him up
17 from ---

18 Q Uh-huh.

19 A --- to find out where his mother was, and then I
20 was informed that she was on the way. I then called
21 downstairs and realized that she had been there or she
22 was there at that time, but she was sitting out in the
23 lobby, and the officers didn't know what she was there
24 for. That was my understanding.

25 Q Okay.

1 A They said there was a lady sitting in the lobby.
2 I asked them to ask her name. Once we found out that
3 was her name, that would be that block that you're
4 probably talking about. Either I or McCoy went
5 downstairs to get her. I'm not sure.

6 Q Okay. In the first transcript I'd like you to
7 turn to the third to the last page. At the very top
8 it starts with you. It says you're on the phone. It
9 says this kid Trenton, has --- his mom left? Do you
10 see that?

11 A What? What page are you saying?

12 Q Third to the last. They're not actually
13 numbered, three from the end. Yeah, that's the one.
14 Okay. It even starts actually before that. You're at
15 this point calling to find out where Trenton's mother
16 is?

17 A Yes.

18 Q And while you're doing that, Investigator McCoy
19 is talking to Trenton about him being a Christian?

20 A Right.

21 Q And asking if he believes in God?

22 A Right.

23 Q Now, that conversation kind of continues for
24 awhile, does it not?

25 A It does, but the conversation wasn't going

1 anywhere.

2 Q Okay. The conversation between McCoy and Barnes
3 about God and religion continues for awhile, doesn't
4 it?

5 A Uh.

6 Q At the bottom of the next page, Investigator
7 McCoy asks are you a Baptist?

8 A Right, a couple minutes.

9 Q So it goes on for a couple of minutes. At that
10 point the first recording ends?

11 A I would assume so if that's what you're getting
12 at. Without sitting down and listening to where it
13 ended and where it picked up again, I'm not that sure.

14 Q Okay. That's the end of this transcript, though,
15 right?

16 A That would be correct.

17 Q And after that, there is a pause in the recording
18 for however long it is and then the next recording
19 starts. At this point, Mr. Barnes' mother is already
20 in the room?

21 A Yeah, she is.

22 Q I'd like ---

23 A Again, that would have been the time when you're
24 talking about the blank space where we went to get his
25 mother.

1 Q Okay. You don't remember if you went downstairs
2 or McCoy went downstairs?

3 A I'm not exactly sure. I don't recall which one.

4 Q Okay.

5 A I think it might have been me.

6 Q Okay. I'd like you to take a look at the
7 transcript that the State has written number (3) on?

8 A Okay.

9 Q During the time that there was no recording, did
10 Investigator McCoy continue to talk to Trenton Barnes?

11 A I'm sorry, say that again.

12 Q During the time that there was a pause in the
13 recording or a malfunction in the recording, you went
14 to get his mother or someone went to get his mother.
15 Was there still a conversation going on?

16 A I don't know what McCoy was saying to him, if
17 anything ---

18 Q Okay.

19 A --- while I was gone.

20 Q I'd like you to turn to page 12?

21 THE COURT: Of which one?

22 MR. SCHNEE: What's numbered (3) at very top,
23 second line, McCoy says, "We prayed together, didn't
24 we?" Barnes says, "Yes, sir," and McCoy says, "We
25 sure did. I told you what repent means, right,

1 repentance, means, right.

2 Barnes, Yes, sir," McCoy, "okay." Reese, you
3 asked, you cold?" You're asking him if his microphone
4 is turned off, aren't you?

5 A That's right.

6 Q Because you know this is an improper line of
7 questioning, don't you?

8 A No, I asked him that because --- I didn't know
9 about this conversation. I don't know what he talked
10 about while I was gone. There was no way I could have.
11 I didn't ask him when I got back there. When I ask
12 another investigator, "Are you cold, are you hot?"
13 Yeah, there's no secret about that. I'm asking him if
14 he says he's cold, he doesn't have the recorders on.
15 If he says he's hot, he's got it on.

16 Q So you asked him specifically, "You cold, you
17 cold, are you cold?"

18 A Right.

19 Q Okay. You're trying to confirm whether he has
20 his recording on?

21 A Right.

22 Q Now, McCoy says he prayed with my client. You
23 weren't there for that, were you?

24 A No.

25 Q And somehow that's not on an audio recording, is

1 it?

2 A Apparently not.

3 Q And he never signed that waiver of rights?

4 A No, he didn't.

5 MR. SCHNEE: Judge, I have no further questions.

6 I do have some legal arguments about this.

7 THE COURT: All right. Redirect?

8 MS. CAMPBELL: No redirect on this witness, Your
9 Honor.

10 THE COURT: All right. Thank you very much. You
11 may step down.

12 THE WITNESS: Thank you.

13 MS. CAMPBELL: The State calls Investigator
14 McCoy.

15 THE COURT: All right.

16 INVESTIGATOR MATTHEW MCCOY,

17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION:

19 (DENNO)

20 BY MS. CAMPBELL:

21 Q Investigator McCoy, I want to turn your attention
22 back to July 5th. You were the one that advised
23 Mr. Trenton Barnes of his rights that day?

24 A That's correct.

25 Q Those were indicated in the transcript?

1 A That's correct, I read it off the form.

2 Q You read off the form?

3 A I read directly off the form, yes.

4 Q Which is State's Exhibit Number 464?

5 A That's correct.

6 Q And when you read him those rights, did he
7 indicate whether or not he understood them?

8 A He did. He indicated he understood.

9 Q In fact, instead of asking for a lawyer, he
10 actually just asked to see his mom?

11 A Correct, he just wanted his mom.

12 Q At that point this was being recorded; is that
13 correct?

14 A That's correct.

15 Q At some point, did the recorder quit working?

16 A It did. The recorder actually failed. In fact,
17 Sergeant Reese and I interviewed him for a length of
18 time without knowing the recording failed. When I
19 realized that, I pulled Reese out, let him know that
20 the recorder had failed and shut off, which is why I
21 brought two recorders in the next time when I came in
22 to interview him.

23 Q In fact, though, during the time that you were
24 interviewing him after he asked for his mother before
25 his mother got there, did you all ask him any

1 questions about the case?

2 A None whatsoever.

3 Q But did you mention religion to him?

4 A Yes, I did.

5 Q And at that point was his mother brought into the
6 room?

7 A She arrived shortly. While I was waiting ---
8 Reese, to my recollection, Reese went down to get his
9 mother. I was in the room with him waiting. The
10 recorder was still running at that point. Then when
11 Reese got back, we talked to his mother for some time
12 shortly, and then we talked to him. He agreed to talk
13 to us, and we began the interview.

14 Q Did he ever sign the waiver form?

15 A No, he didn't want to sign the waiver form.

16 Q Is that unusual?

17 A It's not unusual. I had a conversation. I said,
18 "Hey, you need to sign the waiver form if you want to
19 talk to us." He agreed that he understood and wanted
20 to talk.

21 Q And his mother was present during the time you
22 were interviewing him about the facts of the case?

23 A Yes, she was present the entire time we were
24 interviewing him.

25 Q At any point did he ever invoke any of his

1 rights?

2 A No, he did not.

3 Q At any point did he ever ask for a lawyer?

4 A No, he did not.

5 Q In fact, when he asked for his mother, did you
6 get his mother there?

7 A Yes.

8 Q At any point did he say he didn't want to talk
9 anymore?

10 A No, no, he never did.

11 Q Did anyone threaten him in any way?

12 A No, we did not.

13 Q Did anyone deprive him of any creature comforts?

14 A No, we did not.

15 Q In your opinion as an investigator, was he
16 talking to you voluntarily?

17 A He was.

18 Q Did he seem to understand his rights to the point
19 when he didn't want a lawyer, but instead wanted his
20 mom?

21 A That's correct, he did.

22 Q During the time period when he was there both in
23 the nonrecorded and recorded time, did he at any point
24 ever invoke any rights?

25 A No.

1 Q In fact, do you hear his voice and him telling
2 you what happened that night in the recordings that
3 have been transcribed?

4 A Yes.

5 Q And his mother was present?

6 A That's correct, she was there.

7 MS. CAMPBELL: That's all I have, Your Honor.

8 MR. SCHNEE: May it please the Court.

9 CROSS-EXAMINATION:

10 BY MR. SCHNEE:

11 Q If I'm understanding you correctly, you say you
12 realized at some point the recording had stopped
13 working?

14 A That's correct.

15 Q You left and came back?

16 A To the best of my recollection, as we're talking
17 and interviewing there's a button on the recorder that
18 I can press on it to see if it's still recording. It
19 wasn't on. It was turned off. I don't know if the
20 battery had died. We had many interviews that day,
21 but the recorder had stopped working. I went and
22 pulled Reese out, made some kind of excuse, hey, we
23 need go outside real quick. I advised him that the
24 recorder had quit working, I got two other recorders
25 and brought them back in as I recall, right.

1 Q Okay. So when you started a new recording, did
2 you put an introduction on the recording at all?

3 A Not that I recall.

4 Q Most of the recordings, you say this is
5 Investigator Matt McCoy, the Columbia Police
6 Department, the day and time and who your about to
7 interview, right?

8 A That's correct.

9 Q You do that most of the time before you even walk
10 into the interview room?

11 A That's correct.

12 Q But you didn't do that with the recordings here?

13 A No, because they were --- it was a continuation
14 of the same interview. I believe I introduced the
15 first interview or the first recording. So it was
16 just the same interview. When I realized the recorder
17 had quit, I went and got another recorder and came
18 right back.

19 Q Okay.

20 A I have didn't need to introduce it because it was
21 the same incident, just three different files.

22 Q So on the first interview, which is the first
23 part of your interview, you started talking to Trenton
24 about religion and God.

25 A Yes, I did.

1 Q If he believed in God?

2 A Yes.

3 Q If he's a Christian?

4 A Yes, I believe I noticed a cross on his neck he
5 was wearing, which is why I brought that up.

6 Q Okay. You started talking about going to
7 St. Baptist?

8 A I think he brought up. He brought up the church,
9 I believe is how that happened.

10 Q Now, during the time that the recording is not
11 working, that's apparently the time when you prayed
12 with him?

13 A I don't recall when exactly the recording shut
14 off.

15 Q Okay. But at some point you prayed with him?

16 A At some point, I asked him if he wanted to pray,
17 and he acknowledged, yes, yes, he did.

18 Q Okay.

19 A To the best of my recollection.

20 Q And this is before the second recording starts?

21 A It would have been during the original recording
22 if it had continued to operate.

23 Q So it was during the time the recorder
24 malfunctioned?

25 A That's correct. During the time the recorder was

1 malfunctioning with his mother there, we talked about
2 the whole incident. It was a good solid chunk that's
3 missing out of that first recording. That was the
4 operation of it.

5 Q Okay. So you don't have on audio that he ever
6 waived his rights, do you?

7 A I do --- I believe the first part of audio he
8 waives his rights. He is waiting for his mom.

9 Q He signs his rights, but he never actually waives
10 his rights, does he?

11 A He waives his rights. He agreed to talk to us
12 after being advised of his rights. All he wanted was
13 his mother.

14 Q Can you show me anywhere that he says, yes, I
15 agree to waive my rights?

16 A I don't have a copy of the transcript at all. If
17 you don't mind. I don't know if he ever said those
18 exact words.

19 Q Well, did you ever ask him specifically, do you
20 wish to talk to us, and he says I want my mother?

21 A Let's see, page two, I was talking to him. I
22 read him his rights. If you understand you have to
23 acknowledge. Reese asked, "Do you understand?" He
24 said, "Yes, sir." I asked him to put his initials on
25 the form indicating that he understood the rights.

1 Q Uh-huh. Okay.

2 A Which he did. He then asked about going to jail,
3 and I went on. I had advised him, you know, you're
4 not under arrest. Did I tell you were under arrest?
5 What did I say when we were at the house. I asked did
6 you mind coming down to headquarters. He answered
7 some questions, right, he acknowledged that's what
8 happened. I then advised him, did you ride in the
9 back of a police car? No, you rode in the front seat
10 with me. You were in an unmarked car. You weren't
11 handcuffed in a cage behind your back. He
12 acknowledged that I was correct in correct in saying
13 that he had voluntarily came down to headquarters to
14 answer some questions.

15 Then I read the statement, asked him to read
16 along with me the statement of the waiver of rights,
17 that's off the form. Reese tells him to take his
18 time. Then he says, "Instead of a lawyer, can I take
19 my mom. He is advised as soon as she got there he
20 could. We asked does he have to sign it. I
21 acknowledged if he wanted to talk to us, then yes, I
22 would like him to sign.

23 Q You said you have to sign this if you want to
24 talk to us?

25 A Let me finish. Let me finish.

1 Q I'm asking you is that what you said?

2 A My exact quote was "If you want to talk to us,
3 yes."

4 Q His question was, "Do I have to sign this?" That
5 was his question?

6 A His question was, "Do I got to sign this?" Was
7 his exact --- I acknowledged that if you want to talk
8 to us, yes.

9 Q Do you have a signed form?

10 A No. The form --- he refused to sign the form.

11 Q Okay. Well, he asked you do I have to sign this,
12 and you said yes and you don't have a signed copy?

13 A Well, there's nothing legally requiring him to
14 sign the form. He just has to acknowledge and agree
15 to talk to us, which he did.

16 Q He asked you a very specific question and you
17 told him yes, you needed to sign this. This is a
18 16-year-old?

19 A Yes.

20 Q That's what was said --- those are your words in
21 the transcript?

22 A That's correct.

23 Q Well, continue?

24 A Reese advised him, "No, you don't have to sign
25 it, just as long as you understand your rights. If

1 you want to talk to us, let us talk --- let's talk.
2 If you don't want to sign it, you don't have to worry
3 about signing it. Just write on there that you didn't
4 want to sign it." Then he asked does it mean that
5 I'll go to jail. I talked to him about that nobody in
6 this room told you that you were under arrest. He
7 acknowledged that we didn't tell him he was arrest.

8 He asked, "Can I sign it when my mama gets here,"
9 and Reese acknowledges, "Yes, you can sign it with
10 your mom when gets there."

11 Q Well, his mama got there?

12 A Yes.

13 Q Did ne ever sign it?

14 A No, he never signed it.

15 Q Did you ever ask him to sign or tell him about
16 his rights again with his mother present?

17 A I don't recall if we did or not.

18 Q Well, do you have it on audio that you did?

19 A On the audio recording, no, the recorder failed.

20 Q Oh, the recorder failed. Just like the recorder
21 failed while you were praying with him. What exactly
22 did you tell him that repent means?

23 A I don't recall. I don't recall what my exact
24 words when we talked.

25 Q What do you think you said?

1 A You're asking me ---

2 Q To paraphrase what you might have explained to a
3 16 year old kid what the word repentance means?

4 A Might have said?

5 Q What you would have explained to a 16-year-old?

6 A Well, I probably would have said taking
7 responsibility for your actions and asking for
8 forgiveness.

9 Q Okay. In relation to religion?

10 A Yes.

11 Q And as soon as you asked that question and talked
12 about --- I'm sorry, we're in the second transcript.
13 Is there anything else in the first transcript dealing
14 with an agreement to waive rights?

15 A I don't see anything on the first transcript, no.

16 Q Go to ---

17 A I don't have a second transcript. Can I get a
18 copy?

19 Q I don't have an extra copy.

20 A Go ahead. I'll give you your copy back. Thank
21 you, sir. Appreciate it.

22 Q Start with one that's titled number (3) I believe
23 that's actually the

24 A Got you. The number (3) on the top.

25 Q I believe that's actually the longer version just

1 because for some reason that one ---

2 A Yeah, it's front and back, so I got you.

3 Q We'll keep going, all right?

4 A Okay.

5 Q All right. Now, when this picks up, you're
6 talking about the incident, right?

7 A When this picks up, Reese and Mr. Barnes are
8 talking about the incident.

9 Q Okay. Are you in the room?

10 A I'm --- when I walked into the room, Reese and
11 Mr. Barnes are having that conversation.

12 Q So you are not in the room at this point?

13 A Well, when the first line picks up, "Why did they
14 tell you to --- what happened to make you start
15 shooting? You understand that better?" That's when I
16 had just walked into the room. That's when the ---
17 I'm wearing the recorder; it picks that up.

18 Q Okay.

19 A I'm not in the room prior to that. I was going to
20 get the recorders.

21 Q And you have both recorders in your hand at that
22 point?

23 A Yes, I have both. One is not in my hand, it was
24 --- I was wearing it on my shirt and the other one is
25 attached to a notebook, I believe.

1 Q Okay. So you go to get recorders and
2 Investigator Reese is sitting in there?

3 A Sergeant Reese, yes.

4 Q Okay. He is the one sitting in there talking to
5 Trenton?

6 A That's correct.

7 Q Okay. Can you show me anywhere in here where you
8 actually get a waiver of his rights, whether he says
9 it orally or ---

10 A Well, on this transcript, this was midway through
11 the interview, so you're not going to have anything
12 about --- he has already waived his rights before
13 this, so you're not going to have anything on this
14 transcript.

15 Q Who did he waive the rights to?

16 A Myself and Reese.

17 Q And we have your word to take for that?

18 A You have myself and Sergeant Reese.

19 Q Now you talked to him about repentance on page
20 12.

21 A That's correct.

22 Q You said you prayed together at some point?

23 A Like I said, yes.

24 Q Okay. And then Investigator Reese asked if
25 you're cold, meaning is your microphone off?

1 A What he's asking me is, if I have the recorders
2 and they're working properly, that they're hot,
3 basically. That's how I took what his statement was.

4 MR. SCHNEE: Well, when you walked in ---

5 MS. CAMPBELL: I'm sorry, what page are you on?

6 MR. SCHNEE: Page 12 and number three.

7 BY MR. SCHNEE:

8 Q You say you walked --- that number three starts
9 with you walking in the room while they're talking,
10 right?

11 A Yes.

12 A That's my ---

13 Q And Sergeant Reese knows that you left the room
14 to get working recorders, right?

15 A Right. He is aware the recorder had stopped
16 working. I had already advised him of that. I was
17 going to get --- I had to find some.

18 Q Okay.

19 A It took me some time. Everybody was out --- a
20 large group us were out doing search warrants. Reese
21 and I were the only two at headquarters. I had to
22 find somebody who had a recorder sitting on their desk
23 that was charged and ready to go. It took some time
24 to do that.

25 Q So you walked back in the room with recorders,

1 right?

2 A Yes, two.

3 Q This conversation that I'm talking about when he
4 asks are you cold or hot, that's on page 12?

5 A Right.

6 MR. SCHNEE: Judge, for the record, that
7 conversation starts, and we are more than happy to
8 provide the actual recording, that starts at --- that
9 question of what I told you about the age of
10 repentance for your sins, we prayed together ---that
11 starts at 12 minutes and 32 seconds into that
12 recording. Explain why it took 12-and-a-half minutes
13 for Sergeant Reese to even ask you if the recordings
14 are on?

15 A You want me to try to make some kind of
16 conjecture as to what was going on through his mind at
17 the time, why it took him so long?

18 Q He is in there with you?

19 A Uh-huh.

20 Q Coming back in with working recorders for 12 and
21 a half minutes and yet somehow he only asks are you
22 cold, are you cold as soon as you start talking about
23 the fact that you prayed together with a 16 year old?

24 A I believe that's my first --- where I begin
25 talking to him or if it's further back. I have no

1 idea why he would ask that.

2 Q You have no idea why he would ask that?

3 A No.

4 Q At that point in time?

5 A Well, you can't see the recorders. They're
6 small, so we hide them. We don't make it obvious that
7 we have a huge recorder sitting there.

8 Q That's the first time you remember talking?

9 A No, no, I said that was not --- I was wondering
10 --- and that's why I went back and was looking through
11 the transcript. That's not the first time I started
12 talking, no.

13 Q Because you start on page seven?

14 A Correct, I think it's six or seven, correct.

15 Q You're telling me in 12-and-a-half minutes the
16 fact that you were going specifically to get new
17 recorders that Reese didn't have the time to even ask
18 you this?

19 A I'm telling you that I have no idea why he asked
20 me that and you asked me to make some kind of
21 conjecture as to why he would ask me that. In my mind
22 that's why he asked me that. We ask that question
23 quite a few times, are you hot, are you cold just to
24 make sure, hey, are you recording now. He was aware
25 the recorder had stopped earlier. He was more than

1 likely trying to get me to check. When he asked me
2 that question, I checked the recorders to make sure
3 they were operating. We didn't want what happened
4 earlier to happen again where we missed his confession
5 and it was lost due to the recorder failure. We
6 wanted to make sure the recorders were still
7 operating.

8 Q It just happens to be right around the exact time
9 you start talking about religion, repentance and
10 praying. Very convenient. I have no further
11 questions?

12 A Was that a question you want me to answer?

13 MR. SCHNEE: No.

14 THE WITNESS: All right. I wanted to be sure.

15 REDIRECT EXAMINATION:

16 BY MS. CAMPBELL:

17 Q At this point --- on page 12 he asks if you're
18 cold, you tell him you're hot, right?

19 A I'm telling him the recorder is on, it's working,
20 it's functioning.

21 Q And after that on page 12, you also say are you
22 sorry for what happened?

23 A That's correct.

24 Q And you follow up on that and said, "Are you
25 sorry about what happened to that lady?" He says, "I

1 hate it. I wish it never happened."

2 A "That's right."

3 Q You follow up with, "What do you mean; do you
4 repent for what happened to that lady?"

5 A "Yes, sir."

6 Q "And are you sorry you went with those boys?"

7 A "Yes, sir."

8 Q So there is nothing about him asking about
9 whether the recording was working that stopped any
10 line of questioning?

11 A That's correct. I went on with it. There was
12 nothing to hide with the audio recorders. There's
13 nothing to hide here.

14 Q Then he asked you --- and then cut you off before
15 he got the part on the first transcript about whether
16 or not he waived his rights?

17 A Correct.

18 Q Going to the ---

19 A This is the one with the number (1) at the top?

20 Q Yes. And it's the fourth page?

21 A Okay.

22 Q He stopped you when you asked about you can sign
23 it when your mama gets here. Reese clearly told him
24 he doesn't have to sign anything as long as he
25 understands his rights, right?

1 A That's correct.

2 Q In response to that question, understanding his
3 rights, he even goes so far as to say instead of a
4 lawyer, can I have my mama so that's who he wants?

5 A That's correct. He makes the statement, he is
6 sniffing. He says, "Can me and my mama talk to you?"

7 Q Uh-huh.

8 A "...to talk to y'all," is what he says.

9 Q And then the next thing is Investigator Reese
10 says, "What did you say?"

11 A And then he says, "Can me and my mama --- I'll
12 talk to you when mama gets here."

13 Q And then Investigator Reese says what?

14 A "Okay. I don't have a problem with that, but we
15 are going to talk when your mom gets ---"

16 Q That's not how it reads --- read it specifically
17 what it says.

18 A I'm sorry. "Investigator Reese: okay. I don't
19 have a problem with that, but you are going to talk
20 when your mom ---"

21 Q That's not how it reads. Read it word for word.
22 "But are you going to talk ---"

23 A "But are you going to talk when your mom get
24 here, son?"

25 Q And what is his answer?

1 A "Yes, sir."

2 Q At that point, what does Reese do?

3 A He goes and makes a phone call --- according to
4 the transcript, makes a phone call trying to get ahold
5 of his mom.

6 Q And do you get his mom there?

7 A Yes, we do. We made every effort to make sure
8 she was there.

9 Q I already asked you about what Trenton Barnes
10 himself --- did his mother ever say she didn't want
11 you to talking to her son?

12 A No.

13 Q Did he ever tell her son to quit talking to you?

14 A No.

15 Q In fact, was his mother fully cooperative?

16 A She was. She even encouraged him to tell the
17 truth while we were in there.

18 MS. CAMPBELL: That's all I have.

19 THE COURT: You can step down.

20 MR. SCHNEE: I have no other questions, Judge.

21 THE COURT: All right. Call your next witness.

22 MS. CAMPBELL: The State has no further witnesses
23 on this issue.

24 THE COURT: All right. Do you have anything on
25 this issue?

1 MR. SCHNEE: Just give me one minute, Your Honor.

2 (Pause.)

3 MR. SCHNEE: Judge, I don't have any witnesses.

4 THE COURT: Okay. Any arguments, Mr. Schnee?

5 MR. SCHNEE: Yes, Your Honor, I have a few
6 arguments. First of all, I believe this is a
7 completely inappropriate time to be having a Denno
8 hearing considering Investigator McCoy has already
9 finished his testimony. The State presented him as a
10 witness. He was the main investigator on this case.
11 He was doing --- you go through the substance, the
12 vast majority of his interview, he is conducting it.
13 At this point he has been called to the jury. He has
14 been cross-examined, redirected, recross-examined and
15 I would certainly object to him even being recalled at
16 this point to testify in front of the jury. However,
17 at this point now, I'm essentially prohibited from
18 being able to question Investigator McCoy in front of
19 the jury about it. Absent them recalling him, which
20 is a very odd and inappropriate thing for them to do
21 at this stage. If they wanted a Denno hearing, they
22 should have done this yesterday or the day before or
23 last week or three weeks ago when we had other
24 pretrial hearings. They've had more than enough
25 opportunities and I think at this stage in the trial

1 when they have announced that they have either two or
2 three witnesses left, they're going to just magically
3 illusion of, oh, by the way, we actually got a
4 statement from Trenton Barnes. I think that's
5 incredibly inappropriate.

6 If that's their intent and they think it's
7 necessary for their testimony and their efforts, then
8 they should ask for a mistrial and try to redo this.
9 If this evidence comes in, I'm going to be asking for
10 a mistrial. Specifically in terms of the Denno
11 issues, they are required to advise my clients of his
12 rights, make sure he understands them, get a valid,
13 free --- and have him waive them freely and
14 voluntarily absent coercion, threats or anything else.
15 In terms of coercion, I would direct your attention to
16 *Bruder v. Williams*, it's a US Supreme Court case.
17 It's commonly known as the Christian burial speech
18 case where the Supreme Court said essentially that
19 police were riding around in a car with a suspect
20 talking to him and what the Supreme Court said is the
21 content of the conversation dealing with religion and
22 saying you need to allow this family to bury their
23 loved one completely de-Mirandized him, and, Judge, I
24 would argue a very similar thing has happened here if
25 he ever been fully Mirandized and waived his rights.

1 I don't believe they presented evidence that he
2 actually waived his rights. He refused to sign that
3 document and magically, of course, the recorder breaks
4 when they say they do it and they never advised him
5 again knowing they have recording failures. After
6 12-and-a-half minutes, Investigator McCoy brings up
7 praying together and then Sergeant Reese says are you
8 hot, are you cold asking if the recording is on
9 because even Sergeant Reese knows the topic of praying
10 together and religion is completely inappropriate is
11 coercive and has been told by the US Supreme Court is
12 inappropriate and denies a fair opportunity for reason
13 and logic and that's why it counts as a de-Mirandizing
14 aspect. It eliminates the waiver.

15 For all of those reasons, I would object to any
16 of this testimony coming in. I don't believe they
17 have met they're burden of proof.

18 THE COURT: Just focus on the prayer.

19 MS. CAMPBELL: The prayer, Your Honor. Just
20 looking at State v. Hill, it's a South Carolina case
21 604 S.E. 2d 696.

22 THE COURT: Hold on. Let me find it. '

23 MS. CAMPBELL: Or it may be State v. Crawlly.

24 THE COURT: What year is the Crawlly?

25 MS. CAMPBELL: Crawlly is 2002, but Hill is 2004,

1 Your Honor, and I would also talk about in the
2 interest of Tracy v. --- which is a 2010 case as far
3 as juveniles talking about allowing a defendant to
4 speak with his mother.

5 MS. CAMPBELL: And then State v. Clinton.

6 THE COURT: Do you have a copy of the pursuer
7 case?

8 MS. BAMBACH: No, I don't, Judge. Frankly, I'm
9 not even getting a wi-fi signal that's working for me
10 certainly. If I can go back to my office, I'm more
11 than happy to start printing them, but I would like an
12 opportunity to read any of the cases that the State
13 mentioned since I don't know what they are.

14 THE COURT: Okay. This Christian burial case has
15 nothing to do with this issue at all. I mean, the
16 Christian --- the Brewer v. Williams --- in Brewer v.
17 Williams, this case is very clear. The defendant in
18 that case was accused or --- I guess he was convicted,
19 of kidnapping that began in one state and went to
20 another state, and he had been --- he already had a
21 lawyer. In fact, he already had two lawyers. Both of
22 which his Des Moines lawyer and his Davenport, Iowa
23 lawyer had both advised him not to make any statements
24 and he had already been arraigned and he had already
25 asserted his right to counsel, and the police officer

1 who had knowledge that the defendant was a former
2 mental patient and deeply religious sought to obtain
3 an incriminating remark from him by telling her he
4 should give the parents --- the parents were entitled
5 to a Christian burial for the victim. I mean, that's
6 in no way shape or form, in any way, shape, or form in
7 any way goes to the situation that we have here.

8 Okay. Tell me why you think recalling McCoy is
9 appropriate.

10 MS. CAMPBELL: I don't know that we have to
11 recall McCoy. We were planning on offering it through
12 Reese.

13 THE COURT: Okay.

14 MS. CAMPBELL: If you would like me to recall
15 McCoy, I can.

16 THE COURT: I don't think it's necessary.

17 MS. CAMPBELL: I don't think it's necessary to
18 put a statement in front of the jury to call McCoy.

19 THE COURT: Here is what concerns me. The
20 statement was given freely, knowingly, intelligently
21 and voluntarily. He was clearly advised of his
22 rights. He is having a very clear and intelligent
23 conversation with law enforcement, with two law
24 enforcement officers. There is no concept that you're
25 required to sign the waiver form. People refuse to

1 sign the waiver form all the time.

2 The issue is not do you sign the form or do you
3 not sign the form. The issue is did you know what was
4 going on. Were you aware of your rights? Do you
5 freely, voluntarily, knowingly and intelligently
6 without threat, coercion, force or pressure give a
7 statement to the police.

8 Mr. Barnes indicated to the police that he
9 clearly did understand his constitutional rights
10 because he said, "Instead of a lawyer, can I have my
11 mama?" So that means that he knew and understood that
12 all he had to say was, can I have a lawyer and the
13 questioning would have stopped. He didn't. He asked
14 for his mother, which I'm not even sure the police are
15 required to give him. I haven't read that line of
16 cases in a while, but they did, which was more than
17 appropriate in the situations --- under the situation
18 that they found himself in. He continued to talk with
19 his mother present. So this idea of whatever prayer
20 happened has violated, you know, makes a Miranda
21 waiver invalid based on the Brewer case, the Brewer
22 case is completely and totally different. The person
23 had two lawyers, had been arraigned, and the person
24 and the police had been advised by the lawyers not to
25 talk to the defendant. I mean, that's a completely

1 and totally different situation, I mean --- than the
2 situation we have here. At no point do I see him
3 saying, I don't want to talk anymore. I don't want to
4 answer your questions. I want a lawyer or anything of
5 that nature in any way, shape, or form. So the
6 statement is in based upon the totality of the
7 circumstances. Jackson v. Denno and its progeny.

8 Now, here is my bigger concern. My bigger
9 concern is what exactly is coming in, because we can't
10 use the word 'we,' so ...

11 MS. CAMPBELL: We would agree with that.

12 THE COURT: The word 'we' is out. There is no
13 'we.' There is no 'they.' There is no 'us.' There
14 is no 'them.'

15 I mean, we need --- we're going to have to go
16 through this with a fine tooth comb on what you want
17 to put in to make sure that we're not violating
18 Bruton.

19 I assume you don't want them to say we either; is
20 that right, Ms. Pinnock? Is that why you're standing
21 up.

22 MS. PINNOCK: Yes, Your Honor. That is part of
23 the reason. The concern we had is the State has
24 already introduced a letter that was written by
25 Barnes. That was introduced over our objection

1 because it fully implicates and pretty much places all
2 the blame on Lorenzo Young. That letter is already
3 into evidence. What our concern is now, with the
4 State trying to introduce a statement given to law
5 enforcement, with looking at the totality of
6 everything, the circumstances, the inference is going
7 to be even stronger against Mr. Young. Introducing a
8 second statement by Mr. Barnes when they already have
9 one in evidence. It was our understanding that was
10 their solution to, you know, any sort of Bruton issues
11 that did come up was they elected to use a written
12 letter to his mother instead of a statement through
13 law enforcement, but now it's going to be two separate
14 statements introduced against Mr. Barnes and I fail to
15 see or understand how the jury would not be making the
16 inference against Mr. Young, not using that evidence
17 against Mr. Young when it's not admissible against
18 him.

19 So that's our bigger concern is that they already
20 have that statement in there against them. It's
21 already in evidence. Through Ms. Barnes, you know,
22 she identified the handwriting. They call a
23 handwriting expert up there to identify the
24 handwriting again. It was published to the jury.
25 They already heard a statement by Mr. Barnes. Again,

1 that statement fully implicates Mr. Young, and so I
2 just --- at this point, I think it's --- it doesn't
3 get past a 4003 analysis for Mr. Young because that
4 inference is going to be so strong, he is going to be
5 prejudiced by it. So aside from them saying we were
6 going to do this or this was our plan, yes, we have an
7 obvious problem with that, but the inferences that are
8 going to be created towards Mr. Young is our bigger
9 issue and I don't know how we can avoid that from
10 happening.

11 THE COURT: What about that argument?

12 MS. PINNOCK: I'm sorry?

13 THE COURT: I was talking to the State.

14 MS. CAMPBELL: Your Honor, she references the
15 other thing, but I mean, you directly told this jury
16 you can't consider that letter against Mr. Young in
17 any way. We've already addressed you can't use that
18 against Mr. Young. You can only use that against
19 Mr. Barnes.

20 THE COURT: What she is saying is that because
21 that letter is out, the inference is going to be well,
22 it depends on --- let's start with you can't make that
23 argument until you understand what we're --- I can't
24 process through that argument until I understand what
25 you plan on introducing or want to introduce.

1 MS. CAMPBELL: If you can refer to the
2 transcript, Your Honor, page two, number (2).

3 THE COURT: Tell me which one.

4 MS. CAMPBELL: Instead of saying, we was planning
5 to rob the Ale House. It would be the plan was to rob
6 the Ale House. What happened? Okay. The car started
7 backing ---

8 THE COURT: Hold on.

9 MR. SCHNEE: I'm sorry. I'll completely lost.

10 MS. CAMPBELL: Oh, I'm sorry, number (2), page
11 two.

12 MR. SCHNEE: What exactly are you proposing to
13 introduce, a transcript of this or have just one.

14 MS. CAMPBELL: Have Sergeant Reese testify to
15 what was said.

16 MR. SCHNEE: Well, I have a real problem with him
17 reading from a transcript that's not actually a
18 transcript.

19 THE COURT: Okay.

20 MS. CAMPBELL: Well, then I would be glad to ---

21 THE COURT: We're not on that issue.

22 MS. CAMPBELL: I'll get to that issue.

23 THE COURT: Keep going.

24 MS. CAMPBELL: The car start pulling out. Then
25 on that page --- the only thing I had to do was sit by

1 door. If I saw anybody, yell. Or, if I see anybody
2 yell.

3 MR. SCHNEE: What's your proposal to that last
4 one that you just read?

5 MS. CAMPBELL: Limit it to, the only thing I had
6 to do was just sit by the door. If I see anybody
7 yell, and we would be very specific with Sergeant ---
8 you can only talk about what he said his role was.

9 MS. PINNOCK: Judge, that ---

10 THE COURT: She is not finished.

11 MS. PINNOCK: I'm sorry. I thought she was.

12 MS. CAMPBELL: Page four. Did you watch what
13 happened?

14 Yes, sir.

15 MR. SCHNEE: Where are you on page four?

16 THE COURT: Near the bottom.

17 MS. CAMPBELL: Near the bottom, did you watch
18 this happen, yes, sir.

19 MR. SCHNEE: Did you watch what happened, yes,
20 sir.

21 MS. CAMPBELL: And then finally, Your Honor,
22 moving to transcript (3) top of page four, did you
23 know if anybody was inside the building. I don't
24 know, I don't know. I was supposed just sit as
25 lookout.

1 MS. PINNOCK: I'm sorry, what page?

2 MS. CAMPBELL: Page four, the top of number
3 three, sorry, and then I was going to do something on,
4 but I think that just repeats what he said earlier.

5 THE COURT: Okay. I am not allowing Trenton
6 Barnes' statement in, not because it is not in
7 voluntary or not freely given or in violation of
8 Miranda. I'm not letting it in because I believe that
9 it's a Bruton violation. Here is my explanation.
10 This jury knows that there are three people who are on
11 video committing this crime, okay. I mean, that fact
12 is not in dispute. Everybody has seen the video. The
13 jury has seen the video, all the lawyers have seen the
14 video. All the parties somewhere seen the video.
15 Even with the --- I'll use, and this is my word, but
16 even with the sterilization of Mr. Barnes' statements
17 to law enforcement, I believe they were freely given,
18 they were voluntarily given. They were not in
19 violation of Jackson v. Denno, or Miranda or anything
20 else. That is not my basis of this argument. My
21 basis of this argument is --- "the only thing I have
22 to do is sit by the door. If I see anybody, yell."
23 Well, the jury clearly knows that two people went in
24 and somebody was by the door. So that implies two
25 other people are involved. There's only one other

1 person sitting in the room. "If I see anybody, yell."
2 Well, who would he be yelling to if he wasn't yelling
3 to the other people involved, and so the plan was to
4 rob the Ale House. The plan --- I don't know that it
5 100 percent means there's more than one person, but
6 that's certainly a leap, but the plan was to rob the
7 Ale House and maybe that's making too much of a leap,
8 but the plan was to rob the Ale House. We see three
9 people. We've seen three people from the Ale House
10 video. "You watched what happened, didn't you?"
11 "Yes, sir, that means that somebody else was
12 following." It's just implication after implication
13 that there were other people involved, and I don't
14 know that there is a way to sterilize it. So
15 Mr. Barnes' statement is out based upon Bruton and the
16 confrontation clause.

17 MS. PINNOCK: Thank you, Your Honor.

18 MS. CAMPBELL: Your Honor, is that --- and my
19 concern would be at this point, is based on
20 cross-examination yesterday of Investigator McCoy,
21 this jury is also fully aware that each defendant was
22 interviewed and the defense would be arguing in front
23 of this jury that you didn't get to hear all of what
24 the police interview and what you didn't get to hear.
25 That's my concern. Clearly they went in and based on

1 rulings, they went into --- and each defendant came
2 out --- Troy Stevenson was interviewed, you know,
3 specifically and they elicited part but not all of
4 what Troy Stevenson told police. Our concern is that
5 this jury now is aware that these three defendants ---
6 it's been testified that have been interviewed and
7 they don't have that information before them.

8 THE COURT: Well, there's a jury charge out there
9 on the State's failure to call witnesses and that the
10 State doesn't have to call every single witness that
11 has potential information to prove their case. If you
12 want that charge, I'll give it to you. I mean,
13 Mr. Barnes' statement is a Bruton violation, clear as
14 day.

15 MS. CAMPBELL: I'm not arguing with your ruling.

16 THE COURT: I know you're not arguing with the
17 ruling. There's no other person for the jury to think
18 was involved but Lorenzo Young based on the letter
19 that's already been admitted which, I told them to
20 disregard, and based upon just the nature of the
21 statements. The nature of the statements are that
22 other people are actively participating. So what ---
23 tell me what you.

24 MS. CAMPBELL: My concern is at this point, the
25 jury knows all three codefendants were interviewed.

1 That came out on cross examination.

2 THE COURT: Did it come out that Mr. Young was
3 interviewed?

4 MR. KRZYSTON: I don't believe so.

5 MS. PINNOCK: We never did.

6 MS. CAMPBELL: There was a reference to someone
7 being threatened with the death penalty, which was in
8 violation of your order.

9 THE COURT: Right. A suspect, right.

10 MR. SCHNEE: I believe the testimony was even
11 brought out on direct that they were all brought to
12 headquarters. I don't know that that's really much of
13 a dispute.

14 MS. CAMPBELL: No. We don't dispute they were
15 all brought to headquarters, but at this point they
16 know there was a statement by Troy Stevenson. They
17 know another suspect in the case was questioned and
18 quote unquote threatened with the death penalty. I'll
19 get back to that issue in a minute, so they know that.
20 My concern is that they're going to get up here and
21 argue that basically the State hadn't brought forth
22 all the evidence. The State has brought forth all the
23 evidence we can against these. Of course, Troy
24 Stevenson, and we can bring that out, has pending
25 charges and we can't, you know, he will have his day

1 in court. And that's testimony elicited by the
2 defense, and that was part of our argument just
3 yesterday as far as our concern that they hear part of
4 what was talked about with the Troy Stevenson
5 interview, but not the rest of it, and I guess I'm
6 just ---

7 THE COURT: What's your plan on arguing for
8 closing with to respect to what the State has done and
9 not done, Mr. Krzyston?

10 MR. KRZYSTON: What's my plan?

11 THE COURT: Yes.

12 MR. KRZYSTON: I'm not going to talk about Troy
13 Stevenson at all. I don't know that I even mentioned
14 any witnesses by name.

15 THE COURT: Are you going to say there were
16 witnesses they were not interviewed?

17 MR. KRZYSTON: That there were people with
18 potential information about this crime that were not
19 interview.

20 THE COURT: What about you, Mr. Schnee?

21 MR. SCHNEE: I'm certainly not going to mention
22 any specifics about Troy Stevenson or his interview.
23 I mean, I think the only questioning I did with
24 Investigator McCoy that got into that was in direct
25 response to answers to questions that I had asked him

1 that were trying to avoid bringing up who said what
2 and when. I'm certainly going to need bring up what
3 witnesses the State has not brought in or not
4 interviewed.

5 Certainly, I'll tell you right now, my plan is to
6 read off probably 3-quarters of the names on here that
7 they haven't called that are on their witness list.
8 They are all law enforcement. That's closing
9 argument. You know, the State has the burden of
10 proof. I'm certainly allowed to tell the jury that
11 they haven't proved their case. That's my general
12 plan.

13 MR. KRZYSTON: Judge, I'm not totally sure what
14 the issue is. I think there's an inference before the
15 jury that that Troy Stevenson was, in fact,
16 interviewed. Mr. Young, myself, and ---

17 THE COURT: But they haven't heard what that
18 interview was.

19 MR. KRZYSTON: Correct. We have alluded to the
20 fact that he was interviewed and there's been
21 discussion ---

22 THE COURT: You've done more than allude.

23 MR. KRZYSTON: There were discussions as to what
24 Investigator McCoy learned in March of this year. I
25 think they've gotten the bulk of that information in

1 through investigative hearsay. I don't think there is
2 much of an issue.

3 MS. CAMPBELL: What?

4 THE COURT: What? No one is allowed to say the
5 word investigative hearsay anymore. It doesn't exist.

6 MR. KRZYSTON: Yes, sir.

7 THE COURT: It doesn't exist. Okay.

8 MR. KRZYSTON: Okay. Your Honor.

9 THE COURT: So I don't understand what you just
10 said. They didn't get up there and ask Investigator
11 McCoy --- the State did not get up and ask
12 Investigator McCoy about Troy Stevenson's interview.
13 You and Mr. Schnee did.

14 MR. KRZYSTON: The Troy Stevenson interview?

15 THE COURT: Yes.

16 MR. KRZYSTON: Right, the substance of what he
17 was interviewed was discussed.

18 THE COURT: Right.

19 MR. KRZYSTON: That's the information that
20 they're seeking to admit through Trenton Barnes'
21 statement? I mean, I'm confused as to what we're even
22 arguing about at this point.

23 THE COURT: Here is the argument: The defense
24 and, that is both defendants, brought up the fact that
25 Troy Stevenson gave all these names to the police and

1 the police didn't do anything with them, okay.

2 MR. KRZYSTON: Yes, sir.

3 THE COURT: You did that, right?

4 MR. KRZYSTON: Yes, sir.

5 THE COURT: Okay. And Mr. Schnee did that,
6 right? So the jury is left with this fraudulent
7 impression. You have committed a fraud upon the jury
8 that Troy Stevenson sat down and gave all these names
9 and didn't give any other information, which is not
10 true, because Troy Stevenson has told police that both
11 of your clients actively participated in the crime.

12 So the issue is that the jury is left with this
13 impression that Troy Stevenson gave this statement to
14 police, but the impression of what the statement is
15 not accurate or even truthful.

16 MR. KRZYSTON: And, Your Honor, to remedy that
17 very assertion that we just made, Your Honor allowed
18 them great latitude on redirect yesterday.

19 THE COURT: As to why they did not interview
20 those people.

21 MR. KRZYSTON: Correct.

22 THE COURT: Right.

23 MR. KRZYSTON: So I think to an extent that issue
24 has been addressed.

25 THE COURT: Are you going to stand up and say

1 that Investigator McCoy didn't interview all those
2 people when he should have?

3 MR. KRZYSTON: I will not say all those people's
4 names, no. I will say that there are people who
5 potentially had information regarding this crime that
6 Investigator McCoy failed to investigate.

7 THE COURT: Okay. What about you, Mr. Schnee?

8 MR. SCHNEE: If Your Honor instructs me not to
9 list off those names, I won't. I'm also similarly
10 confused as to exactly what we're discussing. Cross
11 examining Investigator McCoy about information he
12 received about potential witnesses does not mean that
13 the State gets to somehow introduce Troy Stevenson's
14 statement or the content.

15 THE COURT: We're already past that. We already
16 ruled they couldn't do that.

17 MR. SCHNEE: I just don't understand because I
18 don't believe the jury has been misled.

19 THE COURT: Oh, the jury has been misled, but I
20 have allowed that to happen.

21 MR. SCHNEE: Well, I think the jury has been
22 informed about what Investigator McCoy did or did not
23 do in his investigation in that entire line of
24 questioning. I don't think that --- some of the
25 people that were even mentioned were discussed by

1 other witnesses, such as Latoya Barnes, Marcus Haley
2 Johnson. That came up in August of last year and that
3 witness has never been interviewed. Clearly there was
4 a lot of other content in Latoya Barnes' conversation
5 with McCoy, much of which came out. A lot of it
6 didn't, but I don't even believe there is an inference
7 to the jury that Troy Stevenson said anything other
8 than just a list of names.

9 THE COURT: Ms. Campbell?

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. As you have noted, the jury has been misled
12 somewhat about what Troy Stevenson was saying.
13 Basically, he was saying --- to put it in context, he
14 was trying to give names of people who would put him
15 staying at the house longer than Trenton. That's the
16 extent of what those witnesses could have said, but
17 the inference before this jury, clearly, is completely
18 different. We did try to rehabilitate it somewhat,
19 but at this point --- and we tried to introduce the
20 entire statement to show. We aren't trying hide
21 anything, but at this point the jury thinks there is
22 all this information from Troy Stevenson that they
23 don't have and that he was giving these witnesses ---
24 and I believe the word alibi was even shown at one
25 point as far as that goes. We would just be --- I

1 don't know quite how to handle that, because we need
2 to cure the misinformation that's in front of this
3 jury to whatever extent we can.

4 I am concerned about how they plan on arguing
5 this to the jury since there is additional information
6 which they clearly know that these defendants were
7 interviewed and, you know, that that's not before
8 them. I don't know if we can do some ruling that's
9 basically --- I mean, if you can address it to the
10 jury that you have ruled what is admissible to be
11 presented in this case, but you know, the other thing.
12 Your Honor, with Sergeant Reese, too, basically all
13 the information that the police got in this case point
14 towards these three individuals, including all the
15 information that they got from two out of the three
16 codefendants. The only one that ever denied being was
17 Lorenzo Young and all the physical evidence, as well,
18 as the evidence from the witnesses they interviewed
19 point to these three individuals.

20 THE COURT: What are you asking? That's my
21 question.

22 MS. CAMPBELL: I guess I'm asking for some
23 guidance. We intend to offer through Sergeant Reese
24 the fact that they interviewed multiple people in this
25 case and that all the information they got indicated

1 that these were the three people that committed this
2 crime and they were the only three people there. And
3 the problem is, as much as they would like to, to say
4 somebody else was there, even with Marcus Johnson, the
5 only information they got was that he was going around
6 saying that these two people did it, but that's not
7 been presented to the jury and in Investigator McCoy's
8 defense, he was somewhat limited on what he could say
9 as to why he did not interview these people. One was
10 because they didn't have any additional information or
11 any information contradicting what we already had.
12 Two, his experience in dealing with people in gangs is
13 they just simple don't want to talk to the police, and
14 I believe that's why he was asking for defense counsel
15 to --- for Ms. Zmroczek to help him in trying to make
16 these people you know, talk to him, but I don't think
17 that's really come out before the jury.

18 THE COURT: Yes, sir?

19 MR. KRZYSTON: Judge, I would just repeat that
20 this very issue was discussed and addressed yesterday.
21 Again, she was allowed great latitude in redirecting
22 Investigator McCoy. To another extent, he did not go
23 into interview these --- this list of people. I don't
24 know what information he would have had, and I think
25 it's improper for us to speculate at this point.

1 Without knowing what relief she is granting and
2 really on what grounds she is requesting it, I don't
3 know how to respond.

4 MR. SCHNEE: Judge, I may be misunderstanding,
5 but I might be able to --- it seems the solicitor is
6 asking to call Investigator Reese to the stand and
7 question him about all the various witnesses that were
8 interview and then follow up with a question " ...and
9 then they all told you these are the three people that
10 did it. I can't imagine how that would remotely be a
11 valid question under any circumstances.

12 MS. CAMPBELL: No.

13 MR. SCHNEE: So I don't even understand what the
14 relief is that the State is asking if that's not it,
15 so I'm not sure how to respond, Judge.

16 THE COURT: I mean, the bottom line is McCoy
17 didn't go out and interview these witnesses, period.

18 MR. SCHNEE: Right. And that's the only --- I'm
19 sorry, Judge.

20 THE COURT: Right. The bottom line is McCoy
21 didn't go out and interview these witnesses. I don't
22 know what I'm supposed to do about that. He has his
23 reasons for not doing it. I would allow him to
24 explain more than 90 percent of his reasons for not
25 doing it, but he just didn't do it. I just can't fix

1 that. His decision to not go interview witnesses
2 whose names he was given is his decision and his
3 investigation of the case, period. I mean, I can't
4 imagine a scenario where a defense attorney can't say
5 he was given witness names and he didn't go interview
6 them. I mean, that's a fact.

7 MS. CAMPBELL: I understand, and I'm not trying
8 to say that. I mean, the bottom line is, we did try
9 to introduce and I understand the ruling. All we're
10 saying is that --- and I think you alluded to it
11 earlier, Your Honor, there is somewhat of a fraud in
12 front of this jury. I'm just try calculate to what
13 extent I can try to ---

14 THE COURT: Well, and I --- the misled statement
15 earlier --- I don't know that that was the best word,
16 but I mean that's one of the issues in having joint
17 trials is that there's codefendant statements out
18 there that are not going to be admissible under Bruton
19 if their made to law enforcement. That's just a
20 reality of life that we deal with when we're dealing
21 with --- when you want to try more than one person and
22 I don't know a way around that other than to sever
23 trials.

24 MS. CAMPBELL: Okay. Your Honor, moving on.

25 THE COURT: Okay.

1 MS. CAMPBELL: As far as yesterday, I believe you
2 instructed defense counsel, Mr. Schnee, not to mention
3 the death penalty.

4 THE COURT: I did.

5 MS. CAMPBELL: And then he asked a question and
6 he followed up with " ...you were threatening with the
7 death penalty," or something to that effect. I could
8 be paraphrasing.

9 THE COURT: Correct.

10 MS. CAMPBELL: We would ask for some kind of
11 instruction to this jury that this is not a death
12 penalty case and they are not to consider any kind of
13 sentencing on that.

14 THE COURT: Okay. I've been searching for ---
15 there is an instruction out there. I've used it
16 before. I've been searching for it since last night,
17 and for whatever reason, I cannot find it. There's an
18 instruction out there that tells the jury that they
19 are not allowed to consider sentencing in any way,
20 shape, or form. That is completely in the Court's
21 discretion. If you make it that far, if you find it,
22 you can add in any portion, anything that's relevant
23 about the death penalty.

24 MS. CAMPBELL: Thank you.

25 THE COURT: Mr. Krzyston.

1 MR. KRZYSTON: We would obviously get to a charge
2 conference and object or, you know, be happy with the
3 State's jury charge.

4 THE COURT: You'll get to see it, right.

5 MR. KRZYSTON: Right. Making sure. Thank you,
6 Your Honor.

7 THE COURT: All right, what else?

8 MR. SCHNEE: Judge, since we're on what's
9 apparently an extended break, do you want to address
10 the issue of jury charges now or do you want to deal
11 with that later?

12 THE COURT: We'll deal with that later.

13 MR. SCHNEE: I have nothing further.

14 THE COURT: Let's get through the testimony and
15 deal with all that stuff.

16 MS. PINNOCK: We put our request to charge up on
17 your bench. Just wanted to make sure you got that,

18 THE COURT: I did. Thank you. All right. Bring
19 them in.

20 (WHEREUPON, the jury entered the courtroom at
21 10:49 A.M.)

22 THE BAILIFF: The jury is seated, Your Honor.

23 THE COURT: All right. Thank you very much.
24 Welcome back, ladies and gentlemen. I apologize for
25 the delay. I accept full responsibility for it. No

1 inference in any way, shape, or form should be drawn
2 against any of the parties in regard to the delay that
3 we had this morning, and I do apologize and thank you
4 for being on time and ready to go. You may call your
5 next witness.

6 MS. GARFIELD: Thank you, Your Honor. The state
7 calls sergeant Kevin Reese.

8 SERGEANT KEVIN REESE,
9 after being duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State your full
11 name for the record.

12 THE WITNESS: My name is Kevin Reese. R-E-E-S-E.

13 DIRECT EXAMINATION:

14 BY MS. GARFIELD:

15 Q Sergeant Reese, where are you from?

16 A Where am I from?

17 Q Uh-huh.

18 A Columbia.

19 Q You've lived here all your life?

20 A Yes, ma'am.

21 Q And Sergeant Reese, where are you employed?

22 A Columbia Police Department.

23 Q And what are your duties for the Columbia Police
24 Department?

25 A I am a sergeant supervisor with the criminal

1 investigations division of the department.

2 Q How long have you been with the Columbia Police
3 Department?

4 A I started in 1980, left in '85 and came back in
5 '91, and I've been there ever since.

6 Q And Sergeant Reese, were these your same duties
7 back in the summer 2013?

8 A I was in investigations, yes.

9 Q And were you an on call supervisor on the morning
10 of July 1, 2013?

11 A I was.

12 Q And specifically did you have an occasion to
13 receive information concerning a homicide?

14 A Yes.

15 Q And do you know what about time you received the
16 information?

17 A Let me refer to my notes.

18 Q Yes, sir. Are those your notes you made back
19 when this happened?

20 A Yes, ma'am.

21 MS. PINNOCK: I'm sorry, Your Honor, would your
22 instruct the witness to speak up? I am having a hard
23 time hearing him.

24 THE COURT: Would you'll speak up, Sergeant
25 Reese?

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you.

3 THE WITNESS: At 4:05 A.M. on the 1st of July, I
4 received a call from the street sergeant, Sergeant
5 Smalls of the Metro unit. He did not inform me that
6 this was a homicide. He just told me that someone had
7 been shot, and that would be the reason I did not call
8 out anybody until I arrived on the scene myself.

9 Q So you just understood that someone had been
10 shot?

11 A That's right. I'm battling a cold, but that's
12 right.

13 Q But you didn't know if it was suicide or homicide
14 or anything?

15 A Not at that time, no.

16 Q And based on the information you received from
17 Sergeant Smalls, what did you do?

18 A I left my house, and I went to the scene. I
19 arrived there about five o'clock.

20 Q And I apologize. When you said you arrived on
21 the scene, where did you arrive?

22 A The scene is 93 Tommy Circle.

23 Q And ---

24 A And that's off of Beltline.

25 Q And what type of business is that that you

1 arrived to?

2 A It is a bakery, and they --- it's an offsite
3 bakery. They cook items for another bakery that's
4 located in the downtown area.

5 Q And Sergeant Reese, you can refer to your notes,
6 can you just share with the jury what were your
7 initial observations when you arrived?

8 A First of all when I arrived there, it was raining
9 very hard. From the outside I observed a Dodge van,
10 and I noted the license tag number, and this van was
11 parked --- I'm sorry, a Dodge van, and this van was
12 parked right out in front of the business. I also
13 observed that there was a Ford van and that was parked
14 outside of the business, as well, and right at the
15 doorway of the business.

16 The door, the front door to the business, was
17 standing open. You can --- it was propped wide open.
18 You can clearly see from the outside on the inside.
19 When I went into the building, prior to going into the
20 building, I talked to some of the officers and
21 particularly the supervisor, the street supervisor, to
22 get an overview of what they found when they got
23 there.

24 I went inside, and one of the first things I
25 noticed, there was a chair overturned. I also noticed

1 that there were pots and plastic containers that
2 appeared to have been knocked over onto the floor.
3 When I say it appeared they had been knocked on the
4 floor, it's because it was clear that are those items
5 did not belong on the floor. They weren't just
6 sitting there in an orderly fashion, they were strewn
7 all over the place.

8 There were several shell casings on the floor.

9 I noticed Ms. Hunnewell's --- observed
10 Ms. Hunnewell's body and she was lying on the floor
11 near the sink, and I also noted that her body was
12 partially underneath the sink.

13 The gas to the equipment had been --- there was
14 some large stoves and I ascertained that --- you could
15 smell the gas. It was very strong, and I made sure
16 that that gas wasn't on. That was simply by my asking
17 and I was informed that the fire department had
18 already been there, and they had turned the gas off.

19 I also noticed what appeared to be bullet holes,
20 several bullet holes in the walls of the business, and
21 the lights were on in the inside of the business, as
22 well. I started to check around further, and I
23 realized that there were at least five cameras,
24 ceiling cameras. Of course, I just mentioned that the
25 smoke was --- the gas was pretty heavy in there. They

1 could also smell the smoke. That was an indication
2 there had already been some sort of activity going on
3 into that --- inside that business and you put it all
4 together, it just appeared that Ms. Hunnewell had
5 already been at work for some time period, and I also
6 noticed that there was a cell phone that we found, and
7 it was on a cookie rack that was just on the other
8 side of a large table that was about in the middle of
9 the business.

10 I walked around and at this point I had cleared
11 out the building because this now --- I arrived on the
12 scene. This is now an official crime scene. Not
13 everybody is supposed to be in this crime scene, so
14 I'm pretty much at this time walking around by myself
15 jotting down what I noted.

16 Inside an adjacent office, the lights were off.
17 It was --- you can see in it, but the only way you can
18 see in it, there was light from the part of the
19 building, the room where Ms. Hunnewell's body was
20 found.

21 I noticed on a desk of some sort, some time
22 cards, the punch time cards. One did belong to
23 Ms. Kelly, Ms. Hunnewell, I'm sorry.

24 I know that because it had her name on it. It
25 showed the stamp-in time was around three o'clock A.M.

1 There were other employee time cards that was also
2 found on this table near the punch clock. That at the
3 time would have been significant, important to me just
4 in case there had been any employees whose names came
5 up as a person of interest at some point in the
6 investigation.

7 I noticed that there were some keys to a Ford
8 vehicle. I found those on the counter. Inside that
9 room there was another room. Inside that room, there
10 was a security monitoring system.

11 Q And was that in relation to those cameras you had
12 initially scene?

13 A That's right.

14 Q And Sergeant Reese, you said when you arrived ---
15 are there many officers there?

16 A There were quite a few, yes.

17 Q Also, employees of the coroner's department?

18 A Yes, the coroners, a couple, few of the officers.

19 Q And eventually did Investigator McCoy arrive?

20 A Yes, I telephoned McCoy and told him that I
21 wanted him to come to the scene, and I'm not sure
22 whether I informed him over the phone that he was
23 going to take the lead. I believe I did or waited
24 until he got there, but I wanted him to be the lead on
25 this, so I assigned it to him.

1 Q Sergeant Reese, did you yourself engage any
2 canvassing of any the area neighborhoods?

3 A I did.

4 Q I'm sorry?

5 A I did, yes.

6 Q Do you recall what area you canvassed?

7 A I'm not sure of the block of Beltline, but we
8 canvassed the area of this street where this incident
9 happened at. We went there. We went to businesses
10 along Beltline, a nursing home.

11 We also crossed --- we actually crossed over to
12 other businesses. Of course, it had stopped raining.
13 After we had regrouped, we went across Beltline.
14 There's a community right across Beltline. From this
15 street here, we went to as many houses and talked to
16 as many people back up in that community as we could.

17 Q Just explain to the jury when you're walking
18 around knocking on these doors, what are you telling
19 residents in this community?

20 A I'm not giving them any information other than to
21 say there was a homicide that happened down the
22 street. I don't give them where it happened at or how
23 it happened or who was killed. They don't need know
24 that, but what they need to know, if you're going to
25 generate any kind of positive response, people want to

1 know well why are you asking us that information, so
2 we would knock on doors or we would simply see people
3 in their yards, backyards sitting down, side yard,
4 even if you walked down the street, we approached you.

5 Q You're not giving them any specific details of
6 what happened?

7 A No.

8 Q Why not?

9 A You --- if you do ---

10 MS. PINNOCK: Objection, Your Honor. He was
11 speculating.

12 THE COURT: As to why he said something?

13 MS. PINNOCK: Yes.

14 THE COURT: All right. Overruled.

15 BY MS. GARFIELD:

16 Q Go ahead.

17 A If you tell the public anything, you know, you
18 run the chance of diminishing the integrity of the
19 investigation.

20 Q Do you do that to preserve the investigation?

21 A I do.

22 Q Do you do that with all of the investigations you
23 participate in?

24 A I've been investigating homicides for nearly 15,
25 16 years. I don't change. It's always been that way.

1 Q And Sergeant Reese, did you continue to work on
2 this case or did you end that night?

3 A Because --- I was in investigations, but this was
4 what's called a VCAP case, a crime against persons.
5 In violent crimes against persons, Sergeant Pegram who
6 at that time --- now, I was at one time, I worked in
7 that unit for several years and I was the supervisor
8 in that unit.

9 I moved on from that unit to another unit at this
10 time, but I'm still in investigations. Sergeant
11 Pegram was the sergeant over that unit.

12 Generally, if one of the supervisors was gone on
13 vacation, you know, he has to find somebody else that
14 would be willing to take his place, and I was on call
15 anyway. So I also took his place while he was on
16 vacation.

17 I worked, supervised this case until Sergeant
18 Pegram got back. After that, I got back to the unit I
19 was assigned to.

20 Q At that time you were in a supervisory role with
21 the Columbia Police Department?

22 A Uh --- I'm sorry.

23 Q At that time were you in a supervisor role with
24 the Columbia Police Department?

25 A Yes, I was.

1 Q And you are today, as well?

2 A Yes, I am.

3 Q And do you recall about when Sergeant Pegram came
4 back from vacation?

5 A I believe it was sometime after the 5th.

6 Q July 5th?

7 A Fifth of July.

8 Q And let me just ask you so you can inform the
9 jury, when you're working this kind of case, is it a
10 nine to five job?

11 A Absolutely not. You ---

12 Q Explain to the jury what kind of manpower and
13 workload day-to-day is?

14 A I put the guys that was working, not only on this
15 case, but since we're talking about this case, they
16 put you --- for instance, I got this call at --- four
17 something in the morning. That first day, I believe
18 it was like three o'clock the next morning when I
19 finally got home. You never know how --- where your
20 investigation is going to take you, or how long you
21 got to be out there. Trust me when I say it pays to
22 have a good family when you have a job like this
23 because you're never home.

24 Q Sergeant Reese, is that the way it is with all
25 investigations that you participate in?

1 A All of them, yes.

2 Q So with that, Sergeant Reese, and you've been in
3 the courtroom this entire trial; is that correct?

4 A That's correct.

5 Q And you were there when Investigator McCoy
6 testified; is that correct?

7 A That's correct.

8 Q So, Sergeant Reese, you were also a party to the
9 interviews that were conducted in this case?

10 A Yes, I was.

11 Q Were you also present for the search warrants
12 that were conducted in this case?

13 A I supervised all that.

14 Q And you were obviously at the crime scene; is
15 that correct?

16 A Yes.

17 Q And you reviewed the video that was taken from
18 the bakery?

19 A Yes.

20 Q And were you also a party to viewing the video
21 from the Ale House?

22 A Yes.

23 Q And were you at a later time shown data
24 information, pictures, videos taken from cell phones
25 that were collected, from a cell phone that was

1 collected in this case?

2 A That's right.

3 Q I want to direct your attention a couple of
4 those. First of all, obviously the subjects of
5 Trenton Barnes and Lorenzo Young came into your
6 investigation; is that correct?

7 A That's right.

8 Q I'm sorry --- between the two of us. What was
9 your answer?

10 A That's correct.

11 Q And did you discover where Lorenzo Young lived?

12 A I did.

13 Q And did you also discover where Trenton Barnes
14 resided?

15 A I did.

16 Q And where did Trenton Barnes live?

17 A Trenton Barnes lived on Lucille Drive. I'm not
18 sure of the numbers right at this moment.

19 Q You're not sure what?

20 A Of the numbers, but he lived on Lucille.

21 Q And those homes, are they in close proximity to
22 the bakery?

23 A Across Beltline. Easy walking distance.

24 Q Did you in fact walk between Lucille Drive to the
25 bakery?

1 A I did.

2 Q And about how long does it take you to get there?

3 A From Lucille to the bakery, under ten minutes.

4 It doesn't take you long.

5 Q And you did that yourself?

6 A I just drove.

7 Q Were you also there when --- first let me back
8 up. You canvass a neighborhood. Do you provide
9 information on how anybody with information can get in
10 touch with law enforcement?

11 A That's right. Sometimes I will maybe give out
12 card or ask them to call Crimestoppers, that kind of
13 thing or any of the other investigators that might
14 have been with us when I came in contact with any
15 specific persons.

16 Q And so were you there when Donald Moore was
17 interviewed?

18 A I was.

19 Q And when Donald Moore came to the Columbia Police
20 Department and talked with you and investigator ---
21 other investigators, what was his demeanor like?

22 A Well, I found him to be very candid.

23 MS. BAMBACH: Objection, Your Honor. Bolstering.

24 MR. KRZYSTON: Bolstering.

25 THE COURT: She asked what his demeanor was. You

1 can answer that.

2 MS. PINNOCK: It was the answer that our
3 objection was on.

4 THE COURT: All right. Re-ask the question. I
5 thought the question was what was Donald Moore's
6 demeanor.

7 MS. GARFIELD: What was Donald Moore's demeanor
8 like?

9 THE COURT: You may answer that question.

10 THE WITNESS: I didn't find his demeanor to be
11 anything out of the ordinary.

12 BY MS. GARFIELD:

13 Q And he came to you on his own will?

14 A Yes, he did.

15 Q And in your experience in investigations,
16 sometimes witnesses change their cooperation?

17 MR. SCHNEE: Objection.

18 MS. PINNOCK: Objection, speculation.

19 THE COURT: Overruled.

20 MR. SCHNEE: Relevance.

21 THE COURT: You may answer.

22 THE WITNESS: I've had that to happen a few
23 times, yes.

24 BY MS. GARFIELD:

25 Q Now, you also had an opportunity to review

1 photographs taken from a phone associated with Lorenzo
2 Young. I'm going to hand you what's been marked as
3 State's Exhibit 392 and 435. Do you recognize these
4 those photographs?

5 A I do.

6 Q And do you know who the person is in those
7 photographs?

8 A It would be the defendant sitting in the middle
9 table, Lorenzo Young.

10 Q And you have personally knowledge concerning
11 Mr. Young?

12 A I do, yes.

13 Q Did you also have an opportunity to review a clip
14 of a video taken off that same phone?

15 A That's right.

16 Q I'm referring to State's Exhibit Number 441.
17 Sergeant Reese, were you able to review that video?

18 A Yes, ma'am.

19 Q And based on your personally knowledge, were you
20 able to identify anyone in the video?

21 A Lorenzo Young.

22 Q And as --- just kind of backtracking a little
23 bit, as Donald Moore came forward to talk to you,
24 witnesses that came forward with information, were
25 they interviewed by investigators or someone at the

1 Columbia Police Department?

2 A They were.

3 Q I'm going to direct your attention back to you
4 were testifying --- I believe you said that there were
5 several officers at the bakery who indicated they were
6 people from the coroner's office; is that correct?

7 A That's correct.

8 Q And besides that particular day, are there are
9 numerous officers involved?

10 A Beside that day?

11 Q Sure.

12 A That morning?

13 Q Yes, sir.

14 A Yeah, there were other officers and/or
15 investigators that's true.

16 Q But not everybody --- although they're working,
17 not everybody produces information that can be
18 contributed to the case; is that correct?

19 A Yeah, that's correct.

20 Q And is it unusual for --- or do all the
21 witnesses --- let me backtrack. All the officers that
22 are involved in the course of this investigation that
23 took several days, in your experience of 15, 16, 17
24 years of law enforcement --- or in homicide, do they
25 all come to court?

1 A No.

2 Q And also based on your experience working these
3 violent crimes against people, in your experience are
4 all witnesses willing to talk to police?

5 MR. SCHNEE: Objection. General relevance to all
6 witnesses.

7 THE COURT: Overruled.

8 THE WITNESS: No.

9 BY MS. GARFIELD:

10 Q Now, you have reviewed the video in the case from
11 the bakery?

12 A I have.

13 Q And the subjects that entered the bakery, what
14 are they wearing as far as types of clothing?

15 A The two that entered the establishment, one had
16 on a red, looked like a pull over kind of hoodie, a
17 sweatshirt kind of thing, and the other one was
18 wearing a gray colored hoodie.

19 Q And you were a party to or there for the search
20 warrants of Lucille Drive?

21 A I was.

22 Q And Bronx Road.

23 Q Yes. And were any red hoodies found?

24 A No.

25 Q Were any gray hoodies found?

1 A No.

2 Q Were there any hoodies found?

3 A There was one hoodie found. I think it was at
4 Mr. Barnes' house and that was a dark colored hoodie,
5 a navy blue, I believe.

6 Q And was there anything --- that hoodie was wet,
7 as well, when it was found?

8 A Yes, ma'am.

9 Q Did law enforcement in any way rush to make an
10 arrest in this case?

11 A Did we rush to make an arrest?

12 Q Yes, sir.

13 A Absolutely not, no.

14 Q Did you treat this investigation any differently
15 than you would any others?

16 A No. Here is what I do when I'm instructing
17 investigations on a case. The main thing is that
18 before you take a person's liberties away, that is
19 sign arrest warrants, arrest this person, take him off
20 the street, put him in jail, you make sure that you
21 have the reasons required to do so.

22 Q Sergeant Reese, did you also take that video from
23 the bakery to the Lexington County Sheriff's
24 Department?

25 A One of the investigators did, I believe McCoy,

1 yes, ma'am.

2 Q And from taking it to the sheriff's department in
3 Lexington County, were still photos produced?

4 A Yes.

5 Q I'm going to show you what's been marked as
6 State's Exhibit Number 451 through 463. If you'll
7 just take a moment to go through these photographs?

8 A All right.

9 Q Sergeant Reese, what are those photographs
10 contain?

11 A These photographs are from the video camera on
12 the inside of the bakery and it shows the initial
13 contact, which shows the subjects coming in at a
14 certain point that entered into the room of the video
15 camera. it shows their contact with Ms. Hunnewell.

16 MS. GARFIELD: Your Honor, at this time I'd like
17 to introduce 451 through 463 into evidence.

18 THE COURT: Over defense's objection.

19 MS. GARFIELD: Thank you, Your Honor, Your Honor.

20 (WHEREUPON, State's Exhibit Numbers 451 through
21 463 were admitted into evidence.)

22 BY MS. GARFIELD:

23 Q Thank you, Your Honor. Sergeant Reese, I want to
24 show you State's Exhibit Number 451, can you describe
25 what's in this still photograph?

1 A This is a --- if the camera that took this frame
2 would be behind me, Ms. Hunnewell would be in front of
3 me, and it shows Ms. Hunnewell with her back turned
4 toward that camera.

5 She is over at the sink. There's a large stove
6 to the left, and then a couple of the tables I
7 mentioned earlier.

8 Q And I believe --- you reviewed all of those
9 photographs and the evidence. Is the time accurate on
10 the photographs?

11 A No. From what my understanding of it was, the
12 clock was off an hour or so, I believe.

13 Q Okay.

14 MS. GARFIELD: Permission to the publish to the
15 jury as we go through these, Judge?

16 THE COURT: Yes, ma'am.

17 BY MS. GARFIELD:

18 Q Can you tell what Ms. Hunnewell is doing at this
19 time?

20 A You can't tell, put you can know that she is
21 standing at the sink. I can't really tell.

22 Q And State's Exhibit Number 452. Is that another
23 angle from the bakery?

24 A Yes, it is. It would be from Ms. Hunnewell's
25 rear, from the rear to Ms. Hunnewell and over to the

1 right side of Ms. Hunnewell, and she is --- it looks
2 like she is still at the sink at this point.

3 Q State's Exhibit Number 453. What does that
4 photograph reflect that is occurring in the bakery?

5 A Okay. First of all, you notice that
6 Ms. Hunnewell is not in this frame. It's not at the
7 sink. It reflects one of the individuals, who is now
8 on the inside of the business, and it will be the one
9 with the red hoodie on.

10 Q And referring to State's Exhibit Number 454, what
11 do you see in that photograph, Sergeant Reese?

12 A This frame shows just at the entry point to the
13 door, the entry door, and I say that because the other
14 subject the one with the gray hoodie on, is just a
15 couple of feet --- appeared to be just a couple of
16 feet on the inside of the business as you step through
17 that entry door.

18 Q Moving on to State's Exhibit 455, Sergeant Reese,
19 what does that picture reflect in the bakery?

20 A Ms. Hunnewell has her back turned toward where
21 the door is opened, and it shows the subject in the
22 red. It's clear that he has a firearm in his right
23 hand.

24 Apparently he is approaching her and she doesn't
25 know it yet, because it doesn't appear that at this

1 instant it look as if she is still --- she is working
2 at the stove and not even aware of what's behind her.

3 Q Sergeant Reese, I'll hand you State's Exhibit
4 Number 456. Can you please share with the jury what
5 you observed in that photograph?

6 A This looks like Ms. Hunnewell is still at the
7 stove and now the person in the red hoodie has engaged
8 her from behind. It appears that he has hands on at
9 this point.

10 Again, if the stove and the sink area would be
11 out here and the camera would be here, it also shows
12 the back of the subject in the gray hoodie. His arm
13 is extended, as well. He has something in his hand to
14 me from the investigation, obviously, that's a
15 firearm.

16 Q Sergeant Reese, I'll direct your attention to
17 State's Exhibit Number 457, can you share with the
18 jury what you observed in that photograph?

19 A This frame also shows a hands on type situation.
20 Ms. Hunnewell is still being engaged from the rear.
21 It appears that the subject now, in the red hoodie,
22 has the firearm up in this manner pointing it at her
23 head.

24 It also appears that the subject in the gray
25 hoodie is now making his move toward Ms. Hunnewell and

1 the subject in the red shirt, sweatshirt.

2 Q Sergeant Reese, State's Exhibit Number 458, what
3 do you see in that?

4 A I don't see the one in --- I don't see the gray
5 hoodie in this frame. The subject in the red hoodie
6 is still engaging Ms. Hunnewell. He has the gun. It
7 appears to be a little closer at this point. He
8 has his --- it looks as if he has his left hand now on
9 her --- on the rear from this side of her head and
10 neck area.

11 Q And I'll show you State's Exhibit Number 459.
12 What do you observe in that picture?

13 A Frame 459 shows --- still the cameras back here
14 is showing the rear of the person that's in the red
15 hoodie. Ms. Hunnewell is now facing him. There is
16 not a great distance between the two of them. They
17 are very close. Close enough to be touching, but she
18 is facing him and it looks as if he still has the gun
19 in his right hand pointing it at Ms. Hunnewell and now
20 has her hand up like this and her arm.

21 Q Sergeant Reese, if you'll share with the jury
22 what you observed in State's Exhibit 460.

23 A This frame here shows both subjects now in the
24 gray hoodie and a red hoodie facing Ms. Hunnewell.
25 She is now turned around toward the camera that would

1 be here and her left hand is up like this at some
2 point, and I really can't make her right hand out
3 except to say that it is somewhere in this manner
4 here, around the breast area here.

5 The subject in the gray hoodie is still using his
6 right hand. He is pointing the firearm at her in her
7 mid section area. It looks like there is now a --- a
8 bit more of a physical contact made between Ms.
9 Hunnewell and the one in the red. This looks like
10 there is a physical altercation at this point between
11 the two of them.

12 Q Sergeant Reese, if you can take a look at 461?

13 A Certainly.

14 Q And share with the jury what you observed.

15 A At this point, I do not --- in this frame I do
16 not see the subject in the gray hoodie, only it still
17 appears to be in the right hand of the subject in the
18 red hoodie. It's caught in this frame. but not very
19 much of him. You don't see him, you just see his arm
20 up to this point. You still see the firearm in his
21 hand. Ms. Hunnewell is still in the frame and I
22 cannot at this point tell you'll whether at this
23 juncture there has been any shots fired at this point.
24 I can't tell that from the photograph.

25 Q You can't tell that in the photographs?

1 A No.

2 Q Okay.

3 Q Sergeant Reese, if you'll share with the jury
4 what you see in State's Exhibit 462.

5 A In 462, the subject --- Ms. Hunnewell is not in
6 the frame. The subject with the red hoodie, it's
7 clear at this point that he is in flight. You can
8 tell by the different positions of his body and he is
9 on his way out toward the area that he came in
10 through.

11 Q What did you observe about his arm?

12 A His arm is up like this and it's behind him in
13 this fashion.

14 Q In the direction towards who?

15 A In the direction toward where Ms. Hunnewell was
16 standing a few moments ago.

17 Q And lastly State's Exhibit Number 463, what did
18 you observe?

19 A 463 shows the subject in the gray hoodie. He is
20 in the frame shot. Ms. Hunnewell is in the frame
21 shot. Unfortunately, she is --- you can't see all of
22 her, but you can see her legs. One foot. She is down
23 on the floor, and she is in that same area that the
24 subjects first engaged her. The subject with the gray
25 hoodie on, he still has the gun in his hand. He has

1 it down toward the floor and again, like the other
2 shot, it's clear that he is in flight, as well. He is
3 trying to get out of it.

4 Q Sergeant Reese, I'll just direct your attention
5 to both State's Exhibits 462 and 463. Are these taken
6 from the same camera angle?

7 A I would think that it was. I'm not too sure
8 except to say in 463 it looks as if the camera ---
9 it's the rear camera that would be to my back and a
10 little over to the left. I'm not clear where the
11 camera was situated at this point, but in 462 it looks
12 as if this camera would have been further down closest
13 to the door where they first encountered the doorway.

14 Q So captured by two different cameras?

15 A Two different cameras.

16 Q What are the times on those?

17 A 463, the time is showing 0:42:32 and 462 the time
18 is showing 02:42:31.

19 Q So the cameras captured the second part?

20 A Yeah.

21 Q It was just something I overlooked. I'm sorry.
22 463 it appears to have been recorded by camera 4 and
23 462 recorded by camera 2.

24 Q Sergeant Reese, you interviewed several witnesses
25 in this case, correct?

1 A Yes, ma'am.

2 Q And in your investigation, did that lead to
3 arrests?

4 A Yes, it did.

5 Q Did that lead to people being charged?

6 A That's correct.

7 Q And can you share with the jury who all was
8 charged in this case?

9 A Who all was charged in the case?

10 Q Yes, sir.

11 A Lorenzo Young was charged, Trenton Barnes was
12 charged and Troy Stevenson was charged. Those three
13 were people charged.

14 Q And were all three charged the same offenses?

15 A Yes, they were.

16 Q And the charges against Troy Stevenson, they're
17 still pending?

18 A That's right. He was charged with the same.

19 Q And he will have his day in court; is that
20 correct?

21 A Yes, ma'am.

22 MS. GARFIELD: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. GARFIELD:

25 Q Sergeant Reese, do you see the defendant Lorenzo

1 Young in the courtroom today?

2 A I do.

3 Q Can you please point him out for the record to
4 the jury?

5 A He is in the middle of counsel table, has a blue
6 shirt on with striped tie.

7 Q Do you also see the defendant Trenton Barnes in
8 this case?

9 A I do.

10 Q Can you point him out for the record?

11 A He is sitting at the far right counsel table with
12 a black and white printed shirt on.

13 Q Thank you, Sergeant Reese.

14 MS. GARFIELD: Your Honor, may the record reflect
15 that Sergeant Reese has identified both defendants for
16 the record?

17 THE COURT: So reflected.

18 MS. GARFIELD: Sergeant Reese, please answer any
19 questions the defense counsel may have for you.

20 THE WITNESS: I will.

21 MS. PINNOCK: No questions, Your Honor.

22 MR. SCHNEE: No questions.

23 THE COURT: Have a good day.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: Call your next witness.

1 MS. GARFIELD: Your Honor, at this time the State
2 of South Carolina rests its case.

3 THE COURT: All right. Ladies and gentlemen, at
4 this point in time, the State has rested its case in
5 chief. I have some matters of law that I have to take
6 up that I'm required to take up outside of prescience
7 so please return to your jury room. Do not discuss
8 the case in any way, shape, or form. Keep an open
9 mind and we'll be back with you in just a few minutes.
10 Thank you very much. Everyone remain seated while the
11 jury is dismissed.

12 (WHEREUPON, the jury left the courtroom at 11:38
13 A.M.)

14 THE COURT: All right. Who wants to go first?

15 MR. SCHNEE: I'll go first.

16 THE COURT: All right.

17 MR. SCHNEE: May it please the Court, Your Honor.

18 THE COURT: Yes, sir.

19 MR. SCHNEE: First I would renew all prior
20 motions and objections. Particularly all of the
21 motions dealing with the mistrial, severance,
22 804(b)(3), just all for the record. Second, Your
23 Honor, I'd move for a directed verdict on all charges
24 for my client particularly, other than the letter
25 which I would certainly argue is not really direct

1 evidence, that it's more circumstantial evidence. If
2 you look at the entire content of what we know is
3 factually untrue, compared to the video and all other
4 actual indisputable evidence, I don't believe the
5 State has gotten to the point of proving beyond a
6 reasonable doubt with any clear and convincing
7 evidence or circumstantial evidence. The standard is
8 substantial circumstantial evidence. I don't believe
9 they've gotten there. I believe they've gotten
10 Rolanda Coleman to pseudo identify my client by saying
11 that she knew it was his walk and his height. That's
12 the entire identification on the video itself and at
13 the same time refusing to admit that allegedly the
14 person in red would be Lorenzo Young, which is the
15 State's contention. Coming from Rolanda Coleman, I
16 think that highly suspect, at best. As to any other
17 direct evidence, there's no fingerprints, there's no
18 DNA There is nothing properly admitted. There is no
19 confession admitted by anyone. I just don't believe
20 the State has proved its case beyond the point that
21 Your Honor or even the jury should even consider it
22 and would I ask for a directed verdict.

23 THE COURT: All right. Who is talking?

24 MS. CAMPBELL: Your Honor, I believe in the light
25 most favorable to the State, the State has proven

1 case. There is substantial evidence as far as guilt
2 for Mr. Barnes, including his confession to which he
3 admits to going in and being one of the shooters. In
4 addition to that, there was identification by his own
5 mother, as well Rolanda Coleman as being in the video.
6 There is also his DNA at the scene. Your Honor, I
7 would respectfully ask you to deny his motion.

8 THE COURT: All right. All your previous motions
9 are noted for the record and my rulings on them will
10 remain the same.

11 As to your motion under Rule 19 under the South
12 Carolina rules of criminal procedure, for a directed
13 verdict, that motion is denied. I'm required to
14 consider the evidence in the light most favorable to
15 the State. I'm further required to view the existence
16 of the evidence and not the weight of the evidence.
17 Therefore, I'm ruling on this motion, you will be
18 denied. I believe there is --- in the case of
19 Mr. Barnes, there is direct evidence linking him and
20 connecting him to this crime and there is substantial
21 circumstantial evidence so your motion for a directed
22 verdict is denied.

23 Mr. Young?

24 MS. PINNOCK: May it please the Court, Your
25 Honor. Your Honor, at this time we would renew all of

1 our previous motions and objections as noted, Judge,
2 specifically, Judge, our objection to the introduction
3 of a letter written by Trenton Barnes. We would renew
4 all objections that we had to the trying of Mr. Young
5 and Mr. Barnes in a joint trial. We also renew our
6 objection to any items collected during search warrant
7 of Mr. Young's house and any testing done thereafter
8 on all those items and basically all of our objections
9 and motions that we made throughout the State's case.
10 We just renew all of those. We understand Your Honor
11 has ruled on them, but at this time we are renewing
12 all our objections and motions. Your Honor, we're
13 also asking Your Honor to grant a directed verdict in
14 viewing the evidence in the light most favorable to
15 the State, the standard is substantial circumstantial
16 evidence.

17 I would agree that they have introduced some
18 circumstantial evidence in this case, but I don't
19 believe it rises to the level of substantial. I don't
20 believe that they have presented enough evidence
21 against Mr. Young. The evidence that is per Your
22 Honor's ruling to be allowed to be considered against
23 Mr. Young. I don't think this case should reach the
24 jury for deliberation. We would ask Your Honor to
25 grant a directed verdict for Mr. Young on all charges

1 because the State has failed to meet their burden at
2 this point.

3 THE COURT: All right. All your previous motions
4 are noted for the record and my ruling upon them will
5 remain the same. As to the motion for a directed
6 verdict under South Carolina rules of criminal
7 procedure Rule 19 that motion is denied. In regards
8 to Mr. Young, there is both direct evidence against
9 him and there is substantial circumstantial evidence
10 against him and his case will go forth to the jury
11 viewed in the light most favorable to the State,
12 taking into account the existence of the evidence and
13 not the weight of the evidence.

14 All right. Now, we need to --- I need to advise
15 both of them, okay. Would both of you gentlemen
16 please stand up and raise your right hand, please,
17 both of you?

18 LORENZO YOUNG AND TRENTON BARNES,
19 each after being duly sworn, both testified as
20 follows:

21 THE COURT: All right. I'm going to carry on a
22 conversation with you here, okay. This is to each
23 defendant. Each defendant is standing, both with
24 their lawyers. Now, I mean, this. If you do not
25 understand what I'm saying or you're confused or you

1 need me to know explain something further just tell
2 me, that's perfectly fine. You're not going to upset
3 me or offend me or anything else. This is one of the
4 most important things we will cover. I want to handle
5 this with a full knowledge and understanding that you
6 understand what I'm saying and that you're following
7 what I'm saying. Do you understand that, Mr. Barnes?

8 DEFENDANT BARNES: Yes, sir.

9 THE COURT: Do you understand that, Mr. Young?

10 DEFENDANT YOUNG: Yes, sir.

11 THE COURT: Okay. All right. At this time, I'm
12 going to explain to both of you some of your rights.
13 If you do not understand anything that I say, please
14 let me know. If you want me to explain anything in
15 more detail to you, let me know. Do you understand
16 what I have said so far, Mr. Barnes?

17 DEFENDANT BARNES: Yes, sir.

18 THE COURT: And Mr. Young?

19 DEFENDANT YOUNG: Yes, sir.

20 THE COURT: We have now reached the stage of the
21 trial where you may present your defense. You have
22 the right to claim the protections given to you by the
23 Fifth Amendment to the Constitution of the United
24 States of America. This amendment states in part that
25 no person shall be compelled in any criminal case to

1 be a witness against himself. What this means is that
2 you cannot be required to testify in this case. You
3 have the right to testify on your own behalf, however,
4 no one can make you testify. This is a personal right
5 and no one can waive this right except you. If you
6 decide to testify, you will be subject to the same
7 rules that govern other witnesses and you may be
8 examined and cross-examined on any relevant issue in
9 this case. If you have any convictions that involve
10 dishonesty or false statement or for crimes punishable
11 by imprisonment for than one year and I determine that
12 the probative value of these --- admitting this
13 evidence outweighs its prejudicial effect, the
14 solicitor will be able to introduce your record to
15 attack your credibility. I know of none. Do you know
16 of any, Ms. Campbell?

17 MS. CAMPBELL: No.

18 THE COURT: Prior convictions that would fall
19 under 609?

20 MS. CAMPBELL: We aren't planning on using any.

21 THE COURT: Okay, so there are no criminal
22 convictions that the State would attempt to introduce
23 during your cross-examination. Do you understand
24 that, Mr. Barnes?

25 DEFENDANT BARNES: Yes, sir.

1 THE COURT: And Mr. Young?

2 DEFENDANT YOUNG: Yes, sir.

3 THE COURT: If you decide to testify this
4 decision on your part must be made freely and
5 voluntarily and intelligently with the knowledge of
6 the protections that are given to you by the Fifth
7 Amendment and the consequences of your decision to
8 testify. If you decide not to testify, I will
9 instruct the jurors that cannot give the fact that you
10 did not testify any consideration whatsoever and that
11 there is to be absolutely no prejudice to you because
12 you did not testify. It is left entirely up to you
13 whether or not you testify.

14 You may talk with your attorney or your family or
15 anyone else, but the final decision will be left
16 entirely up to you. Do you understand what I have
17 explained to you so far? Mr. Barnes?

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: Mr. Young?

20 DEFENDANT YOUNG: Yes, sir.

21 THE COURT: Do you have any questions about what
22 I have explained to you, Mr. Barnes?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: Mr. Young?

25 DEFENDANT YOUNG: No, sir.

1 THE COURT: Have you discussed this --- now,
2 don't tell me what the discussion is, but have you
3 discussed this with your lawyer, Mr. Barnes?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Now, don't tell me what the
6 discussion is, but Have you discussed it with your
7 lawyer, Mr. Young?

8 DEFENDANT YOUNG: Yes, sir.

9 THE COURT: Do you need to talk anymore to your
10 lawyer at this time?

11 DEFENDANT BARNES: No, sir.

12 THE COURT: Counsel, do you request more time,
13 Mr. Schnee?

14 MR. SCHNEE: Can I have five seconds?

15 THE COURT: Mr. Krzyston?

16 MR. KRZYSTON: I'll just take five seconds while
17 he is, as well.

18 THE COURT: Okay.

19 MR. SCHNEE: I'm good.

20 MR. KRZYSTON: We're good, Your Honor.

21 THE COURT: So do you need any more time to talk
22 to anybody, Mr. Barnes?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: And Mr. Young?

25 DEFENDANT YOUNG: No, sir.

1 THE COURT: Okay. At this point in time, do you
2 wish to testify, Mr. Barnes?

3 DEFENDANT BARNES: No, sir.

4 THE COURT: Okay. And do you wish to testify,
5 Mr. Young?

6 DEFENDANT YOUNG: No, sir.

7 THE COURT: Okay. All right. Thank you very
8 much. You may be seated.

9 THE COURT: Let's talk about scheduling. Mr.
10 Krzyston, how many witnesses are you planning on
11 calling?

12 MR. KRZYSTON: Your Honor, we're not putting up a
13 case.

14 THE COURT: Mr. Schnee?

15 MR. SCHNEE: No witnesses, Judge.

16 THE COURT: Okay. Very well. Let's talk about
17 scheduling a little bit for --- go ahead, stand up?

18 MR. KRZYSTON: Since we just formally rested, I
19 would again renew all motions and objections, pre and
20 post trial, as well as throughout the trial and just
21 everything that we brought to the court.

22 MR. SCHNEE: As officially resting, I would also
23 renew all prior motions and objections based on the
24 same issues.

25 THE COURT: All right. Those motions are noted

1 for the record, my rulings upon them will remain the
2 same. Let's talk about scheduling --- how do you
3 all --- we have to talk about charges. We have to eat
4 lunch and we have to argue and charge. Are what are
5 your thoughts?

6 MS. CAMPBELL: It takes about 20 to 30 minutes to
7 talk about the charges at least, and then whatever you
8 think is appropriate for lunch and then we'll be
9 ready.

10 MR. SCHNEE: Judge, I agree. It's probably about
11 a 15 to 20 minute discussion about actual charges.
12 The only other issue i.e. obviously we have to go
13 through all the evidence and make sure all the
14 exhibits are there. Particularly the CDs, I want to
15 through them and just stick them in a laptop and make
16 sure what's on them. I think we can do all that while
17 the jury is actually at lunch. We can do our ---
18 everything else after that.

19 THE COURT: Okay.

20 MR. SCHNEE: I don't mind not eating. It's not
21 like I have had much to eat during lunches anyway
22 during this trial.

23 MR. KRZYSTON: We're at the court's disposal,
24 Your Honor.

25 THE COURT: All right. Well, let's do this.

1 Let's take a little break because I think that
2 everybody --- the jury hasn't been in here all
3 morning, but most all of have without break and I know
4 Karen is looking at me like she really needs a break.
5 Let's take about a ten minute break. Everybody
6 stretch your legs, kind of regroup. Come back. We'll
7 do the charge conference on the record.

8 MR. KRZYSTON: Thank you, Your Honor.

9 MR. SCHNEE: Thank you, Your Honor.

10 THE COURT: We will stop the charge conference,
11 break for lunch and then argue and charge after lunch,
12 okay?

13 MR. SCHNEE: Thank you, Your Honor.

14 (WHEREUPON, a short break was taken.)

15 THE COURT: Okay. The multiple defendant charge
16 you requested is the one that's in the charge book.
17 Do you have an objection to that?

18 MS. CAMPBELL: No, Your Honor, it's appropriate.

19 MR. KRZYSTON: Thank you, Your Honor.

20 THE COURT: I'm charging multiple defendants and
21 multiple charges and so let's move to Mr. Barnes just
22 for these I and he wants the Logan circumstantial
23 evidence charge. What's your position on that?

24 MS. CAMPBELL: I think if he requested it, he
25 gets it.

1 THE COURT: So that would be the circumstantial
2 evidence charge, his charge. As to reasonable doubt,
3 I charge Victor v. Nebraska and Mr. Barnes' and then
4 malice, we're going to do malice here in just a
5 second. Criminal intent ---

6 MS. CAMPBELL: Your Honor, we would request
7 criminal intent in the charge book.

8 THE COURT: Yeah, the criminal intent that one is
9 almost identical to the one in the charge book; it's
10 very close.

11 MR. SCHNEE: Okay.

12 THE COURT: I will be charging criminal intent
13 and multiple defendants, the verdict --- I'm going to
14 tell them --- I'm going to do this at the beginning
15 and I'm going to do it at the end when I come to the
16 verdict form, which I'll show you all a copy of. I'm
17 going to say you have to consider each and every
18 single one of these independent of each other. One
19 decision can't be based upon the other decision, you
20 can acquit them all, find them all guilty, find none
21 of them guilty, find some, partial whatever it may be.
22 I will go into detail about the multiple defendants
23 and multiple charges in the beginning and at the end
24 when I go through the verdict form. Okay.

25 MR. SCHNEE: Yes, sir. Judge, there are a couple

1 of other charges that I didn't actually print out
2 because I knew they were in your charge book that I
3 would request. First, I would request a mere presence
4 charge. I think there is substantial evidence, or at
5 least there's been enough testimony that we didn't ---
6 the person, which is outside whose identity is an
7 obvious issue, could be merely present and not
8 actually a participant. I'd ask for that.

9 Additionally, based on the letter that the State
10 introduced with the actual content of that, first I
11 would be requesting a voluntary manslaughter charge
12 based on the lack of malice that's expressed in that
13 letter and second I would be objecting to any inferred
14 malice by using deadly weapon as a result of the
15 letter the State introduced.

16 THE COURT: All right. Your request for a
17 voluntary manslaughter is denied. Tell me why you
18 think Belcher applies.

19 MS. CAMPBELL: We'll withdraw that.

20 THE COURT: You'll withdraw ---

21 MS. CAMPBELL: We'll be glad to not use Belcher.
22 I'll agree to that.

23 THE COURT: You're okay with not saying infer
24 from a deadly weapon.

25 MS. CAMPBELL: Everybody know it's not --- I just

1 the it's safer to not use it.

2 THE COURT: Okay. That's fine. Do you want to
3 respond to the mere presence?

4 MS. CAMPBELL: Your Honor, the only testimony
5 before this jury is that the three of them went down
6 there and participated in this crime. Out of an
7 abundance of caution, I don't have a problem with
8 mere presence.

9 THE COURT: Okay. Say that again.

10 MS. CAMPBELL: I don't have a problem with it.

11 THE COURT: Okay, you don't have a problem with
12 it?

13 MS. CAMPBELL: With just the fact mere presence
14 alone is not enough.

15 MR. SCHNEE: It's one or two sentences. That was
16 the one I was referring to.

17 THE COURT: Yes, and it's in the --- hold on, let
18 me find that.

19 (Pause.)

20 THE COURT: Here is what I was already planning
21 on saying. However, mere presence at the scene of a
22 crime is not sufficient to convict one as a principal
23 on theory of aiding and abetting. So I was going to
24 talk about it anyway.

25 MS. CAMPBELL: That's fine.

1 MR. SCHNEE: That's fine.

2 THE COURT: That's part of the hand of one
3 charge.

4 THE COURT: Okay.

5 MR. SCHNEE: The only other thing, the reasonable
6 doubt language, really the only request I'm making is
7 the hesitate to act charge. I believe that's probably
8 in there.

9 THE COURT: It's in your request to charge. I'm
10 charging Victor v. Nebraska, which is firmly
11 convinced.

12 MR. SCHNEE: Okay. So you're not charging the
13 hesitate to act?

14 THE COURT: Correct.

15 MR. SCHNEE: Okay. Well, that's --- for the
16 record, yes, I understand. Thank you.

17 THE COURT: You can still say that. You
18 understand that?

19 MR. SCHNEE: Yes, Your Honor.

20 THE COURT: There are two charges that are
21 available for reasonable doubt. One is hesitate to
22 act, one is firmly convinced. I charge firmly
23 convinced. Hesitate to act as is correct statement of
24 the law, so you can say it.

25 MR. SCHNEE: Yes, Your Honor. I just wanted to

1 make sure that you were not saying it because I
2 normally tell the jury that the judge is about to
3 instruct you.

4 THE COURT: That's fine. I understand. That's
5 why I was telling you that.

6 MR. SCHNEE: Thank you.

7 MR. KRZYSTON: Judge, I was just wondering, are
8 you going to reissue the limiting instruction in
9 regard to the handwriting sample?

10 THE COURT: I was going to, yes.

11 MR. KRZYSTON: Okay.

12 THE COURT: Do you have an objection to me doing
13 that?

14 MR. KRZYSTON: Again, I'm in that weird position
15 where I've got this objective sufficiency of the
16 overall charge, but ask for it anyway so only to that
17 extent.

18 THE COURT: All right. Ms. Campbell. Let's go
19 through yours.

20 MS. CAMPBELL: Yes, sir.

21 THE COURT: Let's start with the kidnapping one.
22 Is there any objection to the kidnapping one? Hold
23 on. Let me go to that part of my charge.

24 MR. SCHNEE: Judge, I have no particular
25 objection to that one sentence. That's covered in the

1 elements that you're going to read anyway, but I'm not
2 going to object to it.

3 THE COURT: Mr. Krzyston.

4 MR. KRZYSTON: We have no objection, Your Honor.

5 THE COURT: All right. So the kidnapping
6 addition will be added in.

7 I have to reorganize this so that I'll have to
8 retype it out. All right. So now, the next one ---
9 let's move to the hand of one is the hand of all.

10 MS. CAMPBELL: Are you using that one or a
11 different one?

12 THE COURT: I have three hand of one hand of all
13 from you so let's start with which one? They all kind
14 of say the same thing, but they're all a little bit
15 different.

16 MR. SCHNEE: Judge, I think there's one that kind
17 of looks like a combination of some of the others. It
18 starts out with two or more combined together. Blah
19 blah blah. It's one solid very large paragraph.

20 THE COURT: Right.

21 MR. SCHNEE: Obviously out of the charged, that
22 one covers all the rest. I would ask that ---

23 MS. CAMPBELL: Are you talking about the Ralph
24 King Anderson one?

25 MR. SCHNEE: Yes.

1 MS. CAMPBELL: I have no problems with that.

2 THE COURT: How about you, Mr. Krzyston?

3 MR. KRZYSTON: Just so we're clearly talking
4 about the one --- the correct one, it's King's charge
5 as well as State v. Avery.

6 THE COURT: Yes.

7 MR. KRZYSTON: We would object to that charge on
8 the basis of the totality of the circumstances. I
9 don't know that the State has offered any evidence to
10 indicate that Mr. Young --- certainly offered any
11 direct evidence to indicate that Mr. Young is part of
12 an accomplice. Based on that, Judge, we object to the
13 charge at issue.

14 THE COURT: You're objecting to hand of one, hand
15 of all period. Is that your objection?

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: If I give the State's version of it,
18 then the mere presence comes out. Do you understand
19 that, Mr. Schnee?

20 MR. SCHNEE: Well, I don't understand, no, I
21 don't.

22 THE COURT: Okay. The hand of one is the hand of
23 all from the charge book includes the language of the
24 mere presence, which I read to you just a minute ago.
25 If you give the --- if I give the Ralph King Anderson

1 charge, mere presence is not in there.

2 MR. SCHNEE: Well, Your Honor, I would ask that
3 you either charge what's in your book or just add a
4 separate mere presence charge. I'm fine with Your
5 Honor doing it either way. I understand the State is
6 entitled to that charge and I'm entitled to a mere
7 presence charge, Judge.

8 MS. CAMPBELL: If he wants that mere presence
9 added in, we have no problem with you adding at the
10 scene is not sufficient.

11 THE COURT: Here is my question. On the Ralph
12 King Anderson hand of one charge. My question if I
13 say if two or more combine together to commit an
14 unlawful act, such as robbery, and then halfway down
15 it says, as for instance to break in and steal, both
16 of those, I think inserting those factors in there
17 gets close to commenting on the facts of the case
18 because that is the allegations.

19 MS. CAMPBELL: How about to commit an unlawful
20 act or a crime. Does that help?

21 THE COURT: What about that, Mr. Schnee, do you
22 have an objection to that?

23 Do you see what I'm saying.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: What I'm --- there's warnings all

1 over the charge book that says --- that say don't give
2 an example that fits the facts of your case.

3 MR. SCHNEE: Right.

4 THE COURT: Right. Because you don't want to be
5 in a position of commenting on the facts of your case.
6 So if I change that --- are you looking at the State's
7 request to charge on this?

8 MR. SCHNEE: Yes.

9 THE COURT: If I change, if two or more combine
10 together to commit an unlawful act and/or a crime,
11 instead of saying such as robbery, which is an
12 allegation here and then the execution of that
13 criminal act, blah blah blah, and then halfway down
14 where it says, as for instance, if it was unlawful.

15 MS. CAMPBELL: Just take out that language of,
16 for instance to break in and steal.

17 MR. SCHNEE: You take out the, as for instance to
18 break in and steal.

19 THE COURT: The common purpose may not have been
20 to kill...and if it was unlawful and in the execution
21 of this common purpose --- but, if it was unlawful and
22 or criminal, right?

23 MS. CAMPBELL: Unlawful and/or criminal?

24 THE COURT: And/or criminal, and in the execution
25 of this common purpose.

1 MS. CAMPBELL: That's good.

2 THE COURT: I think that prevents the court from
3 commenting on the facts.

4 MR. SCHNEE: I would agree with that, Your Honor.

5 THE COURT: You're objecting altogether to the
6 hand of one, hand of all, right?

7 MR. KRZYSTON: Correct.

8 THE COURT: And then where is the mere presence?

9 (Pause.)

10 Mere presence at the scene not sufficient to
11 prove someone guilty of a crime in a defendant's
12 presence where a crime is being committed or mere
13 association with a person who commits a crime does
14 make a defendant an accomplice or aider and abettor of
15 the person committing the crime.

16 MR. SCHNEE: That's pertinent.

17 THE COURT: Do you have an objection to that?
18 Okay. Do you have an objection to the mere presence
19 charge, Mr. Krzyston?

20 MR. KRZYSTON: No, Your Honor.

21 MS. CAMPBELL: So that would be the only hand of
22 one.

23 THE COURT: That would be the only hand of one,
24 yes.

25 MR. SCHNEE: Judge, as for malice, I think ---

1 THE COURT: Hold on.

2 MR. SCHNEE: I'm sorry.

3 THE COURT: I'm trying to keep everything
4 organized so when I go back and retype it so it makes
5 sense to me what I've done.

6 MR. SCHNEE: Yes, sir, I understand.

7 THE COURT: Just one second. Let me get to
8 malice in my charge. Okay. So we're all agreeing
9 that inferring malice from the use of a deadly weapon
10 is out?

11 MS. CAMPBELL: Out, yes.

12 THE COURT: Do you agree to that?

13 MR. SCHNEE: Yes.

14 THE COURT: Do you agree to that?

15 MR. KRZYSTON: Yes.

16 THE COURT: Let's talk about these other malice
17 requests.

18 MS. CAMPBELL: I was going to withdraw that one
19 anyway.

20 MR. SCHNEE: Judge, the one that I see that is
21 probably most inclusive and fits, there is one that's
22 very long and single spaced.

23 THE COURT: Right.

24 MR. SCHNEE: It includes the appropriate language
25 of essentially the inference is only a permissive

1 inference and not a requirement. I think that would
2 probably most accurately discusses this out of all of
3 them.

4 MS. CAMPBELL: I'm withdrawing that.

5 THE COURT: You are withdrawing the single spaced
6 one?

7 MS. CAMPBELL: Yes, the one that talks about
8 malice may be inferred from the use of a deadly
9 weapon.

10 MR. SCHNEE: I'm talking about the really long
11 one.

12 MS. CAMPBELL: The really long one, the second
13 paragraph.

14 MR. SCHNEE: Oh, the second paragraph. Okay. I
15 was talking about the rest of them.

16 MS. CAMPBELL: Oh. You were reading the
17 permissive inference?

18 MR. SCHNEE: Well, there is a permissive
19 inference from malice in general. I think there is
20 something in there.

21 MS. CAMPBELL: No. That's just from the use of a
22 deadly weapon.

23 MR. SCHNEE: Oh, in that case --- never mind.
24 I'm sorry.

25 THE COURT: So you're withdrawing the single

1 spaced one; is that right?

2 MS. CAMPBELL: I think most of that language in
3 is in the other ones, other than the deadly weapon.

4 THE COURT: Okay. What's the next one we to look
5 at?

6 MS. CAMPBELL: The aforethought, Your Honor.

7 THE COURT: It needs a first line.

8 MS. CAMPBELL: Malice may not exist for any
9 appreciable period of time.

10 THE COURT: Okay. Let me see what's in the
11 charge. Here's what's in the charge. Malice
12 aforethought, in the charge book, does not require
13 that malice exists for any particular time before the
14 act is committed.

15 The malice must exist in the mind just before
16 and at the act is committed. Therefore there must be
17 a combination of previous evil intent in the act.

18 MS. CAMPBELL: Okay. I'll use that language.

19 THE COURT: I can add in --- I've checked this
20 site and it's still good law. I can add in the
21 sentence, Malice may be conceived at the very moment
22 the fatal blow is given.

23 MS. CAMPBELL: That would be good.

24 THE COURT: Because the evil intended act is
25 already in there.

1 MS. CAMPBELL: Thank you.

2 THE COURT: So any objection to that?

3 MR. SCHNEE: No, Your Honor.

4 MR. KRZYSTON: No, Your Honor.

5 THE COURT: All right. What else, Ms. Campbell?

6 MS. CAMPBELL: Your Honor, the --- we can take
7 the popular sentence (unintelligible) aids in ill
8 will.

9 THE COURT: You want to take that out?

10 MS. CAMPBELL: No, I want it.

11 THE COURT: I'm sorry. I didn't hear you
12 correctly. Hold on one second.

13 (Pause.)

14 Go ahead, Mr. Krzyston.

15 MR. KRZYSTON: Judge, I think the language that
16 the solicitor seeking in this instance is probably
17 cumulative and unnecessarily repetitive, so on that
18 basis, I would object to the addition of that
19 language.

20 THE COURT: Okay. Mr. Schnee.

21 MR. SCHNEE: Judge, I'm not entirely sure what's
22 in your charge book.

23 THE COURT: Here's what it says. Malice is
24 hatred, ill will, hostility toward another person. It
25 is the intentional doing of a wrongful act without

1 just cause or excuse and with an intent to inflict an
2 injury or under circumstances that the law will infer
3 an evil intent. Then it goes on to the part that I
4 just read to you.

5 MR. SCHNEE: I think that would sufficiently
6 cover it. I think this would be a cumulative charge.

7 THE COURT: So the first line of this is already
8 in there.

9 MS. CAMPBELL: It's already in it.

10 MR. SCHNEE: Looks like the second one actually
11 has a typo in it.

12 THE COURT: Is that the typo?

13 MR. SCHNEE: I would think it should "but
14 signifies" instead of "by".

15 THE COURT: Pull up State v. Mouzon.

16 MS. CAMPBELL: It should be, "but" sorry. I
17 apologize, Your Honor.

18 THE COURT: That's okay. It says 1957; is that
19 right?

20 MR. SCHNEE: Yes, Your Honor.

21 MS. CAMPBELL: I believe there is similar
22 language in the Israel Wilds case, too.

23 THE COURT: There's a 1997 Mouzon. That's why I
24 said that.

25 (Pause.)

1 That should be "but signifies;" is that right?

2 MS. CAMPBELL: Yes, sir.

3 (Pause.)

4 THE COURT: Okay. And then move to the ---

5 MS. CAMPBELL: Last line?

6 THE COURT: Yes.

7 MS. CAMPBELL: That's what you're charge is.

8 THE COURT: So you want to --- you're okay with
9 it stopping at fatally bent on mischief?

10 MS. CAMPBELL: I believe the language after that
11 is already in your charge.

12 THE COURT: Right. It is.

13 MS. CAMPBELL: Okay. We're good with that.

14 THE COURT: Any objection other than adding in
15 that sentence other than cumulative?

16 MR. SCHNEE: No, Your Honor.

17 MR. KRZYSTON: No, Your Honor.

18 THE COURT: Okay.

19 THE COURT: All right. What else?

20 MS. CAMPBELL: I believe this was one handed up,
21 brutal conduct. I handed that one up late.

22 MR. SCHNEE: Oh, the brutal conduct.

23 THE COURT: Anybody want to take a position on
24 that?

25 MR. KRZYSTON: Certainly, Your Honor. We would

1 object and to introduction of that charge. I believe
2 the charge we just went over conveys the general
3 language contained in that charge and there are no
4 attending circumstances indicating any brutal acts
5 other than what they're charged with

6 THE COURT: Okay.

7 MR. SCHNEE: Judge, I would join in that
8 objection. I think it is cumulative. It draws a
9 little too much attention --- in terms of crimes, I
10 don't think anybody is going to actually start --- the
11 acts physically contained in here aren't significantly
12 brutal compared to any run-of-the-mill robbery,
13 homicide. This isn't a beating death. There is no
14 torture. I think it's probably the misstatement of
15 the laws that apply in this particular case.

16 MS. CAMPBELL: Your Honor, if we can go into the
17 felony inference.

18 THE COURT: Okay. I have two on those.

19 MS. CAMPBELL: I believe it's three.

20 THE COURT: Okay. I have three. I'm sorry.
21 Norris, Norris and Lourie.

22 MS. CAMPBELL: I think the short Norris is
23 included in the longer Norris, so I apologize about
24 that.

25 THE COURT: All right.

1 MS. CAMPBELL: And Your Honor, in these two, I
2 didn't even put in the words attempted armed robbery,
3 but it also applies to kidnapping and burglary. Where
4 it's underlined. Your Honor, I think the Lourie case
5 is just close to Norris case. We may have to narrow
6 it down to the longer Norris case.

7 THE COURT: And Lourie is a PCR.

8 MS. CAMPBELL: Yes.

9 THE COURT: Where they brought the jury back out
10 and just read that charge and didn't read everything
11 else.

12 MS. CAMPBELL: I think Norris would be the one
13 that's longer.

14 MR. SCHNEE: I'm sorry. For some reason I didn't
15 get a copy of that one.

16 MS. CAMPBELL: I can get it for you.

17 MR. SCHNEE: If I can just take a look at it.

18 MS. CAMPBELL: Here you go.

19 MR. SCHNEE: I just want to look at it. Thank
20 you.

21 Judge, the only thing I'd say about the longer
22 one is the attempted armed robbery would be a felony
23 under the law. I know you want to stay away from
24 charging on the facts.

25 MS. CAMPBELL: That's not factual. That is the

1 law.

2 MR. SCHNEE: I know.

3 THE COURT: That's correct. That's like
4 possession of a weapon during the commission of a
5 violent crime. If they're always charged, making this
6 up, with the burglary, you also have to tell the jury
7 the burglary.

8 MS. CAMPBELL: We would just ask Your Honor that
9 you include the kidnapping and burglary.

10 MR. KRZYSTON: And, Judge, we would join in with
11 Mr. Barnes' objection on those.

12 THE COURT: Okay. And I am going to do the
13 Norris charge. I'll add it somewhere; I haven't
14 figured out where in the definition of malice.

15 MS. CAMPBELL: As part of that, you'll charge
16 them to that a those three offenses are considered
17 felonies?

18 THE COURT: Yes.

19 MS. CAMPBELL: Thank you.

20 THE COURT: Are you withdrawing brutal conduct?

21 MS. CAMPBELL: I'll withdraw brutal conduct.

22 THE COURT: All right. Okay. I'm going to tell
23 you the headings of the sections so you know. Number
24 one, I start with this is what they're charged with.
25 The fact they're not charged or is not charged is not

1 evidence. Number two, I will go into multi
2 defendants. Each has to be considered separately and
3 independently. The next thing I'll go into is
4 multiple charges same date, separate and independent,
5 separate and distinct offenses. I'll then go on to
6 their duties. Duties of the judge, duties of jury. I
7 then go to presumption of innocence. I then go to
8 reasonable doubt.

9 I then go to direct and circumstantial evidence
10 and I'm giving the --- I'm just going to call it the
11 LOCE (phonetic) "lack of circumstantial evidence"
12 charge for lack of a better term. Is what is and
13 what's not evidence in here? At some point I'll do
14 what is evidence, what is not evidence. Credibility
15 of the witnesses, expert witnesses, failure of the
16 defendant to testify. Criminal intent. And then I'll
17 go into murder and then I'll go into --- I'm not
18 saying anything about inferring malice from the use of
19 a deadly weapon. I'm not defining deadly weapon or
20 anything else. Then I'll go into kidnapping. I'll
21 then go into attempted armed robbery. Let me read
22 this real quick.

23 (Pause.)

24 THE COURT: All right. Part of that charge does
25 contain the definition of deadly weapon. I'm not

1 charging fist as a deadly weapon or ordinary objects
2 or toy guns or B.B. guns. Any objection to me taking
3 all of that out?

4 MS. CAMPBELL: No, sir.

5 MR. KRZYSTON: No, Your Honor.

6 MR. SCHNEE: No, sir.

7 THE COURT: And then burglary second degree.

8 Again, I'm not doing ordinary objects, toy gun or
9 B.B. gun in the definition of deadly weapon and I'm
10 not going to charge if the defendant has a prior
11 record of two or more convictions of burglary; is that
12 okay with you?

13 MR. KRYZSTON: Yes, Your Honor.

14 MR. SCHNEE: Yes, Your Honor.

15 THE COURT: Ms. Campbell, any objection?

16 MS. CAMPBELL: No objection, Your Honor.

17 THE COURT: That will take out the paragraph that
18 says the prior convictions that --- I'm taking out
19 anything about prior convictions. Nobody has a prior
20 conviction so I'm taking all of those paragraphs out.
21 It explains how far you use that or how you are not to
22 use that.

23 This does define nighttime as the period between
24 sunset and sunrise, which there is not enough daylight
25 to recognize a person's face. Blah, blah, blah. Okay.

1 Hand of one is the hand of all. The State gave adding
2 mere presence at the end of it.

3 All right. I'm going to read you the limiting
4 instruction and then I go into the duty to deliberate,
5 then go over the verdict form. Okay. Somewhere ---
6 did you come up with a proposed charge on sentencing?

7 MS. CAMPBELL: Your Honor, as far as sentencing,
8 I believe the jury in a criminal proceeding may not
9 presume any punishment the court may impose and then
10 just follow up with this is not a potential death
11 penalty case or the penalty is not being sought in
12 this case, whatever the defense would rather have.

13 THE COURT: Somebody want to take position on
14 that?

15 MR. SCHNEE: Judge, I don't have a position
16 either way. I'm certainly not going to be arguing to
17 the jury that this is a death penalty.

18 THE COURT: All right.

19 MR. KRZYSTON: Judge, to clarify, we have the
20 right to talk about any of the sentences that the
21 witnesses might receive, but not specifically,
22 Mr. Young, obviously.

23 THE COURT: Here is my interpretation of what you
24 can say. This is an example. You heard from a
25 witness who was facing life without parole and that

1 can go to his credibility or his believability.

2 MR. KRZYSTON: Correct.

3 THE COURT: Certainly, but not as to Mr. Young is
4 going to be locked up for the rest of --- none of
5 those kind of comments about people are going to be
6 locked up for the rest of their lives or anything
7 else. What this says is the length of the prison
8 sentence rests in the discretion of the trial court.
9 You have heard testimony concerning the penalty a
10 person can serve for the crimes alleged in the
11 indictments. In determining the guilt or innocence of
12 the defendant, you cannot consider any possible
13 penalty for any particular crime. The punishment for
14 crimes is a matter for me to determine and should
15 never be considered by you in any way whatsoever in
16 arriving at an impartial verdict as to the guilt or
17 innocence of the defendants.

18 Tell me what you want me to add.

19 MS. CAMPBELL: The only thing is in this case the
20 death penalty --- the State not seeking the death
21 penalty.

22 THE COURT: Okay. I won't put that at the end.
23 I mean, I'm putting that line at the end. I'll slide
24 sentencing somewhere back in the middle of the charge
25 somewhere.

1 MS. CAMPBELL: Back.

2 THE COURT: Okay. Anything else?

3 MR. SCHNEE: Not with regard to charging, Your
4 Honor.

5 THE COURT: Okay.

6 MS. CAMPBELL: Your Honor, I don't think we
7 addressed was one of Mr. Schnee's --- it was one on
8 malice or did we address it and I missed it?

9 THE COURT: It's the one on the required mental
10 State is malice aforethought?

11 MS. CAMPBELL: Uh-huh. If you look at the case
12 on Findley, Your Honor, it goes back and quotes
13 basically what your criminal---

14 THE COURT: Yes, I'm not charging that.

15 MS. CAMPBELL: That's what I needed to know.

16 THE COURT: I'm going to explain to them the
17 mental state of malice aforethought.

18 Okay. The verdict form, it lists the indictment
19 numbers. It lists both defendant's names. We did
20 them in alphabetical order for lack of a better way to
21 do it. As to the charge of murder: not guilty,
22 guilty; burglary second degree: not guilty, guilty;
23 kidnapping: not guilty, guilty; attempted armed
24 robbery: not guilty, guilty, and it says by unanimous
25 consent find, and then it goes on to Mr. Young murder,

1 burglary, kidnapping, attempted armed robbery and a
2 place for the foreperson to sign, and it starts ---
3 not guilty is the first one listed in each and guilty
4 is the second. I tell them there is no significance
5 as to that. I merely --- I'll tell them that about
6 the order of the people, too. Somebody has got to go
7 first and somebody has got to go second. I have to
8 write one first and I have to write one second. There
9 is no magic to any of that, nor does that mean
10 anything, nor are they to draw any conclusion to
11 anything. Anything else?

12 MS. CAMPBELL: No, sir.

13 MR. KRZYSTON: No, sir.

14 MR. SCHNEE: No, Your Honor.

15 THE COURT: All right. Do you want to flip the
16 coin on who goes first?

17 MR. SCHNEE: I'll defer to them.

18 MR. KRZYSTON: We'll allow Mr. Schnee to go
19 first.

20 MR. SCHNEE: I think Your Honor needs to flip a
21 coin.

22 THE COURT: Okay.

23 MR. SCHNEE: Neither of us are going to agree.

24 THE COURT: I don't have a coin. I'm a judge,
25 I'm broke.

1 MR. SCHNEE: Well, I had to go first in Opening.
2 I think they should go first in Closing.

3 THE COURT: All right. I have one exhibit up
4 here. I don't want you to lose sight of that one and
5 then make sure you go through exhibits and look at
6 whatever you want to look at before anybody plays it.

7 MR. SCHNEE: Right, Judge. I've already started
8 it. I don't know if it's just this laptop, but
9 there's already one CD that's not working.

10 MS. CAMPBELL: Judge.

11 THE COURT: Oh, look at that. She has money.
12 Who did you borrow it from?

13 MR. KRZYSTON: Tails no fails, Your Honor.

14 THE COURT: You taking heads?

15 MR. SCHNEE: I'll go with heads.

16 THE COURT: All right. Whoever wins gets to
17 pick.

18 MR. SCHNEE: Fair enough.

19 THE COURT: Heads.

20 MR. SCHNEE: I'm last.

21 THE COURT: All right.

22 MR. SCHNEE: Thank you.

23 MS. CAMPBELL: Do you have a problem with me
24 opening on the law and then Ms. Simpson go over the
25 facts?

1 THE COURT: No, that's fine.

2 MS. CAMPBELL: Thank you.

3 THE COURT: All right. Anything else?

4 (There was no response.)

5 THE COURT: Okay. Now, once we're done with the
6 closing --- so when the jury comes back in, this is
7 how it's going to work. When the jury comes back in,
8 I want to say Mr. Krzyston, do you have anything to
9 present? We rest. Mr. Schnee, we rest. I'll tell
10 them that they have rested. You have rested and we're
11 at the point of closing arguments. Then we'll go
12 right into it. When we finish and they're out before
13 the jury goes back. Now, this is the lawyer's
14 responsibility, just don't get up and leave and walk
15 out of the room where I can't find you, okay. You
16 need to stay and make sure you go over with the court
17 reporter what's going back and what's not going back
18 so we don't have any dispute with what's back there
19 and what's not back there. I will tell them they
20 cannot begin deliberations until the evidence comes in
21 the room. So you need to stay and make sure that
22 what's going back there is what you believe is in
23 evidence, okay, and then you need to make sure that
24 Ms. Pendegrass has your phone numbers so that I don't
25 have to run all over the world looking for you or try

1 to find you. Okay. Anything else?

2 MS. CAMPBELL: No, sir.

3 MR. KRZYSTON: Judge, just for clarification, we
4 have already officially rested our case and renewed
5 our motions to ---

6 THE COURT: You don't need --- I will put on the
7 record that --- you all don't need to go through
8 renewing your motions. You have rested in front of
9 the court and you have renewed your motions and have
10 done so appropriately and I believe you have protected
11 the record on those issues, and that applies to
12 Mr. Young and Mr. Barnes. We don't need go through
13 that whole recitation when the jury comes back in. I
14 understand what you've done and understand that you
15 have renewed your motions and I've ruled on that.

16 MR. KRZYSTON: Thank you, Judge.

17 THE COURT: Are you okay with that, Mr. Schnee?

18 MR. SCHNEE: Yes, sir.

19 MS. CAMPBELL: Just one other thing, usually in
20 the morning you ask them if you have seen any media or
21 anything of that nature. I don't think you did it
22 this morning.

23 THE COURT: Okay.

24 MS. CAMPBELL: If we could have that general
25 question.

1 THE COURT: Okay. Two o'clock.

2 MR. SCHNEE: Thank you.

3 (WHEREUPON, a lunch break was taken.)

4 THE COURT: Yes, ma'am.

5 MS. GARFIELD: Your Honor, at the break,
6 Mr. Schnee and I went over all the videos, CDs that
7 were --- there were a couple of issues. We have
8 changed them where they do reflect what was properly
9 introduced into evidence with the exception of State's
10 Exhibit 325. Your Honor, this would be the CD that
11 was introduced with the Ale House video on it. The
12 jury did see Ale House video on the outside. However,
13 this CD contains surveillance video also from the
14 inside. It would be the inside bar with the lights
15 off. There is no activity inside the bar. I am
16 informed by Mr. Brown of our office, who much more
17 savvy in the IT area that it is impossible to take the
18 video off this. It would have to be re-recorded by
19 SLED in order to do that and I don't have in order to
20 take it off. I've informed Ms. Pinnock, as well as
21 Mr. Schnee. They are in agreement with it all going
22 back to the jury since it doesn't add or take anyway
23 anything.

24 THE COURT: It just shows the closed bar?

25 MS. CAMPBELL: It just shows inside a closed

1 establishment with the lights off, yes.

2 MS. PINNOCK: We have no problem with that.

3 MR. SCHNEE: Yes, Your Honor, I agree with that.

4 The only other option we have is to have the jury come
5 outside to the courtroom ---

6 THE COURT: Right.

7 MR. SCHNEE: --- which with that type of video, I
8 felt that would be a bad idea. I doubt they want to
9 come out just to see that.

10 THE COURT: Do we've clean computer to go back?

11 MS. CAMPBELL: We do, Your Honor. It's at
12 Mr. Schnee's desk.

13 THE COURT: What else?

14 MS. GARFIELD: Actually there are two CDs in
15 here. One CD is what you need to make the video
16 actually play on that laptop. It's just a player.

17 MR. SCHNEE: Have you tried it in that laptop? I
18 want to make sure.

19 MS. GARFIELD: We will.

20 THE COURT: Before we send it back, we need to
21 make sure it works.

22 MR. SCHNEE: We didn't try.

23 MS. GARFIELD: We will before it goes back

24 THE COURT: Anything else?

25 MS. CAMPBELL: Nothing from the State, Judge.

1 MR. KRZYSTON: Nothing from Mr. Young.

2 MR. SCHNEE: Nothing from Mr. Barnes.

3 THE COURT: All right. Everybody out here in the
4 audience, I don't want a lot of commotion, a lot of
5 moving around, getting up and down and all that good
6 stuff. These attorneys, I don't know what day of
7 trial we're on, but they have all been working very
8 diligently, very hard since this trial began. It's
9 not fair to any of the parties involved for this jury
10 to lose any focus because somebody can't sit still and
11 stay in here during the closing arguments. Nobody in
12 the room except for attorneys and me should have a
13 phone on them. Whoever has a phone on them, it must
14 be on off or on silent. I do not want to hear it go
15 off in this courtroom. That's also not fair to the
16 attorneys or the parties regardless of which side of
17 the case we're referring to.

18 Now, for those of you who don't do closing
19 arguments every week of your life, the order will be
20 that the State will go first, and then Mr. Barnes.

21 MR. SCHNEE: I chose last.

22 THE COURT: And then Mr. Young's counsel will be
23 allowed to go, and then Mr. Barnes' counsel will be
24 allowed to go. Once Mr. Schnee stops talking, okay, I
25 am then going to charge the jury on the law. That's

1 going to take I don't know, 30, 40 minutes at least,
2 okay.

3 During the time the back door will be locked and
4 no one will be allowed in or out of this courtroom
5 period. If you don't need to hear everything that I
6 have to say or you don't want to hear it, which is
7 perfectly fine with me, then when Mr. Schnee stops
8 talking, you just need to quietly walk outside. Then
9 once it's over, you will be allowed back in. The law
10 requires that I lock the back door during the jury
11 charge and no one will be allowed to stand up or
12 anything. If you don't want to hear me go on for 30
13 or 45 minutes about the law, you don't have to, but
14 you'll need to excuse yourself when Mr. Schnee is
15 finished speaking so that you can wait outside. Okay.
16 All right. So when we come back in, we're going to
17 rest and go straight into it. Who is starting?

18 MS. CAMPBELL: I am.

19 THE COURT: Who is finishing?

20 MS. SIMPSON: I am, Your Honor.

21 THE COURT: Okay. All right. Don't let me forget
22 to pull the alternates.

23 Yes, sir.

24 MR. SCHNEE: And I believe Your Honor was going
25 to inquire if they have looked at any media coverage.

1 THE COURT: Yeah, I was going to. Thanks for
2 reminding me of that. I forgot. All right. Let's
3 bring them in.

4 (WHEREUPON, the jury entered the courtroom at
5 2:19 P.M.)

6 THE BAILIFF: The jury is seated.

7 THE COURT: Thank you very much. Welcome back.
8 Thank you for being on time. Is there any member of
9 the jury panel who has viewed any media in this case
10 in any way or shape since the trial began. If so,
11 please raise your hand. That's any form of media,
12 social media, news accounts, internal, radio,
13 television, print newspaper or anything.

14 THE JUROR: Talking about just this case?

15 THE COURT: Specifically about this case,
16 correct.

17 (There was no response.)

18 THE COURT: Okay. Thank you very much.
19 Mr. Krzyston.

20 MR. KRZYSTON: Your Honor, we rest at this time.

21 THE COURT: All right. Thank you very much.
22 Mr. Schnee.

23 MR. SCHNEE: The defense of Trenton Barnes rests
24 at this time, Judge.

25 THE COURT: Thank you very much. Ladies and

1 gentlemen, at this point, you have heard the entire
2 testimony that you are going to hear in this case, the
3 evidence that you are going to hear in the case. We
4 have reached the point of the trial known as closing
5 arguments, and just the order so that you will know
6 for the afternoon of what's going to happen is the
7 State is going to go first, and they will do what we
8 call an opening on the law, and I believe Ms. Campbell
9 will be giving that to you and then Ms. Simpson will
10 be finishing their closing argument to you. At that
11 point in time, Mr. Young's lawyers will be allowed to
12 give a closing argument and then Mr. Schnee will have
13 the final argument. Now, once Mr. Schnee finishes his
14 final closing argument, you may see a mass exodus of
15 people from the courtroom.

16 That's because I have to instruct you on the law.
17 Okay. That takes about 30 to 45 minutes. There's no
18 exact science to that, but the law require that the
19 back door be locked, and no one be let in or out
20 during that time. Usually we have a group of people
21 that will get up and leave. That's normal. That
22 happens in every single case I've ever tried in my
23 whole life. I'll take a little bit of a break, let
24 you stand up, stretch your legs. Then we'll sit back
25 down and I'll tell you what the law is and what your

1 instructions are from that point forward.

2 Ms. Campbell.

3 MS. CAMPBELL: May it please the Court.

4 THE COURT: Yes, ma'am.

5 CLOSING STATEMENT:

6 BY MS. CAMPBELL:

7 Q Good afternoon. The first thing I'd like to do
8 on behalf of the State of South Carolina, the citizens
9 of Richland County and the family of Kelly Hunnewell
10 is to thank you for your service in this case.

11 I know when you showed up for court last week,
12 you might have wondered if you might be on say a wreck
13 case or a contract dispute or something of the nature.
14 I'm sure you probably envisioned that it would not be
15 a case that quite literally is as bad and as horrific
16 as this one has been, but we want to thank you for
17 your willingness and your attention and paying
18 attention to each and every witness.

19 As you know, this is a very important case for
20 the State of South Carolina, for the citizens and it's
21 a very important case for the defendants, as well.

22 Now, as the judge just told you, I'm going to get
23 up here --- if my voice doesn't go. I'm sorry. I
24 don't know what's in this courtroom. I'm going to
25 talk to you a little bit about the law in this case as

1 it applies, and then you're going to hear from
2 Ms. Simpson. That will be the last time you hear from
3 anyone on behalf of the State. You will then hear
4 arguments from Mr. Krzyston and arguments from
5 Mr. Schnee.

6 As I talk about the law in this case, if I say
7 anything, say anything or state anything different
8 from what the law is that ultimately the judge will
9 charge you on or give to you, you take it as the judge
10 gives it to you. It's not intentional on my part.
11 There may be some verbiage that's slightly different.
12 In that same vein, if either side mischaracterizes or
13 misstates facts, you remember because the roles in
14 this courtroom are very well defined and there is a
15 reason for that. The role of the prosecution is to
16 bring forth to you all of the admissible relevant
17 evidence that is allowed by law for you to consider,
18 and the defense's job is very simple. It's to defend
19 their client to the best of their ability.

20 The judge's law is to determine what actual
21 evidence you're allowed to hear. You've been sitting
22 in and out of this courtroom and I want to apologize
23 and I'll get back to that about what's admissible and
24 what's not admissible and what you can consider. No
25 one is going to get up here and say that anyone's job

1 is more important than yours.

2 Each of you've individually and then once the
3 judge charges you on the law collectively when you get
4 back there, and if anyone says any different, that's
5 simply not true, because your role, ladies and
6 gentlemen, is to determine what happened back on those
7 early morning hours on July 1st when Kelly Hunnewell
8 showed up at work at three in the morning to support
9 her children.

10 What happened that night? In this case, some of
11 that is not as much in dispute because in this case
12 there is a video. Now, you have heard all the
13 evidence that you are allowed to consider.

14 What you must base your verdict on is the
15 evidence before you. As the judge has already told
16 you, what is evidence? Evidence is the sworn
17 testimony, the exhibits that are allowed to go back to
18 you. That is evidence. More importantly, ladies and
19 gentlemen, is the judge told you what's not evidence,
20 any argument by any lawyer, opening, closing whatever,
21 questions by counsel, fishing expeditions,
22 speculation, conjecture, just plain wishful thinking
23 doesn't make it a fact.

24 If a person is asked a question and they have no
25 further knowledge, the question itself is not

1 evidence. The answer is, so that's what you must
2 consider. Now, you have all the evidence you can
3 consider in this case.

4 Now, I want to apologize if over the last week we
5 have done anything to offend you. At times there have
6 been legal wrangling back and forth. What wasn't
7 admissible, may become admissible. You've heard about
8 hearsay. You've heard all kind of legal terms. At
9 times the questioning, especially on my part, has been
10 inartful, clumsy, sloppy. Please don't hold that
11 against the State or against this victim's family. It
12 was not intentional.

13 There have been times when you have been forced
14 to go back in that jury room and sit for literally
15 hours, and I apologize on behalf of the State. It was
16 not intentional on our part.

17 Now, in criminal cases, they are unique because
18 in criminal cases, the burden of proof is on the State
19 of South Carolina. The defendant has, as he should by
20 our constitution, the absolutely right to confront
21 each and every witness that comes before him.

22 You have heard references to statements, to audio
23 recordings, to documents that were done by experts,
24 things of that nature. If you have noticed, none of
25 those have come before you. There were no depositions

1 that were read to you. There were no video
2 depositions that were played for you, and the reason
3 for the, ladies and gentlemen, is very clear because
4 that's the defendant's right, as it should be, to
5 confront each and every witness against him. So in
6 criminal cases, every witness, the pathologist, the
7 DNA expert, the responding officer, it doesn't matter,
8 they have to come before you and testify.

9 The reason for that is so that you can judge
10 credibility, because that's your role so that you can
11 actually see person that is asserting to have
12 knowledge or expertise in an area and to judge their
13 credibility. You've also heard from a number of
14 witnesses that you have heard us ask these questions
15 over and over. Did anyone tamper with anything? It's
16 our burden to prove that no one tampered with any
17 evidence, no one altered anything or comingled things
18 that weren't already comingled, so that the chain of
19 evidence is such before it's admissible for you to
20 consider that the integrity of that evidence has been
21 preserved. You've heard from a number of those
22 witnesses. You've also heard references to other
23 witnesses that may have been, say at the scene, other
24 police officers and as Sergeant Reese told you today,
25 not every police officer comes before you, but what

1 has the State done in this case. We have brought
2 before you all the witnesses that have had admissible
3 relevant testimony that can come before you.

4 Now, as I said earlier, the burden of proof is on
5 the State of South Carolina to prove this defendant
6 guilty beyond a reasonable doubt, and let me repeat
7 that. That is the highest level of proof we have in
8 our nation, and that's where it should be. We must
9 prove the guilt of Lorenzo Young and Trenton Barnes
10 beyond a reasonable doubt that's what the constitution
11 guarantees them and that's the way it should be.

12 Ladies and gentlemen, in this courtroom, in this
13 courthouse with this evidence, that is a burden the
14 State welcomes. Now, listen carefully as the judge
15 defines for you what is reasonable doubt.

16 I'm going to go through some definitions because
17 there are going to be a lot of legal terms that are
18 going to be put before you. In this case there are
19 four separate indictments. They all arise out of the
20 same event, that's not unusual, on each defendant. As
21 the judge will instruct you, you must reach a verdict
22 as to each indictment independently of each other on
23 each defendant. But what is proof beyond a reasonable
24 doubt? Our courts have defined it as such and listen
25 to the judge as he defines it for you, because proof

1 beyond a reasonable doubt is proof that leaves you
2 firmly convinced of the defendant's guilt. Let me
3 repeat that. Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced of the defendant's
5 guilt.

6 There are very few things in this world that we
7 know with absolute certainty. In criminal cases the
8 law does not require proof that overcomes every
9 possible doubt.

10 If based on your consideration of the evidence,
11 you are firmly convinced that the defendant is guilty
12 of the crime charged, you must find him guilty. If on
13 the other hand you think there is a real possibility
14 he is not guilty, you must give him the benefit of the
15 doubt and find him not guilty.

16 Firmly convinced of the defendant's guilt. The
17 law even recognizes that no one can overcome every
18 possible doubt. It is only that reasonable. In
19 listening to the judge in his charge, will use the
20 word reasonable over and over.

21 Now, before you are going to be the indictments
22 on each defendant for the first crime. I'm just
23 taking them in whatever order; the judge may take them
24 in a different order. The first crime I want to talk
25 to you about is murder. To be the most heinous crime

1 committed in our society, it has probably the shortest
2 definition, at least in South Carolina. Listen
3 carefully. You're not going to hear about different
4 degrees of murder. You're not going to hear about
5 lesser included offenses.

6 The crime charged here is murder in 16-3-10 of
7 our Code of Laws, murder is the killing of any person
8 with malice aforethought, either expressed or
9 inferred. Sometimes they refer to it as expressed or
10 implied.

11 I want to talk to you a little bit about what
12 those terms mean. The killing of another person with
13 malice aforethought either expressed or inferred. The
14 first term I want to talk to you about is what is
15 malice. What makes a killing a murder?

16 The judge will instruct you, and again he may
17 instruct you in a little bit different manner, but the
18 gist of what he's going to tell you is this. In its
19 popular sense the term malice conveys the meaning of
20 hatred, ill will, or hostility towards another. In
21 its legal sense, however, malice does not necessarily
22 mean ill will toward the individual injured, but
23 signifies a general malignant recklessness of the
24 lives and safety of others or a condition of the mind
25 which shows a heart regardless of social duty and

1 fatally bent on mischief.

2 A heart regardless of social duty and fatally
3 bent on mischief. All the State asks is that you look
4 at the events of that night. Look at the information
5 before you and I submit that when two young men
6 combine together with another young man for the
7 purpose of robbing an establishment, even if they
8 didn't intend --- and I'll get back to this, to murder
9 anyone at the onset, the fact that this occurs during
10 the robbery or the burglary or the kidnapping in this
11 case, it reeks of malice. It doesn't get any more
12 malicious. In other words, a malicious killing is
13 where the act was done without legal justification. I
14 submit nobody --- and I could be wrong --- is going to
15 get up here and argue this is not a measure. Excuse
16 or extenuation and malice has been frequently
17 substantially so defined as consisting of the
18 intentional doing of a wrongful act towards another
19 without legal justification or excuse. I submit --- I
20 could be wrong, that no one will get up here and argue
21 that going in to rob a person or kidnap them or doing
22 a burglary is a legal justification or excuse.

23 No one will get up here and say their actions
24 were not criminal.

25 The law goes a little bit further than that

1 because they're --- you remember, it says express or
2 inferred. What's the difference in that? It's not
3 that there are two different kind of malice.
4 Expressed malice is if I walk up to another person and
5 I pull out a gun and I look at them and I say I am
6 going to kill you, that is expressed malice.
7 Sometimes lying in wait to prepare ahead of time.
8 Like in this case, it is expressed malice. Even if
9 the intent, and I'll get back to that, was to do the
10 armed robbery, not the original intent was to do the
11 murder.

12 Those are ways that you can define express
13 malice, but law recognizes that generally when murders
14 occur, you may have to infer from the acts and the
15 conduct that surround what happened.

16 So you look at what the people were doing, what
17 they were trying to do. Did they act maliciously? In
18 inferring malice, you look at the conduct.

19 Very simply, as the judge will charge you, malice
20 may be inferred from conduct showing a total disregard
21 for human life. Remember the video, how they rushed
22 up on her, gun to the head. We don't know what they
23 said, but we don't need to because you can watch what
24 they did. The second young man ran up to make sure
25 she can't escape out the other side. As both of them

1 point the guns towards her, she does the only thing
2 she can think to do, and she swipes at one of them
3 with that spoon to protect herself. You heard earlier
4 about how one of the defendants was talking about the
5 Castle Doctrine. This isn't the Castle Doctrine for
6 them. She had the right to defend herself when being
7 attacked and a gun forced to her head. Is that
8 conduct showing a total disregard for human life?

9 Then when one starts shooting, the other one
10 joins in and they're shooting at her and it's not like
11 these guns, these locks where you pull the trigger and
12 it keeps firing. Remember what the experts said, one,
13 two, three, four. Is that a total disregard for human
14 life. Now, in that same definition of murder you also
15 heard the term aforethought. Malice must be
16 aforethought. Sometimes when considering murder you
17 may wonder does someone have to plan this for days
18 ahead of time. Do they have to sit and wait outside
19 for 30 minutes. No, listen carefully to the judge
20 because he will tell you malice aforethought does not
21 require that malice exists for any particular time
22 before the act is committed. Malice must exist in the
23 mind of the defendant just before and at the time the
24 act is committed.

25 Therefore, there must be a combination of the

1 previous evil intent in the act. However, malice may
2 be conceived at the very moment the fatal blow is
3 given. How dare she fight back? They showed her.
4 Malice. There is also another concept of law that
5 applies here as the judge will tell you. That's
6 felony murder rule. What is that ladies and
7 gentlemen? Listen to the judge, okay.

8 The law says if someone intentionally kills and I
9 submit pulling a trigger of a gun and pointing it at a
10 person, which ultimately dies as a result of that,
11 regardless of if you miss several times, killing
12 another during the commission of a felony the
13 inference of malice may arise if the facts are proven
14 beyond a reasonable doubt, sufficient to raise an
15 inference of malice to your satisfaction, this
16 inference would simply be an evidentiary fact to be
17 taken into consideration by you the jury along with
18 other evidence in the case and you may give it as much
19 weight as you determine it should receive. The law
20 also allows the jury to infer malice if you conclude
21 that the homicide was a proximate direct result of the
22 commission of a felony.

23 Were they in the commission of a burglary, a
24 kidnapping, a robbery being attempted? For that
25 regard, attempted armed robbery, kidnapping and

1 burglary second degree would be felonies under our
2 law. One of them is a felony. These are three
3 felonies.

4 You can imply malice existed if the person is in
5 the commission of a felony at the time of the fatal
6 blow.

7 Now, the second indictment --- there are two, one
8 on each, that's going to go before you and you're
9 going to be asked to reach a separate verdict on is
10 kidnapping. Very simply, ladies and gentlemen, our
11 definition of kidnapping under our Code of Laws is
12 very simple. Whoever shall unlawful seize, confine,
13 inveigle, decoy, kidnap, abduct or carry away any
14 other person by any means whatsoever without authority
15 of law, that person is guilty of kidnapping.

16 Now, what are all those terms? We don't have to
17 prove all of them. There's an or. So we have to
18 prove that one of these actions occurred, and the
19 judge will define either some of them or all of them
20 to you. And specifically, if you should seize or
21 confine any other person by any means whatsoever
22 without authority of law. Traditionally when you
23 think of kidnapping, you think of somebody coming into
24 the state, putting them into the trunk of a car,
25 driving them across state lines. There may or may not

1 be a ransom note, but traditionally that is what some
2 people think of as kidnapping. The law recognizes
3 kidnapping is more expansive than that. All we have
4 to prove is that for some period of time that Kelly
5 Hunnewell was not able to leave of her own free will.

6 The definition of seize confine, ladies and
7 gentlemen. Seize means to take hold of suddenly or
8 forcibly. Was she free to go once he put that gun to
9 her head? Why did she have to fight back if she was
10 free go. Confine means to limit, restrict, enclose or
11 imprison within bounds or shut to keep in. Was she
12 able to move? That's the basis of the kidnapping
13 charge. Now, with kidnapping, does it have to happen
14 over a day, a week, a month? The law is specific as
15 to that.

16 Kidnapping in our State is continuing offense.
17 It commences when one is wrongly deprived of their
18 freedom and continues until freedom is restored. So
19 from the moment that Lorenzo Young came up behind her,
20 put a gun to her head and forced her back the other
21 way toward where he thought maybe there was a safe,
22 money, her money --- when one is wrongfully deprived
23 of their freedom and continues until her freedom is
24 restored. This happened quickly. Listen carefully to
25 the judge. He will not instruct you that we have to

1 prove that it lasted for any particular amount of
2 time. One second, two seconds, three seconds is
3 sufficient if you find that her ability to leave of
4 her own free will and volition, she couldn't do it.

5 Now, getting back to the murder for a second, one
6 thing I didn't --- in this state, as far as murder
7 goes, the State of South Carolina does not have to
8 prove premeditation to the murder. I submit in this
9 case there is evidence of premeditation to the armed
10 robbery they were attempting, to the burglary they
11 were attempting, to the kidnapping, but we do not have
12 to prove premeditation to prove the elements of
13 murder. Listen carefully to that. At the same time,
14 we don't have to prove motive. However, in this case,
15 the motive is clear. It's to enter unlawfully and
16 rob. So we have murder, but we don't have to prove
17 those things.

18 The next crime I want to talk to you about and
19 there's one indictment on each defendant on this, is
20 attempted armed robbery. Now attempted armed robbery
21 is defined in our state as a person who commits or
22 attempts to commit a robbery while armed with a
23 pistol, dirk, slingshot, metal knuckles, razor or
24 other deadly weapon. In this case, ladies and
25 gentlemen, there is no dispute both of them, even one

1 of them would have been sufficient were armed or while
2 alleging either by actions or words he was armed while
3 using a representation of a deadly weapon or any
4 object which a person present during the commission of
5 a robbery reasons to be a deadly weapon. The law even
6 recognizes to be an armed robbery, they don't even
7 have to have a real pistol. They just have to use a
8 representation that they may have a weapon. The
9 reason for that is clear because the law recognizes
10 that bad things can happen when people think that they
11 are in fear of their lives. So it recognizes that
12 just the representation and in this case however, you
13 don't even have to go there, because there is no
14 dispute. There were two guns and both of them worked
15 just fine. They worked well enough to kill Kelly
16 Hunnewell.

17 Now, what is robbery? The simplest way to put it
18 and I don't know how the judge will define this to
19 you. Robbery is very simply stealing. If you think
20 of it. It's a larceny or a stealing from another
21 person. What elevates a larceny or a stealing up the
22 a robbery, it's done from the persons or presence of
23 another with some type of force or violence in order
24 to make them give up their things or this is an
25 attempt now. No one is saying this was successful

1 because she fought.

2 That makes it a robbery or a strong arm robbery.
3 What elevates it to armed robbery or an attempted
4 armed robbery is the use of the deadly weapon and
5 those are very simply the elements of attempted armed
6 robbery.

7 Now, the Judge is also going to instruct you on
8 the law of burglary in the second degree. A person is
9 guilty of burglary in the second degree. The person
10 is guilty of burglary in the second degree if the
11 person enters a building without consent and with the
12 intent to commit a crime therein. That's the element
13 of burglary. What makes it burglary in the second
14 degree is when it's dwelling involved are some of
15 these other aggravating circumstances, but a you
16 notice in the definition of this, they don't have to
17 break down the door because there was no dispute the
18 door was wide open that night. They don't have the
19 right, no one has the right to enter another person's
20 place of business, in this case the bakery, if they
21 enter with intent to commit a crime.

22 Watch the video. Not much of a dispute that they
23 enter with intent to commit a crime. Kelly Hunnewell
24 never sees them coming. She doesn't even know they're
25 there until the gun is already to her head. To make

1 it burglary in the second degree when it's a dwelling,
2 we have to also prove that when effecting entry or
3 while in the building or in immediate flight there
4 from, he or another participant because the law
5 recognizes it can be more than one, is armed with a
6 deadly weapon or explosive or we don't have to prove
7 all of these just one, although I submit all of these
8 apply, causes physical injury to any person who is not
9 a participant in the crime. There's no dispute Kelly
10 Hunnewell was shot and killed, or uses or threatens
11 the use of a dangerous instrument, or displays what is
12 or appears to be a knife, pistol, revolver, shotgun,
13 machine gun or other firearm or just if the entering
14 occurs during the nighttime.

15 Any one of those is enough to make this burglary
16 second. Nobody is going to get up here and argue this
17 wasn't a burglary second. Now, the law goes a little
18 bit further than that. I will explain that concept,
19 since Mark told you in his opening argument, the hand
20 of one is the hand of all in this state. However, let
21 me assure you that mere presence at that scene is not
22 sufficient to make a person guilty of a crime. If you
23 find that the State has proved that the defendant was
24 only present at the scene for a crime and they have
25 not proved any other participation in the crime, then

1 you must find the defendant not guilty. Along that
2 same vein, the judge are instruct you that if two or
3 more combine together to commit an unlawful act or
4 crime --- so two or more people and in this case,
5 three combine together to commit an unlawful act or
6 crime, in this case a robbery, a burglary and
7 ultimately a kidnapping with the intent and in the
8 execution of that criminal act a homicide is committed
9 by one of the actors as a probable or natural
10 consequence of the acts done in pursuant to the common
11 design and there's no dispute the two that go in, one
12 is the lookout. The two that go in, these two are
13 there for one purpose. The video speaks volumes. All
14 present participating in the unlawful undertaking are
15 as guilty as the one who committed the fatal act. So
16 it does not matter if Lorenzo Young is the shooter
17 when it comes to Troy Stevenson and Trenton Barnes.
18 Here today, you are only concerned with these two.
19 Remember Troy's charges are still pending. He will
20 have his day in court.

21 The common purpose may not have been to kill and
22 murder, but if it was unlawful and/or criminal and in
23 the execution of this common purpose a homicide is
24 committed by one as a probable or natural consequence
25 of the acts done in pursuant to the common design,

1 then all present to participate in the common design
2 are as guilty as the slayer.

3 If I join in with one or two other people and I
4 say my role is --- I'm only going to be the lookout.
5 Even if I look at the person going with the gun and
6 say no matter what you do don't shoot anybody. Under
7 the law because I am participating in a criminal act,
8 no matter what happens in there even if my role is
9 lookout, outside, down the block, the hand of one is
10 the hand of all and that's the law in our state. The
11 judge will also instruct you that in every case we
12 must prove criminal intent. Ladies and gentlemen, it
13 doesn't get any more criminal than this.

14 In order to establish criminal liability,
15 criminal intent is required. For example, the mental
16 state for a particular crime might be purpose, intent,
17 knowledge, recklessness or even just criminal
18 negligence. Let me repeat that. What must be proved
19 by the State for a particular crime might be purpose,
20 intent, knowledge, recklessness or criminal
21 negligence. Criminal intent must be proven by the
22 State beyond a reasonable doubt. It is always a
23 matter that must be determined by the jury from the
24 circumstances surrounding the situation. There is no
25 way to prove intent to a mathematical certainty.

1 There is no way medical science can dissect a person's
2 brain and determine what the person has in mind. The
3 law says that criminal intent may be inferred from the
4 circumstances shown to have existed. This is how you
5 make a determination as to whether or not the element
6 requiring intent was present. It is not necessary to
7 establish intent by direct and causative evidence, but
8 intent may be established by inference the same way as
9 any other fact by taking into consideration the acts
10 of the parties and all the facts and circumstances of
11 the case.

12 Criminal intent is a mental state, a conscious
13 wrongdoing. It's up to you to determine what the
14 defendant intended to do based upon the circumstances
15 shown to have existed. Criminal intent can be
16 determined by action or failure to act. In this case
17 and listen carefully to the judge, he is not going to
18 tell you it's okay to go in and shoot people because
19 somebody else tells you to do it. Criminal intent can
20 arise from action or a failure to act. It may arise
21 from negligence, recklessness or an indifference to
22 duty or to consequences that is considered by law to
23 be the equivalent of criminal intent.

24 Now, in our state there are two different kinds
25 of evidence that can be used to determine guilt or

1 innocence. What is said --- we refer to as direct and
2 circumstantial evidence, and what are those? Direct
3 is the type of evidence you get through the senses,
4 what you see, smell, hear, touch, what you actually
5 observe. In this case there was a review of the video
6 so people had direct evidence as to who those people
7 were and they were able to identify them. That's
8 direct evidence. Eyewitness testimony typically. In
9 addition to that, there is also circumstantial
10 evidence. In this case like the DNA evidence where
11 you see Ms. Hunnewell and these two defendants' DNA on
12 a spoon that happened to be in the center of this
13 crime. That is circumstantial evidence that you can
14 consider, and very simply the law says that direct
15 evidence directly proves the existence of a fact and
16 does not require deduction. Circumstantial evidence
17 is proof of a chain of facts or circumstances
18 indicating the existence of a fact. In this case
19 another type of circumstantial evidence is the GAP 45
20 ammunition at his home. Does that give you an
21 inference that he may have been involved in this.
22 Crimes may be proved by circumstantial evidence. The
23 law makes no distinction between the weight to be
24 given to either. There is no weight or distinction.
25 To the extent the State relies on circumstantial

1 evidence, all the circumstances must be consistent
2 with each other and when taken together point
3 consistently to the guilt of the accused beyond a
4 reasonable doubt. If they merely portray the
5 defendant's behavior suspicious, proof has failed. In
6 this case, ladies and gentlemen, luckily there really
7 isn't, not luckily, but in this case there doesn't
8 happen to be that much circumstantial evidence. The
9 majority of what the State is bringing before you is
10 direct evidence, but what circumstantial evidence is
11 there is helpful, very helpful in this case. It
12 totally and completely corroborates what other
13 witnesses were actually able to tell you, even those
14 witnesses who were so reluctant to be in here who
15 didn't want to be in here, but it was their testimony
16 or their initial statement corroborated by everything
17 else, the phone dump, the letters written by the
18 defendants later. The DNA. The gunshot residue and
19 it goes on and on. These are just a few of the
20 things. What you have is testimony from witnesses,
21 such as Rolanda Coleman who didn't want to be here.
22 Such as Donald Moore, who really didn't want to be
23 here and finally Latoya Barnes. Give her credit. The
24 circumstantial evidence corroborates what each and
25 every one of those witnesses told you. That's why

1 it's particularly useful in this case as far as that
2 goes.

3 You also heard from another witness and the Judge
4 instructed you, I think, every single time one of them
5 got up here to testify, expert witnesses. The law
6 recognizes that some people, such as myself are what
7 we call lay witnesses. We don't have any expertise in
8 any area. I wouldn't be able to get up there and give
9 an opinion about anything, but certain people because
10 of their training, because of their education are able
11 to get up there and give you information, testing that
12 they actually did. The DNA, the gunshot residue, the
13 pathologist, the bullets, the firearms expert person.
14 Those were all experts and the reason for that is very
15 simply, they have the training. They're able to do
16 it. Now, when judging their credibility, you judge
17 credibility with them the same way you do everyone
18 else and that's important. Do they have a basis? Do
19 they have the experience? Have they testified before?
20 All these are factors in considering whether a person
21 is able to render an opinion, and I submit, ladies and
22 gentlemen, if you take even just the testimony of one
23 of the lay witnesses and couple it with the expert of
24 the testimony in this case, that alone is
25 overwhelming. The judge will also instruct you that

1 in this case there has been some mention of the death
2 penalty. The State is not seeking the death penalty
3 in this case. The judge will tell you the
4 determination of any punishment should not even enter
5 y'all's mind.

6 All your role is to determine guilt or innocence,
7 and that is what your role is, but the State is not --
8 - this is not a death penalty case. The final thing I
9 want to talk to you a little bit about is credibility.
10 What is credibility or believability? The judge will
11 instruct you. You can believe one witness against
12 many, many against one. You can believe part of what
13 a witness says, none of what a witness says, all. It
14 doesn't matter. It's up to you. When considering
15 what to believe as far as credibility of the evidence
16 we put before you, do they have a bias or prejudice?
17 Do they have something to gain or something to lose?
18 Is the testimony corroborated by other testimony or
19 contradicted? Do they have some fear of testifying in
20 credibility, believability, and the defense got up
21 here in their opening statement and they talked about
22 how this courtroom is packed. There's a pressure
23 everywhere, a rush to judgment, pressure. I submit,
24 ladies and gentlemen, think about Donald Moore. He
25 had to come before you because he was under subpoena.

1 Did he want to testify? No. Do you blame him? No.
2 Did he make up, oh I just told lies those lies that
3 happened to be corroborated by all the evidence in
4 this case. Was what he told police initially the
5 truth? Even Trenton Barnes wrote his mother a letter
6 saying it was the truth. Do they have something to
7 gain or to lose? The defense will get up here and
8 argue oh you can't believe any of the witnesses. You
9 can't believe any of the evidence.

10 They will read out lists of who you didn't hear
11 from. That's all an attempt to divert your attention
12 from the relevant admissible evidence that you did
13 hear as to what happened that night because each and
14 every witness was corroborated by the physical
15 evidence, even by the telephones and give Latoya
16 Barnes credit, ladies and gentlemen. I beg you to
17 judge her credibility. She got up here and it could
18 not have been easy, and I felt horrible, but she got
19 up here and she told you what she told police about
20 what she knew and she didn't want to admit that, yeah,
21 she saw Trenton with a gray hoodie. Do you blame her?
22 I can't. But she told you everything else, but when
23 she went to the police and I think I asked her this
24 question, she just wanted to make sure the truth came
25 out, that the right people were held responsible. She

1 deserves a lot of credit.

2 Again, if I have said anything different from
3 what the judge instructs you on the law, it wasn't
4 intentional. All the State asks for is justice.
5 Nothing more, nothing else. Thank you.

6 MS. SIMPSON: May it please the Court.

7 THE COURT: Yes, ma'am.

8 CLOSING STATEMENT:

9 MS. SIMPSON: Well, I shouldn't have shot that
10 bitch. That, members of the jury, those words of
11 Lorenzo Young. I didn't mean to do it, the words of
12 Trenton Barnes.

13 No, no, no. The screams of terror heard by
14 Theresa Baskin, screams that she will never forget.
15 The final words, those pleas for mercy from the victim
16 in this case, Kelly Hunnewell. No, no, no.

17 The final words, the words, the voice of a
18 daughter, a sister, a friend and more importantly a
19 voice that her children ages 13, 10, 6 and 8 will
20 never hear again and for what? Nothing, absolutely
21 nothing because nothing is the value that the
22 defendants, Lorenzo Young and Trenton Barnes placed on
23 human life that day. Let's be clear. Make no mistake
24 about it. As Ms. Campbell alluded to earlier, the
25 only person who should have been able to come in this

1 courtroom, take this witness stand and testify that
2 she was acting in self-defense is the victim, Kelly
3 Hunnewell.

4 Unfortunately, she never got that chance. Her
5 life ended far, too soon at the young age of 33. Why?
6 Because the defendants, along with their codefendant,
7 Troy Stevenson, had a plan. They were going to rob
8 someone that night, and when the first lick went
9 wrong, they saw a crime of opportunity.

10 MR. KRZYSTON: Objection, Your Honor.

11 MS. SIMPSON: Unfortunately ---

12 THE COURT: What's your objection?

13 MR. KRZYSTON: Can we approach?

14 THE COURT: Yes.

15 (WHEREUPON, a bench conference was held in the
16 presence, but not within the hearing of the
17 jury.)

18 THE COURT: You may continue. I'm sorry.

19 MS. SIMPSON: Her life ended far too soon.

20 Unarmed, alone in that building where she worked the
21 early morning shift starting at 3:00 A.M. so she could
22 spend more time with her children, but what good was
23 that metal spoon against two armed men with guns.

24 The only victim in this case is Kelly Hunnewell.
25 Now, this is contrary to what the defense might have

1 you believe because as I've listened to their opening
2 statements and the information they've attempted to
3 elicit through their cross examination, they would
4 have you believe that Lorenzo Young and Trenton Barnes
5 are the victims in this case. They are the victims of
6 police. They are the victims of the State. They are
7 the victims of SLED analysts. They are the victims of
8 their own family members, Latoya Barnes. They're own
9 friends, Donald Moore. The mother of his child,
10 Rolanda Coleman. They are victims of pressure and a
11 rush to judgment.

12 Poor, poor Lorenzo Young and Trenton Barnes.
13 Well, no, members of the jury, that just simply is not
14 true, and that is not what the facts and the evidence
15 in this case show because we are here today for one
16 reason, because when these two men armed themselves
17 and went to that bakery during those early morning
18 hours and went in, they became burglars, attempted
19 armed robbers. When they encountered Kelly Hunnewell,
20 they became kidnappers, and when they pulled that
21 trigger, each of them multiple times, ending her life,
22 causing her to drown in her own blood, they became
23 killers, murderers, and that's why we are here today.

24 Now, members of the jury, good afternoon. It's
25 been a long few weeks, and as you've learned during

1 the course of this trial, my name is Nicole Simpson.
2 I along my co-counsel, represent the State and the
3 victims in this case.

4 I want to echo my colleague, as well, because
5 this is my one and only opportunity to address you
6 directly and I want to thank each and every one of you
7 now, for your time, your patience and your service in
8 this case. It is often said that jury service is
9 perhaps the most important service that a man or woman
10 can render his or her country during times of peace.

11 Well, that's true here today, and in a few
12 moments, defense counsel is going to get up and
13 present their closing arguments. Then the judge will
14 instruct you on the law that you are to apply to the
15 facts of this case, and then it will be turned over to
16 you for a decision, so on behalf of the State and the
17 victim's family, I thank you.

18 I want to talk to you about the facts in this
19 case. First let's go ahead and get something out of
20 the way because I want to address a few things that
21 defense counsel said in their opening statements. And
22 here in this case, you have two defendants, Lorenzo
23 Young and Trenton Barnes, and you will consider each
24 of their guilt independently, but as I listened to
25 their opening statements, the essence of it all kind

1 of boiled down to the good old classic defense, when
2 you have nothing else, attack the police. Blame the
3 police and they kind of vary a little bit, and I want
4 to make sure that I get the quote right. I believe
5 Ms. Bambach, defense counsel for Mr. Young said in her
6 opening statement that you would not hear one piece of
7 evidence in the case. They had to make the pieces
8 fit. You won't see anything definitively connecting
9 Young to the shooting and the normal things you would
10 see in a murder case just aren't here. The arrest of
11 Young was based on the statement of one witness.

12 Well, that's just flat out wrong and inaccurate, and I
13 don't know exactly what a normal murder case is
14 because murder is far from normal, but I submit that
15 this is exactly what's in a murder case because here
16 what we have is defendants with time to dispose of the
17 evidence. What we have here is forensic evidence. We
18 have direct evidence linking them to it, and we also
19 have attempts to justify their actions with respect to
20 informants and I'll get to them in a moment. Even
21 this is a heinous crime and yeah, Trenton may be sorry
22 now.

23 I wasn't there, I didn't do it. That's Lorenzo
24 Young's defense and attack the police. The moving to
25 Trenton Barnes and this one was kind of all over the

1 place because I believe Mr. Schnee began along the
2 lines of police misconduct. One big conspiracy. And
3 at some point it evolved to well, Trenton did it, but
4 you won't find malice because he is only 16, and then
5 it evolved just a little bit more and changed again.
6 Well, he's really only taking the rap protecting his
7 older brother Troy Stevenson, who he loves dearly.
8 That's all he is doing and then we went to another
9 defense.

10 Again, the investigation, no forensics.
11 Threatening, coercion, I don't know. The
12 investigation. All over the place. One of the age
13 old defenses, if you can't defend it --- if the
14 actions are indefensible, if I throw enough stuff out
15 there, maybe something will stick. Maybe they'll fall
16 for one of them. Well, the problem is that the
17 evidence and the facts in this case don't support any
18 of those. We'll get to that.

19 So let's start with the grand conspiracy as I
20 like to call it. I apologize. I'll talk loud. I
21 know words are small, but I wanted to bring this up to
22 get it out of the way so we can get to the witness
23 testimony and facts in this case.

24 The defense wants you to focus on what the police
25 didn't do. Who they didn't interview. I believe a

1 list of names, such as Azo, Smiley, Marcus Shorty
2 Johnson, Marcus Haley Johnson, Ashley Carter, Marquis
3 Johnson. Darryl Samuels, Anthony Nelson, what about
4 those people. Well, you heard the information that
5 could have been obtained through those people, those
6 people whose names were primarily provided by Troy
7 Stevenson and his attorney while at Mr. Stevenson was
8 actually cooperating with the police and attempting to
9 corroborate his story that he was at the house, that
10 he wasn't with them and nicknames. What are they
11 going to do with that?

12 Azo, Smiley, how do you find those people? Well,
13 counsel for Troy Stevenson was going to do that nearly
14 a year later, but never did, and these people,
15 remember, let's go back to the initial day this
16 happened. They canvassed the area initially during
17 the early morning hours. Even Investigator Moorner,
18 the businesses weren't open yet, but they were
19 knocking on doors and they went back to those
20 businesses attempting to talk to people, to find out
21 what evidence was available.

22 And then when they found people, you know, I
23 can't give you details about what's going on, but if
24 you have any information about this incident, contact
25 police. Maybe leave a card or let you know you can

1 contact Crimestoppers, and some people came forward
2 like Donald Moore, Mary Brown and the confidential
3 informant from Richland County.

4 Azo doesn't come forward. Smiley didn't come
5 forward. Marcus Haley Johnson didn't come forward.
6 You heard that this incident happened where the
7 defendants lived. This was their neighborhood, their
8 friends, associates, family members.

9 This is where they live. People hesitant to
10 talk, and we'll get to those people. Rolanda Coleman,
11 Donald Moore, Mary Brown, the witnesses in this case
12 and you heard testimony. People generally don't talk,
13 especially in a case like this.

14 Observe and we'll get to the witness's demeanor
15 on the stand, Donald Moore, Mary Brown, Rolanda
16 Coleman and Latoya Barnes. Now, investigators didn't
17 pick these witnesses. The State didn't choose these
18 witnesses. The defendants did. These are their
19 friends, their family members.

20 If we could have picked, do you really think we
21 would have picked Donald Moore? No. But then moving
22 on, jailhouse informants. Oh, the police they coerce
23 everybody, they do these terrible terrible things.

24 Well, the Columbia Police Department didn't even
25 interview them. Those people sent letters to our

1 office and then those people came before you. No one
2 coerced or threatened them or made any promises to
3 them. Note taking and audio recording. This comes up
4 in just about every case we do, but sometimes it's the
5 reverse because a lot of agencies don't audio record
6 and instead just take notes. If that were the case,
7 they would be saying where is the audio? Why is this
8 not recorded. You have notes for it, but where is a
9 real document, but when we do have audio recordings,
10 well, where are your notes? They're irrelevant.

11 And then there's been an insinuation. This is
12 just based on what I observed and what I believe may
13 come out, because there's been kind of an inference on
14 police misconduct. Maybe they'll plant evidence.
15 They'll lie. They'll threaten, they will not
16 investigate.

17 Well, if you're going to go to all that trouble,
18 put your work, your job, everything on the line, then
19 why not make it better. If you're going to plant
20 evidence, then put the hoodies there, plant the guns.
21 If you can plant the shell casings and unfired
22 bullets, just go ahead and plant the guns. Make it
23 easy. Pick your witnesses.

24 Ms. Baskin, maybe she will identify them if we
25 press her hard enough. But no, she told you only what

1 she knew. DNA, fingerprints, plant it. Make the case
2 better. That just didn't happen, but everybody is in
3 on it, and you heard and I'm going to go --- all this
4 pressure. All this pressure. Pressure from the
5 media. Pressure from the people. Pressure from the
6 community.

7 Well, members of the jury, all this pressure, it
8 doesn't lead to a quick arrest. It doesn't help to
9 have a shoddy investigation because with all this
10 pressure, with all these headlines, you better get it
11 right.

12 What good does it do them to arrest the wrong
13 people. No good, and their job isn't just to arrest.
14 It's to keep the communities safe. So you want the
15 people that committed these crimes off the streets,
16 and that's what they did in this case. They got the
17 right people and it's not a rush to judgment. Now,
18 the incident happens on the first of July 2013. As I
19 believe Sergeant Reese may have defined it best, you
20 never know which way an investigation is going to go.
21 Your hours are not day-to-day, typical nine to five.
22 You might work 18 to 24 days, 12 hour shifts. You go
23 where it leads you. Well, the evidence is collected.
24 They find a video. Video. Do you know how rare that
25 really is? And it kind of directs their

1 investigation. It's very helpful on what evidence may
2 be relevant, on what to process. What are we looking
3 for, we get descriptions early, quickly because but
4 for that video, we might not be here, but then you had
5 more, some tips they received quickly. The tips are
6 coming in fast once this is released. They don't
7 release everything to the media. Why? Those details
8 will be important down the road. Those details for
9 witnesses like Donald Moore and we'll get back to
10 Donald Moore because he had information that was not
11 released to the media and it became very important and
12 they were able to garner more.

13 So they got search warrants, and they executed
14 them at the homes of both Lorenzo Young and Trenton
15 and Troy --- Trenton Barnes and Troy Stevenson. That
16 didn't occur until the 5th. Trenton Barnes at the
17 search warrant. He ends up going with law enforcement
18 at that time. Lorenzo Young is taken into lawful
19 custody where he was found hiding on that day in a
20 closet with a phone that will become very important in
21 this case, with a phone that the defense may try to
22 essentially distract you from, tell you to discount
23 everything that's on that phone, and we'll get back to
24 that.

25 Troy Stevenson comes to CPD headquarters and then

1 with all this information on the 6th , Trenton Barnes,
2 Lorenzo Young and Troy Stevenson are all arrested and
3 charged in this case, equally charged, same charges,
4 murder, attempted armed robbery, kidnapping, burglary
5 second degree violent.

6 Members of the jury, after the arrest, was their
7 job done? Oh, we got an arrest, all this pressure.
8 Let's just call it quits. We've got our people. No,
9 the investigation continued after the arrest and what
10 did it do? It only corroborated and further
11 implicated the defendants in this crime. DNA, GSR,
12 phone examinations, the letter from Trenton Barnes
13 himself about his conduct, the firearms report and
14 additional jailhouse informants. All that evidence
15 corroborates and implicates three individuals and only
16 those. Two that are here before you today. So you
17 can't believe the police, Azo, Marcus, Marquis all
18 these --- Ashley Carter, all these people who like I
19 said who by the testimony you heard really didn't have
20 any information about what happened, but ignore what
21 they did do. Ignore the witnesses they did talk to.
22 Ignore their investigation as a whole because you just
23 can't believe it, and you heard from another witness
24 or witnesses, and I'm going to touch on a few in
25 depth, but you remember the testimony, you heard it.

1 You heard from Officer Brayboy who responded to
2 Ms. Baskin's home because she wasn't sure where those
3 shots actually came from.

4 Ms. Baskin just gave them the information that
5 she knew, and he went on his search to find out where
6 the shots may have come from, and then he came upon
7 Kelly Hunnewell in the bakery, and at that point,
8 crime scene investigators start responding. EMS
9 responds. You heard from the EMT worker Mary Ellen
10 Swain who came in. She was dead on arrival. They
11 didn't even move her.

12 You heard from Columbia fire department Adam ---
13 I always mispronounce his name, Lofstetler, who had to
14 come in and turn off the heat, the gas, because it was
15 so hot in there. All of these witnesses and we'll get
16 to them specifically, the crime investigators, Donald
17 Moore, Rolanda Coleman and Latoya Barnes, all these
18 witnesses, just ignore them. You can't believe
19 anything that they said. So who did you hear from?
20 I'll leave this one out. Investigator Wise you heard
21 from one of the investigators in this case,
22 Investigator Valerie Moorner. What did she do? She
23 told you --- there are investigators involved in this
24 case and a number of people because manpower is
25 important in a case like this. If information is

1 coming in quickly, you need to be able to get to it,
2 and after a period of time, there is kind of a narrow
3 window. The investigation begins to go stale, so yes,
4 they were involved and this is a murder.

5 They canvassed --- she canvassed the area. She
6 is one of the ones who went to the businesses and
7 they're ultimately able to gain surveillance footage
8 from the Ale House, which you'll have before you back
9 there. So she did her job looking for evidence,
10 looking for cameras and she found some. She spoke
11 with business owners. She made contact with the
12 owners of the bakery. She attended the autopsy which
13 was conducted in this case, and the victim's cause of
14 death determined. You heard Dr. Durso's testimony.

15 Yes, they have meetings. There's kind of a big
16 deal made about VCAP, this 1:30, 12:00 o'clock,
17 whatever time. I don't know. It doesn't matter. I'm
18 glad they meet to discuss where the case is going,
19 that they stay briefed and apprised because at that
20 point things are rolling quickly. Information is
21 coming in, and people are getting assigned to
22 different tasks because it's a lot to check out.

23 Crimestoppers tips, information received
24 testified regarding Lucille Drive, which is the home
25 of Lorenzo Young and Troy Stevenson. They also get

1 information to look into Lorenzo Young, and yes, on
2 the 2nd, they hear from Officer Kai Tull --- well,
3 Sergeant Shuler, who is contacted by Officer Kai Tull
4 because Donald Moore who he had a relationship with
5 who he knew had approached him and said I have some
6 information about this case. Now, Donald Moore who
7 clearly didn't want to be here who distanced himself,
8 like I said at that hearing on November 3rd, which I'm
9 sure they're going to talk about and before you in
10 this case.

11 As Ms. Campbell said, that was the first time
12 that they had to --- he had to get up here to face
13 Lorenzo Young and face Trenton Barnes and talk about
14 his cooperating with police.

15 So judge his credibility. They reviewed the
16 video and what did they learn? Two shooters, one with
17 a red hoodie, one with a gray hoodie and another
18 person, a third person involved as a lookout at the
19 door wearing a dark in colored shirt because that
20 person never comes in. That too is important and
21 we'll get to that.

22 Wears? What does she tell you? She wears the
23 Holister brand, so she recognizes that hoodie as a
24 gray Holister hoodie. Investigator Moorer.

25 Now, you also heard from Investigator Matthew

1 McCoy who is assigned as the lead investigator in this
2 case by Sergeant Reese who is his supervisor.

3 Now, this is just general. I'm sure they're
4 going to take some time here. He was assigned. He
5 went to the crime scene. At that point things begin.
6 Investigators are coming out. He is going over what
7 we observed and clearly, this is even before the
8 video, there are two calibers of shell casings on the
9 ground, at least two guns, two firearms were used and
10 then thank goodness for that video because we also
11 have two individuals and a description of those
12 individuals and we have what happened in this case
13 because as Ms. Campbell said, for once, what happened
14 really isn't in dispute with respect to the struggle,
15 the men coming in with the guns.

16 It's on video. Video which I beg you to review.
17 So they get the video. They canvass the area, follow
18 up on tips, and he is kind of overseeing this together
19 with Sergeant Reese, who you heard from, and they're
20 interviewing witnesses, recording conversations. Once
21 they get the physical evidence, the requested testing
22 begins, and we'll get to why they did or did not do
23 certain things.

24 Then they obtain search warrants for the homes,
25 issued by a judge. We're going to talk about what

1 came about in the search warrants because what they
2 did find may not have even been as important as what
3 they didn't find.

4 As he went through the course of this
5 investigation after the arrest as I said, the evidence
6 led to these defendants' guilt. It only further
7 corroborated. It didn't point to another person, and
8 all those names just put those out of your mind, all
9 they would have done is corroborate Troy Stevenson,
10 potentially, maybe, if they're even identifiable real
11 people, they didn't have any direct knowledge of what
12 happened . then we have the crosses and I'm not going
13 to go through this and he did and who he didn't
14 interview. I believe defense counsel for Mr. Young
15 got up here and he was like, oh, you didn't interview
16 this person; where are your notes. Where are your
17 notes? No. They can tick off a little list all they
18 want to. He didn't take notes because he didn't
19 interview them, bottom line, but he did take notes
20 from Rolanda Coleman and that's recorded. He recorded
21 the interview with Donald Moore. He recorded the
22 conversations with Latoya Barnes, but let's not talk
23 about those because that stuff isn't very helpful.
24 And again, anyone can contact the police at any time.
25 It's not like they shut down 24/7. Levels of

1 cooperation and I say this and it's been emphasized
2 and I know you're probably tired of hearing about it.
3 It does change. That is a fact. That's a reality.
4 Donald Moore, cooperative in the beginning and then
5 moving to Sergeant Reese, Kevin Reese, who you heard
6 from, the supervisor of this investigation, he
7 responded to the scene. He was one of the first
8 because he didn't even know it was a homicide. He
9 just knew that someone had been shot and went out
10 there. At that point he made his observations, which
11 he spoke to you about, the signs of a struggle and he
12 went through what he did taking down the information
13 that he had initially and then he called out
14 investigators.

15 EMTs are responding. The county coroner's office
16 becomes present. He is at the scene. There is a lot
17 going on. Keep it secure. Get the perimeter secure
18 because this is a homicide.

19 They canvass the area, knock on doors, go to
20 people's yards. Key point. No details in order to
21 preserve the integrity of the investigation. Let them
22 know who they can contact. He was present for many of
23 those interviews with Investigator McCoy and
24 witnesses. He spoke with Donald Moore and what did he
25 say, that he was cooperative. Nothing out of the

1 ordinary. He came on his own free will, and again
2 which we all know, but it must be said not all
3 witnesses want to talk to the police, especially if it
4 involves friends, family, neighbors present for the
5 execution of search warrants and we'll get back to
6 this point. I'm going to reemphasize them a good bit.
7 No firearm or hoodies were found in Bronx Road or
8 Lucille Drive and then he went through the still
9 photos of what you could observe from the crime scene
10 because they were doing everything they could to
11 identify and make sure they had the right people and I
12 submit to you the evidence supports that they did.

13 Now, the crime scene. We start with Tommy
14 Circle. What did Investigation George Wise testify
15 that he found that would become very important in this
16 case? 45 GAP caliber fired shell casings, the spent
17 shell casings, four of them, at least four shots fired
18 from that firearm. Then the 40 caliber Smith and
19 Wesson shell casings. Two of those --- at least two.
20 Projectiles, three of them. Lead projectile. I
21 believe a projectile fragment, and then also the
22 victim's time card. We knew she got there at
23 3:00 A.M. because then the timeline is also important
24 in this case. It corroborates what happened in the
25 testimony and the evidence against Mr. Young and

1 Mr. Barnes.

2 Then we move to the home of Trenton Barnes and
3 Troy Stevenson. Now, remember this search warrant,
4 July 1st, 2013. Then we move to Lucille Drive. It's
5 not conducted until nearly five days later, July 5th,
6 2013. Key evidence or that would be key, isn't found.
7 Firearms, none to be found and importantly that gray
8 hoodie. You'll hear it mentioned several times during
9 my closing right now. That gray hoodie, that gray
10 hoodie that Ms. Barnes said her son wore all the time,
11 his older brother had ripped it. That gray hoodie
12 wasn't present. No gray hoodie was present or red
13 hoodie, but they did find that dark in colored hoodie,
14 and I want to talk just a bit about it because I
15 believe it was elicited at some point during
16 cross-examination, oh, you didn't submit that one for
17 testing for DNA. The person in the dark hoodie didn't
18 go into the bakery. It wouldn't have the victim's
19 blood on there and, of course, they can claim it's
20 Troy or Trenton's DNA because it's their home. Their
21 DNA is present all over the home so what does it
22 really show, nothing. Then we go to Bronx Road.
23 Investigator Gaston. We found several --- or
24 investigators were there are first because they were
25 actually executing a search warrant which is not

1 uncommon. It's actually quite typical, and then crime
2 scene gets called in because they find some key
3 evidence, and that's documented. What did they find?
4 Ammunition box, Magtech 45 GAP. That's the same ammo
5 that was found at the bakery, same type of ammo,
6 consistent with, where was it --- and this becomes
7 important, too, under the bed. Also under the bed an
8 empty ammo tray and 45 GAP unfired bullet, the same
9 markings as those in the murder at Tommy Circle in a
10 plastic cup under the bed. Forty caliber unfired
11 bullets, two of them in the dresser drawers. Like
12 Rolanda Coleman said where he puts his ammunition.
13 Two unfired bullets also consistent and you heard
14 Ms. Cromer's testimony, which we'll get to. Glock
15 magazine. Glock magazine in Rolanda Coleman's purse
16 where it was found I believe near the bed. Then the
17 gloves box in the top of the closet containing GSR
18 gunshot residue. Now, what they didn't find, again,
19 was a red hoodie or a gray hoodie, and they didn't
20 find a firearm and first about those hoodies, I submit
21 and I turn your attention to that web search on the
22 phone, that media release.

23 They know what they're looking for are gray and
24 red hoodies. Let's get rid of them all, and
25 especially with Lorenzo, you're going to have those

1 photographs from the cell phone, those red hoodie
2 selfies from just days before the murder. Not one red
3 hoodie found and the baseball cap is found and firearm
4 during the cross. Again, we get back to that phone
5 and you'll have that video clip where Lorenzo Young is
6 identified as being the person in the camo and the
7 jacket and what's he saying? They have their guns.
8 He is pulling it out. Put that 45. Put that Glock or
9 we Glock boys. I don't know. You'll have it around
10 there. Put it up to the camera. Firearm. And you
11 heard Ms. Cromer's testimony that is consistent with
12 the Glock. Now, because of the quality of it, you
13 couldn't make out the caliber but that's a Glock just
14 days prior to this incident that Lorenzo had, and
15 we'll get back to the Glock. Was that firearm
16 anywhere to be found? No. You know why? It could
17 connect him to the scene. He knew about it. He knew
18 about the shell casings.

19 The gloves with GSR. Now, the gloves, those
20 aren't very identifying. Might not --- we are didn't
21 say he was a rocket scientist. He might not think to
22 get rid of everything just like that ammo box that
23 happened to be under the bed or a couple of casings
24 that --- or unfired bullets that he missed, and
25 remember, they had five days to dispose of the

1 evidence in this case so let's talk about some of the
2 witnesses. I apologize, my voice, too. It must be
3 the courtroom.

4 Donald Moore, very important. Ignore him, but he
5 is Trenton Barnes' friend. He told you that's my boy,
6 and now he claims only to have met Lorenzo Young one
7 time even though it's clear from the testimony from
8 Ms. Barnes, Trenton's own mother that Troy, Trenton
9 and Lorenzo hung out together. It wasn't uncommon for
10 them to stay at the house, but he only met him one
11 time.

12 July 2nd. I believe Ms. Campbell asked do you
13 remember meeting with police and telling them about
14 seeing Mr. Young with a gun because right now he just
15 claims he lied. I lied, I lied, I lied about
16 everything. But back on July 2nd what did he tell
17 police? What did he tell police that would be
18 corroborated by other evidence in this case. Thursday
19 prior to the incident he saw --- he kind of heard
20 about a plan to rob the Ale House.

21 Then the night before the incident he saw Young
22 with a Glock. Kids in the street, he said go in the
23 house and follow them in. Lorenzo was in the red
24 hoodie that night, didn't even believe at that time
25 that he should get paid for this information because

1 again if you get to the informants, even this wasn't
2 okay, under anybody or by anyone's standards. I
3 shouldn't even get paid for this.

4 Video, initially he said he recognized the hat
5 snap back, baseball cap, and the red hoodie that
6 Lorenzo always wears, shown the lineup, picks out
7 Lorenzo, a/k/a Shyne, Lorenzo's nickname. Told police
8 that Trenton Barnes and Lorenzo Young were the
9 shooters. But then on October 20th you heard this
10 testimony, too. He met with investigators from our
11 office, an attorney present. At that point he said
12 oh, just one little lie or claimed to. Then on
13 November 3rd in front of these two men it's all a lie.
14 I only lied because my nickname is Shorty at this.
15 Then there's the stepfather whose name is Shorty. I
16 thought I might be implicated in some way. The
17 problem is he had information that was not released to
18 the media about the struggle, about what happened and
19 what actually occurred inside the bakery. He knew a
20 lot. Then November 4th in a meeting, he finally says,
21 oh, it was all lie. Remember, too, and I believe it
22 was testified to that after this, he actually became a
23 real informant for the police, Donald Moore. Judge
24 his credibility. Like I said, we didn't pick him.
25 That's his friend.

1 Rolanda Coleman, the mother of Lorenzo's two
2 children. You saw how hesitant she was to take this
3 stand under subpoena court order. Didn't want to be
4 here, didn't want to testify, but she did. And what
5 did she have to tell you, because this is important,
6 too. She knew Trenton and Troy Stevenson. They hang
7 out with Lorenzo. On the night of the incident, she
8 was sleeping at her house and Lorenzo Young had her
9 phone. You have the phone records in this case.

10 We'll get to that. She knew he was at Troy's house
11 also corroborated by the other information in this
12 case. The house just up the street from the bakery.

13 So Lorenzo's mom went and picked him up around
14 five, 6:00 A.M., whatever, and he came in with a
15 t-shirt. Now this is the morning of the murder.
16 We're talking July 1st. The morning of the murder,
17 with a t-shirt, and he had a gun when he came home.
18 He took off his shirt, wrapped that gun and put it in
19 the baby's crib. She doesn't know much about guns, but
20 Young had said the gun was a 45. She didn't know what
21 meant, but now you have a better idea about what it
22 means.

23 Remember, she was hesitant to tell you about when
24 she had seen the gun or when she talked about the gun
25 but then finally she admitted yes, it was the day

1 before and he had brought that gun. He had that gun
2 the night, the morning he came home. Then how
3 convenient is this. Lorenzo and Rolanda go to work
4 together. Then when they come home, that gun is just
5 mysteriously missing. No one can find it, but she
6 also testified no one would know where it was, but
7 Lorenzo or someone he told.

8 He told you there was an argument --- she told
9 you there was an argument between Young his mother
10 about the gun; that he often hid them in the dresser
11 drawers and the day after the incident; they saw this
12 on the news and Young's mother told him to find that
13 gun and get it out of the house. Identifies Trenton
14 in the hoodie, but yet says I can't ID the person in
15 the red hoodie. With as much information as she came
16 forward with, she was still protecting the father of
17 her children. Still protecting him and what helps
18 corroborate that? On the day of the search warrant
19 and she admitted in her testimony that initially said
20 she didn't know when Lorenzo was last seen. Why did
21 she lie about that? Because she was scared he would
22 get in trouble and I believe Ms. Bambach referred to
23 credibility. You either believe somebody or you
24 don't. It's not --- it's just as simple as that.
25 Well, the reality is you can believe some of what a

1 witness says. You can believe all of what a witness
2 says or you don't have to believe anything that a
3 witness says, and yes, I agree, consider her motives.
4 Consider her bias. Consider her demeanor on the
5 stand.

6 She also says I seen Trenton with a gun before,
7 too, but it's a different one than the one I saw
8 Lorenzo with. The cell phone in the grandmother's
9 name is Aretha Coleman, but Lorenzo used it.

10 Latoya Barnes. As Ms. Campbell said, give her
11 credit because she has two sons charged with this
12 crime and their actions, their choices, it's not her
13 fault and she wanted the person responsible held
14 accountable to a certain extent. She is the mother of
15 them. She lives at Lucille Drive with them. It's not
16 uncommon for Lorenzo Young to come and stay over just
17 as he did on this night.

18 Lorenzo and Trenton were together night.
19 However, Troy went to the club with his friends. The
20 defendants were not at the house. I can't remember
21 the time period, but it's several hours before this
22 incident occurs. Then she gets a phone call which you
23 will have those records. We'll talk about that call
24 from Young to the house phone. At that point She
25 states that she picks up and Lorenzo wanted to talk to

1 Marquis Johnson and she handed him the phone. Then
2 she gets a second call about ten, 15 minutes later,
3 somewhere in that timeframe from Young, and Young says
4 they are down the street.

5 At that point she says, well, tell Trenton he
6 needs to come home. She stated that Troy went to get
7 his brother all three were back at the house and when
8 she got up in the morning, that Young left and
9 corroborates what Rolanda Coleman said, someone picked
10 them up. Now, the clothing they were wearing that
11 night, she was able to describe to police and to you.
12 It was a red hoodie that Lorenzo was wearing and
13 Trenton that gray jacket that he always wears, it has
14 a tear. Troy didn't want it anymore. And then that
15 dark colored shirt, which look at that person in the
16 video, I submit the actual lookout in this case who
17 doesn't come in, hoodie wrapped up tight, dark colored
18 shirt. The bakery is within walking distance. She
19 knows because she goes to the Ale House bar. She saw
20 the video. She remembers police coming to the house
21 with a search warrant. Why? Probably to arrest her
22 kids and Trenton went with them, but then she went to
23 the police station to be with Trenton and tells Troy
24 come along too because they're looking for him.

25 There is the recorded phone call between

1 Investigator McCoy and Ms. Barnes in August. Now, on
2 the stand she claimed it wasn't Trenton. Difficult,
3 but then when questioned, she admitted on redirect ---
4 she admitted --- no. I apologize. It was introduced
5 later through Investigator McCoy's portion of the
6 recorded phone call where he's inquiring about the
7 about the video and she states, I know my kids. It
8 was Trenton in the gray hoodie. I know my kids. I
9 know them from they fingers to they [sic] toes. She
10 also said, I believe, she recognized Lorenzo in the
11 video she received a letter from Trenton. Now, this
12 letter that you'll have before you, she turned it over
13 to Troy's attorney where Trenton confesses what he
14 did. That's his handwriting. That's how he signs his
15 letters, and then the informants. Like I said, I'm
16 only getting to some of the witness testimony you have
17 before you. You heard from Alfred Wright who
18 testified that Young approached him in the law
19 library. I believe he was researching this stand your
20 ground for another inmate. At that point he said he
21 learned that three people went to rob a club. Three
22 people, but it was closed, so they went to rob the
23 bakery next door. Young and Stevenson, A/K/A Trigg
24 entered with guns. She resisted and Young shot two
25 times. They didn't get any money. Said Little Trap,

1 A/K/A Trenton was the lookout. It's here I'll remind
2 you because this is the testimony that will become
3 important. It doesn't matter if Trenton was just the
4 lookout. Although, I submit the other evidence in
5 this case shows that he actually is the one, by his
6 own admission, that went into that bakery, but either
7 way, it doesn't matter. The hand of one is the hand
8 of all.

9 Then you have Michael Peterson A/K/A Big Unc.
10 Young telling them, asking them, you already know a
11 lot about the law. What did he say? Not too much,
12 but, you know, if you want to talk. Young said don't
13 tell nobody about this, but I set up a sweet lick in
14 and out job. Told the lady to give me the money,
15 right. She said the money was in the back. She acted
16 like she was calling the police, so I started
17 shooting. Well, I didn't mean to, I guess. I got
18 scared, so little homie with me seen the blood and
19 started running, so I ran, too.

20 Peterson's response? You didn't have to kill
21 her. Young: I panicked and they can't prove nothing
22 because we had gloves and masks on. And all they
23 found --- all they got were the shell casings and I
24 think that some people in the hood told them what
25 clothes we had on.

1 Mr. Peterson also overhears the conversation
2 between Troy and Lorenzo while they're in lock-up, and
3 you heard about Young's responses and defense counsel
4 I believe got up here and attempted to draw out the
5 lock-up dorm, the SHU, whatever, but she didn't really
6 want to draw out what wasn't convenient for her.
7 Let's be clear. You've been taught. It's easy to
8 hear through these walls and again, what did he
9 testify to in Young's responses? All they got is the
10 shell casings man, all they got is the shell casings.

11 Michael Schaefer, Young. Same dorm, played
12 cards. Young told them that he along Trap and Trigg,
13 we later learned their names, went out to rob a club,
14 said he was wearing a red hoodie, Schaefer told him
15 too, now they're talking. I robbed a bank and let's
16 be clear. Who would you confide in. Who would you go
17 to? Mr. Wright is charged with murder. Peterson,
18 charged with murder, kidnapping. Another armed
19 robber. Michael Schaefer actually doing 12 years now,
20 which he pled guilty to. They're talking about it.

21 Then Schaefer said about New Years he felt kind
22 of bad, and he said to Young, you know, I really wish
23 I hadn't robbed that bank and Young responded I
24 shouldn't have shot that bitch.

25 What was his demeanor like? Well, he was cool,

1 calm and collected. It was like he wasn't even in
2 jail. Assess their credibility. Their stories aren't
3 the same. They varied because --- who is telling
4 them? Mr. Young, different versions, yes. That's
5 what happens and what's he do? With each of these, he
6 is kind of seeking out advice and he is also having to
7 justify his actions. She resisted. I guess I got
8 scared. I didn't mean to. Well, those two, and then
9 what else and then what else did Mr. Peterson tell
10 you, you know, he was asked repeatedly, do you
11 remember this. You're not hoping for anything. You
12 don't really want anything. He was like not
13 necessarily, not necessarily, and then finally the 4th
14 or 5th time when Mr. Schnee I believe asked him, well,
15 why? Why did you do this? Why are you saying this?
16 Well, because I know how it feels to lose your mom. I
17 lost my mom when I was 13 years old. All these
18 people, fellow murderers, colleagues, even this crime,
19 he needed to justify why he did it to them. Judge
20 their credibility and if they were going to make up
21 something just to help themselves, why not make it
22 easy.

23 Remember, I believe counsel crossed him. This
24 was on the media, this was on the news. Okay well,
25 say they told me two went in. There was a brief

1 struggle, leave it at that. That's what he told me.
2 That's what he said, but he knew names. They had
3 different stories about going into the back room with
4 a cell phone, calling the police.

5 Mr. Young is telling him these things.

6 Now, the forensics in this case and basically I
7 believe both defense counsel kind of said there is no
8 forensics. There are no forensics and what they don't
9 have is problematic. Well, as Ms. Garfield stated in
10 her opening, this isn't CSI. We're not on TV, but we
11 do actually have some forensic evidence in this case.
12 Evidence that points to who? Lorenzo Young and
13 Trenton Barnes.

14 I'll start with DNA. Jennifer Clayton at SLED,
15 and she was crossed extensively. Specifically about
16 the spoon and who was included in that spoon? Whose
17 DNA is on that spoon? Lorenzo Young, Trenton Barnes
18 and Kelly Hunnewell. What else did she tell you and
19 I'm --- numbers aren't my thing, but 76 percent to
20 86 percent I believe of the entire population in the
21 world is eliminated as having contributed to that
22 mixture of DNA on the spoon, and this number, this big
23 number he wrote out, I believe she said that's only
24 when we have a complete profile. I'm never going to
25 get this kind of number when I have a mixture.

1 Then he referred to one and three, went down the
2 table, Ms. Simpson, Ms. Garfield, Ms. Campbell, one in
3 three, pick them, Ms. Campbell eel elementary school
4 is going to be on that spoon. Well, remember all the
5 swabs that were taken in this case. Out of the 15 or
6 so, who is included on that spoon? Trenton Barnes,
7 Lorenzo Young and Kelly Hunnewell who we know touched
8 the spoon and let's think about this spoon. It's at a
9 bakery. She is using it probably its been washed
10 after a previous use and then it's sterilized because
11 that spoon is in a pot of hot boiling water before she
12 uses it to fend off her attackers.

13 And we know --- I believe that he said at some
14 point --- I'm not sure what he said about the victim's
15 DNA only the spoon, but we know she touched it and
16 what a big coincidence that Lorenzo Young and Trenton
17 Barnes are included on that spoon, but you know who
18 else is not or who is not on that spoon who was
19 excluded? Troy Stevenson.

20 He was eliminated. Just like that 76 to 86
21 whatever it was percent of the entire population, and
22 the entire population wasn't at Tommy Circle. They
23 didn't live in close proximity. The friends and
24 family hadn't testified because this evidence comes
25 out later.

1 She did also there was a 40 caliber shell casing
2 that she found with unidentified DNA on it. Transfer.
3 Shell casings get kicked around the scene, things of
4 that nature. Just because you have one doesn't
5 necessarily mean you're going to put your DNA on it or
6 it will be there. That's a shell casing. Not a spoon
7 that we see on the video that was absolutely used in
8 the crime which during that struggle, sweat, things of
9 that nature that hot room, that hot bakery, Trenton
10 Barnes, Lorenzo Young, Kelly Hunnewell. Now, are we
11 saying you just have to rely on the DNA evidence? No,
12 because no one piece of evidence are we telling you to
13 rely on when you make this decision. You consider all
14 the evidence in this case, all the testimony in this
15 case and you determine who it points to.

16 Fingerprints, also a big deal in a lot of cases. It's
17 not unusual for this argument. Well, you didn't dust
18 for prints. You didn't find any fingerprints. They
19 means they didn't do it.

20 Well, what did you have in this case?
21 Investigators told you they had the video. It didn't
22 appear that the defendants had touched anything in a
23 way that fingerprints would actually be recovered from
24 that item because you heard the testimony, smudge
25 marks, a number business, the length of time you touch

1 something, the nature of touching something itself,
2 all that matters because they're volatile. While
3 they're unique and individual to us, they're easily
4 contaminated for lack of a better word, but that's not
5 so important because remember the defendants had on
6 gloves, so I submit even he knew the best way not to
7 leave fingerprints. They had on gloves and anything
8 else that touched --- you see the video, not long
9 enough to leave a fingerprint. Conversation overheard
10 by Peterson. Again, they ain't got nothing but the
11 shell casings, nothing but the shell casings. He knew
12 the concept of fingerprints so well. Why else would
13 you wear gloves in July.

14 Then you had the testimony of Ila Simmons, one of
15 the analysts in the trace evidence department at SLED.
16 She talking you about gunshot residue. Yes, gunshot
17 residue is very particular. The particles and the
18 nature of gunshot residue when they find it is only
19 found in I guess gunshot residue. Gunpowder. It
20 means you fired a gun, around a gun, in close
21 proximity of a gun. Now, it can be transferred from
22 item to item. Now, on people and this was important
23 testimony.

24 You have to collect that gunshot residue within
25 six hours of a person firing the firearm or handling

1 something when it has gunshot residue on it. If it's
2 not within that six hour time period, they won't even
3 test people. So remember, doing any kind of GSR
4 testing on the defendants in this case wouldn't have
5 told them anything. It wouldn't have even being done,
6 and what did she find? That each individual glove
7 on --- or each individual know that was packaged
8 together had GSR on it.

9 Again, access to black gloves, gunshot residue,
10 but what wasn't present in that home? A firearm. A
11 firearm we know Lorenzo had. He had access to
12 firearms, and you heard from an expert, and I didn't
13 put everything up here, but what are a few things that
14 she told you, Ms. Cromer, regarding firearms and tool
15 marks examinations. It's unusual --- I left out the
16 not --- to not have a firearm at least two firearms,
17 the number two, were present she found that a 45 GAP
18 shell casings were from a GLOCK and a 45 GAP had the
19 same markings, shell casings at the scene, bullet in
20 Mr. Young's home along with that ammo box with the
21 Magtech ammunition which was which was found at the
22 scene and the Glock 45, she testified regarding those
23 still shots that you have before your consistent with
24 the Glock. When I talk about Glocks, I go to
25 Ms. Bambach's cross-examination. She said you can buy

1 a Glock anywhere. You can get it at Academy Sports
2 and she named off all the different places and the
3 makes of them, Glock, Glock, Glock, I don't know how
4 long the list was, but all of them were Glock
5 manufactured. Remember, we're not saying that they
6 can't be purchased by people just generally. What
7 Ms. Cromer testified to is that she usually doesn't
8 see it. The cases she sees it in are involving law
9 enforcement, which we definitely don't have in this
10 case and these are high end firearms. Like I said,
11 what a big coincidence for Mr. Young that that Glock
12 or that a Glock is in his possession and these caliber
13 shell casings and bullets are in his home.

14 Now, the timeline of events for when this
15 incident happened, now, remember, I don't know if a
16 big deal would be made of it, but this is my one and
17 only opportunity to address you. You have several
18 videos in this case and you have records. You have
19 phone records for the phones. The key ones being for
20 Lorenzo Young with those calls to Lucille Drive where
21 Troy was staying at the home of Trenton and Troy. You
22 also have the Ale House video where it was testified
23 that the timestamp was just a little bit off from the
24 bakery as well as the phone records will probably not
25 be exact, but what you do know from the timeline in

1 case is that at 3:00 A.M. Kelly Hunnewell arrived to
2 work. At 3:05 she got a call or Lorenzo Young called
3 Lucille Drive --- because remember, they're staking
4 out the Ale House, but unfortunately you heard
5 Mr. Spain testify they didn't always close at a
6 specific time. So they got there and is when they're
7 getting there, that final vehicle, employees are
8 leaving at 3:09, too many people, that final vehicle
9 departs at 3:12 A.M, which you can see on the video.
10 Then at 3:14 A.M. what's seen is a subject wearing a
11 hooded sweatshirt comes from behind the building and
12 walks down the exterior bakery wall. A second hooded
13 subject joins him several moments later. Two subjects
14 remain there for several minutes looking toward he
15 open front door of the bakery. One of the subjects
16 walks to the other side of the building while the
17 other remains at the corner kind of facing the camera.
18 I believe at this point, too, around 13, 14:00 A.M.,
19 and like I said, the times may vary just a bit, but
20 they're close in proximity. You get a call from
21 Lorenzo Young to Lucille Drive. Then what happens
22 within minutes later, 3:17 a third subject appears to
23 be in a hooded sweatshirt. Now, he comes up from the
24 street versus from behind the building. They remain
25 outside the building walking back and forth and

1 attempting to peer in a window. At 3:21 two of the
2 subjects walk toward the front of the building behind
3 the parked vehicles. At 3:36 A.M. two of the subjects
4 are observed fleeing the scene, and as I said the
5 bakery times around 3:40 is when you'll see the murder
6 occurred, and they're a little bit off. What does
7 this do, when that third person arrives, there's 15
8 minutes. We don't have audio outside of what's going
9 on and what's being talked about, but we know that
10 people are leaving the Ale House, more testimony
11 corroborated. This lick, the one they plan, it
12 failed, and Kelly Hunnewell, she is there at work.
13 And that bakery door remember was open. A light was
14 on. Crime of opportunity. And at 3:44 A.M. Officer
15 Brayboy was dispatched to the scene. Fifteen minutes
16 after that third individual arrives and you see him in
17 the video, the lookout, and the lookout, remember the
18 lookout, the shooters or at least the people with the
19 firearms and the person that caused the fatal shot I
20 submit based on the evidence and testimony you've
21 heard from Dr. Durso in the video, that is all
22 consistent with that being Trenton Barnes, the person
23 in that gray hooded sweatshirt, the person with the
24 40 caliber pistol, evidence that the defendants were
25 at the at the scene. What do you have them there.

1 Well, you have a lot. You have the video of the
2 crime. What else do you have? Rolanda Coleman,
3 Trenton is in the gray hoodie. I don't know who is in
4 the red hoodie. I submit again who is she protecting,
5 the father of her children. Still doesn't want to get
6 him in trouble.

7 Lorenzo Young is identified. I'm sorry. Still
8 protecting. Alfred Wright, Lorenzo Young, three
9 people, he's told three people they went to rob a
10 club. It was closed at Ale House, corroborated, so we
11 went to the bakery next door. Young and Stevenson
12 A/K/A Trigg, entered with guns, she resisted and Young
13 shot two times. They didn't get any money. Little
14 Trap A/K/A Trenton was the lookout. Again, three
15 individuals, the hand of one is the hand of all. It
16 doesn't matter if it was Trenton or Troy, but in this
17 case I submit supports Trenton as the shooter.

18 Let me go back. I'm getting ahead of myself.

19 Michael Schaefer what did he say that Young said,
20 and he said it several times. You heard him. Well, I
21 shouldn't have shot that bitch. Michael Peterson.
22 Lorenzo Young don't tell nobody I set up a sweet lick.
23 She acted like she was calling the police so I shot.
24 Can't prove nothing because we had gloves and masks
25 on. All they found were shell casings. I think some

1 people in the hood told them the clothes we had on.
2 What else puts them there, Trenton Barnes' own letter
3 confessing, admitting and then finally to Latoya
4 Barnes, yeah, it was Trenton with the gray on; like I
5 said, I know my kid's build. I know them from they
6 [sic] fingers to they toes. I know my kids and the
7 DNA on that spoon.

8 Like I said, it's not one thing or two things.
9 It's the evidence in its totality that we're asking
10 you to consider. With respect to Lorenzo Young who
11 says it wasn't me, I wasn't there. There is nothing
12 connecting me to this crime whatsoever. That's their
13 defense. Latoya Barnes. She puts Trenton and Lorenzo
14 together. Those phone calls that she testified to,
15 3:05, 3:15 just before this crime. She puts him in
16 the red hoodie. He is at the house. He goes, he
17 leaves and he is there the next morning.

18 You also have Donald Moore, and I I'm not going
19 to go through all the details of their testimony
20 again, but you heard it and we went through it.
21 Donald Moore said Lorenzo is one of the shooters.
22 Evidence from the search warrant at 3054 Bronx Road.
23 What did they find? We went through it. The shell
24 casings or the unfired bullets were consistent with
25 the shell casings. The ammunition and what they

1 didn't find. Not one red hoodie, gray hoodie, or
2 firearm, and we know he had it based on the evidence
3 you have in this case. Rolanda Coleman, that gun he
4 had that morning that mysterious goes missing. That
5 gun he wrapped up and put in the baby's crib, just
6 gone. Yeah, he has nothing do with it. Alfred
7 Wright. We went through that. Michael Schaefer.
8 Michael Peterson's testimony.

9 The phone records in this case. Video, the GSR
10 on the gloves, the DNA on the spoon, the video from
11 the phone examination, the Glock 45 that he discusses,
12 the red hoodie selfies.

13 Now, remember that video 6/25/2013 the red hoodie
14 selfies just two days before the crime or three on the
15 phone, the search history, finding our, I submit, what
16 police know. What do I need to get rid of.

17 Q They know --- he knows they're looking for him.
18 I submit he knows kind of what the word on the street
19 is.

20 Now, the evidence with respect to Trenton Barnes
21 you have the letter. I'll get to that, to his own
22 mother confessing to the crime, and what does he say?
23 I'm sorry for blaming Troy.

24 Video, and I point this out because one of
25 defense counsel's argument for Mr. Barnes is that if

1 you actually believe he was there and that this isn't
2 some terrible investigation and police misconduct and
3 rush to judgment or pressure, if you believe he was
4 there, then it isn't malice, and oh, yeah, he is just
5 protecting his brother. He was only 16 at the time,
6 but you look at that video and Sergeant Reese went
7 through those actions. They came in. Trenton came in
8 behind Lorenzo. Nobody forced him to go in and he had
9 his gun out, too, in seconds. Lorenzo goes straight
10 to the woman. He knows something happened, but rather
11 than turn around and go out that door they came from,
12 he proceeds around, gets up to her and fires at least
13 two shots, one of them killing her and no one forced
14 him to pull that trigger. As Ms. Campbell
15 demonstrated one, two, with Lorenzo, three, four,
16 five, multiple shots.

17 No one was forcing him.

18 This goes to that letter that you read.

19 The DNA on the spoon. Again, Alfred Wright,
20 Michael Schaefer and Rolanda Coleman identifies him as
21 being the person on the video in the gray hoodie.

22 Again, evidence that would link them to the
23 description of what was released on the media, no gray
24 hoodie or red hoodie or guns found at the house, but
25 by his own admission, Troy had a gun. Nothing found

1 at the house, and then mother --- his mother, Latoya
2 Barnes, hesitantly reluctantly identified him on the
3 stand. Now, back when she talked to police, she
4 identified him quickly, but her hesitation is
5 understandable.

6 Then letter from Trenton Barnes. Remember the
7 date of this letter, March 31st, 2014, and in this
8 letter it's kind of --- it cuts both ways because he
9 is saying well, I didn't really want to do it. Renzo
10 was hanging out at the house. My brother Troy ---

11 MR. KRZYSTON: Objection, Your Honor.

12 THE COURT: Overruled.

13 MR. KRZYSTON: Thank you.

14 MS. SIMPSON: And you can only use this testimony
15 with respect to Trenton Barnes' guilt. You'll be
16 instructed that you can only consider it as to him and
17 his actions, and what you read in the letter is he
18 ends up going. He was like I really didn't want to do
19 it. I didn't want to go, but I was being told, come
20 on, let's do it. There is really nothing better to
21 do. And what were they going to do, make some easy
22 money and he said that they go down and again, he was
23 like damn, they're closed, referring to the Ale House.
24 I apologize I didn't read the line on the last letter.
25 And he says that said, come on let's go back to my

1 house, then he said you see that lady over there. I
2 said no I don't see nobody. He was like come on man,
3 and we was by the door, and I seen a lady walk past
4 and I looked back and then I see Troy waving his hand
5 telling me to come back. Then Renzo walked into the
6 place. I went in behind him. Then he grabbed her and
7 put the gun to her and told to get in front of her.
8 Then she swung at me and I closed and I jumped and I
9 got scared ma. I didn't mean to do it. I'm sorry. I
10 said it was Troy because I was scared. He admits to
11 being there and going in.

12 Again, is he maybe trying protect his brother
13 some, yes, is he minimizing his own role, yes because
14 the evidence in this case doesn't support that Lorenzo
15 forced him to do it. He wasn't just a victim. He
16 went there willingly and when they arm themselves,
17 like I told you earlier, Trenton Barnes. Like I said
18 earlier, they are young men, but when they arm
19 themselves, they became attempted armed robbers,
20 burglars, kidnappers and when they we want into that
21 room or that bakery, that business, guns out face
22 masks, gloves on hands and they chose to pull the
23 trigger, they became killers and murderers. Their
24 actions caused the death of Ms. Hunnewell.

25 And let's be clear. She did not have to die.

1 There was no way and nothing has been testified to
2 that she would have been able to identify them. He
3 said they got nothing. If it was a robbery gone
4 wrong, they could have just ran out the door, the open
5 door they came in, and they saw her before with the
6 spoon.

7 I submit they knew she didn't have a gun. She
8 was working at a bakery and they saw it, and they went
9 in, but they didn't have to kill her. There's no
10 evidence that she could identify them and finally, and
11 I know I've said it several times, but some of the
12 most powerful information and evidence that they want
13 you to ignore is yes, it's sad, but judge its
14 credibility especially with respect to Trenton Barnes.
15 His own mother, Latoya Barnes, identified him as being
16 the person in that gray hoodie who committed this
17 crime. In response to Investigator McCoy's question,
18 I mean, yeah, it was Trenton with the gray hoodie on.
19 Like I said, I know my kid's build. I know them from
20 they [sic] fingers to they toes. I know my kids.

21 Now that's just some of the evidence that you
22 heard in this case. I submit that it is more than
23 enough. It is proof that should leave you firmly
24 convinced of each of these defendant's guilt and
25 consider the evidence admissible to them relevant to

1 them regarding their actions and is the roles they
2 played, because in this case how else do you defend
3 the indefensible? That classic defense, attack the
4 police. I wasn't there. Shoddy investigation. You
5 can't believe the witnesses. All that just doesn't
6 work, so I beg you, review this evidence in its
7 totality. Again, it doesn't matter if Trenton was the
8 lookout or the person in the door. The hand of one is
9 the hand of all. The act of one is the act of all and
10 each of them is responsible specifically before you
11 today Lorenzo Young is responsible for the actions of
12 Trenton Barnes, and Trenton Barnes responsible for the
13 actions of Lorenzo Young.

14 It doesn't matter which gun killed her. It
15 doesn't matter who went in first.

16 I submit that the defendants are guilty of
17 murder, attempted armed robbery, burglary second
18 degree violent and kidnapping, and when you go back in
19 that jury room, you will do here in just a few moments
20 and deliberate, I ask you to remember a famous quote
21 from President Theodore Roosevelt. He said that no
22 man is above the law. No man is below it and we ask
23 no man's permission when we require him to obey it.

24 Now, it is said that truth is the mother of
25 justice, and it is your job, your duty here today in

1 this case with these facts to seek justice and find
2 the truth, and I submit that after you have reviewed
3 all the evidence in this case, there will be only one
4 just verdict as to each Lorenzo Young and Trenton
5 Barnes and that is a verdict of guilty, guilty of
6 murder, attempted armed robbery, kidnapping and
7 burglary second degree violent. Guilty for Trenton
8 Barnes of murder, kidnapping, attempted armed robbery
9 and burglary second degree violent. Thank you.

10 THE COURT: Thank you Ms. Simpson. All right.
11 Ladies and gentlemen, we've been going for about two
12 hours. We're going to take a quick a five to ten
13 minute break you still have not heard all the closing
14 arguments or my charge on the law. You are not
15 allowed to discuss this case in any way, shape or
16 form. Keep an open mind. Do not discuss the case.
17 We'll be back with you in just a few minutes.

18 THE JUROR: Thank God.

19 (WHEREUPON, the jury left the courtroom at 4:30
20 P.M.)

21 THE COURT: All right. Let's take about a five
22 minute break.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: Yes, sir.

25 MR. KRZYSTON: As the hour is growing late, we

1 thought it might be helpful to suggest that we finish
2 closings, finish Mr. Schnee's closing, finish my
3 closing, allow the jury to be released for the day,
4 charge them in the morning and proceed with
5 deliberations tomorrow morning.

6 My closing could take 20 to 30 minutes. I'm not
7 sure how long Mr. Barnes' closing will be, but just as
8 we approach the witching hour for the courthouse
9 deputies, I just want to offer that for the court.

10 THE COURT: All right. We'll cross that bridge
11 when we get there. Okay.

12 (WHEREUPON, the jury entered the courtroom at
13 4:39 P.M.)

14 THE BAILIFF: The jury is seated, Your Honor.

15 THE COURT: Okay. Thank you. Mr. Krzyston.

16 MR. KRZYSTON: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, sir.

19 CLOSING STATEMENT:

20 MR. KRZYSTON: An ancient Greek thinker once
21 said, the law is reason free from passion. He said
22 that because it underlines a basic idea that all good
23 justice systems seek to follow, and that idea is that
24 a person should be tried on a case on the facts of the
25 case and not the emotions that drive the case.

1 This same idea is important to our case today,
2 and the reason that this same idea is important to our
3 case today is because each and every one of you
4 sitting in this box swore an oath to render a verdict
5 on the evidence and law alone.

6 Rendering a verdict on the law and evidence alone
7 requires us to temporarily put aside our feelings for
8 Ms. Hunnewell. Be sure there is not one single person
9 in this courtroom that doesn't feel pain and sorrow
10 for Ms. Hunnewell, for her children, and for her
11 family, but ladies and gentlemen, your duty requires
12 that we put that aside for the moment; that we render
13 the verdict on the evidence and law that is before
14 you.

15 Now, in a moment, the Judge is going to instruct
16 you on the law, and you will hear that murder is
17 defined as the killing of any person with malice
18 afterthought (sic) express or implied or inferred.

19 What you don't see in this definition is a line
20 that says but only if the victim is a mother or but
21 only if the victim has a family and the reason that
22 you don't see that in this definition and in the law
23 is because those things have nothing to do with
24 whether Lorenzo Young is guilty of breaking the law.

25 Those are things that are sad. Those are things

1 that touch our emotions, every single one of us, but
2 those are exactly the things that we have to put aside
3 temporarily. Those are exactly the things that we
4 cannot consider when we render a verdict on the guilt
5 or innocence of Mr. Young.

6 You've heard a great deal about the emotional
7 side of this case. The side of this case that causes
8 us all to shudder, and the reason that you've heard
9 all about that emotion, all about her children, all
10 about her family is because the government is light on
11 fact, plain and simple.

12 We've heard from a large number of witnesses and
13 they introduced an entire table of evidence. None of
14 which --- I repeat, none of which can definitively
15 connect Mr. Young to this crime scene at 93 Tommy
16 Circle. This case boils down to a couple sets of
17 facts, a couple sets of facts that show us the
18 government has failed to meet its burden in this case.
19 We can start with what you heard in opening. The
20 testimony of Theresa Baskin. You heard about the
21 cries and screams of terror, but what you didn't hear
22 is that there is any science definitively connecting
23 Mr. Young to this scene.

24 You were promised a witness in Mary Brown who
25 knew Lorenzo Young who supposedly saw him hours before

1 the crime in a red hoodie, but what you were given
2 when she took the stand was far short of what the
3 government promised.

4 They promised to bring you in witnesses and
5 evidence which would leave you firmly convinced of
6 Lorenzo's guilt. They brought in two or three
7 investigators to go over on that \$5,000 television,
8 and show you the video of the incident time and time
9 and time again. And just this morning, they brought
10 another investigator up here to show you still
11 pictures that were captured from the same video that
12 you've seen time and time and time again.

13 Why is that? Because the government is light on
14 fact. They promised witnesses, but what you got were
15 jailhouse snitches. What you got was a girlfriend
16 looking at 15 to life. Every single one of their
17 witnesses had something to gain. Who was Rolanda
18 protecting? Herself, because any reasonable person
19 facing 15 to life does what's necessary to stay home
20 with their children, ladies and gentlemen.

21 They're black, said the prosecution. You can
22 tell from the video. You can see their hands in the
23 video. Yet the lawyers can't stop talking about
24 gloves and this is despite the fact that SLED has
25 tested those at gloves for blood and then because they

1 didn't test positive for blood, they didn't test them
2 for DNA, ladies and gentlemen, in this courtroom with
3 this evidence, actions speak louder than words and
4 their actions and the State's actions tell us that is
5 they have failed to meet their burden.

6 The government said it did a complete
7 investigation; that they talked to everybody they
8 needed to talk to and that the 12 or 13 witnesses we
9 talked about didn't have anything to add to the
10 investigation. That's common sense, ladies and
11 gentlemen. How do you know what those people were
12 going to say? I can't read your minds. If I could,
13 this would be so much easier for me. It would be so
14 much easier for them, but nobody can read anyone's
15 mind.

16 The fact of the matter is they can get up here
17 and make excuse after excuse after excuse, but the
18 fact remains that they failed to do their job.

19 Again, actions speak louder than words, and their
20 actions tell us they failed to investigate and failed
21 to meet their burden. They showed you pictures of
22 Lorenzo in a sweatshirt and those pictures show the
23 upper third of that sweatshirt.

24 Those pictures can't tell us if that sweatshirt
25 is a red and white striped sweatshirt. Those pictures

1 can't tell us if that sweatshirt is solid red and
2 those pictures can't tell us if that sweatshirt is
3 consistent with the one that they paraded on the video
4 in front of you time and time again.

5 Again, they have introduced a table full of
6 evidence, a stack of poster boards that's no less than
7 six or seven inches and the reason they done that and
8 the reason they paraded that video in front of you
9 time and time again is because they are light on
10 facts.

11 They claim Lorenzo had a Glock. They introduced
12 no weapon, and even if he did have a weapon, there are
13 13 models of Glock firearm at a minimum that fired the
14 projectile that was located at 93 Tommy Circle on that
15 fateful morning.

16 The bullet that they found there, the bullet from
17 which that projectile left can be purchased at no less
18 than five locations in and around Columbia.

19 The says we excluded 70 percent of the population
20 from being at the crime scene (clapping.) good job.
21 That's a one to three match. That's as close as they
22 come to placing Lorenzo Young at the scene of the
23 crime.

24 Of the 300 million people in America today,
25 100 million are statistically likely to match the DNA

1 profile that they found at the scene. That's one
2 third of everybody in this courtroom. That's one
3 third of everybody in that jury box. You are
4 statistically likely to match the DNA that they have.

5 Ladies and gentlemen, that is not reasonable
6 doubt. One out of every three people, that by
7 definition is reasonable doubt, and what's more,
8 what's more, they found the DNA profile of an
9 unidentified male at the crime scene at 93 Tommy
10 Circle. Do not let them gloss over that fact. That
11 means they have the DNA profile of somebody at the
12 scene who they never arrested. They want to tell you
13 those 12 or 13 people didn't have any additional
14 information? When I was a young boy, my father gave me
15 some words of wisdom. He looked me in the eye, and he
16 said son, any job worth doing is worth doing
17 correctly. You could be a stock boy at the grocery
18 store or you could be president of the United States,
19 but son, whatever you want to do, if it's worth doing
20 at all, it's worth doing correctly and those are words
21 of wisdom that the government failed to put in its
22 pocket when investigating this case.

23 To convict Lorenzo Young in this matter would be
24 to ignore the fact, to ignore the evidence and the
25 science and to embrace the emotion that they have

1 flaunted in your face since they stepped foot in this
2 courtroom. There is nothing that they have introduced
3 that definitively connects Lorenzo to the crime scene
4 at 93 Tommy Circle and is no amount of excuse making,
5 no amount of glossing over the facts can change that,
6 ladies and gentlemen. The government failed to
7 establish beyond a reasonable doubt that Lorenzo Young
8 was there at 93 Tommy Circle. The government failed to
9 establish beyond a reasonable doubt that Lorenzo Young
10 was involved in this incident and the government
11 failed to meet its burden in this matter because of
12 it. Ladies and gentlemen, looking at the evidence or
13 lack thereof, the government failed to prove beyond a
14 reasonable doubt that Lorenzo is guilty of murder,
15 that Lorenzo is guilty of attempted armed robbery or
16 that Lorenzo is guilty of guilty of kidnapping or that
17 Lorenzo is guilty of burglary in the second degree.

18 Ladies and gentlemen, you deserve a better case.
19 We all do, but it's for precisely that reason that you
20 cannot convict Lorenzo Young. They failed to prove
21 their burden. They're pawning it off on you.

22 Ladies and gentlemen, you can't judge the case
23 you wish the government had given you. You must judge
24 the case that the government gave you, and it's
25 precisely for that reason that you cannot convict

1 Lorenzo Young on any of the counts as charged.

2 Thank you.

3 THE COURT: Mr. Krzyston.

4 Mr. Schnee?

5 MR. SCHNEE: May it please the Court, Your Honor.

6 THE COURT: Yes, sir.

7 CLOSING STATEMENT:

8 MR. SCHNEE: A few minutes ago, Ms. Simpson
9 claimed that the defense picked the witnesses in this
10 case. This is the State's witness list. Their chosen
11 witnesses to testify in this case. Officer Bowling,
12 Officer Bunton, Investigator Scott, Investigator
13 Rickburg, Investigator McKeller, Sergeant Smalls,
14 Officer Bracket, Captain Marsh, Captain Eargle,
15 Investigator Hilton, Lieutenant Smith, Assistant Chief
16 Riser, Officer Carol, Sergeant Adams --- the second
17 Sergeant Adams. This is a different one. Officer
18 Steadly, Officer Gilliam --- I'm sorry, Investigator
19 Gilliam, Sergeant Shuler, Sergeant Brown, Officer
20 Martin, Officer Ford, Deputy Linfert from the
21 sheriff's department, Sergeant Walls, Officer Labonte,
22 Investigator Reeves, Officer Webster, Officer Newman,
23 Officer Wiley, Officer Moore, Officer Beckman. The
24 list goes on. These are all the police officers that
25 the State put on the list and never called to the

1 stand (throwing paper down.)

2 But I picked those witnesses, right? Did my
3 client pick those witnesses? Did we pick Investigator
4 McCoy.

5 Let's talk about the State's chosen witnesses and
6 I'm going to start with DNA and I'm going to start
7 with one piece of evidence and we've talked about a
8 lot. It's this spoon right here.

9 This spoon that they are saying is definitively
10 linked to Kelly Hunnewell, Trenton Barnes and Lorenzo
11 Young.

12 Well, we certainly know Ms. Hunnewell is holding
13 those. We're certain of that. You have it right
14 here. You have it on video that she is holding that
15 spoon. Now, what did the DNA person actually say? She
16 did not say that Kelly Hunnewell is included in it,
17 that Trenton Barnes is included as a possible
18 contributor, that Lorenzo Young is included as a
19 possible contributor. Now, I suggest that you
20 probably watch this again. You'll notice that
21 Ms. Hunnewell swings it, hits one of them, not both
22 but one, so their theory that both of their DNA is on
23 here as is preposterous, as a matter of fact. What
24 the DNA expert actually said is that they could not be
25 excluded as a possible contributor.

1 She said that Kelly Hunnewell possibly her DNA
2 isn't even on there because it's such a tiny part of
3 the profile. That is the closest physical object that
4 you can see that both Ms. Hunnewell and whoever is
5 inside of that bakery have touched and the best that
6 they can come up with is well, there are 100 million
7 people in the United States who are just as likely or
8 unlikely to have contributed that sample. That's
9 their idea of solid forensics, of corroboration.
10 Fingerprints, never tested for any of them apparently.
11 Although in November of 2013, Investigator McCoy said
12 oh we absolutely tested for fingerprints. He
13 testified to that after swearing the same oath he
14 swore up there. Not only did he say he tested for
15 prints, he corrected himself on the transcript and
16 said I'm sorry, dusted for prints. That's not
17 misspeaking. I don't know if he's wrong or if they
18 just didn't find them. It doesn't really matter.
19 That's their chosen witness. Their chosen lead
20 investigator. The defendants didn't choose any of
21 that.

22 Now, let's get back to this corroboration issue
23 that they love to talk about.

24 The State says that they did not release a lot of
25 details from the video so they could determine if

1 witnesses are being truthful, that they actually have
2 independent knowledge. So what does the State present
3 to you? Let's see. We've got Michael Peterson. He
4 has a pending murder charge. Among other things, and
5 he says that Lorenzo confessed and said that they were
6 all going to the back room and she pulled out a cell
7 phone and he got scared and he shot her. Watch the
8 video. Watch it as many times as you want. It's
9 never going change. None of those things ever
10 happened. They claim corroboration. Yes, look for
11 corroboration, what is factually true that we can all
12 agree on. We can all agree that two people went into
13 that bakery. I think we can all agree that
14 Ms. Hunnewell never touched her cell phone. She
15 didn't pick it up and try to call anyone. I think we
16 can all agree they didn't walk towards the back room
17 to open up a safe that doesn't exist. Michael
18 Peterson is a liar. He made it up.

19 He has the same information that almost anyone
20 else on the street does, what the media policed, what
21 the police released to the media. Now, they began
22 getting nicknames from word at the jail in yeah, sure.
23 So what. That was how long afterwards? Who doesn't
24 know those names that has any idea about anything?
25 Anyone can find that out. Even said he watched it on

1 TV when he heard about it. So he knows the names of
2 who is arrested. Relevance. There is no
3 corroboration there. What does Michael Schaefer say?
4 Oh, he just says Lorenzo confessed. Lorenzo
5 confessed, Trenton is outside, Troy is inside. That's
6 fine because that's exactly what the news had said
7 from July 7th of last year on. That's not
8 corroboration. There is not a single unique fact, not
9 a single fact.

10 The State, they chose him as a witness. They put
11 him up. Alfred Wright, also pending murder charge,
12 same thing, not one single detail that wasn't released
13 to the media or anyone who doesn't have an internet
14 connection couldn't have looked up. Everything that
15 was hidden from the public is still hidden from all
16 these jailhouse snitches. Why? Because they didn't
17 talk to anyone. They made it up because they want a
18 deal and who gives them the deals? Them. The State
19 of South Carolina. The solicitor's office that is
20 prosecuting this case, and yet I'm going to point to
21 them a whole bunch. You know why. They love pointing
22 over here. Oh, let the record reflect someone
23 identified Lorenzo Young or someone identified Trenton
24 Barnes. Did you see a single witness get up on that
25 stand and say I watched Trenton Barnes shoot that

1 woman? No.

2 The closest thing they have is Rolanda Coleman.
3 She says well, he's small and is moving in a sneaky
4 way, so it must be him. That's her identification of
5 Trenton Barnes. The same woman who is facing 15 to
6 life for burglary, the same woman who is being
7 prosecuted by that office. The same woman who clearly
8 doesn't want to go to prison for 15 years to life with
9 a one-year-old and an eight month old child.

10 Investigator McCoy. On the stand, he listed
11 someone as a quote criminal informant that apparently
12 contacted the sheriff's department and then he had a
13 conversation with whoever this informant is. To this
14 day, I have no idea who it is. I asked him five
15 times. Who is it? Only answered it was an informant.
16 I don't even know what that person said. I don't know
17 that that the person exists.

18 They concealing it. Still concealing it.
19 Concealing it from the jury here today, more than year
20 afterwards, and they won't even give a name. We're
21 the ones to put witnesses up? Let's talk about who
22 else Investigator McCoy did or didn't do.

23 What he did clearly as he admitted on the stand,
24 is threaten Lorenzo Young with the death penalty, with
25 a needle in his arm. Am I the only one in this entire

1 world that thinks that is improper? Do you know what
2 that is, that's called a felony and guess who chooses
3 who prosecutes? That table right there. Do you think
4 they're going to end his career and throw every single
5 case he has ever worked on or will ever work on? He
6 knew it was improper. I don't think there is a single
7 person in the State of South Carolina would say that
8 when you're interrogating someone, you're allowed to
9 threaten them with a needle in their arm,
10 preposterous.

11 When he interviews Troy Stevenson in March 2014,
12 he even said hold on, hold on. I'm writing this down.
13 Where are the notes? He said they don't exist even
14 though clearly, as he admitted, he is on audio
15 recording saying he is writing it down. Now, he just
16 says well, he was saying that so he can process it.
17 Okay. Let me see a single thing from him that says he
18 even interviewed someone from March of 2014. He
19 didn't write that down in his case notes past December
20 of last year. What happened this entire year? Let's
21 see. They had a sweatshirt that they got at Trenton's
22 house. It was a dark blue sweatshirt, which they say
23 was wet. They found Trenton there. Well, they didn't
24 find a gray sweatshirt. They didn't find a gun and
25 they didn't find Troy Stevenson either. I'd be really

1 curious to see whose DNA is on the inside of that blue
2 sweatshirt. They never checked. They had a
3 year-and-a-half to check it. They could have done it
4 any day. They still haven't done it. Investigator
5 McCoy said he didn't even bother to follow up on it.

6 The gloves that allegedly have gunshot residue on
7 them, even though we've heard lots of testimony, see,
8 there were hands touching items. That's why they
9 dusted for fingerprints. That's why they did all of
10 these DNA tests. Great, they have GSR on a number of
11 sets of gloves from someone's closet. I have a set of
12 gloves on there. I guarantee there's GSR on those. I
13 go shooting all the time. So what. Do you know what
14 they didn't bother to do? Test the gloves on the
15 inside for DNA to see actually wore them, if anybody
16 ever wore them. Now, could I guarantee that would
17 actually result in useful information? I have no
18 idea. It's not my job to check that. It's theirs.
19 It's the State's job to try and they didn't try and
20 they didn't try for one of the most important reasons
21 why we're all here right now.

22 Ms. Campbell said it best during he closing
23 remarks, she begged you, begged you not to hold it
24 against the victim's family for anything the lawyers
25 have done that may have on offended you as jurors.

1 Well the victim's family, they're not on trial. Not a
2 single one of them even testified. Why would she be
3 concerned about you holding them responsible or
4 blaming them?

5 That is nothing short of a pathetic attempt get
6 to your emotions stirred up. That's all it is.
7 Emotion from you as jurors because they don't have the
8 facts, so they want emotion.

9 I already told you in my opening statement that I
10 expected this to be an emotional trial, and I don't
11 blame anyone for having emotions, but this is the
12 closing argument. This is the time when we're all
13 having to think about facts and analyze it with the
14 law. Emotion has no place in this room. Certainly
15 doesn't have any place in your deliberation room.
16 Yes, you're going to have emotions. Your job, and you
17 took an oath to push that to the side and think about
18 facts. Now when you're thinking about facts, let's
19 talk a little bit about what the law really is.

20 The State has the burden of proving each and
21 every element of each separate offense. They have to
22 convince you beyond a reasonable doubt.

23 Now, the judge will instruct you that a
24 reasonable doubt is something that if you doubt that
25 would not be reasonable based on if you are firmly

1 convinced. Another way of saying that is if it would
2 cause you to hesitate to act.

3 Now, this morning just like almost every morning,
4 wake up, take a shower. I start a pot of coffee. I
5 walk outside, take my dog out and let him do his
6 thing. This morning was faster than normal because it
7 was a little bit freezing. I walked back inside,
8 poured a cup of coffee and try to get ready for the
9 morning. I go to the refrigerator, bring the half and
10 half out. The past two weeks I've been in here, half
11 and half haven't done a lot. It expired on Sunday.
12 The milk expired on Sunday. Well, I had some
13 apparently yesterday, didn't even realize that it was
14 expired. I opened it up and I sniffed it. That
15 sniff, that's hesitation. I mean, I had used it the
16 day before. It's half and half, it's ultra
17 pasteurized and usually lasts quite a while anyway. I
18 still sniffed it. Your job as jurors is to sniff all
19 this and what I'll tell you right now that you need
20 to sniff is pretty much this, and you can throw out
21 almost all of these items, all of these photographs,
22 all of these diagrams, all of these other documents.
23 What does this really tell you? A woman was shot.
24 There were two guns, six bullet casings, two different
25 calibers. That's what all of that shows you. All of

1 that and not a single bit of it is in dispute. Your
2 job is to figure out who did it.

3 Well, actually I should rephrase that. That's
4 not your job. Your job to is to figure out if they
5 proved their case. You want to figure out who did it
6 and what happened, as curious animals that we are, we
7 always do, but that is not your job as jurors. Your
8 job is to hold them to their burden.

9 Now, you heard from Latoya Barnes that in August
10 of last year, she had a phone conversation with
11 Investigator McCoy and he told her unequivocally one
12 of your sons is going down for this. Well, at the
13 time they were both in jail. They were both charged
14 with the same things. What do you do? Well, you
15 wait. You see what the State has. You see where
16 they're going, and then you discuss it as a family.
17 You make a decision. Then in March 2014, Troy
18 Stevenson goes, talks to law enforcement. That was on
19 the 24th and then you have a letter, a letter from
20 Trenton Barnes dated March 31st. Seven days later,
21 seven days later he writes a letter saying he did it
22 all and that Troy had nothing to do with it.

23 Huh. That's rather convenient for Troy, isn't
24 it. It's rather convenient for Troy that he wasn't
25 home when his house was searched. It's rather

1 convenient for Troy that there was no gun found when
2 the house was searched, no gray hoodie nor him, and he
3 is also the one that's not on trial. That's rather
4 curious, isn't it? Why is he not on trial.

5 Because, you know, if the State believes that
6 letter as they want you to believe it, that it's the
7 truth, then why is Troy Stevenson still in jail. Why
8 are those charges still pending. Read that letter.
9 He didn't do anything. According to that letter, he
10 went down to stop everything and bring Trenton back.
11 The government is putting that letter up for you as
12 jurors. They want do you believe it, but they don't
13 believe it. If they believed it, they would be
14 required, as attorneys. We take an oath ourselves.
15 They would be required to dismiss all the charges
16 against Troy Stevenson. They would be required to do
17 it the minute they got that letter if they actually
18 believed it. They haven't done.

19 In just a few minutes, the judge is going to read
20 you what the law is and how to apply it in the case.
21 Thankfully, you won't have to hear anymore from me.
22 I'm almost done. When you go back to the jury room
23 and you're sitting there and you're waiting for all
24 this evidence to come in and you're tearing up all
25 those little pieces of paper to take an initial vote,

1 I want you to keep one thing in mind. This is the
2 only thing from the State that I actually agree with.
3 It came from Kevin Reese. I want to make sure I got
4 this, right. Before you take someone's liberty, you
5 need to be sure you have it right. Well, members of
6 the jury, you need to make sure you have this one
7 right. There is a 16-year-old child on trial for a
8 murder that he didn't do, for a burglary he didn't do,
9 for attempted armed robbery that he didn't do and a
10 kidnapping that he didn't do. Take the blame to save
11 his brother? He didn't do it. This is no evidence he
12 did it. The State knows it and that's why they have
13 all this, almost 450 exhibits and not a single one of
14 them that says anything about who is actually inside.

15 THE COURT: Thank you very much. Already.
16 Ladies and gentlemen. The time is now 5:20,
17 approximately, and I'm going to let you all make the
18 next decision. You're not going to make decision out
19 here. You're going to make it back in the jury room.
20 Here are your two choices. I'm giving you these
21 choices because I don't ever limit attorneys on time
22 because I want --- I don't want them to ever feel
23 pressure from me about how long you're allowed to talk
24 or not to. That's their opportunity to make closing
25 arguments. I want everybody to not feel any pressure

1 from me on keeping anybody to a specific time limit,
2 but I also don't want you to feel any pressure in
3 getting out of here tonight either, so your options
4 are this. I'll do whichever one you want to. It does
5 not matter to me. In my mind I'm probably 50/50 on
6 doing it either way. It doesn't matter to me. I'll
7 let you be the decisions on this. You are the
8 citizens of our community who have given up time from
9 your family, friends, and work to be here so you will
10 make the decision.

11 Option number one is I charge you on the law
12 right now, okay. That will take roughly 30 minutes.
13 That's not an exact number. That's just an average of
14 how long it takes me. Once that happens, you would go
15 back to your jury room. You would still not be
16 allowed to deliberate until all of the exhibits come
17 back in the jury room. Best case scenario that's
18 probably going to take at least 20 or 30 minuets
19 because of the number of exhibits that are involved.
20 You wouldn't be allowed to discuss the case at all
21 until those exhibits came in the room. Okay. At that
22 point in time, we would order you some kind of dinner
23 and you could deliberate for as long tonight as you
24 want to. It doesn't matter to me. I'm happy to stay
25 here as long as I need to, okay. That's option number

1 one. And then at some point tonight we would reach a
2 point in time where I kind of call it for the evening
3 and I say let's go home and come back tomorrow morning
4 and start again.

5 Option number two is for me to send you home now,
6 okay. So I can give you my normal evening
7 instructions, you're not allowed to discuss the case
8 with anybody. You're not allowed to do any research,
9 all these things. We come back and tomorrow morning
10 the first thing that happens is I charge you on the
11 law and between now and then we would be able to get
12 the exhibits together before we started and then you
13 would go back into your jury room and start
14 deliberating once exhibits come back.

15 Okay. So Mr. Foreman, I want you to go back to
16 your jury room. Do not discuss the case and come to a
17 consensus on whether or not you want to come back in,
18 get charged and keep working tonight or whether or not
19 you want to go home for the evening and come back
20 tomorrow morning to start with a jury charge and then
21 move into deliberations and then when you're --- when
22 you've made that decision, just come back in. You can
23 just write it on a note, give it to the bailiff and
24 we'll go from that point. Okay. Take however much
25 time you need. We're all going to be right here.

1 Just let us know when you're ready. Everyone remain
2 seated while the jury is excused.

3 (WHEREUPON, the jury left the courtroom at 5:24
4 P.M.)

5 THE COURT: All right. We're going to be bring
6 them back in. They want to go home. I think that's
7 reasonable given the hour and the amount of
8 information they collected today and the length of the
9 trial. You can bring them back in, Mr. Tolbert.

10 (WHEREUPON, the jury entered the courtroom at
11 5:27 P.M. and they handed a note to His Honor.)

12 THE BAILIFF: The jury is seated, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, I
14 got your note that said you want to go home tonight.
15 That's perfectly fine. We're going do that. I was
16 joking with the attorneys. Some of the judges, I
17 would say in the old days, but that would make myself
18 older than I want to be, but they would just keep you
19 here all night long. I think it's reasonable under
20 the amount of time that you've been here and the
21 amount of evidence that you've heard in the case to go
22 ahead and go home for the evening and start afresh
23 tomorrow morning when everybody has had a good night's
24 sleep and is ready to go. So I will let you go home
25 for the evening Now, you will recall that I have

1 previously instructed you in great detail that you
2 must decide this case solely on the evidence presented
3 in this courtroom. Because we're about to take a
4 break for the evening, I'm now reminding you of that
5 warning and I want you to once again if you will
6 commit to each other, to the parties in case and to
7 the court that you will not use any type of cell
8 phone, television, electronic device, computer, radio,
9 print media or anything else to get information about
10 this case, send information about this case, read,
11 view, listen to, look up, anything and I know I've
12 said this over and over and over again and I know
13 you're tired out of hearing me say this, but that's
14 how important it is. You are to decide this case
15 solely on the evidence presented in the courtroom.

16 There is one final thing you that you need to
17 hear about this case and that's why you still can't
18 discuss it and you still can't talk about it amongst
19 yourselves is because you have not heard what the law
20 is as it applies to this case from the Court. So that
21 will be the first thing that we will do tomorrow
22 morning. We will do our best to have all the exhibits
23 already organized out and laid out so they're packaged
24 and ready to come back to you. As to your second
25 request that you made tonight, I will work on that. I

1 cannot promise it, Mr. Foreman, but I will do my best
2 to work on that and see what is available. All right.
3 Thank you very much. Everyone remain seated while the
4 jury is dismissed.

5 THE BAILIFF: What time, Your Honor?

6 THE COURT: Oh. Let's do 9:30, 9:30. Thank you
7 very much.

8 (WHEREUPON, the jury left the courtroom at 5:31
9 P.M.) anything before we break for the night?

10 MS. CAMPBELL: Your Honor, we think have a
11 scheduling matter. May I just approach in.

12 THE COURT: Sure.

13 MR. KRZYSTON: Nothing, Your Honor.

14 MR. SCHNEE: I don't have anything.

15 (WHEREUPON, there was a bench conference.)

16 THE COURT: All right. Now, let's --- if the
17 attorneys can be here tonight. The let's meet at nine
18 in the morning. All the attorneys or at least one
19 attorney from each party to the case, meet to organize
20 all the evidence so we have that part of it ready to
21 go. Okay.

22 (WHEREUPON, the proceedings were adjourned.)

23 (WHEREUPON, Court's Exhibit Numbers 17 and 18
24 were marked for identification only.)

25 NOVEMBER 19, 2014

1 THE COURT: All right. Now, have you been
2 through the evidence?

3 MS. GARFIELD: Our office has been through it.
4 Everything is clear, Judge.

5 THE COURT: Have you ---

6 MS. PINNOCK: Yes, we went through it.

7 THE COURT: Okay.

8 MR. SCHNEE: Yes, Your Honor. We fixed the
9 issues with the CDs. This is still the exterior of
10 the Ale House. The CDs are fine. They just work
11 on the laptop the solicitors have.

12 MS. GARFIELD: If they want to review it, they
13 have to come back in here.

14 MR. SCHNEE: I don't know if you want to tell
15 them ahead of time or wait and see if they ask.

16 MS. GARFIELD: It will play on this just not the
17 laptop.

18 THE COURT: How mobile is that thing?

19 MS. CAMPBELL: Very.

20 THE COURT: I'm sorry. I couldn't hear you.

21 MS. GARFIELD: It's easily.

22 THE COURT: Okay. Maybe we can just move that.
23 I mean, they need be able to watch it and discuss what
24 they want to discuss without the fear of everybody
25 seeing it. We'll cross that bridge when we get there.

1 All right. Now, listen, everybody that's out in
2 the audience I'm happy for you to be here. When they
3 come in, I'm going to charge them on what the law is.
4 I don't know how long that is, but it will be
5 approximately 30 minutes and the back door will be
6 locked. Don't get up, don't move, don't try to leave.
7 You're welcome to stay in here. I don't have a
8 problem with that. I'm just telling you, if you think
9 hey I think I may need to get up in the next 30 or 40
10 minutes, just go ahead and you may need to leave now.
11 I'm going to tell them what the law is they're going
12 to go out. If you want to leave now, just ahead and
13 leave. If not, once they come in, just stay seated
14 until I finish. All right. Let's bring them in.

15 (State's Exhibit Number 396 was withdrawn because
16 the State said it was not in evidence.)

17 (WHEREUPON, the jury entered the courtroom at
18 9:45 A.M.)

19 THE COURT: Good morning, ladies and gentlemen.
20 Welcome back. Has anybody viewed any news media, any
21 type of story about this case in any way, shape, or
22 form? If so, please raise your hand.

23 (There was no response.)

24 JURY CHARGE

25 THE COURT: Okay. At this point in time, as I

1 told you, I'm going to charge you. That's actually
2 the term on what the law is in South Carolina as it
3 pertains to this case. Now, this document that I'm
4 about to read to you is about 25, 26 pages, okay. So
5 as I go through it I will do my best to keep you with
6 me and keep you awake. I think it's actually good
7 that we came back this morning. That way you're fresh
8 and ready to go and ready to pay attention. Just stay
9 with me. As we go through it, then at the end, I'll
10 come down and give you the verdict form and all the
11 different things that you need.

12 The indictments have charged the defendants with
13 murder, attempted armed robbery, kidnapping and
14 burglary in the second degree. I remind you that the
15 fact that the defendants were arrested, charged and
16 indicted in this case is not evidence in this case,
17 and it cannot be considered by you as evidence of
18 guilt in this case, nor does it create any presumption
19 or inference of guilt. These documents are simply the
20 formal written instruments which contain the charges
21 made against the defendants. They are the formal
22 documents by which this case is brought into this
23 court.

24 I charge you that there are two defendants in
25 this case, each of whom is charged with murder,

1 attempted armed robbery, kidnapping and burglary in
2 the second degree.

3 The case of each defendant and the evidence and
4 the law concerning that defendant should be considered
5 separately and individually. Your verdict does not
6 have to be the same for both defendants.

7 The fact that you may find one defendant guilty
8 or not guilty should not control your verdict as to
9 the other defendant. Where more than one person is
10 charged with a crime, if the evidence warrants it, you
11 may convict one and acquit the other or you may acquit
12 both or you may convict both. It will depend on your
13 view of the testimony and the evidence. You must take
14 each defendant and consider the evidence as to that
15 defendant and my instructions to you on the law.

16 You will then write a separate verdict of guilty
17 or not guilty for each individual defendant, and I
18 will explain that to you at the end.

19 The indictments in this case allege several
20 different offenses against the defendants. The
21 charges are murder, attempted armed robbery,
22 kidnapping and burglary in the second degree.

23 Each indictment charges a separate and distinct
24 offense. You must decide each indictment separately
25 on the evidence and the law applicable to it

1 uninfluenced by your decision as to any other
2 indictment. The defendants may be convicted or
3 acquitted on any or all of the offenses charged.

4 You will be asked to write a separate verdict of
5 guilty or not guilty for each indictment. I remind
6 you that during this trial you and I have certain
7 duties to perform. As the trial judge, it is my
8 responsibility to preside over this trial, and I also
9 have the duty to rule on the admissibility of the
10 evidence offered during the trial. You are to
11 consider only the competent evidence before you.

12 If there was any testimony ordered stricken from
13 the record in this case during this trial, you must
14 disregard that testimony. You are to consider only
15 the testimony which has been presented from this
16 witness stand, any exhibits which have been made part
17 of the record in this case or any stipulations of
18 counsel.

19 I have the additional duty to charge you the law
20 applicable to this case. As the presiding Judge, I am
21 the sole judge of the law in this case, and it is your
22 duty as jurors to accept the law and apply the law as
23 I now state it to you. If you already have an idea as
24 to what the law is or what the law ought to be or
25 should be, and it does not agree with what I now tell

1 you the law is, you must abandon your own idea because
2 you are sworn. The oath that you took at the very
3 beginning of this trial to accept the law and apply
4 the law exactly as I state it to you.

5 In every case tried in this court before a jury,
6 the jury becomes the sole and exclusive judge of the
7 facts.

8 A trial judge, that is me, I cannot state,
9 comment on or make any statement to a trial jury about
10 the facts in a case since you the jury are the sole
11 judge of the facts in this case, you are not to from
12 anything that I have said during this trial or done
13 during this trial in ruling upon the admissibility of
14 the evidence or otherwise or anything that I say now
15 and during the course of this instruction to you that
16 I have any opinion about the facts in this case. The
17 law doesn't allow me to have an opinion about facts of
18 this case. This is a matter solely for you to
19 determine.

20 As jurors, it is your duty to determine the
21 effect, the value, the weight and the truth of the
22 evidence presented during this trial. Now, to these
23 charges the defendants have pled not guilty and that
24 plea puts the burden on the State to prove the
25 defendants guilty.

1 A person charged with committing a criminal
2 offense in South Carolina is never required to prove
3 himself innocent. I charge you that it is an
4 important rule of law that a defendant in a criminal
5 trial, no matter what the seriousness of the charge
6 may be will always be presumed to be innocent of the
7 crime for which the indictment was issued unless guilt
8 has been proven by evidence satisfying you of that
9 guilt beyond a reasonable doubt.

10 This presumption of innocence does not end when
11 you begin your deliberations, but it accompanies the
12 defendant throughout the trial until you reach a
13 verdict of guilt based upon evidence satisfying you of
14 that guilt beyond a reasonable doubt.

15 The presumption of innocence is like a robe of
16 righteousness placed about the shoulders of the
17 defendant which remains with the defendant until it
18 has been stripped from the defendant by evidence that
19 satisfies you of the defendant's guilt beyond a
20 reasonable doubt.

21 The presumption of innocence is not a mere legal
22 theory. It is not just a legal phrase. It is a
23 substantial right to which every defendant is entitled
24 unless you the jury are satisfied from the evidence of
25 the defendant's guilt beyond a reasonable doubt.

1 Now, I just explained to you that the State has
2 the burden of proving the defendants guilty beyond a
3 reasonable doubt. Some of you may have served as
4 jurors in civil cases where you were told that it is
5 only necessary to prove that a fact is more likely
6 true than not true, such as by the greater weight or
7 the preponderance of the evidence.

8 In criminal cases the State's proof must be more
9 powerful than that. It must be beyond a reasonable
10 doubt. Proof beyond a reasonable doubt is proof that
11 you leaves you firmly convinced of the defendant's
12 guilt. There are very few things in this world that
13 we know with absolute certainty. In criminal cases
14 the law does not require proof that overcomes every
15 possible doubt.

16 If based upon your consideration of the evidence,
17 you are firmly convinced that the defendants are
18 guilty of the crime charged, you must find them
19 guilty. If on the other hand you think there is a
20 real possibility that the defendants are not guilty,
21 you must give the defendants the benefit of the doubt
22 and find them not guilty.

23 Again, you are to consider each defendant and
24 each charge separately and individually from each
25 other. Now, there are two types of evidence which are

1 generally presented during a trial: Direct evidence
2 and circumstantial evidence.

3 Direct evidence is the testimony of a person who
4 claims to have actual knowledge of a fact. For
5 example, an eye witnesses. It is evidence which
6 immediately establishes the main fact to be proved.

7 Circumstantial evidence is proof of a chain of
8 facts and circumstances indicating the existence of a
9 fact. Crimes may be proven by circumstantial
10 evidence. The law makes no distinction between the
11 weight or the value to be given to either direct or
12 circumstantial evidence. However, to the extent that
13 the State relies on circumstantial evidence, all of
14 the circumstances must be consistent with each other
15 and when taken together point conclusively to the
16 guilt of the accused beyond a reasonable doubt.

17 If these circumstances merely portray the
18 defendant's behavior as suspicious, the proof has
19 failed. The State has the burden of proving the
20 defendants guilty beyond a reasonable doubt. This
21 burden rests with the State regardless of whether the
22 State relies on direct evidence, circumstantial
23 evidence or some combination of the two.

24 Now, as I told you in the very beginning of this
25 trial, you must determine the credibility of the

1 witnesses who have testified in this case.

2 Credibility simply means believability. It becomes
3 your duty as jurors to analyze and to evaluate the
4 evidence and determine which evidence convinces you of
5 its truth.

6 In determining the believability of the witnesses
7 who have testified in this case, you may believe one
8 witness over several witnesses, or several witnesses
9 over one witness. You may believe a part of the
10 testimony of a witness and reject the remaining part
11 of the testimony of that same witness. You may
12 believe the testimony of a witness in its entirety or
13 reject the testimony of a witness in its entirety.

14 You may consider whether any witness has
15 exhibited to you any interest, bias, prejudice or
16 other motive in this case. You may also consider the
17 appearance and the manner of a witness while on the
18 witness stand.

19 Now, as I told you in the beginning, and I have
20 told you throughout this trial, there are certain
21 things that have happened in this case that are not in
22 evidence, and you must not consider them as evidence
23 in deciding the facts of this case: Number one, the
24 statements and the arguments of the attorneys. Number
25 two, the questions and the objections of the

1 attorneys, and number three, the testimony that I have
2 ordered you to disregard throughout this trial.

3 Now, the Rules of Evidence ordinarily do not
4 permit witnesses to testify to opinions or
5 conclusions. An exception to this rule exists for
6 witnesses that we call expert witnesses. This is a
7 witness who by education and experience has become an
8 expert in some art, science, profession or other
9 calling and may state an opinion as to relevant and
10 material matter in which the witness claims to be an
11 expert and may also state the reasons they claim to
12 give that opinion.

13 You should consider any expert opinion received
14 in evidence in this case and like any other evidence,
15 give it the weight you think it deserves. If you
16 decide that the opinion of an expert witness is not
17 based on sufficient education or experience or if you
18 conclude that the reasons given in support of the
19 opinion are not sound or that the opinion is
20 outweighed by other evidence, you may disregard the
21 opinion entirely. An expert witness's testimony is to
22 be given no greater weight than that of any other
23 witness simply because the witness is an expert.
24 Further, you are not required to accept an expert's
25 opinion even though it is not contradicted.

1 Now, I instruct you and emphasize to you that the
2 fact that the defendants did not testify in this case
3 is not a factor to be considered by you in any way in
4 your deliberations and in the consideration on the
5 question of the guilt or innocence of the defendants.
6 A defendant has the constitutional right to remain
7 silent. The assertion of this right must not be
8 considered by you in your deliberations. I repeat, you
9 are to draw no conclusion whatsoever from the fact the
10 defendants in this case did not testify. The fact
11 that these defendants did not testify should not even
12 be discussed in the jury room. The burden of proof as
13 I have told you from the very beginning of this case,
14 is on the state. The defendants are not required to
15 prove their innocence. The burden of proof remains on
16 the State to prove guilt beyond a reasonable doubt.

17 Now, in order to establish criminal liability,
18 criminal intent is required. For example, these are
19 examples, the mental state required to be proven by
20 the state for a particular crime might be purpose,
21 intent, knowledge, recklessness or criminal
22 negligence.

23 Criminal intent must be proven by the State
24 beyond a reasonable doubt. Criminal intent is always
25 a matter that must be determined by the jury from the

1 circumstances surrounding the situation.

2 There is no way to prove intent to a mathematical
3 certainty. There is no way that medical science can
4 dissect a person's brain and determine what that
5 person had in mind so the law says that criminal
6 intent may be inferred from the circumstances shown to
7 have existed. This is how you make a determination of
8 whether or not the element that requires intent was
9 present.

10 It is not necessary to establish intent by direct
11 and positive evidence, but intent may be established
12 by inference in the same way as any other fact by
13 taking into consideration the acts of the parties and
14 all the facts and circumstances of the case. Criminal
15 intent is a mental state, a conscious wrongdoing. It
16 is up to you to determine what the defendant intended
17 to do based upon the circumstances that are shown to
18 have existed.

19 Criminal intent can arise from an action or a
20 failure to act. It may arise from negligence,
21 recklessness or an indifference to duty or to
22 consequences that are considered by the law to be the
23 equivalent of criminal intent. The next thing I'm
24 going to do is go through each charge that the
25 defendant is charged with, each separate crime, and

1 explain each one of them to you and the elements of
2 those crimes each of them individually.

3 Now, the defendant are both charged with murder.
4 The State must prove beyond a reasonable doubt that
5 the defendants killed another person with malice
6 aforethought. Malice ask is hatred, ill will or
7 hostility towards another person. It is the
8 intentional doing of a wrongful act without just cause
9 or excuse and with the intent to inflict an injury or
10 under circumstances that the law will infer, an evil
11 intent. In its legal sense, however, malice does not
12 necessarily mean ill will toward the individual
13 injured, but signifies a general malignant
14 recklessness for the lives and safety of others or a
15 condition of the mind which shows a heart regardless
16 of social duty and fatally bent on mischief. Malice
17 aforethought does not require that the malice exists
18 for any particular time before the act is committed,
19 but malice must exist in the mind of the defendant
20 just before and at the time of the act that the act is
21 committed. Therefore, there must be a combination of
22 previous evil intent and the act. Malice may be
23 conceived at the very moment the fatal blow is given.

24 Malice aforethought may be express or inferred.
25 These terms express and inferred do not mean different

1 kind of malice, but merely the manner in which malice
2 may be shown to exist. That is either by direct
3 evidence or by inference from the facts and
4 circumstances which are proved. Express malice is
5 shown when a person speaks words or which express
6 hatred or ill will for another or when a person
7 prepared beforehand to do the act which was later
8 accomplished, for example, lying in wait for a person
9 or any other acts of preparation going to show that
10 the deed was within the defendant's mind would be
11 expressed malice. Malice may be inferred from conduct
12 showing a total disregard for human life. The law
13 says if one intentionally kills another during the
14 commission of a felony, the implication of malice may
15 arise. If facts are proved beyond a reasonable doubt
16 sufficient to raise an inference of malice to your
17 satisfaction, this inference would be simply an
18 evidentiary fact to be taken into consideration by you
19 along with other evidence in the case, and you may
20 give it the weight, such weight, as you determine it
21 should receive. The law allows the jury to infer
22 malice if you conclude the homicide was a proximate
23 direct result of the commission of a felony. For the
24 purposes of this case and for that regard, kidnapping
25 and burglary and attempted armed robbery would be

1 considered felonies under our law. You can imply that
2 malice existed if a person is in the commission of a
3 felony at the time of the attempted fatal blow.

4 Now, the defendants are also charged with
5 kidnapping. The State must prove beyond a reasonable
6 doubt that the defendant knowingly and unlawfully seized
7 or confined another person without authority of law.
8 To do a thing lawfully is to do it willfully against
9 the law. Knowingly means with knowledge and
10 consciously, not accidentally. The word seize means to
11 take hold of suddenly or forcibly. The word confine
12 means to limit, restrict, confine within bounds,
13 imprison, or shut, or keep in. The State does not
14 have to prove that the defendant did all of these
15 things, that being seize and confine. Instead if you
16 mind beyond a reasonable doubt that the defendant did
17 any of these things, you may find the defendant guilty
18 of kidnapping.

19 Something done without authority of law is
20 something which the law does not sanction, permit,
21 allow, condone or provide justification for.

22 Now, the kidnapping does not have to be for any
23 personal or monetary gain or any illegal purpose, but
24 may be for any reason whatsoever. Kidnapping is a
25 continuing offense which commences when one is

1 wrongfully deprived of freedom and continues until the
2 freedom is restored.

3 The next crime that the defendants are charged
4 with and these are in no particular order, is
5 attempted armed robbery. The defendants are charged
6 with attempted armed robbery. An attempt is an effort
7 to accomplish a crime, which does not succeed. An
8 attempt includes a specific intent do a particular
9 criminal act along with an act falling short the act
10 intended. The State must show more than mere
11 preparation and intent. There must be some overt act
12 committed in the effort to commit the crime. Intent
13 means intending the result which actually occurs, not
14 accidentally or involuntarily. Intent may be shown by
15 the acts and the conduct of the defendant and other
16 circumstances from which you may naturally and
17 reasonably infer intent.

18 In order to prove this offense, the State must
19 first prove beyond a reasonable doubt that the
20 defendants attempted to take personal property from
21 the person or presence of another person. Property is
22 in the presence of a person if it is in --- within the
23 person's reach, inspection, observation or control so
24 that the person could, if not overcome with violence
25 or prevented by fear, keep possession of the property.

1 The State must also prove beyond a reasonable
2 doubt that the defendant carried the property away
3 intending to permanently deprive the owner of the
4 property and to keep the property for the defendants'
5 own use. The slightest removal of the property or the
6 complete possession of the property even for an
7 instant by the defendant is sufficient to show a
8 taking and caring away of the property. The taking
9 and carrying of the property must have been done with
10 violence or by putting the owner of the property in
11 fear of violence.

12 Finally the State must prove beyond a reasonable
13 doubt that a defendant was armed with a deadly weapon
14 during the robbery. A deadly weapon is an article, an
15 instrument or a substance which is likely to cause
16 death or great bodily harm. Whether an instrument has
17 been used as a deadly weapon depends on the facts and
18 circumstances of each case. The following are
19 examples of instruments which may be deadly weapons, a
20 pistol, a shotgun, a rifle, a knife, a sling slot,
21 metal knuckles, a razor, gasoline, lighter fluid.

22 A gun may be a deadly weapon even if it is not
23 operating.

24 Now, the last charge that the defendants are
25 charged with is burglary in the second degree. To

1 prove burglary in the second degree, the State must
2 prove beyond a reasonable doubt that a defendant
3 entered a building without consent and with the intent
4 to commit a crime in the building.

5 A building is defined as any structure, vehicle,
6 water craft or aircraft where any person lodges or
7 lives or where people assemble for the purpose of
8 business, government, education, religion,
9 entertainment, public transportation or public use or
10 where goods are stored.

11 Finally, the State must prove beyond a reasonable
12 doubt that when entering the building --- excuse me.
13 When entering while in --- excuse me.

14 (Pause.)

15 When entering while in the building or when
16 fleeing, the defendant or an accomplice was armed with
17 a deadly weapon or explosive. A deadly weapon as I
18 have explained to you before is an article, instrument
19 or substance which is likely to cause death or great
20 bodily harm. Whether an instrument has been used as a
21 deadly weapon depends upon the facts and circumstances
22 of each case. The following are examples of deadly
23 weapons, a pistol, shotgun, a knife, sling shot, metal
24 knuckles, razor, gasoline, lighter fluid and a gun may
25 be a deadly weapon even if it is not operating.

1 So finally the State must prove beyond a
2 reasonable doubt that number one when entering the
3 defendant or an accomplice was armed with a deadly
4 weapon or when entering or while in the building or
5 when fleeing the defendant or an accomplice caused
6 physical injury to anyone not participating in the
7 crime or when entering or while in the building or
8 when fleeing the defendant or an accomplice used or
9 threatened to use a dangerous object or when entering
10 or while in the building or when fleeing the defendant
11 or an accomplice displayed what appeared to be a
12 knife, pistol, revolver, rifle, shotgun, machine gun
13 or other firearm or the defendant entered or remained
14 in the building in the nighttime. Nighttime is the
15 period between sunset and sunrise during which there
16 is not enough daylight to recognize a person's face
17 except by artificial light or moon light.

18 Now, if two or more people combine together to
19 commit an unlawful act or a crime and in the execution
20 of that criminal act, a homicide is committed by one
21 of the actors as a probable or natural consequence of
22 the acts done, in pursuance of the common design, all
23 present, participating, all people who are present and
24 participating in the unlawful undertaking are as
25 guilty as the one who committed the fatal act.

1 The common purpose may not have been to kill and
2 murder, but if it was unlawful and criminal and in the
3 execution of this common purpose a homicide is
4 committed by one as a probable or natural consequence
5 of the acts done in pursuance witness of a common
6 design, then all present participating in the common
7 design are as guilty as the slayer. Mere presence at
8 the scene is not sufficient to prove someone guilty of
9 a crime. A defendant's presence where a crime is
10 being committed or mere association with a person who
11 commits a crime does not make a defendant an
12 accomplice or aider and abettor of a person committing
13 the crime.

14 Now, during this trial, you heard testimony about
15 a purported written statement made by defendant
16 Trenton Barnes. This evidence is admitted solely
17 against Defendant Barnes. It is not to be considered
18 by you in any way, shape, or form to indicate the
19 guilt of the codefendant indeed, you cannot consider
20 that evidence against the codefendant. It can be
21 considered by you only in connection with your
22 determination of whether or not the Defendant Barnes
23 is guilty or not guilty of these offenses. It is
24 limited solely to him and is admissible only against
25 him at this trial.

1 Now, the length of the prison sentence rests in
2 the sole discretion of the trial court. You have
3 heard testimony concerning the penalty a person can
4 serve for the crimes alleged in these indictments. In
5 determining the guilt or innocence of these
6 defendants, you cannot consider any possible penalty
7 for any particular crime.

8 The punishment for crimes is a matter for me to
9 determine and should never be considered by you in any
10 way whatsoever in arriving at an impartial verdict as
11 to the guilt or innocence of these defendants.

12 In this case, the State of South Carolina is not
13 seeking the death penalty against either defendant.
14 Now, we're on page 23, okay. Just a couple more
15 minutes and I'll be done.

16 Let me say something to you about your
17 deliberations. Deliberation is defined as a careful
18 consideration weighing up with a view to a decision.

19 The genius of our jury system is it allows 12
20 good men and women from 12 totally different
21 backgrounds, life experiences and perspectives to
22 consider the evidence, talk about it and ultimately
23 reach a verdict. We call them deliberations for a
24 reason. You are to consider the evidence in this case
25 carefully and deliberately and discuss it in a calm,

1 thorough and courteous manner. Remember, you are not
2 partisans or advocates for either side favoring one
3 side over the other. You are essentially a judge.

4 You are the judge of the facts. Your sole
5 interest is to find the truth from the evidence you
6 have heard in this courtroom. Listen to the views of
7 all of your fellow jurors. Consider other people's
8 points and their points of view and talk through and
9 discuss the evidence.

10 Remember, if you are doing something
11 deliberately, you should not be in a hurry and you
12 should not be in a hurry here. This case is very
13 important to all sides and this is their only day in
14 court. When you retire to the jury room you should
15 discuss with your fellow jurors to reach agreement if
16 you can. Your verdict must unanimous. Each of you
17 must decide the case for yourself, but you should do
18 so only after you have impartially considered the
19 evidence, discussed it fully with each other and
20 listened to the views of your fellow jurors. Do not
21 be afraid to change your opinion if the discussion
22 persuades you that you should, but do not come to a
23 decision simply because other jurors think that it is
24 right. It is very important that you attempt to reach
25 a unanimous verdict but, of course, only if each of

1 you can do so after having made your own decision.

2 Do not change an honest belief about the weight
3 and the effect of the evidence simply to reach a
4 verdict. In other words, do not change your opinion
5 solely for the sake of reaching a unanimous verdict.

6 Now, okay the last final instruction. In just a
7 few moments, you're going to go back to your jury
8 room. You are still not going to be allowed to
9 discuss the case, okay. Because I have one more
10 matter of law that I'm required to take up with the
11 attorneys. Your sign that you may start deliberating
12 is when all of this comes back in your room, okay. So
13 that's the sign. So when all the evidence has been
14 admitted comes back in your room, that's your sign
15 Mr. Foreman, that you may begin deliberations.

16 Now, my three alternates, you are going to come
17 out of the jury room, okay. You will be placed in a
18 separate room. Okay. You are not allowed to discuss
19 the case period. You can talk about how cold it was
20 this morning or what's going on with our football team
21 or whatever else you want to, but you cannot discuss
22 the case, okay. My three alternates, Mr. Dye,
23 Ms. Sutton, they know. They're going to keep you in a
24 completely separate room.
25

1 Okay. Now, I have my notes to make sure I tell
2 you everything. One thing juries like to do is they
3 like to tell the judge their counts, okay. I don't
4 ever want to know the counts. There is no reason you
5 should ever tell me your count. Your count is your
6 count. It is not for me or anybody else to know. So
7 if you need to communicate with me, you should never
8 communicate to me your specific count, okay.

9 Number two, every single one of you 12 must be in the
10 room to deliberate, okay. So if someone goes to the
11 restroom, someone need a smoke break, somebody needs
12 to step out and stretch their legs, deliberations have
13 to stop. All 12 of you must be in the room to be
14 actively deliberating on the case.

15 Now, there have been videos that are played in
16 this case. Okay. Some of those videos are in
17 evidence, Okay. We worked diligently last night and
18 this morning to get those to play on a computer so I
19 could just give you a computer in the room. That's
20 not going to work, okay. So what I'm going to do is I'm
21 going to have the TV moved into your jury room so that
22 you can play something if you need to play it, okay.
23 So if you need to play something or you say I want to
24 see this or I want to see that, we will do what we
25 need to maneuver that around. Just let the bailiffs

1 know we want to watch videos and we'll coordinate what
2 we need to coordinate to set that up.

3 Remember, you're not allowed to deliberate until your
4 exhibits come back in the room and the alternates come
5 out. Okay. Now, last thing. This is your verdict
6 form, okay.

7 Now, listen, I told you in the very beginning,
8 and I told you today and I'm going to tell you again.
9 You have to consider each of these defendants
10 individually from each other. Okay. You have to
11 consider one defendant, and then you have to consider
12 the charges for that defendant separately and
13 individually.

14 Consider the second defendant and consider the
15 charges for that defendant separately and
16 individually.

17 Now, I have to create a verdict form, okay. So
18 there is no priority to whose name is on here first
19 and whose name is on here second. I simply have to
20 put somebody first and somebody second. You can go
21 through it in whatever order you want to. What I've
22 done is --- and I'm going to show this to you,
23 Mr. Foreman. I've gone through each charge with each
24 defendant. We the jury by unanimous consent find the
25 defendant Trenton Barnes --- there is no significance

1 at all to him being first. I have to put somebody
2 first, okay. Then I go through each charge, murder,
3 kidnapping, burglary, attempted armed robbery and then
4 not guilty and guilty under each. There is no
5 significance to not guilty being first and guilty
6 being second. I have to put one first and I have to
7 put one second. Don't read anything into it. It's
8 simply we have to fill out a form that makes sense
9 that's easy to use.

10 Okay. On the second page, we the jury by
11 unanimous consent find the defendant Lorenzo Young and
12 each of the four charges are listed and a block for
13 each and then there is a spot for you to sign, Mr.
14 Foreperson. Okay. So this is your verdict form. You
15 will take this with you. At this point in time, I
16 want you to retire to your jury room. Do not discuss
17 the case. Your sign that you may begin deliberations
18 is when the bailiffs bring in the evidence. Okay.
19 Thank you very much.
20 Everyone remain seated.

21 (WHEREUPON, the jury left the courtroom at 10:22
22 A.M.)

23 THE COURT: Okay. Any exception to the charge
24 other than those previously stated?

25 MS. CAMPBELL: Your Honor, the only thing we

1 would have is in the definition of attempted armed
2 robbery when you talk about the taking and carrying
3 away, the term attempt wasn't in that part of it. It
4 basically came across as there had to be an actual
5 taking and carrying away. The only other thing we
6 have is we did email you last night, I believe, about
7 just adding in the language of the hand of one, hand
8 on that charge. I noticed after I closed actually
9 that that verbiage hand of one, hand of all is not in
10 there.

11 THE COURT: Right.

12 MS. CAMPBELL: That's typically in there.

13 I believe in attempt armed robbery, you define,
14 attempt in the beginning of it, but then you define
15 that there had to be a taking and caring away
16 permanently depriving, that language.

17 THE COURT: How do you want me to cure the hand
18 of one?

19 MS. CAMPBELL: If you could bring them back and
20 talk about, refresh that about one part we talked a
21 about two or more people combining together to do an
22 act and also refer to the of hand of one is the hand
23 of all. I would prefer, but I imagine they would
24 object, to reading the whole thing. I imagine they
25 wouldn't want that. Mr. Schnee?

1 MR. SCHNEE: Judge, I have absolutely no comment
2 on the attempted armed robbery. I honesty didn't hear
3 or not hear what the State says, so I'll defer to
4 what's in your notes. As to the hand of one, hand of
5 all, I would object to adding any such verbiage. The
6 hand of one is the hand of all is not a law in South
7 Carolina. It is merely a way of defining accomplice
8 liability and your charge as a whole has explained
9 accomplice liability. To bring the jury back out to
10 explain just that would be clearly overemphasizing
11 something that is not even in the law in this state.
12 I'm asking Your Honor not to recharge them on
13 anything.

14 THE COURT: That's why we should have just used
15 the charge in the charge book because it says that.

16 MS. CAMPBELL: I'm sorry.

17 THE COURT: Ms. Pinnock.

18 MS. PINNOCK: Your Honor, we just would have the
19 same objection Mr. Schnee does. Bringing them back in
20 to say that one thing would be putting emphasize on
21 that one charge. I can recite exactly what you used,
22 but you say a number of times that one person would be
23 responsible for the other person's actions. I think
24 you said it at least twice. Not that that covers any
25 issues, but we should have the same concerns that it

1 would be putting emphasize on that charge. I believe
2 Your Honor's charge covered it sufficiently and I have
3 no opinion or position with the attempted armed
4 robbery because I didn't notice that.

5 THE COURT: All right. Bring them back in.

6 (WHEREUPON, the jury entered the courtroom at
7 10:27 A.M.)

8 THE BAILIFF: The jury panel is present, Judge.

9 THE COURT: Okay. Ladies and gentlemen, I'm
10 going to go back over one of the crimes with you that
11 I discussed earlier. It was brought to my attention
12 that I may have misstated something, so I'm going to
13 read this one more time to make sure that you
14 understand it. That's the charge of attempted armed
15 robbery. Both defendants are charged with attempted
16 armed robbery. An attempt is an effort to accomplish
17 a crime which does not succeed. An attempt includes a
18 specific intent to do a particular criminal act along
19 with an act falling short of the act intended.

20 The State must show more than mere preparation
21 and intent. There must be some overt act committed in
22 the effort to commit the crime.

23 Intent means intending the result which actually
24 occurs not accidentally or involuntarily. Intent may
25 be shown by the acts and conduct of the defendant and

1 other circumstances from which you may naturally and
2 reasonably infer attempt. In order to prove this
3 offense, the State must prove beyond a reasonable
4 doubt that the defendant attempted to take property
5 from the presence of another person. Property is in
6 the person or presence of a person if it is within the
7 person's reach, inspection, observation or control so
8 that the person could, if not overcome with violence
9 or prevented by fear, keep possession of the property.

10 The State must also prove beyond a reasonable
11 doubt that the defendant attempted to carry away the
12 property intending to permanently deprive the owner of
13 that property intending to presently deprive the owner
14 of that property and to keep the property for the
15 defendant's own use.

16 The slightest removal of the property or the
17 attempted slightest removal of the property or the
18 complete possession of the property even for an
19 instant by the defendant is sufficient to show a
20 taking and carrying away of the property.

21 The attempted taking and carrying away of the
22 property must have been done with violence or by
23 putting the owner of the property in fear of violence.

24 Finally the State must prove beyond a reasonable
25 doubt that the defendant was armed with a deadly

1 weapon during the robbery. A deadly weapon is any
2 article, instrument or substance which is likely to
3 cause death or great bodily harm.

4 Whether an instrument has been used as a deadly
5 weapon depends on the facts and circumstances of each
6 case. The following are examples of instruments which
7 may be deadly weapons, a pistol, a shotgun, a rifle, a
8 knife, a sling shot, metal knuckles, gasoline, lighter
9 fluid and a gun may be a deadly weapon even if it is
10 not operating.

11 I also explained to you the law concerning where
12 two or more people combine together to commit an
13 unlawful act or a crime. This is commonly known in
14 our law as the hand of one is the hand of all or the
15 act of one is the act of all. All right.

16 Thank you very much. Return to your jury room.
17 Do not begin deliberations until the evidence comes
18 back.

19 (WHEREUPON, the jury left the courtroom at 10:31
20 A.M.)

21 THE COURT: All right. Any exceptions other than
22 those I already stated?

23 MS. CAMPBELL: No, sir.

24 MS. PINNOCK: Your Honor, just one thing
25 previously stated. We take exception to the

1 recharging of hand of one is the hand of all.

2 THE COURT: Any exceptions other than those
3 already stated?

4 MR. SCHNEE: No, Your Honor, other than the
5 recharge. Thank you.

6 THE COURT: All right. Make sure the clerk has
7 your phone number, and let's get the evidence back and
8 the alternates out.

9 (WHEREUPON, the jury began deliberations at
10 10:33.)

11 (WHEREUPON, the jury sent out a note at 11:09.)

12 THE COURT: So we've got a note requesting the
13 definition of all the charges so my general practice
14 is just to send the entire charge back. Does anybody
15 have an objection to that.

16 MS. CAMPELL: No, sir.

17 MR. SCHNEE: No, Your Honor.

18 MR. KRZYSTON: No, objection.

19 THE COURT: There's an instruction that usually
20 goes with that when you do it on the front end like
21 when I tell them it's going back in the beginning, and
22 that instruction says I will give you a copy of these
23 instructions in written form. During your
24 deliberations, you may refer to these instructions to
25 guide your decision making. You must consider the

1 instructions as a whole and not follow some and ignore
2 others. Please return these instructions at the time
3 your verdict is rendered.

4 Do you have a problem with me sending that back
5 just as a little note instead of bringing them back in
6 here and telling them that?

7 MR. SCHNEE: I think you should probably just
8 change the language at the beginning of it to say you
9 are now receiving ... Other than that I'm fine with
10 that.

11 THE COURT: I'll change to you are now receiving
12 a copy of these instructions in written form. Is that
13 okay?

14 MR. SCHNEE: That works for me.

15 MS. CAMPBELL: That includes the attempt language
16 you included?

17 (WHEREUPON, Court's Exhibit Number 19 was
18 marked for identification only.)

19 THE COURT: I fixed that when I went back. You
20 can't send part of it back. The law is pretty clear
21 that sending part of charge or recharging on just one
22 section is completely inappropriate, because if I just
23 sent that back, I wouldn't have anything about
24 reasonable doubt or presumption of innocence or trying
25 to influence one thing over another. That's why we

1 have to send it all back. Do you want to agree with
2 that? I think that's the status of the law.

3 MS. CAMPBELL: That's it.

4 THE COURT: Is that your understanding,
5 Mr. Schnee?.

6 MR. SCHNEE: In terms of sending it back, I think
7 you have to send it all back. Only other question I
8 have is do you have page numbers on that?

9 THE COURT: Yes.

10 MR. SCHNEE: In addition to that getting mis---
11 you know, messed around.

12 THE COURT: I have all the pages numbered and let
13 me go through to make sure they're all here.

14 (Pause.)

15 But I've looked up that issue before,
16 r. Krzyston, and I think the appellate courts are
17 pretty clear that when in doubt --- you can't go wrong
18 with sending it all back.

19 MR. KRZYSTON: I understand, Judge.

20 THE COURT: It's when you start picking stuff out
21 ---

22 Okay. So I'm going to change the front language
23 to you are now receiving a copy of these instructions.

24 MS. GARFIELD: Just for the record, Judge, we
25 have the TV where you asked for it.

1 THE COURT: Okay.

2 MS. GARFIELD: It has been cleaned. Defense
3 counsel.

4 THE COURT: How are they going to know how to use
5 it?

6 MS. GARFIELD: That's my concern. It's like a
7 computer. It has to be plugged up.

8 THE COURT: Can you show my law clerk how to do
9 that?

10 UNIDENTIFIED WOMAN: Yes, sir.

11 THE COURT: If they want to see something on the
12 big screen the law clerk can do it. All right. Thank
13 you very much.

14 MS. BAMBACH: Thank you.

15 THE COURT: Thanks for everybody being close by.
16 I appreciate it.

17 VERDICT

18 THE COURT: Okay. It's my understanding that we
19 have a verdict in the case. I gave this warning at
20 the beginning of the trial. Let me give this again.
21 I understand that this is a very emotional case
22 regardless of what side of the case you're on. I have
23 the deepest respect for all families involved in this
24 case and the situations that you must be going
25 through. However, if you cannot contain yourself or

1 control your emotions during this process, now is your
2 opportunity to leave the courtroom. I will not
3 tolerate any outbursts or anything else of that
4 nature. This is a courtroom, and we are going --- all
5 of us are going to be respectful to this jury in
6 whatever decision that they have made. So being
7 emotional is understandable. Crying is
8 understandable. Any type of outburst, clapping,
9 screaming, making statements, anything like that is
10 going to be completely and totally inappropriate and
11 more than likely I'm just going to take you into
12 custody if you do it, okay.

13 So if you can't leave --- if you cannot follow
14 that instruction, please leave now. No one will think
15 of less of you in any way, shape, or form and somebody
16 will be able to tell you what happened in a matter of
17 minutes, so if there's anybody that doesn't believe
18 they can follow that instruction, please leave now.
19 All right. We have a verdict; is that correct,
20 Ms. Pendergrass?

21 THE CLERK: Yes, Your Honor.

22 THE COURT: Okay. Let's bring them in.

23 (WHEREUPON, the jury returned to open court with
24 a verdict at 1:30 P.M.)

25 THE COURT: All right. Thank you, Ms. Sutton.

1 All right. Mr. Foreman. It's my understanding you
2 have a verdict.

3 THE FOREMAN: Yes, sir.

4 THE COURT: Is that correct?

5 THE FOREMAN: Yes, Your Honor.

6 THE COURT: Is it unanimous?

7 THE FOREMAN: Yes.

8 THE COURT: If you would please fold it and hand
9 it to Ms. Sutton.

10 All right. I find the jury is in its proper
11 form. Ms. Pendegrass, if you will please publish.

12 THE CLERK: The State of South Carolina versus
13 Trenton Barnes and Lorenzo Young. Indictments 754,
14 755, 756, 745, 746, 747, 749. We the jury by
15 unanimous consent find the defendant Trenton Barnes as
16 to the charge of murder on indictment 2014-GS-40-752,
17 guilty. As to the charge of kidnapping on
18 indictment 2014-GS-40-754, guilty. As to the charge
19 of burglary second on indictment 2014-GS-40-755,
20 guilty. As to the charge of attempted armed robbery
21 on indictment 2014-GS-40-756, guilty.

22 We the jury by unanimous consent find the
23 defendant Lorenzo Young as to the charge of murder on
24 indictment 2014-GS-40-745 guilty. As to the charge of
25 kidnapping on indictment 2014-GS-40-746, guilty. As

1 to the charge of burglary second degree on
2 indictment 2014-GS-40-747, guilty.

3 As to the charge of attempted armed robbery on
4 indictment 2014-GS-749 guilty. This is signed
5 foreperson, juror number 54, November 19th, 2014.
6 Mr. Foreman, are these your verdicts and the verdicts
7 of the entire jury?

8 THE FOREMAN: Yes, ma'am.

9 THE COURT: All right. Polling?

10 MR. KRZYSTON: Please, Your Honor.

11 MS. BAMBACH: Please, Your Honor.

12 THE COURT: Okay. Ladies and gentlemen, the
13 clerk is going to ask you two questions. She will
14 call out your juror number first. The first question
15 will be is this your verdict and is it still your
16 verdict --- or are these your verdicts and are they
17 still your verdicts. As your number is called, if you
18 would please respond out loud to Ms. Pendegrass.

19 THE CLERK: Juror number 54, are these your
20 verdicts?

21 JUROR: Yes.

22 THE CLERK: Are they still your verdicts?

23 JUROR: Yes.

24 THE CLERK: Juror number 99, were these your
25 verdicts?

1 JUROR: Yes.

2 THE CLERK: Are these still your verdicts?

3 JUROR: Yes.

4 THE CLERK: Juror number 214, were these your
5 verdicts?

6 JUROR: Yes, ma'am.

7 THE CLERK: Are they still your verdicts?

8 JUROR: Yes, ma'am.

9 THE CLERK: Juror number 171 are these your
10 verdicts?

11 JUROR: Yes.

12 THE CLERK: Are they still your verdicts?

13 JUROR: Yes.

14 THE CLERK: Juror number 33, were these your
15 verdicts?

16 JUROR: Yes, ma'am.

17 THE CLERK: Are they still your verdicts?

18 JUROR: Yes, ma'am.

19 THE CLERK: Juror number 283 were these your
20 verdicts?

21 JUROR: Yes.

22 THE CLERK: Are they still your verdicts?

23 JUROR: Yes.

24 THE CLERK: Juror number 283, were these your
25 verdicts?

1 JUROR: Yes, ma'am.

2 THE CLERK: Are they still your verdicts?

3 JUROR: Yes, ma'am.

4 THE CLERK: Juror number 74, were these your
5 verdicts?

6 JUROR: Yes.

7 THE CLERK: Are they still your verdicts?

8 JUROR: Yes.

9 THE CLERK: Juror number 250, were these your
10 verdicts?

11 JUROR: Yes.

12 THE CLERK: Are they still your verdicts?

13 JUROR: Yes.

14 THE CLERK: Juror number 41, were these your
15 verdicts?

16 JUROR: Yes, ma'am.

17 THE CLERK: Are these still your verdicts?

18 JUROR: Yes, ma'am.

19 THE CLERK: Juror number 258, were these your
20 verdicts?

21 JUROR: Yes, ma'am.

22 THE CLERK: Are they still your verdicts?

23 JUROR: Yes, ma'am.

24 THE CLERK: Juror number 220, were these your
25 verdicts?

1 JUROR: Yes.

2 THE CLERK: Are they still your verdicts?

3 JUROR: Yes.

4 THE CLERK: Juror number 303, were these your
5 verdicts?

6 JUROR: Yes.

7 THE CLERK: Are they still your verdicts?

8 JUROR: Yes.

9 THE CLERK: The jury has been polled, Your Honor.

10 THE COURT: Thank you very much. Ladies and
11 gentlemen, as I told you from the very beginning of
12 this trial, and I think one of the first things I
13 probably said to you was thank you on behalf of
14 everybody present. Jury duty is a very important
15 service that you pay to your community.

16 Jury service is right up there with voting and
17 other things or part of your responsibility as a
18 citizen within our community, and you have been here
19 for an extended period of time. It's really almost
20 eight days. We had one of those days was a holiday,
21 but you have given a significant portion of your life
22 and time away from your family, your work and your
23 friends to be a contributing member of our society and
24 on behalf of all the circuit court judges here in the
25 courthouse, I want to say thank you for service. I

1 know I've done that before. You are probably tired of
2 hearing me say that, but do want you to know how much
3 your service means to me. You have all been
4 attentive. You have all been on time. This is the
5 first trial I can remember in a long time where I
6 haven't lost one or two jurors throughout the trial
7 due to a family event or a sickness or something like
8 that. You all have stayed with me, paid attention,
9 paid close attention to everything that has been done,
10 and I want to personally say thank you.

11 Now, the prohibition against talking to anybody
12 in this case or anybody at all about this case is now
13 lifted upon you, and you are welcome and free to
14 discuss this case with anyone that you see fit. Let
15 me do say this to you, though.

16 Sometimes lawyers want to contact jurors to say
17 what did I do that you liked or didn't like. What
18 would have been more effective, what would have
19 helped. That's perfectly normal and natural for them
20 to do this. If you want to speak with one of the
21 lawyers about the case, you are welcome and free to do
22 so. However, if you do not, you just simply to say I
23 choose not to talk to you. You have the right to not
24 be harassed by anybody about your jury service. If
25 you inform somebody you to not want to talk with them

1 about jury service, and they continue to harass or
2 bother you, you call the clerk of court's office and
3 they get a circuit court judge on that quickly and
4 we'll deal with that situation. If you'll retire to
5 your jury room and thank you very much for your
6 service. Everyone remain seated while the jury is
7 dismissed.

8 (WHEREUPON, the jury left the courtroom at 1:36
9 P.M.)

10 THE COURT: All right. We're going to take a
11 five minute break and come back in for post-trial
12 motions and sentencing.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: All right. Post-trial motions?

15 MR. KRZYSTON: Your Honor, Mr. Young would move
16 for a retrial based on the brevity of deliberations.
17 In this case there were over 450 exhibits. The jury
18 deliberated for a total of under three hours. Based
19 on the brevity of those deliberations, we would ask
20 for a new trial. We would also request a new trial on
21 the basis that these trials were joint trials. Prior
22 to coming to trial on this matter with Mr. Barnes, we
23 requested that the trials be severed and that we
24 proceed alone. That motion was denied. During the
25 life of the trial, evidence was admitted against

1 Mr. Barnes which inculpated Mr. Young. It is our
2 contention that that evidence was incorrectly admitted
3 and we would move again for a new trial based on the
4 admission of that evidence, the denial of our
5 severance motion and the denial of any objections and
6 requests to keep that evidence out of the trial
7 altogether.

8 Judge, we would also move for a new trial based
9 on the fact that the limiting instruction --- the
10 limiting instruction that was given in regard to the
11 previously mentioned materials are insufficient as,
12 Your Honor, is aware and as I have objected a number
13 of times. I did indicate that I was in a position
14 where I must request relief, but object to the
15 sufficiency of that relief. I feel compelled to draw
16 the court's attention to the fact I feel in no way can
17 that limiting instruction had any effect on the jury.
18 I think it's an impractical request of the jury to
19 sever the consideration of evidence in that manner,
20 and for that reason, I move for a new trial.

21 I would also review --- excuse me, renew all
22 previous motions and objections made during and before
23 the life of this trial. I would reassert those
24 motions and objections and move for a new trial based
25 on the motions and objections.

1 THE COURT: All right. Your motions are denied.
2 Mr. Schnee.

3 MR. KRZYSTON: Thank you, Judge.

4 THE COURT: Mr. Schnee.

5 MR. SCHNEE: Thank you, Your Honor. May it
6 please the Court. I too renew all my prior motions
7 and objections. I also request a new trial based on
8 the admission of substantial of amounts of information
9 that would not been admitted had these been separate
10 trials, particularly there were a number of jailhouse
11 snitches who all testified that Lorenzo Young
12 confessed to them. The jurors heard all that. It
13 inculcated Trenton Barnes. Absent Lorenzo being here
14 in trial as a joint trial, those would not be
15 admissible. I still believe those are inadmissible
16 under 804(b)(3) as I but in my brief that I submitted
17 last week to Your Honor.

18 All the other issues that we have raised
19 throughout the trial of mistrials or severance even
20 part way through, I renew all of those.

21 THE COURT: Thank you very much.

22 MR. SCHNEE: One other issue as a matter for the
23 sentencing, I direct Your Honor's attention to Aiken V
24 Byers. It was a South Carolina Supreme Court case
25 that actually came out last week dealing with juvenile

1 offenders convicted of murder and other offenses where
2 he is facing life without parole.

3 It essentially explains the Miller holding from
4 the US Supreme Court. What I'm asking for, Your
5 Honor, is a deferred sentencing for Trenton Barnes. I
6 need to be able to present proper mitigating evidence
7 dealing with my client's age and particular
8 circumstances. I would like to have some of his
9 mental health doctors be able to present Your Honor
10 with a full understanding that I could not provide
11 myself.

12 I would like to get a couple of his school
13 teachers in. I do not believe this would be a very
14 long delay. I know next week is a no court week. I'm
15 sure I would be able to get the witnesses available by
16 then. I don't know if Your Honor would even have a
17 court reporter or not. If not, any time after that at
18 the Court's convenience just dealing with scheduling,
19 but I am asking for deferred sentencing.

20 THE COURT: All right.

21 MR. SCHNEE: I have a copy of the case printed
22 out if Your Honor ---

23 THE COURT: I'm reading it. Your other motions
24 are hereby denied.

25 MR. SCHNEE: Thank you, Your Honor.

1 MS. GARFIELD: Judge, our interpretation of the
2 case that Mr. Schnee is referencing, we agree with his
3 assessment.

4 THE COURT: I'm sorry. I didn't hear you.

5 MS. GARFIELD: We agree with Mr. Schnee in our
6 interpretation of the case. We agree that he does
7 need to have a hearing.

8 THE COURT: So you have no objection to deferred
9 sentencing for Mr. Barnes based upon the new Supreme
10 Court case that came out a week ago.

11 MS. GARFIELD: No, sir.

12 THE COURT: So with the consent of the State and
13 at the request of Defendant Barnes, his sentencing
14 will be deferred. How long do you think you need to
15 do it, Mr. Schnee?

16 MR. SCHNEE: My main concern would be his mental
17 health doctor just in terms of scheduling with
18 whatever he has to do. I don't believe his testimony
19 would be very lengthy. It would probably no more than
20 fifteen or twenty minutes.

21 THE COURT: How long to you need prepare, not how
22 long do you need for the hearing. I'm sorry if I
23 misspoke.

24 MR. SCHNEE: I think I can get everything done
25 within a week or two in terms of having all the

1 witnesses.

2 THE COURT: Okay.

3 MR. SCHNEE: Just in terms of scheduling an
4 actual hearing, my only concern would be the doctor's
5 schedule in particular. No matter what, we can get
6 this done within the month of December. I can't see
7 any reason why we wouldn't.

8 THE COURT: Do you want to talk about scheduling?

9 MS. CAMPBELL: Yes, Your Honor. We would like it
10 to be sooner rather than later. I don't know what
11 your schedule is and your court reporter's schedule
12 is. There is no court next week, however, he
13 indicated to me he could be ready next week just
14 depending on your schedule.

15 THE COURT: I mean, we could get a court reporter
16 next week. Getting a court reporter is not hard.

17 MS. CAMPBELL: We'll ask ---

18 THE COURT: Do you think you could be ready be
19 ready by Tuesday or Wednesday of next week?

20 MR. SCHNEE: Judge, if you give me an opportunity
21 the next couple of days to contact the witnesses to
22 see if they are available, I would not have a problem
23 with that at all.

24 MS. GARFIELD: I prefer Tuesday, just for some
25 child care issues.

1 MR. SCHNEE: I don't want to give, Your Honor a
2 definite day.

3 THE COURT: Okay. At this point in time let's
4 plan on next Tuesday and Mr. Schnee, you need to let
5 my office know quickly. By quickly I define quickly
6 as by the end of the day tomorrow if that's not going
7 to work.

8 MR. SCHNEE: Yes, sir.

9 THE COURT: Okay. If there's some major
10 scheduling issue, otherwise we'll do Tuesday once we
11 get confirmation from Mr. Schnee that Tuesday works
12 then we can pick a time.

13 MS. CAMPBELL: Only other thing that we would
14 request, is there is anything that he intends to use
15 in mitigation, if we could get a copy of that at some
16 time before the hearing so we would have an
17 opportunity to review it.

18 THE COURT: Sure.

19 MR. SCHNEE: If I actually get a report or
20 anything, I will. I'm sure I'll be able to get school
21 records and things. I'll turn that over.

22 All right. Mr. Barnes' sentencing --- do you
23 understand what we're doing?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And do you understand why we're doing

1 it.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. So with the consent of
4 the State and at the request of Defendant Barnes and
5 pursuant to the new South Carolina Supreme Court case
6 on point, according to the attorneys, we are going to
7 defer Mr. Barnes' sentencing and this time is
8 tentative scheduled for next Tuesday. We're not
9 setting a time. Mr. Schnee is going to inform us by
10 the --- inform the court and the solicitor's office by
11 the end of the day tomorrow if there is not a time
12 that works next Tuesday, next Tuesday is a no court
13 week, so the sooner I know the better so we can
14 arrange a time and the court reporter.

15 MR. SCHNEE: Yes, sir. Thank you.

16 THE COURT: Is that clear, Ms. Garfield?

17 MS. GARFIELD: Yes, sir.

18 THE COURT: All right. Mr. Barnes can go ahead
19 and be taken out.

20 SENTENCING

21 (WHEREUPON, Mr. Barnes left the courtroom.)

22 THE COURT: All right. Bring Mr. Young forward
23 for sentencing.

24 THE COURT: Okay. Ms. Simpson.

25 MS. SIMPSON: Thank you, Your Honor. May it

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1 please the Court. With respect to Mr. Lorenzo Young
2 and the facts of the case and what your sentence will
3 be, I think they speak for themselves. We leave it in
4 your discretion. I would like to tell Your Honor that
5 he was out on bond for charges from four separate
6 incidents, from one incident burglary second degree
7 nonviolent, as well as grand larceny, a second
8 incident date, another burglary second nonviolent, as
9 well as grand larceny.

10 Then from June 6th of 2012, he was out on bond. I
11 believe all of these are currently pending in our
12 office, Your Honor, burglary first degree, possession
13 of a weapon during the commission of a violent crime,
14 one count of criminal conspiracy, three counts of
15 kidnapping, three counts of armed robbery, another
16 count of kidnapping, as well as assault and battery
17 first degree and then finally, Your Honor, from I
18 believe just a short period within the week prior to
19 this murder occurring, he was out on bond for burglary
20 first degree and that charge is still pending, as
21 well. His juvenile record, I'll just hand up for Your
22 Honor to review. It's fairly minimal.

23 THE COURT: Have you seen this, Mr. Krzyston?

24 MR. KRZYSTON: I have, Your Honor.

25 MS. SIMPSON: And, Your Honor, as far as victim

Sentencing

1 impact, Chandra Cleveland Jennings is present with the
2 family in this case and is going to speak on behalf of
3 Ms. Kelly Hunnewell's family.

4 I believe she will be introducing them as they
5 stand. Whenever Your Honor is ready.

6 THE COURT: Just one moment.

7 (Pause.)

8 THE COURT: What does the burglary carry?
9 Fifteen?

10 MS. SIMPSON: Fifteen to life.

11 THE COURT: And the attempted arm robbery is 20;
12 is that correct?

13 MS. SIMPSON: Yes, Your Honor.

14 THE COURT: You said the burglary carried what?

15 MS. GARFIELD: Burglary first, fifteen to life.
16 You're talking about what he's convicted of,
17 burglary second is nonviolent.

18 MS. SIMPSON: Oh, I thought you were speaking of
19 his pending charges.

20 MR. KRZYSTON: Up to fifteen.

21 THE COURT: That was my understanding. I just
22 want to double check.

23 Okay. Who would like to speak?

24 MS. SIMPSON: This is Chandra Cleveland Jennings.

25 MS. Jennings: Thank you, Your Honor. This is

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1 the Hunnewell family. Two of the children have been
2 separated from the family since this whole incident.

3 Today I would like to read to you a letter that's
4 written by her daughter Amber and her son.

5 It says to my mother's killers, thank you for
6 taking every piece of love I ever had. Not only did
7 you take my mother, but what you did led to my baby
8 sister being taken away, as well.

9 I do not want you to get the death penalty. I
10 want you to rot in jail. I want you to think about
11 this every day of your guilt.

12 Try reversing the situation. What if it were
13 your --- turn it the other way around. Think for a
14 couple of years.

15 My mother did everything. My mother did not do
16 anything to you, so why would you kill her? She did
17 everything to make sure we were safe. She worked
18 early in the morning so that she could wake us up in
19 the morning.

20 So what was your motive? Whatever it was, I hope
21 you know you have left a six-year-old girl, an
22 eight-year-old girl, an 11-year-old boy and a
23 14-year-old girl alone in this harsh world.

24 My mom was my best friend, the one I could always
25 go to. I just wanted to make her proud in life, to

Sentencing

1 see her face when I graduated from high school, but
2 thanks to you, I can't. You have no idea how many
3 nights I stay up crying wishing you didn't do what you
4 did.

5 I can still hear my little sister crying when we
6 got the news. I remember my six-year-old sister
7 asking me when will mommy be home, and I cried knowing
8 the answer but could not tell her. I did not have the
9 heart to tell her.

10 I hope you're happy with yourself. Your mother
11 should be proud. Sincerely, Amber.

12 THE COURT: Thank you, ma'am. Thank you all for
13 being here. Thank you for being here throughout the
14 trial.

15 MS. SIMPSON: Your Honor, I would just like to
16 note her mother --- I know they stood and were
17 recognized, but her mother Nancy, as well as her
18 brother, as well Anthony Vaughn, sister April and
19 sister-in-law Mary Vaughn were present in that group,
20 as well. And one more thing I neglected, Your Honor,
21 this defendant while he's been incarcerated has had a
22 number of disciplinary issues at the Alvin S. Glenn
23 Detention Center to include things such as spitting on
24 officers and things of that nature.

25 Even during the course of this trial it's my

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1 understanding that he spit on one of the deputies
2 working in this courthouse, and that would be all for
3 the State.

4 THE COURT: All right. Mr. Krzyston.

5 MR. KRZYSTON: Thank you, Your Honor. May it
6 please the Court.

7 THE COURT: Yes, sir.

8 MR. KRZYSTON: Thank you. Your Honor, Mr. Young
9 has maintained his innocence since he was initially
10 arrested on this matter. When he was initially
11 arrested, he was 18 years of age. At the time he had
12 two kids, still has two children, and was holding
13 doing two jobs. Again, Mr. Young main takes his
14 sentence. We ask for a sentence to be imposed in the
15 range of 30 years.

16 THE COURT: All right. Mr. Young, you do not
17 have to, but you are welcome to tell me anything you
18 wish to. It's your decision.

19 MR. KRZYSTON: He does not wish to speak, Your
20 Honor.

21 THE COURT: Very well. Thank you very much. I
22 understand that.

23 All right. We're going to start with the
24 kidnapping charge. I know I explained this during the
25 trial. I'm going to explain this again. Under South

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1 Carolina code section 16-3-910, the kidnapping charge,
2 the conviction will stand. However, the sentence will
3 be vacated and that is pursuant to 16-3-910, when
4 there is a charge --- a case that involves kidnapping
5 and murder in the same incident, then the sentences
6 are not allowed to run together and the sentence must
7 be vacated so I'm beginning by vacating the kidnapping
8 section. I did not create that law. I'm merely
9 enforcing that law, and I have read multiple cases on
10 the issue, and I am confident that I am required to
11 vacate any kidnapping sentence. I'm not vacating the
12 conviction. The conviction will stand. I'm merely
13 vacating the sentence imposed. On the burglary in the
14 second degree, the sentence of the Court is that you
15 be committed to the State Department of Corrections
16 for 15 years. You are not allowed to have any contact
17 with the victim's family. On the attempted armed
18 robbery, the sentence of the Court is that you be
19 committed to the State Department of Corrections for
20 20 years. You're not allowed to have contact with the
21 victim's family. On both of those charges, you will
22 be given credit for time served that you have
23 currently done.

24 On the murder charge, the sentence of the Court
25 is that you be committed to the State Department of

1 Corrections for a sentence of life without the
2 possibility of parole. All of these sentences are to
3 be run consecutive to each other. Thank you very
4 much.

5 MS. SIMPSON: Thank you, Your Honor, Your Honor.

6 THE DEFENDANT: I didn't do shit. I didn't do
7 nothing.

8 (WHEREUPON, Court's Exhibit Number 20 was
9 marked for identification only.)

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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Vicki Everhart, Transcriptionist for Karen Ambroziak, Official Court Reporter for the 5th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 10th through 19th days of November, 2014.

February 26, 2015

/s/ Vicki Everhart

Vicki Everhart,
Transcriptionist for

Karen Ambroziak,
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2014-GS-40-752
		2014-GS-40-754
		2014-GS-40-755
		2014-GS-40-756
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
TRENTON BARNES,	)	
	)	
DEFENDANT,	)	

December 12, 2014
Columbia, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE.

APPEARANCES:

DOLLY JUSTICE GARFIELD, ASSISTANT SOLICITOR
LUCK CAMPBELL, ASSISTANT SOLICITOR
Attorneys for the State

MARK SCHNEE, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

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CERTIFICATE OF REPORTER 76

STATE'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Evaluation	5	
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1 (WHEREUPON, State's Exhibits Nos. 1 - 4 were marked
2 for identification only.)

3 MR. SCHNEE: Judge, briefly.

4 THE COURT: Hold on. I don't know that we're on the
5 record yet. I need to sign some sheets.

6 MR. SCHNEE: Okay.

7 (Pause.)

8 THE COURT: All right. Good morning, everybody.
9 We're on the record in the State of South Carolina vs.
10 Trenton Malik Barnes, indictment number 2014-GS-40-756,
11 755, 754, 752, and we're here for the purposes of
12 sentencing.

13 Mr. Barnes was previously convicted via a jury trial
14 within the past few weeks. I don't remember the exact
15 date pursuant to Aiken vs. Byars which is a South Carolina
16 Supreme Court case that literally came out during the
17 middle of the trial.

18 The Supreme Court has made Miller vs. Alabama
19 retroactive, essentially, and applied the Miller vs.
20 Alabama which is a United States Supreme Court case and
21 says it takes effect in South Carolina.

22 Anytime you're sentencing a juvenile, and the
23 possibility of a sentence of life without parole, whether
24 it is mandatory or not mandatory, that certain factors
25 need to be taken into consideration before sentencing that

1 individual, and so that is the purpose of this hearing.

2 That is the reason for the delay in the hearing.

3 All right. So is everybody ready to proceed?

4 MR. SCHNEE: Yes.

5 MS. GARFIELD: The State ready.

6 THE COURT: Ms. Garfield.

7 Mr. Schnee?

8 MR. SCHNEE: Judge, may it please the Court. There
9 are a couple of witnesses that I've had subpoenaed. One
10 of them is here, Mary Howk. She is a -- a school teacher
11 from the Alvin S. Glenn Detention Center.

12 I also have subpoenas out to Richland School District
13 1, and I was informed that someone from the school
14 district would actually be here today with the school
15 records, someone from their legal department specifically
16 dealt with the special ed classes. I have not seen that
17 person. I have known -- none of those records. I'm
18 asking Your Honor to enforce the subpoena and get someone
19 from the school district in order to turn over those
20 records, because I think they are invaluable for Your
21 Honor in this determination.

22 THE COURT: Who was the last person your talked to at
23 the school district?

24 MR. SCHNEE: My investigator talked to Ms. Scott.

25 THE COURT: And who is she?

1 MR. SCHNEE: Ms. Scott is the in-house legal counsel
2 for the school district.

3 THE COURT: Okay. So she is actually an employee of
4 the school district?

5 MR. SCHNEE: Yes, Your Honor. That's my
6 understanding.

7 THE COURT: Okay. Do you have -- what's her phone
8 number?

9 MR. SCHNEE: I do not personally have that is the
10 problem. My investigator was handling that.

11 THE COURT: Where is your investigator?

12 MR. SCHNEE: She is, I believe, at a doctor's office
13 this morning. She has been in and out of the hospital. I
14 talked to her yesterday, and she told me that --

15 THE COURT: What is Ms. Scott's first name?

16 MR. SCHNEE: I can check my emails and look for it if
17 Your Honor wants. She said that Ms. Scott was going to be
18 here this morning; that she confirmed it with her
19 assistant.

20 THE COURT: Well, I need to know her name so I can
21 call her and make her to come up here.

22 MR. SCHNEE: Yes, Your Honor.

23 THE COURT: In order to enforce the subpoena, I have
24 to have the information to enforce the subpoena.

25 MR. SCHNEE: Yes, Your Honor. If you'll just give me

1 a few seconds.

2 THE COURT: Do you have the subpoena?

3 MR. SCHNEE: I do not have a copy of it.

4 THE COURT: Do you have a copy of the subpoena that
5 you issued?

6 MR. SCHNEE: My investigator got the subpoena issued
7 and served it.

8 Judge, I don't have her first name, but I have a
9 phone number for her.

10 THE COURT: What's the phone number?

11 MR. SCHNEE: (803)231-7404.

12 THE COURT: Christine, call this woman. Find out
13 where she is.

14 Okay. All right. Anything else before we begin?

15 MR. SCHNEE: Other than -- other than those records,
16 Your Honor, I would like to present as an exhibit and have
17 it marked as Defense, somebody, or a Court's Exhibit.

18 This is an outline of a book. It's called Social
19 History Assessment. It's written by Dr. Arlene Andrews.
20 She is one of the premier experts on assessing social and
21 personal histories. She does a lot of work in death
22 penalty litigation cases.

23 This is an outline of essentially what an assessment
24 should be done in those types of cases. I believe that
25 does need to be done here.

1 From the people I talked to, this takes approximately
2 12 to 18 months to get that accomplished. As a matter for
3 the record, I am asking Your Honor for proper funding and
4 time to do all of that.

5 THE COURT: All right. That motion is denied.

6 MR. SCHNEE: Yes, Your Honor. I would like to have
7 this made an exhibit, though.

8 THE COURT: That's fine.

9 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
10 identification only.)

11 MR. SCHNEE: Other than that, Your Honor, I am ready
12 to proceed.

13 THE COURT: All right.

14 Would the State care to present anything at this
15 point in time?

16 MS. GARFIELD: Your Honor, we will reserve our
17 introduction of anything for reply.

18 THE COURT: Okay.

19 All right. Mr. Schnee, you may begin.

20 MR. SCHNEE: Judge, may it please the Court. First
21 I'd like to pass up to Your Honor a community evaluation
22 that was done by the Department of Juvenile Justice.

23 As Your Honor is aware, my client was in -- I believe
24 in March of 2013 charged with a minor offense that was
25 dealt with. That was adjudicated in family court.

1 As far as Your Honor -- as Your Honor is aware, part
2 of the standard process is an evaluation. I would like to
3 hand a copy up to Your Honor and make a copy as part of an
4 exhibit, as well.

5 THE COURT: Okay.

6 MR. SCHNEE: The State has a copy of it.

7 MS. GARFIELD: No objection, Your Honor. We are
8 actually prepared to introduce that through a Department
9 of Juvenile Justice representative.

10 THE COURT: Okay. And would everybody be of the
11 opinion that I need to seal this since it's a juvenile
12 record?

13 MS. GARFIELD: Yes, sir, absolutely.

14 MR. SCHNEE: Yes, Your Honor.

15 THE COURT: Okay. Do you have an objection to that?

16 MR. SCHNEE: No.

17 THE COURT: Okay. And do you have an objection to
18 that?

19 MS. GARFIELD: No, sir, we do not.

20 THE COURT: All right. This report, which is a
21 report of the Department of Juvenile Justice will be made
22 a Court's Exhibit, so it will be Court's Exhibit number 1
23 for purposes of this hearing. It will be sealed only to
24 be opened by future judges in whatever hearings may be in
25 the future.

1 (WHEREUPON, Court's Exhibit No. 1 was marked for
2 identification only.)

3 THE COURT: For the record, the reason that I'm
4 sealing the report is it does deal -- it is a report on
5 Mr. Barnes created by the Department of Juvenile Justice
6 at a time period where he was a juvenile. It was created
7 as part of a juvenile case; is that correct, Ms. Garfield?

8 MS. GARFIELD: Yes, sir.

9 THE COURT: Okay. And so out of an abundance of
10 caution, in the -- I've never been a family court judge,
11 and I never practiced in family court much at all in my
12 entire life, but the time that I did, it was in criminal
13 court. All of those records were kept sealed.

14 So out of an abundance of caution for Mr. Barnes, I
15 will review the report, but I will make it a sealed part
16 of the record.

17 MR. SCHNEE: Yes, Your Honor, that's fine.

18 THE COURT: What do you want me to look at in this,
19 Mr. Schnee?

20 MR. SCHNEE: Well, to be honest, Judge, a lot of the
21 background information dealing with family history, his
22 educational history, obviously the facts of the particular
23 offense have no bearing.

24 It actually goes through much of his school. The
25 individualized education program, the IEPs. I've got

1 emails from Mary Howk, to and from Mary Howk. She is my
2 first witness, Your Honor. She is a school teacher at
3 Alvin S. Glenn.

4 THE COURT: Okay.

5 MR. SCHNEE: I would pass it up. It essentially
6 shows that he was held back early on. It shows that
7 Trenton is a slow learner.

8 I think the last diagnosis was a specific learning
9 disability but not identified as any particular type of
10 learning disability. That's what it appears from the
11 limited records that I've been able to obtain.

12 THE COURT: Okay. All right. Do you want to go
13 ahead and call your first witness?

14 MR. SCHNEE: Yes. Yes, Your Honor. I do call Mary
15 Howk at this time.

16 THE COURT: Okay.

17 MR. SCHNEE: In terms of the evaluation, I just ask
18 you to read the whole thing.

19 THE COURT: Yes, sir, understood.

20 All right. Ms. Howk, please come forward and raise
21 your right hand.

22 MARY HOWK, after being duly sworn,
23 testified as follows:

24 THE COURT: If you'll have a seat on the witness
25 stand. State your full name for the record and spell your

1 last name.

2 THE BAILIFF: Watch your step, please.

3 THE WITNESS: My name is Mary Howk, H-O-W-K.

4 DIRECT EXAMINATION:

5 BY MR. SCHNEE:

6 Q Ms. Howk, thank you for coming.

7 A Uh-huh.

8 Q Could you please tell the Court where you're
9 currently employed, and what your experience is and your
10 education?

11 A I'm a full-time teacher with Richland School District
12 1 employed at the Alvin S. Glenn.

13 Q I'm sorry.

14 (Pause).

15 THE COURT: I'm dealing with something.

16 (Pause).

17 Okay. Thank you.

18 BY MR. SCHNEE:

19 Q Please tell the judge your educational experience and
20 where you're working.

21 A Okay.

22 Q And your background.

23 A Again, I'm a full-time teacher at the Alvin S. Glenn
24 Detention Center. I'm with Richland School District 1.
25 I'm certified in special education and learning

1 disabilities.

2 THE COURT: Okay.

3 THE WITNESS: Okay.

4 BY MR. SCHNEE:

5 Q Did -- at some point, did you meet Trenton Barnes?

6 A Yes. Trenton entered our program August 15th, 2013,
7 and he stayed with us until he turned 17. He left us
8 November 26th the same year.

9 Q Okay. And were you one of his direct teachers?

10 A Yes. There are only two of us, and I had him half
11 the day. The other teachers had him the other half of the
12 day.

13 Q Okay.

14 A I say teachers because we had a transition period.
15 We had a long-term sub who was later replaced by a
16 full-time teacher.

17 THE COURT: Did you say November of what year?

18 THE WITNESS: November 26th, 2013.

19 THE COURT: 2013.

20 THE WITNESS: He was with us 50 classroom days.

21 THE COURT: Okay.

22 BY MR. SCHNEE:

23 Q Could you describe a little bit about how the
24 classrooms work at Alvin S. Glenn?

25 A We -- I teach biology, math, and GED. I'm also the

1 Special Ed contact. The other teacher teaches language
2 arts and social studies. Half the day I have one group.
3 The other teacher has the other group, and then we switch
4 and switch groups. So I have each student about
5 two-and-a-half hours a day.

6 Q Okay. And what grade equivalent was Trenton Barnes
7 in when you were teaching him at age 16?

8 A I do not have our pretesting criteria, but he had
9 some math disabilities. I believe he was elementary
10 level. I don't have those specific scores, though.

11 Q Okay. Do you know if prior to coming into Alvin S.
12 Glenn he ever finished, say, the 9th grade?

13 A He was a repeating 9th grader.

14 Q Okay. So that's approximately where he was when he
15 was with you, right?

16 A He tested much lower than that in reading and math.

17 Q Oh, so he tested lower than that?

18 A Yes, yes.

19 Q And I believe you sent me -- last night you faxed me
20 some e-mails that you had with the Richland School
21 District.

22 A Right. I asked Trenton if he was in Special Ed, and
23 he said it had been dropped. When I was subpoenaed, I
24 sent out these emails trying to figure out more about his
25 status.

1 You have my only copy, but 2008, he was classified as
2 mentally disabled. Later that was changed to a specific
3 learning disability which is a very generic term, and then
4 in 2011 he was dropped because they determined he no
5 longer classified as met the criteria for learning
6 disability.

7 THE COURT: You mean dropped from the program?

8 THE WITNESS: Yes.

9 THE COURT: Hold on one second.

10 (Pause.)

11 Okay. Thank you.

12 MR. SCHNEE: Judge, at this time the e-mails
13 specifically has some dates. I'd like to introduce that,
14 as well.

15 THE COURT: Any objection?

16 (Indicates in the negative.)

17 Okay.

18 (WHEREUPON, Defendant's Exhibit No. 2 was marked for
19 identification only.)

20 BY MR. SCHNEE:

21 Q In terms of the actual classroom environment, how
22 would you describe Trenton as a person as a student?

23 A I didn't have any problems with Trenton in my class.
24 He was cooperative. If he needed help, he would ask for
25 help, and he wasn't consistent in his work. Some days he

1 didn't put forth a lot of effort. On one of his report
2 cards, I said he was very capable and he tried.

3 Q Okay. Would you consider Trenton to be a leader or a
4 follower?

5 A I think he was more of a follower.

6 Q Okay. Have you ever had interaction with members of
7 his family?

8 A I had his older brother Tony Barnes.

9 Q Okay. And what was your interaction with Tony?

10 A I had him for a year-and-a-half. He was very
11 difficult at the beginning, and then we got a good working
12 relationship. He progressed a lot academically. Tony was
13 definitely a follower.

14 Q Okay. And you met Tony because he was also at Alvin
15 S. Glenn?

16 A Yes, yes.

17 Q And he -- you're aware of where he currently is?

18 A Yes.

19 Q And where is that?

20 A Well, he's serving in an adult correctional facility
21 for manslaughter.

22 Q Okay. And that's -- that's one of his older
23 brothers?

24 A Yes.

25 Q Okay. Did you ever -- I don't suppose you ever met

1 Troy Stevenson.

2 A Yes, I did.

3 Q Okay.

4 A Briefly. I don't remember a lot about Troy.

5 Q Okay. That's also another brother of Trenton's.

6 A Okay.

7 Q Are you also aware that he is also charged with the
8 same murder that we're here about today?

9 A Not really.

10 Q Okay.

11 A I don't -- I don't get into the crimes of my
12 students.

13 Q Okay.

14 A Try not to.

15 Q Did Trenton have any disciplinary problems with you?
16 Did he cause fights? Did he cause problems?

17 A Not in my classroom.

18 Q Okay. And you were with him about half a day for a
19 few days?

20 A Yes, about two-and-a-half hours.

21 MR. SCHNEE: Judge, that's all I have for this
22 witness.

23 THE COURT: Cross-examination?

24 MS. CAMPBELL: Yes, sir.

25 CROSS-EXAMINATION:

1 BY MS. CAMPBELL:

2 Q Ms. Howk, you have come to court before on a number
3 of occasions and testified on behalf of some of your
4 students?

5 A Yes, ma'am.

6 Q And approximately how many times have you been to
7 court and testified for your students, do you remember?

8 A Maybe two or three times a year.

9 Q Two or three times a year, and I want to show you
10 what's been marked as State's Exhibit No. 2 first. Do you
11 recognize those?

12 A Yes.

13 Q Are those the records? I think you actually provided
14 those to us this morning.

15 A These are the exit grades that he earned while he was
16 at Alvin S. Glenn.

17 Q And we copied these --

18 A Yes.

19 Q -- and this is the records you provided for us?

20 A Yes.

21 MS. CAMPBELL: Your Honor, at this time we'd offer
22 State's Exhibit No. 2.

23 MR. SCHNEE: No objection.

24 (WHEREUPON, State's Exhibit No. 2 was admitted into
25 evidence.)

1 THE COURT: Very well.

2 BY MS. CAMPBELL:

3 Q You mentioned that you -- one of your specialities
4 is --

5 A Special Ed.

6 Q Special Ed.

7 A Learning disabilities.

8 Q Learning disabilities.

9 A Right.

10 Q And did you find that Mr. Barnes suffered from any
11 learning disabilities in your short time with him?

12 A He was very low in math, but he was able to progress
13 quickly. I think he needed a lot of one-on-one attention,
14 and the advantage we have in that environment is there are
15 no distractions. They get a lot of attention, so he made
16 progress.

17 Q And I think in these records you provided us when you
18 were referring to his math, strategy math I think it was
19 called --

20 A Uh-huh.

21 Q -- you said, "Trenton is making progress with his
22 math skills"?

23 A Uh-huh, yes.

24 Q And then you also taught him for Biology 1; is that
25 correct?

1 A Yes, yes.

2 Q You say, "Trenton's work is not always consistent,
3 but when he works hard, he can make really good grades"?

4 A Right, uh-huh.

5 Q And were you aware there was an assessment done when
6 Mr. Barnes was adjudicated -- not adjudicated, evaluated
7 for an unlawful pistol charge prior to this?

8 A No, ma'am. We didn't receive any of these records.

9 Q And you didn't know that he was actually tested as
10 far as his abilities?

11 A I had asked him if he was Special Ed and contacted
12 the school district, and they had just told me he was no
13 longer Special Ed. So I have didn't go any farther.

14 Q And they actually administered a test called the
15 WASI?

16 A Uh-huh. That's a psychological.

17 Q And a WIAT. You're familiar with those?

18 A The licensed psychologist administers those, so I
19 can't speak to those.

20 Q Okay. But did you know when they did of those
21 testing, they did not suggest he has a learning disorder
22 in reading or math?

23 A Well, he was dropped from special ed in 2011, but
24 they determined that he didn't meet the criteria.

25 Q Okay.

1 A So...

2 Q So that would tend to --

3 A From my standpoint, I knew I didn't need to write an
4 IEP so I didn't pursue --

5 Q And if you --

6 A -- any of those records.

7 Q If you had observed that about him, you would have?

8 A He definitely had difficulties and deficiencies in
9 math, but apparently, he didn't meet the criteria to be in
10 Special Ed for it.

11 Q But your assessment of him was Trenton was making
12 progress with his math skills?

13 A Yes, but he came in very low, very low, elementary
14 school level.

15 Q I apologize. I did not mean to interrupt.

16 A Uh-huh.

17 Q Also, you mention that you didn't ever have any
18 problem with Trenton in your class; is that correct?

19 A Yes, ma'am.

20 Q But in these records, there were problems that he did
21 have in class.

22 A In the other classrooms, yes, ma'am.

23 Q Specifically looking at State's Exhibit No. 2, the
24 second page, what does that show there as being a write up
25 for Mr. Trenton Barnes while --

1 A This is a write up from the replacement teacher,
2 James Enly (phonetic). It said both students were -- they
3 were reviewing -- they're working on the -- I can't read
4 his writing. They're supposed to be working on
5 assignments on the internet, and Trenton Barnes will be
6 banned permanently from using the computer. There's an
7 attached sheet --

8 Q Does it say why he was banned permanently from using
9 the computer --

10 A There is an attached sheet with the internet history,
11 and he was looking at various porn sites.

12 Q And who was one of the students that you mentioned
13 that was banned permanently from using the internet when
14 he was supposed to be doing his school work? What was he
15 doing?

16 A Trenton Barnes would be banned permanently. The
17 other student was Raquan Davis. He have would lose ten
18 weeks.

19 Q But Trenton Barnes was the one that was banned
20 permanently?

21 A Right, because this must have been his second
22 offense.

23 Q Must have been his second offense?

24 A Yes.

25 Q And because that would be when he would be banned

1 permanently, and that's when he was supposed to be doing
2 his school work?

3 A Right.

4 Q And the date that that occurred was on what date?

5 A September 10th.

6 Q Of 2013?

7 A 2013.

8 Q And when is the first time he actually entered
9 classes?

10 A August 15th, 2013.

11 Q So by September 10th after entering class on
12 August 15th, this would have been at least his second
13 violation?

14 A Yeah.

15 Q And the internet sites that he was looking at were
16 listed on the second page. I have it turned to now.

17 A Yes, porn sites.

18 MS. CAMPBELL: Your Honor, may I approach?

19 THE COURT: Yes, ma'am.

20 BY MS. CAMPBELL:

21 Q And your interaction with him was limited, but he
22 responded well in your class at least?

23 A It was controlled. I expect my students to work and
24 they do, so things didn't get out of hand.

25 Q Okay. And when I say limited, I meant in time it was

1 50 days?

2 A Yes.

3 Q And as far as any of his behavior elsewhere in the
4 jail, that would have been -- somebody else would have
5 done that?

6 A Someone else would have done a report.

7 MS. CAMPBELL: Thank you, ma'am. I don't have
8 anything further.

9 THE COURT: Anything else, Mr. Schnee?

10 MR. SCHNEE: No further questions. Thank you, ma'am.
11 I appreciate your coming.

12 THE COURT: Have a nice day, ma'am.

13 THE WITNESS: Thank you.

14 THE COURT: All right. The records that you
15 requested are on the way up here.

16 MR. SCHNEE: Yes, Your Honor, thank you.

17 My next witness is Latoya Barnes.

18 THE COURT: Okay.

19 (Pause).

20 THE WITNESS: Oh my gosh.

21 LATOYA BARNES, after being duly sworn,
22 testified as follows:

23 THE CLERK: Have a seat in the witness box. State
24 your name and spell it, please.

25 THE WITNESS: Oh. Oh my God. Latoya Barnes,

1 L-A-T-O-Y-A, B-A-R-N-E-S.

2 DIRECT EXAMINATION:

3 BY MR. SCHNEE:

4 Q Ms. Barnes, I just want to ask you a few questions
5 about your family history and social history from Trenton.

6 A Okay.

7 Q How many children do you have?

8 A Four.

9 Q Okay.

10 A Four boys.

11 Q How old are they?

12 A Twenty, 19, 17 -- 18. Trenton is already 18, and 15.

13 Q Okay. Now, your oldest son, what's his name?

14 A Antonio Barnes.

15 Q Okay. And he is currently serving a prison sentence
16 for manslaughter?

17 A Uh-huh, yes, sir.

18 Q Okay. And the next one now would be Troy Stevenson?

19 A Correct.

20 Q Who is charged with Trenton with this?

21 A Yes, sir.

22 Q Okay. And then you have Trenton, obviously, and then
23 your youngest son, what's his name?

24 A Tremain Stevenson.

25 Q How many of your children have been assessed for IEPs

1 in their education?

2 A Antonio, Trenton, and Tremain.

3 Q Okay. So everyone but Troy?

4 A Right.

5 Q And how long was Trenton in those special classes?

6 A Since elementary.

7 Q Okay.

8 A His IEP was mild mental. They changed it to
9 emotional, and then they changed it to a learning
10 disability. Then they dropped him when he got in the 8th
11 grade and went to the 9th.

12 Q Okay. In terms of your disciplining Trenton and
13 trying to teach him what to do, does Trenton have an anger
14 problem sometimes?

15 A Yes. He has a temper sometimes, gets easily upset.

16 Q Does he follow the rules, though, generally?

17 A Yes, he does.

18 Q Okay. Did -- did you ever have him -- ever have
19 problems with him going to school --

20 A No.

21 Q -- or was it just performance at school?

22 A No, not at all, never had a problem with him going to
23 school.

24 Q Okay. So he always went?

25 A Yes, sir.

1 Q And in the school environments, I guess we're going
2 to get into some of those records soon. Do you remember
3 was he -- was he disruptive in class? What do you
4 remember about that exactly?

5 A Off and on. He just -- you know, as far as him not
6 paying attention or something like that. Just out of
7 place, not being focused but other than a fighting or
8 anything, he never had a problem with that.

9 Q Okay. So he never caused any fights or anything?

10 A No.

11 MR. SCHNEE: Beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 (Pause).

14 BY MR. SCHNEE:

15 Q Do all four of your children have the same father?

16 A No.

17 Q All right. Who is the father of -- of Trenton?

18 A Thomas Morgan.

19 Q Okay. And does -- is he the father of any of your
20 other children?

21 A No, sir.

22 Q Okay. How involved was he as a father with Trenton?

23 A He never was involved.

24 Q Never involved?

25 A No.

1 Q Who was the father figure for Trenton?

2 A Who was the father figure? Calvin Jennings.

3 Q And when was -- when was he around?

4 A Every since Trenton was like maybe in the 3rd, 4th
5 grade all the way up until now, and he is not around at
6 this time.

7 Q Okay. So age nine to ten --

8 A Yeah.

9 Q -- until about age 15, 16?

10 A Sixteen, 17 yes, sir.

11 Q Okay. And there was -- there were no other male
12 father figures before that?

13 A No.

14 Q Okay. Did you work while Trenton was growing up?

15 A Yeah, off and on.

16 Q During the day or at night?

17 A Day and night. It was like a catering company, so it
18 was different times --

19 Q Okay. Who would take care of Trenton while you were
20 at work?

21 A While I was at work? Normally he would be in school,
22 you know, and if it was on the following weekend, my
23 oldest sister, she would have been there.

24 Q Okay. So you had other family members --

25 A Yes, sir.

1 Q -- helping out?

2 A Yes, sir.

3 Q Okay. Did Trenton move around a lot when he was a
4 kid to different homes or...

5 A Oh no. My kids were always with me.

6 Q Okay. Did you move around --

7 A No.

8 Q -- to different schools or anything else?

9 A No.

10 Q Okay. How would you describe Trenton in terms of his
11 interactions with other people his own age?

12 A He gets along good with kids his own age.

13 Q Okay. Does he naturally gravitate toward groups?
14 Does he -- is he more of a loner? I'm just trying to
15 understand.

16 A Well, he is kind of quiet. You know, he is -- he is
17 not a hyper kid or anything. He pretty much falls in, get
18 in friends with friends but -- other kids but not really.
19 He is off to himself, you know.

20 Q Was he a leader or a follower any time he was with
21 groups of people?

22 A Follower. He wasn't a leader at all.

23 Q Who would have had influence over him that you know
24 from his friends that you've seen?

25 A No one because he -- he's just Trenton. He's off to

1 himself. He's -- you couldn't tell. He was just off to
2 himself.

3 Q Okay. Ma'am, I don't -- I don't have any other
4 questions about your family background, but obviously part
5 of this is a hearing for the judge.

6 A Uh-huh.

7 Q So if you want to tell the judge anything about
8 Trenton and about what you want for a sentencing, please
9 do so.

10 A Trenton, he's a good kid, you know. It's just a
11 complete mistake, you know. Our family and everyone is
12 truly sorry.

13 MR. SCHNEE: Thank you.

14 THE COURT: Would you like to ask her any questions?

15 MS. CAMPBELL: Yes, sir.

16 CROSS-EXAMINATION:

17 BY MS. CAMPBELL:

18 Q Hey, Ms. Barnes. I just want to go back a little bit
19 in those months right prior to when all of this happened.
20 You were aware that he got picked up on a charge back in
21 March of 2013?

22 A March?

23 Q Uh-huh.

24 A Was it February?

25 Q February or March. Was it February?

1 A February.

2 Q I misspoke. I apologize.

3 A Okay.

4 Q And did you remember what that charge was?

5 A I just know it was a gun charge. I don't...

6 Q It was a gun charge?

7 A The exact charge I can't remember.

8 Q And do you remember that he had a loaded Ruger nine
9 millimeter handgun with an obliterated serial number?

10 A I know it was gun charge.

11 Q Do you remember going, though, after he was arrested
12 or taken into custody on that charge --

13 A Yes.

14 Q -- and meeting with people who did an assessment on
15 him?

16 A Yes, ma'am.

17 Q Do you remember talking to those people about your
18 family history and everything?

19 A Yes, ma'am.

20 Q And the history as far as it's affected Trenton?

21 A Yes, ma'am.

22 Q And you were also aware that on two prior occasions
23 back in 2007 and 2010, he was arrested on other charges?

24 A On other charges?

25 Q Did you know that?

1 A Trenton?

2 Q Trenton.

3 A Are you sure? Because Trenton only --

4 Q Would it help you to look at that? Right there at
5 the bottom.

6 MR. SCHNEE: Judge, all of those charges were
7 dismissed.

8 THE WITNESS: I don't remember any of that.

9 THE COURT: She asked arrested. She didn't ask
10 convicted.

11 BY MS. CAMPBELL:

12 Q Correct.

13 Do you remember that?

14 A No.

15 Q You do remember going and talking to them sometime, I
16 think, in March or April of 2013, some three or four
17 months before this happened and talking about Trenton and
18 his background?

19 A Right.

20 Q And they asked about your whole family like we just
21 talked about, right?

22 A Uh-huh.

23 Q And do you remember telling them that you lived in
24 the Rochelle Heights community?

25 A Uh-huh.

1 Q And that Trenton has his own room?

2 A Yes, ma'am.

3 Q And do you remember telling them the neighborhood
4 is --

5 A He didn't have his own room, him and his youngest
6 brother.

7 Q Because he --

8 A There's only three bedrooms.

9 Q It's only three bedrooms. So he actually shared?

10 A I mean him and Tremain, I'm sorry.

11 Q Do you remember reporting that the neighborhood is
12 quiet?

13 A Yes.

14 Q With minimal crime?

15 A Right.

16 Q In a rural setting?

17 A Right.

18 Q He's allowed to have his friends over to spend the
19 night?

20 A Yes, ma'am.

21 Q And he is allowed to spend the night with his
22 friends, but he rarely does either; that he participated
23 in kid camps at a local church?

24 A Yes, ma'am.

25 Q And they specifically asked you about yourself and

1 your family, about mental illness or anything like that,
2 and you denied any domestic violence among immediate
3 family members?

4 A Domestic violence?

5 Q Uh-huh.

6 A No.

7 Q Or the use of elicit substances? Then they asked you
8 about his history growing up as well, right?

9 A Okay.

10 Q And they were -- when he was born, everything was
11 normal?

12 A Uh-huh.

13 Q That he met all of his developmental milestones
14 within expected timeframes?

15 A Yes, ma'am.

16 Q You deny that he had any major illnesses, seizures,
17 surgeries or loss of consciousness?

18 A Correct.

19 Q That he had never been psychiatrically hospitalized?

20 A No, ma'am. He don't.

21 Q That he had met with a counselor a couple of times,
22 and I think that was on the anger management you referred
23 to?

24 A At Columbia Area Mental Health.

25 Q And that was when he was in 6th grade, 6th or 7th?

1 A Was it Tim? It's not Timothy Mullins. It was Tim at
2 Columbia Area Mental Health.

3 Q Who is Timothy Malone?

4 A Timothy Malone is at Baptist. He works at Baptist.

5 Q And when was he --

6 A That was for my oldest son, Antonio.

7 Q That was for your oldest son?

8 A Right.

9 Q Okay. Do you remember that they actually did some
10 testing on him, and that he didn't need any additional
11 trauma screening or any kind of trauma to be evaluated?

12 A Okay.

13 Q Specifically, they asked you about his behavior in
14 school, too. Do you remember that?

15 A Uh-huh.

16 Q And you responded he had the usual problems; that he
17 was suspended several times in elementary, middle, and
18 high school but couldn't recall particular grades or
19 reasons?

20 A Right.

21 Q That he was in special ed about one point.

22 A Yes, ma'am.

23 Q Partially for emotional problems?

24 A Emotional and mild mental.

25 Q And then he was dropped from that because he scored

1 out of it?

2 A Right and when he was going to the 9th grade.

3 Q And that was when he was in the 8th grade?

4 A Right.

5 Q Okay. Do you remember that you denied he was any
6 member of a gang or anything like that?

7 A Because I didn't know anything about that.

8 Q And then you described his friends as positive?

9 A His friends is positive, yes.

10 Q That's how you described his friends, positive.

11 A Positive.

12 Q A positive influence.

13 A Right, correct.

14 Q You indicated that you could just forbid Trenton from
15 associating with peers who are expected to engage in
16 negative behavior?

17 A Right.

18 Q And then you also said that you denied he had ever
19 experimented with alcohol or drugs or been sexually
20 active?

21 A Correct.

22 Q But none of that was true?

23 A None of that was true.

24 Q And then you talked about the types of things y'all
25 did together as a family, watched TV, movies?

1 A Uh-huh.

2 Q And he was very helpful and respectful?

3 A Yes, ma'am.

4 Q He had a great relationship with his brothers?

5 A Yes, ma'am.

6 Q And that generally he had a good relationship with
7 family?

8 A Yes, ma'am.

9 Q And just for the record, you've always been there for
10 him and supported him, right?

11 A Yes, ma'am.

12 Q And, in fact, at the time when this happened in the
13 New Rochelle Community there on Lucille Street, y'all had
14 been living there for over five years?

15 A Yes, ma'am, since 2008.

16 Q So his home life was fairly stable. He was attending
17 school, and you did whatever it took --

18 A Yes, ma'am.

19 Q -- to make sure he got what he needed?

20 A Yes, ma'am.

21 Q And it was your experience Trenton knows right from
22 wrong, doesn't he?

23 A Yes, ma'am.

24 MS. CAMPBELL: Thank you.

25 THE COURT: Anything else?

1 MR. SCHNEE: No further questions, Judge.

2 Thank you, Ms. Barnes.

3 THE WITNESS: Uh-huh.

4 MR. SCHNEE: Judge, other than the introduction of
5 school records, I have no other actual witnesses to
6 present.

7 THE COURT: Okay.

8 Ms. Barnes, I want to say this for the record so that
9 the record is very clear and that you were here throughout
10 for entire trial --

11 THE WITNESS: Yes, sir.

12 THE COURT: -- for your son, and during the first
13 part of it before you were called as a witness by the
14 State, there was a sequestration order --

15 THE WITNESS: Yes, sir.

16 THE COURT: -- which you followed, but that would --
17 the only reason that you weren't in the courtroom.
18 Throughout this trial, you've been present --

19 THE WITNESS: Yes, ma'am.

20 THE COURT: -- for your son, and I just want that --
21 the record to be clear of your support through him --
22 throughout this case, and your continued support of him.
23 I thank you for your comments. I thank you for being here
24 today. I know that this cases is very difficult for
25 you --

1 THE WITNESS: Yes, sir.

2 THE COURT: -- and your family on many different
3 levels, and I just wanted to personally say to you thank
4 you for your continued support throughout this case.

5 THE WITNESS: Thank you, sir.

6 THE COURT: You may step down.

7 THE WITNESS: Thank you.

8 (Pause.)

9 THE COURT: Okay. Let's take a little break until
10 the school records get here. We had contacted the school
11 district.

12 Apparently, the records were requested incorrectly,
13 and they had informed the investigator that the records
14 were requested incorrectly.

15 I compelled them to show up with the records even
16 though they were requested incorrectly. We will fix that
17 paperwork issue in due course and in due time, but the
18 records are on the way up here.

19 I'm going to take a break so that I can read the
20 evaluation report. Are there any other long reports that
21 anybody wants me to read that I could read during this
22 break?

23 MS. CAMPBELL: Judge, we can -- Judge, we will hand
24 up that we're getting ready to introduce.

25 THE COURT: Okay. That's fine. That way I can go

1 ahead and read them when things are quiet, and I can be
2 focused on them.

3 MS. GARFIELD: Just for the record, Judge, we did
4 have marked State's Exhibit number 1, the community
5 evaluation. It's just been introduced.

6 THE COURT: Okay.

7 MS. GARFIELD: Will be withdrawing that exhibit.
8 State's number 2 I handed up to you.

9 THE COURT: I have that, yes. Five housing activity.
10 (WHEREUPON, State's Exhibit No. 5 was marked for
11 identification only.)

12 MS. GARFIELD: Your Honor, handing up State's
13 Exhibit 3 and 5, this would be discipline reports from the
14 jail and also his housing activity to reflect his stay at
15 the special housing unit.

16 THE COURT: All right. We're going to get an E.T.A.
17 on the school records, and I'm going to review these
18 reports. Then we'll come back on the record when that
19 happens. I hate to take a break like this, but I want to
20 make sure the record is complete with the school records
21 before we do anything else.

22 All right. We'll be in recess until the school
23 records individuals will show up. Thank you.

24 MR. SCHNEE: Thank you, Judge.

25 (WHEREUPON, a short break was taken.)

1 THE COURT: All right. We're back only the record in
2 the State of South Carolina vs. Trenton Malik Barnes for
3 the purposes of sentencing. The reason for the delay was
4 getting the school records from Richland School District
5 1. Who came from Richland School District 1?

6 What's your name, ma'am.

7 THE WITNESS: Your Honor, I am attorney Susan
8 Williams.

9 THE COURT: Okay.

10 THE WITNESS: In-house counsel --

11 THE COURT: So you work for the --

12 THE WITNESS: -- for Richland School District 1.

13 THE COURT: Okay. And so the school district has
14 provided the records. I have signed a court order. One
15 of the provisions in the court order for those records is
16 that both the solicitor's office and the defense is
17 required to destroy these records upon the termination of
18 the hearing.

19 Does the solicitor's office understand that?

20 MS. GARFIELD: Yes, sir.

21 THE COURT: And Mr. Schnee, do you understand that?

22 MR. SCHNEE: Uh, Judge, I do, but to the extent that
23 they may be necessary for me to retain according to
24 standard records retention policy and procedures under the
25 rules of professional conduct and rules of PCR, I would

1 think I have to keep them until case is completely
2 dissolved.

3 THE COURT: You will shred them after this hearing.
4 Do you understand that?

5 MR. SCHNEE: Yes, sir. I will do that.

6 THE COURT: Thank you very much.

7 All right. These records will be made a part of the
8 Court's record, and they will be sealed pursuant to a
9 court order for any future hearings that may come about in
10 this case. They will be a part of the record and an
11 official part of the record for any future reviewing
12 bodies to see.

13 Okay. Mr. Schnee, you may continue.

14 MR. SCHNEE: Judge, other than the records introduced
15 into evidence, I have no further testimony at this time.

16 THE COURT: Okay. All right.

17 Ms. Garfield?

18 MS. GARFIELD: Thank you, Your Honor. May it please
19 the Court. The State call Taylor Crawford with the
20 Department of Juvenile Justice.

21 THE COURT: All right.

22 TAYLOR CRAWFORD, after being duly
23 sworn, testified as follows:

24 THE CLERK: Have a seat in the witness box. State
25 your name and spell it, please.

1 THE WITNESS: Taylor Crawford, C-R-A-W-F-O-R-D.

2 DIRECT EXAMINATION:

3 BY MS. GARFIELD:

4 Q Mr. Crawford, where are you employed?

5 A South Carolina Department of Juvenile Justice in
6 Richland County.

7 Q And what are your duties with the Department of
8 Juvenile Justice?

9 A I am a probation officer. I provide supervision in
10 the community as well as recommendations and observations
11 for the court.

12 Q How long have you been in that capacity?

13 A Over three years.

14 Q Mr. Crawford, for the benefit of the judge who
15 doesn't have a lot of background in family court
16 procedures, can you just explain to the judge the
17 different alternatives one has when they are adjudicated
18 guilty of an offense -- a judge would have, I'm sorry.

19 A Well, generally there are a few options at an
20 adjudication hearing. Of course, the Department can
21 recommend that an evaluation be conducted which was done
22 in this case, as well as probation in the community with
23 the supervision of the Department of Juvenile Justice as
24 well as placement, determining sentences, commitments,
25 those sorts of things.

1 Q And when you talk about an evaluation, can you just
2 explain to the judge what entails an evaluation?

3 THE COURT: There's two kinds of evaluations, right?
4 One where you're in custody, and one where you stay in the
5 community.

6 THE WITNESS: Correct, Your Honor.

7 THE COURT: Okay.

8 THE WITNESS: We have a community evaluation which is
9 conducted while the juvenile is in the community, whether
10 in home or an alternative-placement setting as well as a
11 secure evaluation which here in Richland County is sent
12 to --

13 THE COURT: M.E.C.

14 THE WITNESS: -- the Midlands Evaluation Center.

15 BY MS. GARFIELD:

16 Q And that would be M.E.C.?

17 A Yes.

18 Q What all is -- who all conducts such an evaluation?

19 A Psychologists.

20 Q And that's at the Department of Juvenile Justice?

21 A While -- yes. They were employed by the Department.

22 Q Some are full time. Some are on contract basis?

23 A Correct.

24 Q Specifically in this case, Mr. Crawford, did you have
25 the opportunity to be familiar with Trenton Barnes?

1 A Yes, I'm familiar with his file.

2 Q And did he have involvement with the Department of
3 Juvenile Justice in his lifetime?

4 A Yes.

5 Q And specifically, if you'll just share with the judge
6 when his involvement with the Department of Juvenile
7 Justice began.

8 A Yes, just one moment.

9 (Pause).

10 Trenton was -- was in family court in 2007 for two
11 charges. They have been nolle prossed, however.

12 Q And what were those charges, Mr. Crawford?

13 A Malicious injury to personal property or animals, as
14 well as a trespassing.

15 Q And did he have further involvement?

16 A Another offense of simple assault which was also
17 dismissed in March or -- I apologize, August of 2010.

18 Q And specifically, did he have a third involvement
19 with the Department of Juvenile Justice in the spring
20 of 2013?

21 A Yes. At -- for that offense, he was adjudicated on a
22 weapons -- unlawful carrying of a pistol.

23 Q And do you have pertinent facts related to that
24 unlawful carrying of a pistol case?

25 A As -- as stated in the community evaluation report,

1 page two, I know that he was in possession of a loaded
2 nine millimeter handgun with an obliterated serial number.

3 Q And for such an offense where a juvenile is caught in
4 possession with a loaded gun, can he be detained?

5 A Yes, he can.

6 Q And in this case, was Trenton Barnes detained?

7 A Yes, he was the detained on February 21st, 2013, I
8 believe.

9 Q And where would he have been housed upon detention?

10 A Alvin S. Glen.

11 Q And that would be in the juvenile side of Alvin S.
12 Glenn Detention Center?

13 A Yes.

14 Q And when he was housed there, when -- does he have
15 any particular hearing after he is detained?

16 A Yes. Family court, the procedure is that a detention
17 hearing be held within 48 hours of the detention.

18 Q And was such a detention hearing held?

19 A Yes.

20 Q And what happened at that detention hearing?

21 A He was adjudicated delinquent for the possession of a
22 pistol.

23 Q For essentially adult terms, that would be pleading
24 guilty in juvenile terms?

25 A Correct.

1 Q And after he was adjudicated delinquent of the charge
2 of unlawful carrying of a pistol where he was caught with
3 that loaded gun, what happened to Mr. Barnes? What did
4 the judge order?

5 A There was a community evaluation ordered at that
6 time.

7 Q Well, at that time, was he released to go back to his
8 home?

9 A I believe he was.

10 Q And that would have been home with his mother who has
11 previously testified in court today?

12 A Yes.

13 Q At that time, would he have been given a certain date
14 to report to the Department of Juvenile Justice for his
15 psychological evaluations?

16 A Yes.

17 Q And did he complete those evaluations?

18 A He did.

19 Q And a report was generated?

20 A Yes.

21 Q Explain to the judge, the purposes for that report,
22 is it generated for the judge?

23 A Yes.

24 Q And why is it generated for the judge?

25 A Well, it was really designed to get some background

1 information on the juvenile, the family, such as family
2 functioning, also some psychological issues such as
3 behavioral observations, mental status, juvenile's account
4 of the offense as well as cognitive and academic
5 functioning, personality, emotional functioning,
6 diagnostic impressions and also from -- from all of that
7 information, the Department compiles recommendations and
8 needs of the juvenile.

9 Q And then that would have been presented before a
10 family court judge?

11 A Yes.

12 Q And that would have been used by the family court
13 judge during his dispositional hearing?

14 A Correct.

15 (Pause).

16 MS. GARFIELD: Where is the report?

17 THE COURT: The what?

18 MS. GARFIELD: The community evaluation that

19 Mr. Schnee --

20 THE COURT: I have my --

21 BY MS. GARFIELD:

22 Q I'm going to show you what's been marked as Court's
23 Exhibit number 1. Mr. Crawford, are you familiar -- have
24 you seen a copy of that report previously?

25 A Yes. This is the exact report that is in the

1 Department's file.

2 Q And that was the report generated concerning Trenton
3 Barnes?

4 A Yes.

5 Q And do you know what sort of sentence was fashioned
6 at his dispositional hearing?

7 A I do. According to his court order which was filed
8 on April 23rd, 2013, he was -- he received 12 months of
9 probation with a number of conditions.

10 Q And can you please share with the judge what those
11 conditions of probation were?

12 THE COURT: Well, when did he receive that?

13 BY MS. GARFIELD:

14 Q I thought -- I'm sorry. When did he receive this --
15 which was the dispositional hearing held?

16 A The dispositional hearing was head April 23rd, 2013.

17 THE COURT: Okay.

18 BY MS. GARFIELD:

19 Q And is that when the sentence would have been passed
20 down?

21 A Yes.

22 Q Is that when those conditions would have been imposed
23 upon Mr. Barnes?

24 A Correct.

25 Q Can you please share with the judge what those

1 conditions were?

2 A Yes, ma'am. Obey all the rules and regulations of
3 his mother's home. His mother shall be made a party to
4 this order and shall comply with all referrals, attend
5 school with no unexcused absences, tardies, class cuts or
6 discipline problems.

7 Trenton's mother shall be active with his homework
8 and studying for tests. Trenton's mother can certify the
9 hours he is doing school work, and this can count as some
10 of his community service hours.

11 Trenton shall cooperate with individual counseling to
12 address age approach decision-making skills. Trenton
13 shall cooperate with the Bridge program which is an
14 alcohol and drug treatment outpatient treatment through
15 LRADAC, Richland area drug and alcohol commission, and
16 cooperate with all random drug screens as well as he shall
17 not consume any drugs and/or alcohol while on probation.

18 Trenton shall cooperate with a positive male mentor
19 to assist in structuring his leisure time and to serve as
20 an additional confidant. Cooperate and complete 100
21 community service hours, as well as cooperate with any and
22 all referrals deemed appropriate by the Department and
23 that the Department shall be allowed to share and receive
24 any information regarding the juvenile.

25 Q Are those the extent of the conditions?

1 A That is -- that is all.

2 Q Before this dispositional hearing, was Mr. Barnes
3 cooperative with his community evaluations?

4 A According to the activity notes in the file, he was
5 not completely compliant. One of the often stipulations
6 of a community evaluation is that random drug screens be
7 conducted throughout the evaluation which in the community
8 lasts up to approximately 60 days.

9 And according to the activity notes, he did fail a
10 drug screen during the community evaluation, and at that
11 time, he was he was ruled back into court for a
12 dispositional hearing.

13 Q And that failure on the drug screen, was that done
14 after the psychological assessment had been done at the
15 Department?

16 A Correct. Generally, if the report has already been
17 conducted and completed by the department prior -- prior
18 to the -- you know, the --

19 Q Final hearing?

20 A Final -- right, but if the report is completed before
21 the violation of the CE or community evaluation, then the
22 Department goes forward with the disposition and reflects
23 the actions and their recommendations.

24 Q And this -- the incident that we're in court for
25 today, you're aware -- you're familiar with this incident,

1 correct?

2 A Yes.

3 Q And you're familiar it occurred in July 2013?

4 A Yes.

5 Q And so the impositions or the conditions of probation
6 that had been ordered in April of 2013 were in effect when
7 this incident occurred; is that correct?

8 A Yes.

9 Q And Mr. Barnes was on probation at the time?

10 A Yes.

11 Q And --

12 A He was under intensive supervision.

13 Q Explain to the judge what intensive supervision is.

14 A Well, there are varying degrees of supervision at the
15 Department while the juvenile is in the community, and
16 intensive supervision is more of a weekly basis contact
17 and monitoring as opposed to standard probation which is
18 typically a monthly contact.

19 MS. GARFIELD: Thank you, Mr. Crawford. Please
20 answer any questions Mr. Schnee may have for you or Judge
21 Hood may have for you.

22 MR. SCHNEE: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION:

25

1 BY MR. SCHNEE:

2 Q Just a couple of real quick questions. You said
3 Trenton was charged in January 2007 with a trespass,
4 malicious injury to property?

5 A Correct.

6 Q Okay. That would have been when he was ten years
7 old?

8 A Correct.

9 Q Okay. Those were dismissed?

10 A Nolle prossed.

11 Q Which means prosecution ends?

12 A Correct.

13 Q Okay.

14 A I believe there was a competency evaluation requested
15 by his attorney at the time.

16 Q Okay. Would that be a mental health evaluation?

17 A I believe that's part of the competency, yes, sir.

18 Q Okay. And then three years later at age 13, it's a
19 simple assault?

20 A Correct.

21 Q And that was dismissed, as well?

22 A Yes, sir.

23 MR. SCHNEE: All right. That's all I have, Judge.

24 THE COURT: Anything else?

25 MS. GARFIELD: Nothing further.

1 THE COURT: Have a good day. Thank you.

2 THE WITNESS: Thank you.

3 MS. GARFIELD: Your Honor, next I'd like to introduce
4 State's Exhibit No. 4. This is a CD containing all of the
5 jail phone calls that have been made by Mr. Barnes since
6 he has been convicted. I just want to play with you two
7 excerpts from two phone calls that had been made.

8 THE COURT: Can we release the school records lawyer?

9 MR. SCHNEE: Yes.

10 THE COURT: Any objection from the State?

11 MS. GARFIELD: No, sir.

12 THE COURT: Okay. Thank you, ma'am. Have a good
13 day.

14 THE WITNESS: Thank you.

15 THE COURT: Okay. I'm sorry to interrupt you. I
16 meant to release her earlier.

17 MS. GARFIELD: That's fine. Let me -- we're going to
18 play you just two short excerpts from two phone calls.
19 One was made November 22, 2014 at the time of 19:51:02.
20 We're going to go just very briefly, Judge, midway through
21 the call to approximately around the eight minute mark
22 just so you can hear some of the things that Mr. Barnes is
23 telling the person on the other end about what he plans to
24 do at his sentencing hearing.

25 (Whereupon, a portion of a phone call was played.)

1 I'm sorry. If you could start it over since the
2 volume was not...

3 (The phone call was played again.)

4 Go back.

5 (Pause).

6 (The phone call was played.)

7 Just to summarize, Judge, he talks about how he is
8 not too much worried about his time. He is going get an
9 appeal, cuss out the solicitor. He is going to get on the
10 camera, do a shout out to Lorenzo, Trig, which would be
11 his brother, Troy Stevenson, and Antonio, which I believe
12 to be his brother.

13 The next call, Your Honor, is made on November 26th,
14 2014 approximately 21:03.

15 (The second phone call was played.)

16 Judge, just in conclusion, part of the case law is he
17 has to have an understanding and appreciation with
18 courtroom procedures and assisting with his attorney.

19 He is discussing the process, the waiver process, the
20 evaluations, how he is going to be presented in court and
21 how it's basically not necessary. He is 16 years old
22 deemed as an adult.

23 That is all regarding the jail phone calls, Your
24 Honor.

25 MS. GARFIELD: Okay. And, Your Honor, the last thing

1 that I'm going to address is we did hand you up State's
2 Exhibit number 5 which would be the housing records of the
3 defendant, Trenton Barnes, at Alvin S. Glenn Detention
4 Center. Those would be the housing records since November
5 of last year when the defendant would have been
6 transferred to the adult side of the Alvin S. Glenn
7 Detention Center.

8 We produced those records for Your Honor to reflect
9 his stay in the special housing unit which he has been in
10 approximately 80 days, over 80 days cumulatively, in the
11 last -- a little over a year while he has been in custody.

12 One last thing I just want to put on the record, Your
13 Honor, not for purposes of sentencing but purposes of the
14 record, the owners of Carolina Cafe, Lauren and Max Slater
15 had wanted to be here today. However, their daughter
16 recently had a baby, and they are in the State of Florida.

17 I just wanted to make sure that the Court is aware
18 that they wanted to be here, and they are here in spirit.
19 The victims, obviously, are present. I believe, Your
20 Honor, is aware of them just to be on the record that they
21 are present in the courtroom. That would be, again,
22 Ms. Nancy Hunnewell, who is the mother of Ms. Kelly
23 Hunnewell, Anthony Vaughn, her brother, Amber Hunnewell,
24 her daughter, Victor Hunnewell, her son, and a close
25 personal friend, Beth Cooper.

1 THE COURT: Any of them wish to address the court?

2 MS. GARFIELD: Beg the Court's indulgence.

3 (Pause.)

4 Your Honor, as far as addressing the Court, the
5 victim's family had hoped to rely on the presentation they
6 gave to you during Mr. Young's testimony. I would like to
7 make a copy of the letter a part of the Court's Exhibit.
8 We are trying to get a copy of that now, the letter that
9 was read in court.

10 THE COURT: All right. That's fine.

11 MS. GARFIELD: And, Your Honor, if you'll just hear
12 from -- Ms. Simpson has got a little bit more to add.

13 MS. SIMPSON: Your Honor, just additionally for the
14 record, if it pleases the Court, during the course of this
15 trial, it as -- we were made aware that both Trenton
16 Barnes and Lorenzo were making statements in the course of
17 being transported in and out of the courtroom about how
18 they were going to act out in the middle of the courtroom,
19 how they were going to turn it up, things of that nature.

20 I spoke with Deputy Locklear who actually heard these
21 statements from Trenton Barnes, and that occurred both, I
22 believe at pretrial he indicated, as well as during the
23 course of the trial as to what his behavior would be.

24 Additionally, Your Honor, we wanted to address why he
25 is in the pink jumpsuit here today.

1 MR. SCHNEE: Judge, I would object to that. That's
2 completely inappropriate and not necessary and has nothing
3 do with a viable sentence at issue today.

4 THE COURT: Overruled.

5 MS. SIMPSON: Thank you, Your Honor.

6 Specifically -- and we would argue that it goes to
7 his disciplinary and his behavior during the course of his
8 incarceration while awaiting sentencing, apparently -- and
9 this is according to Lieutenant Sligh who our office spoke
10 with, Mr. Barnes actually masturbated, I believe one time,
11 because he wanted to go to lock up in order to be with
12 Lorenzo Young and see Lorenzo Young.

13 When that didn't occur, he have again masturbated,
14 and at that point a hearing was actually conducted. They
15 deemed him appropriate to be placed in the jumpsuit. So
16 his goal was to get in lock up and, you know, this was the
17 behavior he chose to utilize in order to do it.

18 As far as for sentencing purposes, and one thing that
19 we would like to bring to Your Honor's attention, I guess
20 is appropriate at this time while we leave the sentencing
21 in the discretion of Your Honor because you've heard the
22 trial, the nature of what occurred that day to
23 Ms. Hunnewell, as far as the autopsy and the trajectory of
24 the bullet that actually caused her death, we do believe
25 that that supports the person in the gray hoodie who was

1 identified as Trenton Barnes.

2 That is consistent with the video where you can
3 actually see the muzzle of the gun, I guess the fired gun
4 powder as it fires, and the trajectory of the bullet from
5 her neck front to back and where it was -- the projectile
6 was ultimately located, essentially causing her to drown
7 on her own blood.

8 So, you know, under those circumstances, while yes,
9 Lorenzo Young went in fist, Mr. Barnes was directly behind
10 him with the gun out, face covered, and he is the one that
11 we believe fired the fatal shot without hesitation. So we
12 would just bring that to your attention.

13 Thank you, Your Honor.

14 THE COURT: Anything further, Mr. Schnee?

15 MR. SCHNEE: Yes, Your Honor. May it please the
16 Court. As Your Honor is aware, Aiken v. Byars is the
17 controlling case at this point.

18 The Court details what -- essentially outlines what
19 they anticipate an appropriate procedure to be. It says
20 that Your Honor is supposed to consider four factors --
21 actually five factors plus possible others.

22 First being the chronological age. As Your Honor is
23 aware, my client was 16 years old before his 7th --
24 probably about -- about six -- five or six months before
25 his 17th birthday.

1 Your Honor is to consider the family and home
2 environment that's surrounded my client throughout his
3 childhood all the way up to including when the offense
4 occurred.

5 Your Honor must also consider the circumstances of
6 the actual offense, particularly looking at his conduct,
7 how familial and peer pressure may have affected his
8 actions.

9 Your Honor, must also deal with the incompetencies
10 associated with youth, the possibility of
11 rehabilitation -- rehabilitation is a fifth factor.

12 In terms of the incompetencies associated with youth,
13 I think that's what -- I pointed out a few other cases.
14 Youth is a huge issue to consider by itself.

15 As Your Honor has some of these school records, I
16 would direct your attention to the psycho educational
17 re-evaluation report. It's one of the three packets.

18 It's listed as a confidential report which is stamped
19 received December 17th, 2010. I do want to point out that
20 my client was assessed. It appears to be in
21 December 2010.

22 They did a full scale IQ test, and their
23 determination is that his IQ is listed at a 69, which
24 based on his age and the age and everything else involving
25 his peer group, that means he exceeds at the ability for

1 logical thinking and reasoning above only two percent of
2 the children in his age group.

3 So 98 percent of the children are above him. When it
4 comes to verbal reasoning abilities, he measured at
5 5 percent of his peers, and the nonverbal reasoning, the
6 perceptual -- I'm sorry, the perceptual reasoning, they
7 listed the borderline range only above 3 percent of his
8 peers.

9 I, obviously, would ask Your Honor -- I know they
10 have been given to you already -- to look through the rest
11 of the school records, the last test scores that seem to
12 have been given to us, this is from the year -- it's -- I
13 have 2008 to 2009. That is the last one we got from
14 Richland School District 1 and for English, mathematics,
15 science, social studies, health, all those scores are
16 between Cs and Ds.

17 There is not a single score on there that would
18 indicate that he has the abilities. If you look through
19 the IEPs and what they have gone through, what their
20 recommendations were in terms of special education
21 classes, you already heard from Ms. Howks from Alvin S.
22 Glenn who knew he had learning disabilities and had
23 problems.

24 There is a decently long family history involved with
25 the DJJ assessment. I think when you combine all of that

1 along with the facts -- I will address the facts briefly
2 since Ms. Simpson did -- if you actually look at the
3 person in the gray sweatshirt, and that's the State's
4 contention is that Trenton Barnes is that person. That
5 person was not firing with an intent to kill. That person
6 was terrified based on the actions of Ms. Hunnewell and
7 was not looking where he was shooting and was running away
8 at the time.

9 Now, I'm not blaming Ms. Hunnewell for what happened.
10 Don't take that the wrong way, but the person that was in
11 there was not acting with a depraved heart or indifference
12 to human life.

13 The person in that gray sweatshirt was not smiling
14 trying to execute Ms. Hunnewell. Your Honor, is very
15 familiar with the video. I know you've seen it probably a
16 dozen times at this point.

17 When it comes to actual sentencing from my client,
18 what I'm asking Your Honor to do is consider all of the
19 factors that we discussed, and I'm asking Your Honor to
20 sentence him to 32 years.

21 He has to serve day for day for the murder charge
22 which means if he even ever gets old enough to get out at
23 that point, he will be in prison for twice as long as he's
24 ever been alive up to the time the crime occurred.

25 I don't know how anyone could ever say that more time

1 would be appropriate for someone of this age. The
2 possibility of rehabilitation. He hasn't finished school.
3 He hasn't developed his life. He has goals that you can
4 see on various assessments. He had plans. He had ideas.
5 He have had desires of what to do.

6 This is -- this is the age where it's most important
7 that he actually has the ability to change his behavior,
8 and that's why the courts have been ruling for the past
9 two years that children are indifferent. That's what I'm
10 asking Your Honor to do, consider him to be different.

11 I know the facts of the case, for Your Honor to say a
12 life sentence would be the easiest thing in the world, and
13 it might even be upheld. I don't believe that's
14 appropriate for Trenton Barnes. I don't believe it's
15 appropriate for any 16 year old.

16 So that's what I'm asking for, Your Honor, is a
17 sentence of 32 years day for day since the day he was
18 arrested. The only other aspect, for the record, on the
19 kidnapping charge, I'd ask Your Honor to find that there
20 is no sex offender registry requirement, put that on the
21 sentencing sheet.

22 THE COURT: Anything further from the State?

23 MS. CAMPBELL: Your Honor, I would just address one
24 thing. We brought up the school records. We know from
25 his mother's own admissions that he was suspended on

1 multiple occasions for acting out in school.

2 I note that he was expelled from school on
3 November 29th, 1996. According to one of the forms that
4 we were provided, I would submit that none of his
5 disciplinary records that were provided by the school and
6 his reason for expulsion was not included, as well.

7 The only other thing I would note is there is an
8 approximately two-year difference between the ages of
9 Lorenzo Young and this defendant.

10 THE COURT: All right. The sentence of this Court on
11 the kidnapping -- is there anything you want to tell me
12 first, Mr. Barnes? You have the right to speak to me if
13 you want to. You certainly do not have to. It's
14 completely and totally your decision.

15 If you'd like to address me, you may. If not, you do
16 not have to. It's your choice, okay.

17 MR. SCHNEE: He is not going to be addressing the
18 Court.

19 THE COURT: Okay. That's fine, and I understand
20 that.

21 Let's start with the kidnapping for the record.
22 Pursuant to 16-3-910, the sentencing on the kidnapping
23 case is vacated because he is going to be sentenced on a
24 murder case out of the same exact set of facts, and I will
25 find for the record that there is no sex offender registry

1 required. So the kidnapping conviction stands. However,
2 the sentence pursuant to South Carolina code section
3 16-3-910 is vacated. I've explained that before. I don't
4 think anybody disagrees that that's what has to be done.

5 On the attempted armed robbery, the sentence of this
6 Court is that you be committed to the State Department of
7 Corrections for 20 years. You are to be given credit for
8 time served.

9 On the burglary in the second degree violent, the
10 sentence of this Court is that you be committed to the
11 State Department of Corrections for 15 years. You are to
12 be given credit for time served.

13 Now -- all right. So we have this new case out
14 called Aiken vs. Byars. It's based upon Miller vs.
15 Alabama which is a United States Supreme Court case.

16 The case goes through essentially five different
17 factors that every court must consider before sentencing a
18 juvenile. So at the time of this offense, it's undisputed
19 that Mr. Barnes was a juvenile. He was 16 years old.

20 Now, this case is properly before this court because
21 of the seriousness of the offense with which he was
22 charged. He is allowed to be tried in adult court even
23 though at the time of the offense, he was a juvenile.

24 However, the South Carolina Supreme Court has made it
25 very clear -- and they actually made it very clear during

1 the trial -- that I am required to take into account how
2 children are different and how those differences --
3 counsel against irrevocably sentencing them to a lifetime
4 in prison.

5 So the United States Supreme Court and the South
6 Carolina Supreme Court have gone through the factors which
7 every court must consider now when sentencing a juvenile
8 to potentially a life without parole situation whether
9 it's mandatory or non-mandatory, it must go through.

10 And in reading through these cases, and I spent
11 significant time reading both the Supreme Court case, the
12 United States Supreme Court case, and the South Carolina
13 Supreme Court case, and one of the things that stuck out
14 to me is a quote from one of them that appropriate
15 occurrences for sentencing juveniles to the harshest
16 possible penalty will be uncommon.

17 I think what the courts are trying to say in that
18 scenario is that it will be a very unique situation where
19 a juvenile qualifies for a sentence of life without
20 parole.

21 The courts have also gone on to say that the youth
22 has significant constitutional significance meaning that
23 something -- beyond just me knowing that he was 16 at the
24 time of the offense, I have to consider it more than that.

25 That's really where they must go into the factors. I

1 have to fully explore the impact of the age of the
2 defendant on the sentence that I give in this case and
3 carefully and throughly consider the factors of his youth
4 in looking at him.

5 So to go through these factors -- and the only way I
6 know how to is one at a time. I'm going to start with the
7 chronological age of the offender. At the time of the
8 offense, he was 16 years old including -- and I have to
9 consider the hallmark features of youth. I think that
10 would be youth in general, including immaturity and a
11 failure to appreciate the risks and the consequences.

12 I also have to go into the family and home
13 environment that surrounded this offender. Now, I will
14 say that Ms. Barnes -- and Ms. Barnes has given
15 information to the DJJ officials in his original
16 evaluation on his juvenile charge.

17 Mr. Barnes -- although he grew up for a period of
18 time without a significant father figure in his life, Ms.
19 Barnes was a mother that was present in his life by all
20 accounts.

21 This is somebody who grew up in a home. I'm familiar
22 with the area of where the home is and where they lived,
23 and it's certainly not some of the areas in our community
24 where I believe that some children have no choice but bad
25 situations where they grow up.

1 I mean, she provided a stable home for him. He was
2 in good schools. She was in Richland School District 1.
3 His mother was present. She obviously loves him. She
4 obviously cares about him. She has obviously provided for
5 him.

6 She was present throughout this entire trial. She
7 was with him when he gave his confession to the police,
8 and she was present during this trial and is present here
9 today and testified as to their home effect and their home
10 life at that point in time.

11 So his family and home environment that surrounded
12 the offender, I think, is probably better than the
13 majority of criminal defendants that I sentence in a
14 normal week or in a normal month.

15 I have many, many young offenders who stand before me
16 almost every time I hold criminal court that have little
17 to no parental support in the courtroom. Their parents
18 aren't there, and they are nowhere to be found.

19 Mr. Barnes is certainly in a better situation than
20 that with a mother that obviously loves him and cares
21 about him and has supported him even through his prior
22 criminal incident and through his issues at schools and
23 continues to support him now.

24 The circumstances of the homicide offense I find to
25 be a very important factor in this case. I believe, based

1 upon the evidence that was presented and based upon the
2 jury verdict that was rendered, that Mr. Barnes was
3 directly responsible for this incident. I believe that he
4 was one of the individuals inside the bakery that evening
5 in the early morning hours.

6 According to the evidence presented and the verdict
7 of the jury, he clearly fired the shots and more than
8 likely fired the fatal blow upon Ms. Hunnewell.

9 So I do not find him in a situation where he is
10 driving the getaway car or moving a weapon or doing
11 something else. He directly went into the building. He
12 directly participated in the crime. He directly attacked
13 Ms. Hunnewell, and he directly shot Ms. Hunnewell.

14 He is one of the two defendants based upon the
15 evidence that's been presented so far who is directly
16 responsible for this case, so I have to consider the
17 extent of his participation in the conduct.

18 I think those kind of factors are going to what was
19 their involvement in the crime, and that's why I put on
20 the record and how familial and peer pressures may have
21 affected him.

22 I have been presented with no information at all as
23 to either one of those factors that he was under any type
24 of undue influence or pressure from anybody else.

25 Now, the incompetencies that are associated with

1 youth -- and the first one is, as an example according to
2 the Court, is an inability to deal with police officers or
3 prosecutors. I find that he was able to deal with the
4 police officers in this case.

5 He asked for his mother to be present with him, and
6 all of us that handle criminal cases that that is a very
7 common thing for someone in that age range to do.

8 Those cases go back a long time in this county of 15,
9 16, 17 year olds asking for their parents to be present
10 during police questioning. The Columbia Police Department
11 agreed to do that. They agreed to let his mother be
12 present. He goes on through a very lengthy conversation
13 with the Columbia Police Department about the case.

14 So he did have an ability to deal with police
15 officers, and his ability to assist his own attorneys. I
16 find that he has been aware, awake, present, knowing
17 what's going on, communicating as he needs to assist in
18 his own defense.

19 At one point pretrial, he made the decision on his
20 own to ignore an order of two different circuit court
21 judges. So he obviously understood and was able to assist
22 his own attorneys. The other thing I take into
23 consideration in number four is his prior participation in
24 the criminal justice system.

25 I mean, this is a young man who at the time of this

1 incident was on intensive probation through the Department
2 of Juvenile Justice, had appeared before a Richland County
3 family court judge at least once, maybe twice, and had
4 been adjudicated guilty of the offense.

5 And that offense -- if he had been an adult, that
6 offense would have been a felony offense. Possession of a
7 pistol with obliterated serial number is a felony offense,
8 have been through a community evaluation, had sat down
9 with DJJ officials, had no difficulty in communicating
10 with them.

11 In fact, in the DJJ report, when he explained the
12 incident surrounding the gun, he said, "I saw the gun. I
13 saw an opportunity to make money and sell the gun," and
14 goes on to say that the examiner essentially "You would
15 have done the same thing. If you saw a gun, you would
16 have got it, taken it and sold it, too."

17 So this is somebody who is very capable of
18 understanding that he was going on, communicating with
19 what's going on, assisting his own attorneys, dealing with
20 the police.

21 There is nothing in any of these reports that says he
22 doesn't understand what's going on or know what's going
23 on, or he's lost or he is incapable of communicating or
24 participating in this.

25 I think the one thing that stands out to me more than

1 anything is that this was a 16 year old who had began to
2 touch the criminal justice system, came in front of a
3 family court judge on the recommendation of DSS -- or DJJ
4 or others, was placed on intensive supervision, and within
5 three months of being placed on intensive supervision, or
6 thereabout three months, is out committing a serious
7 violent felony.

8 Even if there were no homicides in this case, there
9 was a violent felony robbery that was done in the middle
10 of the night, was perpetrated on a single female in a
11 building that probably didn't even have any money in it to
12 steal.

13 That was completely and totally senseless, not that
14 any crime ever makes any sense. I'm not saying that, but
15 this particular act was truly senseless, and the death of
16 Ms. Hunnewell did not have to occur.

17 Further, during the commission of the crimes, the
18 defendants covered their face, at least may have covered
19 their hands, may have not, and at least two firearms were
20 present during the commission of that crime.

21 So there is no doubt that anybody participating in
22 that crime knew or should have known or should have been
23 completely aware of what was going on, the gravity of this
24 situation, the potential dangers that could occur and were
25 actively participating in the crime.

1 Further, I have reviewed his jail records even while
2 in custody at the Alvin S. Glenn Detention Center. He
3 continues to misbehave, to not follow the rules, to not
4 follow the process. That is required while in custody,
5 and those are all the different factors that I come into.

6 The last thing that I have to consider is the
7 possibility of rehabilitation, and I am considering that
8 in the fact that he was given an opportunity to
9 rehabilitate after illegally possessing a firearm in our
10 community and instead of participating in the program and
11 doing the things that he needed to do, he chose to go out
12 and commit a violent serious felony within our community.
13 So that is my consideration in the possibility of
14 rehabilitation.

15 All right. I don't know if I'm supposed to put all
16 of that on the record or not because frankly none of us in
17 the room have ever done this before.

18 The case does not outline a specific inquiry that I'm
19 supposed go through or any -- it says specifically that
20 the US Supreme Court doesn't lay out specific agenda that
21 is supposed to occur; that it will be left to the sound
22 discretion of the trial court judges.

23 I have reviewed his school records. I have reviewed
24 the DJJ report. I have reviewed the jail reports from the
25 jail. I have heard his mother. I have heard one of his

1 teachers. I have reviewed every report and every record
2 that has been given to me. I've also listened to the
3 testimony of each and every witness that has been present,
4 and I am considering all that and coming up with the
5 appropriate sentence in this case.

6 Okay. All right. Anything else from the State?

7 MS. GARFIELD: No, sir.

8 THE COURT: Anything else from you, Mr. Schnee?

9 MR. SCHNEE: No, Your Honor.

10 THE COURT: All right. Mr. Barnes, the sentence of
11 the Court on the murder is that you be committed to the
12 State Department of Corrections for a period of 50 years.
13 You are to be given credit for time served. Good luck to
14 you.

15 MR. SCHNEE: Thank you, Your Honor.

16 THE COURT: All right.

17 MS. CAMPBELL: Thank you, Your Honor.

18 MS. GARFIELD: Thank you.

19 COURT REPORTER: I need to make sure I have the
20 exhibits back, as well.

21 THE COURT: This is one more Court's Exhibit that
22 needs to be sealed.

23 COURT REPORTER: Okay.

24 (WHEREUPON, Court's Exhibit No. 2 was marked for
25 identification only.)

1 MS. GARFIELD: Your Honor, if I can just --

2 THE COURT: Yes, ma'am.

3 MS. GARFIELD: -- get the letter.

4 THE COURT: Yes, ma'am. That's fine.

5 (WHEREUPON, Court's Exhibit No. 3 was marked for
6 identification only.)

7 MS. CAMPBELL: Your Honor, we're going to turn these
8 records over to the Clerk's Office to destroy.

9 (Ms. Campbell hands documents to the courtroom
10 clerk.)

11 THE COURT: Wonderful.

12 MR. SCHNEE: My copy is going to go to the Clerk of
13 Court, the Clerk of Court.

14 (Mr. Schnee left the courtroom.)

15 (Whereupon, the proceedings were concluded.)
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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 12th day of
December, 2014.

September 8, 2015

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)

County of Richland County)

IN THE COURT OF COMMON PLEAS

Trenton Barnes #362454)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
 2018 JUN 12 PM 4:35
 JENNIFER M. MCGRATH
 C.C.P. & G.S.
 RICHLAND COUNTY

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Department of Corrections.
2. Name and location of Court which imposed sentence Richland County, →
~~_____~~
3. Name(s) of co-defendant(s) (if any) Troy Stevenson, Lorenzo Young.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 (a) 16-03-0010, 16-11-0312(B), 16-03-0910, 16-11-0330(B).

1928

(b)

(c)

5. The date upon which sentence was imposed and the terms of the sentence:

(a)

Dec, 12, 2014.

(b)

50 Years.

(c)

6. Check whether a finding of guilty was made:

(a)

after a plea of guilty

(b)

after a plea of not guilty

(c)

after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes.

8. If you answered Ayes@ to (7), list:

(a)

the name of each Court to which you appealed:

i.

Richland County,

ii.

South Carolina Court of appeals.

iii.

(b)

the result in each such Court to which you appealed:

i.

Denied appeal

ii.

iii.

(c)

the date of each such result:

i.

I don't have the right date due to lost of

ii.

Paper work.

iii.

(d)

if known, citations of any written opinion or orders entered pursuant to such results:

i.

ii.

iii.

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a)

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: By Denying the motions for Severance

- (a) The jury was not able to make a reliable judgment of my guilt.
 (b) Denied my right to confront witness on statements that was not even
 (c) to be proven true. Allow the self-inculpatory statements by you to come

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) The Court abused its discretion in denying Severance given the
 (b) Circumstances of Rolanda Coleman's testimony. The
 (c) need for Severance arises in the added fact that Ms. Coleman shares
Criminal Charges for burglary with Defendant Young in a different matter

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:

- i. N/A
 ii. _____
 iii. _____
 iv. _____

- (b) the name and location of the Court in which each was filed:

- i. N/A
 ii. _____
 iii. _____

iv. _____

(c) the disposition thereof: _____

i. N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition: _____

i. N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition: _____

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. Motions for Severance

ii. Improper Impeachment of Latoya Barnes

iii. Location of hearsay within hearsay →

(b) the proceedings in which each ground was raised:

i. Trial

ii. Appeal

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented: N/A

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Trial lawyer: Mark Schnee - Don't have his address anymore
 ii. Appeal lawyer: Joseph Mays, 140 East Main Street Post office Box 489 Lexington, S.C. 29051
 iii. And someone at the South Carolina Commission on Indigent Defense handle my case after Joseph Mays Esquire →

(b) the proceedings at which each such attorney represented you:

- i. Trial
 ii. Appeal
 iii. _____

1932

19. State clearly the relief you seek in filing this application:

Reversal and Remand for new trial

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I, Trenton M. Barnes, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Trenton Barnes

SWORN to and subscribed before me this 14th
day of MAY, 2018.

Sylvia [Signature] (L.S.)
Notary Public

My Commission Expires: MARCH 8, 2026

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Trenton M. Barnes, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Trenton Barnes

Applicant

SWORN or affirmed to and subscribed before me this

14th day of MAY 2018

Sylvia [Signature]
Notary Public

My Commission Expires: MARCH 8, 2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Trenton Barnes, #362454	)	Case No.: 2018-CP-40-3077
	)	
Applicant,	)	
	)	RETURN AND MOTION TO DISMISS
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

The State (Respondent), making its Return to the application for Post-Conviction Relief filed on June 12, 2018, would respectfully show this Court:

I.Procedural History

Trenton Barnes (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. In February 2014, the Richland County Grand Jury indicted Applicant for second-degree burglary (2014-GS-40-0755), attempted armed robbery (2014-GS-40-0756), criminal conspiracy (2014-GS-40-0757), kidnapping (2014-GS-40-0754), and murder (2014-GS-40-0752). Mark Schnee, Esquire, represented Applicant. Assistant Solicitors Dolly Garfield, Kathryn Luck Campbell, and Nicole Simpson, Esquires, prosecuted the case for the State. On November 10-19, 2014, Applicant and his codefendant, Lorenzo Young, proceeded to trial before the Honorable Robert E. Hood. The jury found Applicant guilty as indicted. On December 12, 2014, Judge Hood sentenced Applicant to imprisonment for concurrent terms of fifteen years for second-degree burglary, twenty years for attempted armed robbery, and fifty years for murder.¹ Applicant's sentence for kidnapping was

¹ The State did not proceed on the criminal conspiracy charge at trial.

vacated pursuant to S.C. Code § 16-3-910.

Applicant filed a timely notice of appeal. W. Joseph Maye, Esquire, of the South Carolina Commission on Indigent Defense -Appellate Defense Division perfected the appeal. Assistant Attorney General Susannah R. Cole of the South Carolina Office of the Attorney General represented the State. On June 7, 2016, Applicant filed a Final Brief of Appellant in the South Carolina Court of Appeals and raised the following issues:

I. The Trial Court abused its discretion in denying Defendant Barnes' motion for severance.

II. Codefendant Young's jailhouse confessions to Wright and Schaefer, which inculpated Appellant Barnes, were improperly admitted under Rule 804(b)(3).

III. The Bruton rule was triggered by limiting the cross-examination of Rolanda Coleman, and by inculpating Appellant through nontestimonial confessions of an unavailable codefendant absent proper grounds for hearsay exceptions.

IV. The Trial Court allowed the solicitor to improperly impeach Latoya Barnes by admitting extrinsic evidence of a prior inconsistent statement two days after the witness was excused and could not provide an explanation or context to the newly admitted evidence.

The State filed its Final Brief of Respondent on May 24, 2016. Following oral arguments, the South Carolina Court of Appeals issued an opinion on July 12, 2017, affirming the convictions. The remittitur was returned to the circuit court on September 5, 2017.

II. Summary of Facts Adduced at Trial

In the early morning hours of July 1, 2013, Theresa Baskin heard the screams of terror from thirty-three year old Kelly Hunnewell, who worked the early morning shift in the off-site bakery for the Carolina Café. (R. p. 233, line 13 – p. 234, line 20.) Baskin, who lived across the street from the bakery on Tommy Circle, heard the dying words of the mother of four after she was shot by Lorenzo Young (Young) and his co-defendant Trenton Barnes (Applicant) in a robbery (R. p. 232, lines 21-23; p. 234, lines 15-20.)

Hunnewell arrived every morning at 3:00 am to make the bagels and sandwiches for the popular downtown deli. (R. p. 244, line 2-p. 245, line 6.) She would typically work until 11:00 am so she could go home and care for her four young children. (R. p. 245, lines 1-18.) On the morning of the murder, Applicant and Young intended to rob the nearby Original Ale House. (R. p. 229, lines 2-16.) When they realized the bar was closed, Applicant and Young chose the next most convenient victim. Hunnewell was in the bakery next door with the lights on and the door propped open. (R. p. 234, lines 3-6.) The men approached Hunnewell, who was working at the stove and had her back to the door. (R. p. 828, line 20 – p. 829, line 2.) The suspect in the red hoodie pointed his gun at her head. (R. p. 829, line 19 – p. 830, line 19.) After a struggle in which Hunnewell tried to defend herself, the men shot her multiple times. (R. p. 830, line 17 – p. 831, line 24.) Kelly Hunnewell collapsed on floor with a bullet lodged in her back, drowning in her own blood. (R. p. 597, line 16; p. 604, lines 2-21.)

Hunnewell's neighbor heard her screams and called the police. (R. p. 235, lines 1-8.) The police arrived within minutes and found Hunnewell dead on the floor. (R. p. 235, lines 9-10; p. 223, line 14- p. 225, line 11; p. 236, lines 15-20.) The police processed the scene, collecting four .45 Glock Automatic Pistol (G.A.P.) shell casings and two .40 caliber Smith and Wesson casings, projectiles, and video surveillance footage. (R. p. 227, line 5- p. 228, line 9; p. 237, lines 3-11; p. 238, lines 10-14; p. 240, lines 20-25; p. 241; line 16-p. 242, line 11; p. 797, line 22 –p. 799, line 10.) The bakery's security cameras recorded the murder from several different views. (R. p. 246, line 6 – p. 247, line 4.) In the video, Hunnewell is working at the stove when two suspects, one in a red hoodie and one in a grey hoodie, enter the bakery. (R. p. 281, line 9 – p. 282, line 3.) The suspects point guns at her and shoot her. A third suspect comes to the door as the shooting begins, and the three suspects flee. (R. p. 282, lines 20-24.)

Investigators canvased the area around the bakery to look for witnesses. (R. p. 257, line 11 – p. 258, line 24.) The police released the video to the media in an effort to gain more information about the perpetrators. (R. p. 649, line 21 – p. 650, line 9.) Police received tips identifying Applicant, his brother Troy Stevenson, and Lorenzo Young as the men who committed the crime. (R. p. 248, line 14 – p. 249, line 14; p. 259, line 4 – p. 261, line 4; p. 652, line 21 – p. 653, line 21; p. 657, lines 6-18.) All three suspects lived near the bakery. (R. p. 394, lines 12-17; p. 642, lines 15-24; p. 698, line 11 – p. 699, line 20.)

Donald Moore, a friend of Applicant and Troy Stevenson, testified for the State. (R. p. 374, line 1 – p. 375, line 22.) Though he recanted his story later, he testified he contacted the police after he saw the story about the murder on television. (R. p. 376, line 10 – p. 377, line 15.) Moore told police Young and Stevenson talked about robbing the Ale House before the murder. (R. p. 378, lines 9-15.) Moore also told police he saw Young showing off a Glock gun prior to the murder, and he told Young to put the gun away because of the nearby children. (R. p. 379, line 17 – p. 381, line 17.) Moore also identified Young in the video as the men wearing the red hoodie. (R. p. 382, line 19 – p. 383, line 23.)

Based upon Moore's information, the police obtained and executed a search warrant for Young and his girlfriend Rolanda Coleman's home, in which they found ammunition of the same caliber as those found near the body of Hunnewell. The search produced live round bullets from a .40 caliber Smith and Wesson, a 9 mm Luger, and a .45 G.A.P. (R. pp. 472-475.) Crime scene analysts also found a Glock magazine in Coleman's purse and several pairs of black gloves. (R. pp. 470-471.) The police also confiscated a pair of black Nike shoes and a scan disc, camcorder, laptop, and two cell phones. (R. p. 482-485.) Testing later revealed gunshot residue on the black gloves. (R. p. 486, lines 7-14.)

Young's girlfriend, Rolanda Coleman, told police he spent the evening before the murder with Troy Stevenson, and he called his mother the morning after to pick him up from Stevenson's home. (R. p. 290, line 18 – p. 293, line 25.) Young returned home the morning of the murder with his firearm, wrapped it in his shirt, and hid it in a crib. (R. p. 284, lines 17-24; p. 294, line 21 – p. 295, line 24.) Coleman overheard a conversation between Young and his mother shortly after seeing a news video about the murder in which his mother told him to get rid of the gun. (R. p. 301, lines 1-9.) Coleman also recognized the man wearing the grey hoodie in the video as Applicant Trenton Barnes. (R. p. 301, line 10 – p. 302, line 15.)

Applicant's mother testified her sons were with Young at her house the night of the murder. (R. p. 386, lines 1-24.) She testified Young and Applicant left the house around midnight. (R. p. 387, lines 5-14.) Around three in the morning, she received a phone call from Young, asking to talk to another man staying at the house. (R. p. 388, line 14 – p. 389, line 8.) Cell phone records confirmed these calls. (R. p. 605, line 8 – p. 606, line 3.) The second time Young called, Ms. Barnes told him to send Applicant home. (R. p. 389, line 21 – p. 390, line 7.) After a few minutes, she sent her other son, Troy Stevenson, to locate the men to bring his brother home. (R. p. 391, lines 2-20.) Ms. Barnes testified Young was wearing a red hoodie when he left the house, and Applicant was wearing a grey hoodie, which she could identify from a tear in the fabric. (R. p. 393, lines 3-19.) When Stevenson left to look for his brother, he was wearing a dark jacket. (R. p. 393, line 23 – p. 394, line 8.)

After Applicant was arrested, he wrote a letter to his mother implicating himself and Young in the crime:

Your Son

Trenton. B

Wassup Ma they got me in lock up for 25 days for some crazy stuff they

was go let me stay in the dorm but I came down here so I can talk to troy. I'm down here with troy and renzo. I talk to troy about the case. I'm ready to talk back with them people and tell them the truth ma tell that troy ain't had nothing to with it I should of told them that troy really came down there to get me. Ma what really happen was I was on the phone with Ty indika lul sis and renzo was on the phone with his baby mama we was the only two up and he got off the phone was like let me talk tew you when you done. Then he was like I got this lul lick and then I was like I don't know bruh I'm koolin talking to my lady and he was like money come first. I ain't tell him yea or no yet. So I woke troy up and ask him what should I do and he said hell no don't go with dat man and he whent back to sleep. I whent back in my room renzo was back on the phone then Ty had text me renzo got off the phone and was like you ready and I told him I'm koolin then he started talking bout how much money was go be there then he said let's go scoope it out we ain't got to do nothing then we went outside and I said bruh I ain't tryna go to jail and he said on my baby you ain't going to jail lul bruh he ask me do I have a gun and I said no but I know way one at he said way at and I said **I know way Shorty be putting his gun at out side** so I took him to it and he pulled out his gun and said which one you won't and **I said the small one** then we started back walking then I said what type of lick is it because I don't be on that other stuff I just take moped' s and dirt bikes and he was like just a lul lick so we was at the bar down the street from the house it started raining hard and I was like I'm bout to go home and he said hold on lul bruh then he was like damm they closed so I said come on let's go back to my house then he said you see that lady over there. I said I don't see nobody he was like come on then we was by the door and **I seen a lady walk pass** and I looked back and seen troy waveing his hand telling me to come back then renzo walk into the place and I went behind him then he grabed her and put the gun to her head and told

me to get in front of her and **she swang at me and I closed my and jump I got scared ma I didn't want to do it.** I'm sorry. I said it was troy because I was scared to go to jail with renzo by myself im sorry ma ma. I just wanna come home. I'm be good mama I promise. I miss you mama. **I should never listen to renzo.** I just wanna come home and be with you people keep telling me **im going to prison for a long time** love you mama

I just wanna come home real soon not no grown man.

Love You MAMA

Your BaBy Boy

Trenton

(R. p. v, State's Exhibit 404 (errors in original); R. p. 400, lines 1-22.) In his letter to his mother, Applicant admits telling Young where he can find a gun ("I know way Shorty be putting his gun out side"); he admits choosing which gun he wants to use in the robbery ("the small one"); he admits he knows the victim is inside the bakery ("I seen a lady walk pass"); and he admits shooting the victim after she resisted him ("she swang at me and I closed my and jump I got scared ma I didn't want to do it"). Applicant also admits he was complicit in Young's actions ("I should never listen to renzo"), and he recognized the likely consequences of his actions ("im going to prison for a long time").

Mary Brown, a neighbor and acquaintance of Applicant, Young, and Stevenson, also saw the men wearing the red and grey hoodie the night of the robbery. (R. p. 542-545.) Brown saw the video released to the news media and recognized Applicant and his codefendant, but did not know their names. (R. p. 547, line 6 – p. 550, line 18.)

Following Young's arrest, he approached inmate Dominique Wright to assist him in the defense of his case. (R. p. 453, line 17 –p. 454, line 10.) Wright was helping another inmate with some legal work and Young overheard the men discussing the "stand your ground law." (R. p. 456, lines 7-10.) Young told Wright he and two other men intended to rob a club, but because the club

was closed, they went next door to a bakery. (R. p. 455, lines 5-13.) Young told Wright when the woman in the bakery resisted, he shot her twice. (R. p. 455, lines 10-13.) Wright testified Young sought his advice to discuss how he could use the victim's efforts to defend herself as an advantage to reducing his charge. (R. p. 456, lines 13-15.) Wright documented what Young told him and sent the information to an investigator, who passed it on to the solicitor's office. (R. p. 457, line 19 – p. 458, line 5.)

Another inmate, Michael Peterson, testified Young discussed the murder with him while they were in the law library together. (R. p. 488, line 11 – p. 489, line 8.) Young heard Peterson was familiar with the law and asked for help. (R. p. 489, lines 7-10.) Young explained to Peterson he “went on this lick.” (R. p. 489, lines 18-19.) When Peterson asked Young if he meant the bakery job on Beltline, Young confirmed, saying, “yeah, it was all over the news.” (R. p. 489, lines 18-20.) Young told Peterson he shot the victim when she acted like she was about to use her phone to call the police. (R. p. 490, lines 1-4.) Young told Peterson, “Yeah, my homies must have seen the blood and started running, so I turned around and started running, too.” (R. p. 490, lines 8-10.) Young told Peterson he was not concerned because the police only found shell casings and identified him from the clothing he wore that night. (R. p. 491, line 7 – p. 492, line 1.) Peterson later overheard Troy Stevenson and Young discussing the robbery in the prison showers. (R. p. 498, lines 1-11.) Peterson said Young was nervous and reassured Stevenson the police only had shell casings. (R. p. 498, lines 1-25.)

Michael Schaefer, another inmate at Alvin Glenn Detention Center, testified he had several opportunities to speak with Young while they were housed together in the same dorm. (R. p. 552, line 13 – p. 553, line 19.) Schaefer and Young discussed their respective cases, and Schaefer testified to the following:

Okay, he said him and two other people by the name of Trap [Stevenson] and Trigg [Barnes] went out to rob a nightclub in the area, but it was closed. They saw the bakery was opened. They took that as an opportunity to go in.

The woman was in there. He said she went for a knife she was struggling so he shot her twice. He fled the scene. He said he was wearing a red hoodie and jeans.

(R. p. 554, lines 10-17; 555, lines 7-15.) Schaefer told his lawyer about the exchange, and his lawyer advised him to turn the information over to the solicitor's office. (R. p. 557, lines 11-24.) Schaefer also testified he spoke to Young around the holidays, expressing remorse for his crime of robbing a bank. Young responded, "Well, I shouldn't have shot that bitch." (R. p. 558, lines 1-7.)

Samples taken from the crime scene and the victim's body did not produce a large enough DNA sample suitable for comparison to a full DNA profile. (R. pp. 568 – 595.) However, a small portion of DNA found on the front of the large metal spoon Hunnewell used to defend herself could not exclude the DNA of Young and Barnes. (R. pp. 243, lines 12-17; p. 582, lines 8-18.)

III. Allegations Raised and Relief Sought

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "By denying the motions for severance, the jury was not able to make a reliable judgment of my guilt."
2. "Denied my right to confront witness on statements that was not even to be proven true. Allow the self-inculpatory statements by Young to come [in]. Location of hearsay within hearsay. Improper impeachment of Latoya Barnes"
3. "The court abused its discretion in denying severance given the circumstances of Rolanda Coleman's testimony. The need for severance arises in the added fact that Ms. Coleman shares criminal charges for burglary with Defendant young in a different matter."

As requested relief, Applicant is seeking for "reversal and remand for new trial."

Attached to this Return and incorporated by reference are the records of the Richland County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV. Failure to State a Claim

The application should be dismissed for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act, S.C. Code Ann. §§ 17-27-10 to -160. An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;
or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... **Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.**

S.C. Code Ann. § 17-27-20 (emphasis added). Further, section 17-27-20(B) expressly states PCR "is not a substitute for. . . direct review of the sentence or conviction." Applicant's allegations raise only direct appeal issues which are procedurally barred in PCR, and the Court should summarily dismiss these allegations.

PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). "In a direct appeal, the focus generally is upon the propriety of rulings made by the circuit court in response

to a party's motions or objections. In PCR, the focus usually is upon alleged errors made by trial or plea counsel. Therefore, when asserting the erroneous admission of evidence, a violation of a constitutional right, or other errors in a proceeding, the applicant generally must frame the issue as one of ineffective assistance of counsel." Id. at 363-64, 527 S.E.2d at 747. A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised all of these issues on appeal, and his failure to do so has waived these allegations as grounds for relief.

For these reasons and pursuant to Rule 12(b)(6), SCRCP, the Court should dismiss Applicant's allegations for failing to state a cognizable claim for which relief can be granted under the Uniform Post-Conviction Relief Act.

V. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

VI. Response to Any and All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VII. Conclusion

WHEREFORE, Respondent requests Applicant's application be dismissed for failure to state a cognizable claim.

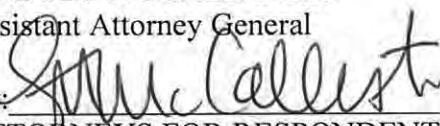
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LINDSEY MCCALLISTER
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

9/10, 2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

TRENTON BARNES, #362454

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

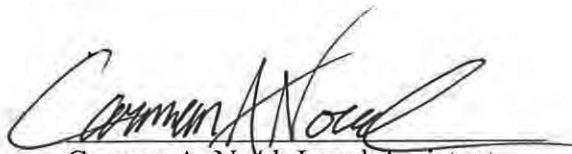
2018-CP-40-3077

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan D Waller
 Waller Law Group, LLC
 1116 Blanding Street
 Suite 2B
 Columbia, SC 29201

DATED this the 10th day of September, 2018.



Carmen A. Nord, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
TRENTON BARNES,	)	CASE NO.: 2018-CP-40-3077
	)	
Applicant,	)	
	)	
v.	)	AMENDMENT TO APPLICATION
	)	FOR POST CONVICTION RELIEF
STATE OF SOUTH CAROLINA,	)	AND REPLY TO MOTION TO
	)	DISMISS
	)	
Respondent.	)	
	)	

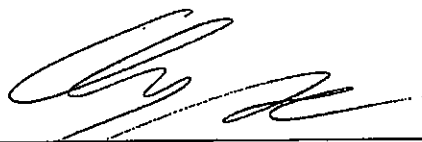
Applicant, by and through his undersigned attorney, hereby amends his application for Post-Conviction Relief dated May 14, 2018. This amended complaint adopts and includes all grounds in the original application. Applicant seeks to have his conviction and sentence be vacated. Applicant, further alleges as additional grounds regarding a claim of ineffective assistance of counsel as follows:

1. Applicant's trial counsel, Mark Schnee, failed to discuss a defense strategy with applicant.
2. Applicant's trial counsel, Mark Schnee, failed to review evidence with Applicant or provide a copy of the evidence to applicant.
3. Applicant's trial counsel, Mark Schnee, failed to properly investigate the case.
4. Applicant's trial counsel, Mark Schnee, failed to object to the leading question of Ms. Baskin regarding screams "did they seem scary" (p. 306, line 18).
5. Applicant's trial counsel, Mark Schnee, failed to hearsay statement stating "they said there was a victim inside" (p312, line 9-10).

6. Applicant's trial counsel, Mark Schnee, failed to object to the leading question regarding information regarding make and model of a firearm, type of ammunition (p.370, line19-20).
7. Applicant's trial counsel, Mark Schnee, failed to object to DNA swabs (p376, line 25).
8. Applicant's trial counsel, Mark Schnee, failed to object to evidence regarding a spoon containing DNA evidence (p382, line 5).
9. Applicant's trial counsel, Mark Schnee, failed to object to hearsay "that's what I was told by Lorenzo" (p 524, line 6-10).
10. Applicant's trial counsel, Mark Schnee, failed to object to a testimony that the defendant wrote a letter and the letter introduced into evidence EX 403,404 that implicated the defendant (p663, line 11-24) (p.683, line 13) (p.685, line 25) and was published to the jury (p703, line23) with an enlarged version entered into evidence without objection EX 405, 419 (p711, lines 3).
11. Applicant's trial counsel, Mark Schnee, failed to review evidence when invited to do so by the state (p. 1216, line 22-24) and was unfamiliar with notes referred to by Inv. McCoy.

Furthermore, the Applicant requests that he be permitted to Amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. *See Simpson v. Moore*, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



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This 17 day of November, 2021.

1 State of South Carolina) Court of Common Pleas
2 County of Richland)
3
4 Trenton Barnes,) Transcript of Record
5)
6 Plaintiff/Applicant,)
7 vs.) 2018-CP-40-3077
8 State of South Carolina,)
9 Defendant.)

10 May 26, 2022
11 Columbia, South Carolina
12

13 B E F O R E:

14 The Honorable George M. McFaddin, Jr., Judge
15

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

17 Ola A. Johnson, Esquire
18 On behalf of the Plaintiff/Applicant

19 Joshua A. Edwards, Assistant Attorney General
20 Russ Barlow, II, Assistant Attorney General
21 On behalf of the State
22

23 Stacy S. Johnson, RPR
24 Circuit Court Reporter
25

I N D E XWITNESSPAGE

Trenton Barnes

Direct Examination by Mr. Johnson

6

Cross-Examination by Mr. Edwards

12

Redirect Examination by Mr. Johnson

14

Dolly Justice Garfield

Direct Examination by Mr. Edwards

16

Cross-Examination by Mr. Johnson

26

Redirect Examination by Mr. Edwards

28

Certificate of Reporter

32

1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
3	S/P-1	Motion to Sever	20	23
4	S/P-2	Motion RE: Public Shackling	21	23
5	S/P-3	Motion Re: Gangs/Gang Activity	21	23
6	S/P-4	Motion in Limine Re: Malice	22	23
7	S/P-5	Motion to Exclude Autopsy Photos	23	23
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1 (The following proceedings were held May 26, 2022,
2 beginning at 2:12 PM.)

3 COURT BAILIFF: Remain seated. Come to order.

4 THE COURT: Thank you very much.

5 All right, sir. I'm ready.

6 MR. EDWARDS: Thank you, Your Honor.

7 This is Trenton Barnes versus the State of South
8 Carolina. Case Number 2018-CP-40-3077. Mr. Barnes was
9 convicted of murder, criminal conspiracy, second degree
10 burglary violent, kidnapping and attempted armed robbery.
11 He filed an appeal, convictions were affirmed. He filed
12 his application in 2018, a pro se application originally,
13 and then Mr. Johnson filed an amended application on
14 November 17th of 2021.

15 We're here for an evidentiary hearing. I will let
16 Mr. Johnson put forward which allegations he plans to
17 proceed forward on.

18 THE COURT: Mr. Johnson, sir.

19 MR. JOHNSON: Thank you, Your Honor.

20 I was gonna ask for a brief moment just to speak
21 to my client before the hearing, if that's okay?

22 THE COURT: Go ahead.

23 MR. JOHNSON: But it's my understanding -- I've
24 included and adapted the ones from the original
25 application, but the general -- it could be summarized,

1 I think, when you look at the -- the overall allegations,
2 I'm basically adopting his application, Judge.

3 THE COURT: Go ahead.

4 MR. JOHNSON: I've got about eleven in mine and so
5 I'm just gonna speak with him briefly on that.

6 THE COURT: Yes, sir. Go ahead.

7 MR. JOHNSON: Thank you.

8 MR. EDWARDS: And, Your Honor, while he's doing
9 that, I'll also put on the record that trial counsel in
10 this case, Mark Schnee --

11 THE COURT: Yes, sir.

12 MR. EDWARDS: -- is no longer practicing in South
13 Carolina. He lives out of state. We attempted to
14 contact him. We were unable to serve him and we were
15 unable to basically get any sort of communication out
16 of him, so he is not gonna be present today.

17 THE COURT: All right, sir. Thank you.

18 And that was trial counsel, right?

19 MR. EDWARDS: Yes, Your Honor.

20 MR. JOHNSON: Thank you, Judge. We're ready to go.

21 THE COURT: All right, sir.

22 MR. JOHNSON: Your Honor, my only witness is
23 Mr. Trenton Barnes.

24 COURT BAILIFF: Come forward, please, for me. Place
25 your left hand on the Bible and raise your right.

1 (Whereupon, Trenton Barnes was duly sworn by the
2 Court Bailiff.)

3 COURT BAILIFF: Have a seat here and state your full
4 name for the record. Watch your step up.

5 THE WITNESS: Trenton Barnes.

6 TRENTON BARNES,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. JOHNSON:

10 Q. Mr. Barnes, were you represented by Mr. Schnee at your
11 trial? Mark Schnee?

12 A. Yes, sir.

13 Q. Okay. And did he discuss a defense strategy with you
14 at all before your trial?

15 A. No, sir.

16 Q. Okay. And did he review any of the evidence with you
17 regarding this case?

18 A. No, sir.

19 Q. Did he provide you with a copy of the evidence?

20 A. No, sir.

21 Q. Okay. And did he do anything to investigate the case?

22 A. No, sir.

23 Q. Did he hire an investigator that ever came and talked
24 to you?

25 A. Never.

1 Q. Okay. And as we get into the particulars of the case,
2 I'll reference --

3 MR. JOHNSON: Judge, I'm gonna reference some lines
4 that I've cited here in the transcript and I'll just take
5 that page by page.

6 BY MR. JOHNSON:

7 Q. On page 306 of the transcript, line 18, did Mr. Schnee
8 explain to you or give justification as to why he failed
9 to object to a leading question of Ms. Baskin regarding
10 screams saying they did not seem scary? And that was on
11 page 306. Did he ever justify that to you as to why he
12 failed to do that?

13 A. No, sir. He never did.

14 Q. Okay. And did -- on page 312, lines 9 through 10,
15 when there was a statement -- testimony that says they said
16 there was a victim inside referencing a hearsay statement,
17 did he ever give you any justification as to why he failed
18 to object to that hearsay?

19 A. No, sir.

20 Q. All right. And on page -- let's see. On page 370,
21 line 19 and 20 -- excuse me, Your Honor -- did he explain
22 why he failed to object to a leading question regarding
23 information regarding the make and model of the firearm,
24 specifically the statement -- and it actually has the make
25 and model, I believe, and the type of ammunition listed as

1 a leading question? Did he explain why he failed to object
2 to that?

3 A. No, sir.

4 Q. And on page 376, line 25, did Mr. Schnee explain to
5 you why he failed to object to the admission of DNA swabs?

6 A. No, sir.

7 Q. And on page 382, line 5 regarding DNA evidence from
8 a spoon that was being introduced and used against you at
9 trial, did he explain why he failed to object to that
10 evidence?

11 A. No, sir.

12 Q. And on page 524, line 6 through 10, on the question,
13 "How did you know he was staying at Troy's house?", answer:
14 "That's what I was told by Lorenzo.", did you receive any
15 type of explanation as to why Mr. Schnee failed to object
16 to that as hearsay?

17 A. No, sir, I never did.

18 Q. Okay. Now regarding a letter that was used and
19 introduced into evidence, Exhibits 403, 404, implicating
20 you and inculpatory evidence listed on page 663 of the
21 transcript, as we go down through that, specifically 663,
22 lines 11 through 24 where they list State's Exhibit 404
23 indicating that it was a letter written by you saying
24 "Who does it say is writing you? Your son, Trenton
25 Barnes", did you ever receive any explanation from

1 Mr. Schnee why he failed to object to this letter?

2 A. No, sir.

3 Q. And on page 703 when it was published to the jury or
4 an enlarged version entered to evidence without objection
5 on page 711, line 3, did he ever at any period explain to
6 you why he was failing to object to that?

7 A. No, he never did. He implicated me that I wrote it
8 and I never said I wrote it.

9 Q. And this letter was something that was inculpatory or
10 tended to --

11 A. Right.

12 Q. -- be evidence of your guilt?

13 A. Right.

14 Q. And it was not helpful to you, correct?

15 A. Unh-unh. The trial judge asked me did I write it, but
16 Mark Schnee told me not to answer and then he turned around
17 and implicated me with that same letter.

18 Q. All right.

19 MR. JOHNSON: Sorry, Judge. Just one moment.

20 THE COURT: Take your time.

21 MR. JOHNSON: I'm sorry, Judge. I just wanted to
22 make sure I didn't state something that was inaccurate
23 on the record.

24 I believe that was correct, Your Honor.

25 BY MR. JOHNSON:

1 Q. And did Mr. Schnee ever provide an explanation when
2 there was a review on page 1216, lines 22 through 24,
3 and the solicitor, Ms. Campbell, made a statement that
4 "We invited -- begged Mr. Schnee to come meet with us
5 and go over discovery and he did not see fit to go over
6 discovery.", on page 1216. Did he ever explain to you why
7 he failed to go and review discovery with the solicitor?

8 A. No, sir.

9 Q. Okay. And on your original application when you're
10 talking about that -- hearsay within hearsay in the
11 statement, are you referring to that letter?

12 A. The letter, as well as jailhouse informants.

13 Q. Tell me what your grounds are there. What are you
14 referencing?

15 A. On the jailhouse informants?

16 Q. Yes.

17 A. Mark Schnee, he basically failed to test the
18 credibility of the witness testimony when the witness
19 was allowed to testify stating that co-defendant Young
20 confessed -- confessed the crime to him, stating that
21 he was alongside two defendants -- two individuals in a
22 crime by the name of Trigg and Trap, but the trial judge
23 allowed him to testify that he got the name -- the actual
24 identities of the two individuals from an unknown source
25 that was never mentioned, and Mark Schnee never objected

1 to that.

2 Q. Okay. Is there anything else that you'd like to
3 mention from your application regarding ineffective
4 assistance of counsel?

5 Would you like to see a copy of your application?

6 A. I know. I know how it go.

7 Q. Okay. Is there anything else you'd like to testify
8 to?

9 A. The main thing I was pushing the issue is that Mark
10 Schnee told me to invoke my Fifth Amendment by remaining
11 silent when the judge ask me did I wrote the letter and
12 then he turned around and implicated me on that letter
13 saying that I wrote the letter in order to free my older
14 brother, but I never admitted to writing that letter. I
15 mean, if anything, my brother had something -- like he
16 could have benefitted from that letter, so how can he just
17 automatically be saying that I wrote that letter. He just
18 should have kept fighting for my innocence instead of
19 incriminating me.

20 Q. All right. Is there anything else you'd like to say?

21 A. No, sir.

22 Q. All right.

23 MR. JOHNSON: Judge -- that's all I have, Judge.

24 THE COURT: Mr. Edwards.

25 MR. EDWARDS: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. EDWARDS:

3 Q. Mr. Barnes, I want to talk about the letter for a
4 minute. So your mother gave this letter to the
5 authorities?

6 A. Correct.

7 Q. And she recognized it as your handwriting. Do you
8 remember that from the trial?

9 A. Correct. That's what she testified to.

10 Q. Uh-huh. And there was a handwriting expert that
11 testified that it was your handwriting?

12 A. Correct.

13 Q. And in this letter you admit to being the person that
14 shot Ms. Hunnewell?15 A. I never admitted to writing that letter. When the --
16 actually when the trial judge asked me did I write that
17 letter, I refused to even answer that question.18 Q. Well, let me ask you right now. Did you write that
19 letter?

20 A. No.

21 Q. I also want to ask you about an interview you gave
22 the police. You went to the police station with your mom.
23 Do you recall doing that?

24 A. Yeah.

25 Q. And you said in this interview that you were basically

1 the lookout man, correct?

2 A. I don't recall that.

3 Q. You don't recall that?

4 A. (No verbal response.)

5 Q. Do you recall what you told the police?

6 A. Unh-unh.

7 Q. Do you recall telling them that you were at the scene
8 that day along with your brother and Lorenzo Young?

9 A. I ain't familiar with that.

10 Q. You don't remember that?

11 A. Not -- not the whole -- not word for word.

12 Q. Okay. You don't remember saying that your brother was
13 actually the person that shot Ms. Hunnewell?

14 A. Unh-unh.

15 Q. You don't recall that?

16 A. (Shakes head.) I never said that.

17 Q. Okay.

18 A. And since we're going into that, do you -- are you
19 gonna bring up the issue I had with Mark Schnee --

20 THE COURT: Hold on. Hold on, sir.

21 THE WITNESS: I apologize.

22 THE COURT: He gets to ask the questions and your
23 lawyer does.

24 MR. EDWARDS: That's all the questions I have,
25 Your Honor.

1 THE COURT: All right.

2 Mr. Johnson.

3 MR. JOHNSON: May I have a quick conference with my
4 client?

5 THE COURT: Yes, sir. You may.

6 (Discussion between Applicant and his Counsel.)

7 MR. JOHNSON: Your Honor, I just had a quick
8 question on redirect if you allow.

9 THE COURT: Yes, sir.

10 REDIRECT EXAMINATION

11 BY MR. JOHNSON:

12 Q. All right. Regarding that letter and the implication,
13 Mr. Barnes, what did you want to testify to about that?

14 A. Say that again.

15 Q. What was it you were -- could you explain what you
16 wanted to testify to about that implication in that letter
17 and the testimony?

18 A. Oh, yeah. Basically what I said the first time,
19 that I never admitted to writing that letter and I had
20 nothing -- I wasn't benefiting nothing out of writing that
21 letter, like I had nothing to gain, and instead of Schnee
22 continuing saying that I didn't write the letter, instead
23 he said I wrote it in order to free my older brother,
24 which I never did. I never said I wrote that letter. I
25 never confessed to writing that letter in court. I never

1 said I did nothing in open court.

2 Q. And he put that on the record?

3 A. Right.

4 Q. What he said about you?

5 A. Right.

6 Q. Right.

7 MR. JOHNSON: No more questions, Your Honor.

8 THE COURT: Mr. Edwards.

9 MR. EDWARDS: No more questions, Your Honor.

10 THE COURT: Thank you, sir. You may take your
11 seat.

12 (Witness excused.)

13 THE COURT: Mr. Johnson.

14 MR. JOHNSON: I have no more witnesses, Your Honor.

15 THE COURT: Mr. Edwards.

16 MR. EDWARDS: Yes, Your Honor.

17 The State would call Dolly Garfield.

18 (Whereupon, Dolly Justice Garfield was duly sworn
19 by the Court Bailiff.)

20 COURT BAILIFF: Have a seat and state your full
21 name for the record.

22 THE WITNESS: Dolly Justice Garfield.

23 THE COURT: All right, sir.

24 MR. EDWARDS: Thank you, Your Honor.

25 DOLLY JUSTICE GARFIELD,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. EDWARDS:

4 Q. How are you doing, Ms. Garfield?

5 A. Fine, thank you.

6 Q. What was your role in this case?

7 A. I was the lead prosecutor.

8 Q. Okay. And I'm gonna just dive right into these
9 specific issues. So let's talk about this letter, first
10 of all.

11 A. Sure.

12 Q. So obviously this letter you admitted against
13 Mr. Barnes was one that he wrote. How did you authenticate
14 this letter?

15 A. The letter was provided to law enforcement from
16 his mother, who had received it in the mail, and we did a
17 -- through a Schmerber hearing a handwriting analysis and
18 it was confirmed to be Mr. Barnes' handwriting and it was
19 introduced through, if my memory serves me correctly, the
20 investigator that took it from his mother.

21 Q. And did his mother also testify that she recognized
22 this handwriting as Trenton's?

23 A. To the best of my recollection, yes.

24 Q. Okay. And as far as any hearsay-type of objections,
25 what theory would you say that you admitted this letter

1 under?

2 A. Confession.

3 Q. Of a party opponent?

4 A. I'm sorry?

5 Q. Admission of a party opponent, correct?

6 A. Sure.

7 Q. Yeah. And admission against his own interest?

8 A. Yes, sir.

9 Q. And so the letter was admissible at trial?

10 A. Yes, sir.

11 Q. Do you recall whether Mr. Schnee brought up the

12 admissibility of this letter to you or in a pretrial

13 hearing or anything of that sort?

14 A. Mr. Schnee took every opportunity to object to

15 anything there was to object to. I don't independently

16 recall a particular conversation.

17 Q. Okay.

18 A. I'll just tell you his general reputation.

19 Q. And how often would you say you dealt with Mr. Schnee

20 in your time at the solicitor's office here?

21 A. I was affiliated with the solicitor's office for

22 nineteen years and I worked with Mr. Schnee his entire

23 career until I left and I left in 2019.

24 Q. In your dealings with Mr. Schnee, would you say he was

25 a prepared lawyer?

1 A. Yes, he was very zealous. Very tenacious.

2 Q. Did you feel like he understood the law?

3 A. Yes, sir.

4 Q. Did you feel like -- he obviously made plenty of
5 objections in this trial. Do you feel like he made
6 objections of arguable merit during this trial?

7 A. Yes, sir.

8 Q. Did you ever have any sense prosecuting this -- this
9 case that he was neglecting the case or failing to do his
10 job at any time?

11 A. No, sir.

12 Q. I believe Mr. Schnee even from the opening statement
13 in this case -- he drew an objection in his opening
14 statement, correct, from you?

15 A. I don't recall.

16 Q. You don't recall? That's fine.

17 Now as far as pretrial motions filed in this case,
18 did Mr. Schnee file any pretrial motions?

19 A. Yes, sir.

20 Q. Do you recall roughly how many?

21 A. Several. And I did misspeak. I think I said -- I
22 left in 2016, not '19. Sorry.

23 MR. EDWARDS: May I approach the witness, Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. EDWARDS:

1 Q. Ms. Girlfriend, I gonna show you a document and I'd
2 just like to ask if you recognize this document?

3 A. I do recognize this document. This would have been
4 provided to me from Mr. Schnee before trial. I found this
5 document in my case file.

6 Q. Okay. And what is it?

7 A. It's the defendant's initial pretrial motions where
8 he lists several pretrial motions. A total of eighteen.
9 He asked the Court to renew Rule 5 and Brady motions, a
10 motion for discovery pursuant to Riddle, a motion to
11 compel complete Crime Stoppers information, a motion
12 to compel Federal 302's, a motion to compel police and
13 investigator notes, a motion to dismiss for violating
14 Brady and Rule 5, a motion for sanctions for violating
15 Brady and Rule 5, a motion to prevent witnesses from
16 testifying due to violations of Brady and Rule 5, a
17 motion to continue trial based on late discovery and
18 violations of Brady and Rule 5, a motion to continue
19 the trial based on additional new discovery, a motion
20 to reveal the deal and basis of deal, a motion to redact
21 or suppress jail calls, a motion to dismiss Indictment
22 2014-GS-40-757 for lack of jurisdiction in general
23 sessions, a motion to exclude all photographs and showing
24 autopsy and gruesome photographs, a motion to settle
25 the record of all witnesses and defendants, a motion to

1 exclude any testimony and evidence of gang activity or
2 gang connections, a motion to prevent shackling and a
3 motion to address Belcher.

4 MR. EDWARDS: Thank you, Ms. Garfield.

5 I'd ask that this be marked as State's Exhibit 1,
6 please.

7 THE COURT: Mr. Johnson?

8 MR. JOHNSON: No objection.

9 (State's/Plaintiff's Exhibit Number 1 was marked
10 for identification.)

11 BY MR. EDWARDS:

12 Q. And, Ms. Garfield, there were, in fact, extensive
13 pretrial motions in this case, correct?

14 A. Yes, sir.

15 Q. Was a motion to sever made?

16 A. Yes, sir.

17 Q. Would you say that was a big issue in this trial?

18 A. Yes, sir.

19 Q. One that was litigated fully?

20 A. Yes, sir.

21 Q. And the motion was denied?

22 A. Yes, sir.

23 Q. And Mr. Barnes and Mr. Young were tried together over
24 their defense objections?

25 A. Yes, sir.

1 Q. So I think many of these pretrial motions were
2 made orally, but I'm gonna show you a few more documents.
3 First, I'll show you one that's entitled motion to prevent
4 public shackling, and I'm gonna have this marked as State's
5 Exhibit 2, after you tell me if you recognize that?

6 A. I do recognize that and recall the argument.

7 Q. Okay. And that's filed by Mr. Schnee?

8 A. Yes, sir.

9 MR. EDWARDS: If I could have this marked as
10 State's Exhibit 2, please.

11 (State's/Plaintiff's Exhibit Number 2 was marked
12 for identification.)

13 BY MR. EDWARDS:

14 Q. Okay. I'm gonna hand you another document. Please
15 tell me if you recognize that.

16 A. This is another more formal motion filed by Mr. Schnee
17 to exclude evidence and testimony regarding gangs, gang
18 membership, gang crimes and pattern of gang activity, dated
19 October 27, 2014, and signed by Mr. Schnee.

20 MR. EDWARDS: Okay. If I could have this marked as
21 State's 3, please.

22 THE COURT: Counsel?

23 MR. JOHNSON: No objection to that, Your Honor.

24 (State's/Plaintiff's Exhibit Number 3 was marked
25 for identification.)

1 BY MR. EDWARDS:

2 Q. And that motion was actually granted, correct?

3 A. Yes, sir.

4 Q. And there was no mention made throughout trial of any
5 gang activity; although there was reason to believe that
6 maybe Mr. Barnes was involved in a gang?

7 A. Yes, there was reason to believe, but we did not go
8 into it.

9 Q. Because of this motion?

10 A. Correct.

11 Q. I'll show you another document and tell me if you
12 recognize that.

13 A. It's a motion in limine to prevent solicitors for
14 misstating the law regarding malice, and this is also
15 signed October 27, 2014, by Mr. Schnee, to address Belcher.

16 MR. EDWARDS: If I could have that marked as
17 State's 4, please.

18 (State's/Plaintiff's Exhibit Number 4 was marked
19 for identification.)

20 BY MR. EDWARDS:

21 Q. I'm gonna show you one more. Do you recognize this
22 document?

23 A. Yes, sir. This is a motion to exclude photographs
24 that show autopsy and gruesome photographs signed by
25 Mr. Schnee also October 27, 2014.

1 Q. How many pages is that motion?

2 A. 4 pages.

3 MR. EDWARDS: If I could have this marked as
4 State's 5, please.

5 (State's/Plaintiff's Exhibit Number 5 was marked
6 for identification.)

7 BY MR. EDWARDS:

8 Q. And to your recollection that motion was partially
9 successful, correct --

10 A. That's correct.

11 Q. -- because the photographs were excluded?

12 A. Yes, sir.

13 MR. EDWARDS: So, Your Honor, I'd have State's 1
14 through 5. I'd offer them all into evidence.

15 THE COURT: Okay. Without objection.

16 MR. JOHNSON: Yes, sir.

17 (State's/Plaintiff's Exhibit Numbers 1 through 5,
18 pretrial motions, were admitted into evidence.)

19 BY MR. EDWARDS:

20 Q. Ms. Garfield, you would say this was a strong case?

21 A. Very.

22 Q. Can you tell me why you think it was a strong case?

23 A. We had defendants on video. We had partial DNA
24 evidence linking the defendant to the crime scene. We had
25 the letter that he had written to his own mother confessing

1 to his role in the crime. We had -- I can't remember if we
2 had evidence from his cell phone. There was evidence from
3 a cell phone taken. Also his mother had implicated him on
4 the video.

5 Q. His mother actually recognized him from the
6 surveillance video, correct?

7 A. Yes, sir. She testified to that.

8 Q. And even recognized the clothes that he was wearing?

9 A. Correct.

10 Q. Okay. I brought this up with Mr. Barnes, but he
11 originally did give an interview with police, correct,
12 shortly after this happened?

13 A. Yes, sir.

14 Q. Do you recall generally the substance of that
15 interview?

16 A. To my recollection, he gave a statement as if he were
17 his brother participating in the crime, which would have
18 been a lesser culpable role. We did not find his statement
19 to be credible and chose not to introduce it.

20 Q. And would you say that statement is not consistent
21 with all the other evidence in the case?

22 A. Correct.

23 MR. EDWARDS: I beg the Court's indulgence for just
24 one moment.

25 THE COURT: Yes, sir.

1 BY MR. EDWARDS:

2 Q. Ms. Garfield, is there anything else, any information
3 that you have regarding Mr. Schnee's performance in this
4 case and his competency as an attorney that you believe
5 this Court should know about?

6 A. I can tell you that only four days after he was
7 arrested Mr. Schnee served us with a motion for discovery.
8 Also unique about this case is while we were trying the
9 case, Aiken versus Byars was decided, so this was a little
10 bit of a sentencing of first impression with the defendant
11 being sixteen. We did delay sentencing upon Mr. Schnee's
12 motion and had a very thorough hearing to address
13 sentencing I believe the following week where Mr. Schnee
14 presented testimony from a teacher, a mental health
15 professional, and it was very well -- thoroughly vetted.

16 Q. In mitigation because of Mr. Barnes' youth?

17 A. That's correct.

18 Q. And Mr. Barnes, he did not receive the maximum
19 sentence in this case, correct?

20 A. That's correct. Mr. Schnee asked for a sentence of
21 32 years, essentially doubling his client's age, and he was
22 imposed a 50-year sentence.

23 Q. And had Mr. Barnes had previous trouble with the law
24 even before this case happened?

25 A. I believe he had a juvenile record.

1 MR. EDWARDS: That's all the questions I have,
2 Your Honor.

3 THE COURT: Mr. Johnson.

4 MR. JOHNSON: Just briefly, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. JOHNSON:

7 Q. Is it -- if you're in a trial situation and there's
8 DNA samples that you're using like in this case, talking
9 about the swabs and the spoon, you're doing that for a
10 reason, correct? You're using that as State's evidence
11 because it's helpful to the State?

12 A. Correct.

13 Q. Right. And when you have evidence as such as this
14 letter, you wanted that into evidence because it was
15 helpful to the State prosecuting Mr. Barnes?

16 A. Such as the what?

17 Q. The letter that was used that they allege was written
18 by Mr. Barnes.

19 A. Did we want the letter to be introduced?

20 Q. Yeah. You'd want that as evidence because it was
21 helpful to the State?

22 A. Sure. Yes.

23 Q. Right. In prosecuting my client?

24 A. Yes, sir.

25 Q. Okay. And so if defense fails to object or doesn't

1 make a sufficient argument, that makes your job easier?

2 A. I mean, it just goes faster, I guess, but there's
3 no objection -- I don't know what legal theory you would
4 object upon.

5 Q. Right. Because if there's no objection it just makes
6 it go faster?

7 A. Correct.

8 Q. Right. And your job is to prosecute Mr. Barnes and so
9 that made it faster for you to do that.

10 The discussion and the testimony within the record of
11 -- excuse me, Judge -- of Michael Schaefer, do you remember
12 that testimony? Mr. Schaefer being called about jailhouse
13 conversations with the co-defendant.

14 A. I know he was an inmate and I know he testified. I
15 can't tell you the nature of his testimony.

16 Q. Okay. And you don't have any recollection of
17 Mr. Schnee attempting to block that testimony or make an
18 objection regarding his testimony about statements made by
19 a co-defendant identifying people, Trigg and Trap, and all
20 that testimony? You don't remember Mr. Schnee --

21 A. I felt like there was extensive objections from
22 Mr. Schnee to exclude such hearsay. That's my memory.

23 Q. Okay. Do you have anything in writing about that?

24 A. It would have been on the record.

25 Q. All right. You don't have anything. Okay.

1 A. Well, the record's in writing if that's what you mean.

2 Q. But you're not able to cite anything in particular is
3 what you're saying?

4 A. No, sir.

5 Q. Okay.

6 A. It was thoroughly argued before the Court of Appeals.

7 Q. Okay.

8 MR. JOHNSON: No more questions, Your Honor.

9 THE COURT: Mr. Edwards?

10 MR. EDWARDS: One more brief matter.

11 THE COURT: Yes, sir.

12 MR. EDWARDS: I was gonna show here the transcript
13 page 1218.

14 MR. JOHNSON: 1218.

15 REDIRECT EXAMINATION

16 BY MR. EDWARDS:

17 Q. Ms. Garfield, don't you talk about investigators'
18 notes? I'm gonna show you the trial transcript, page 1218.

19 A. Yes, sir.

20 Q. One of the allegations is that Mr. Schnee did not --
21 he wasn't familiar with the investigators' notes?

22 A. Yes, sir.

23 Q. And take your time and review that if you'd like,
24 but was there anything of substance in those notes that
25 could have possibly made a difference in trial that wasn't

1 available in other evidence?

2 A. Not to my recollection. It was also ultimately
3 overruled because it couldn't be shown that it was
4 exculpatory or mitigating for Mr. Barnes.

5 Q. Right. And isn't it true that Mr. Schnee even said
6 he didn't really have a problem with the contents of the
7 notes, just that he had not seen them before?

8 A. That's correct.

9 MR. EDWARDS: Thank you.

10 That's all I have.

11 THE COURT: Mr. Johnson, anything on that?

12 MR. JOHNSON: No, Your Honor. I have nothing
13 further.

14 THE COURT: Thank you, ma'am.

15 THE WITNESS: Thank you.

16 (Witness excused.)

17 MR. EDWARDS: Your Honor, Luck Campbell is present
18 in the courtroom. I don't know if she would have much
19 to add beyond what Ms. Garfield has testified to, but
20 she is here if Your Honor would like to hear from her.

21 THE COURT: Well, I'm not so sure that I should
22 make that call.

23 MR. EDWARDS: I'm not gonna call her unless there's
24 any questions you have, Your Honor.

25 THE COURT: I don't have any questions beyond that.

1 MR. EDWARDS: Just because you're the finder of
2 fact in this case and I don't -- I think we have enough,
3 but if you want to hear anything more we have Ms. Campbell
4 here as well.

5 THE COURT: The Court is reluctant to answer.

6 MR. EDWARDS: In that case, Your Honor. That's all
7 we have.

8 THE COURT: You're sort of pulling me across the
9 bench a little bit.

10 MR. EDWARDS: Yes, Your Honor. I understand.

11 THE COURT: So that's the State's case, sir?

12 MR. EDWARDS: Yes, Your Honor.

13 THE COURT: All right.

14 Mr. Johnson's been with me a lot here lately.

15 Right, Mr. Johnson?

16 MR. JOHNSON: Yes, sir.

17 THE COURT: You know my ubiquitous method.

18 MR. JOHNSON: Yes, sir.

19 THE COURT: Read and read. Goodness, here it's
20 above the rim of the bench.

21 I'll send you my ubiquitous, as I call it, e-mail
22 ruling shortly, gentlemen. I don't know how soon. I've
23 got several ahead of this one, but that's how you will
24 receive it.

25 MR. JOHNSON: Thank you, Your Honor.

1 MR. EDWARDS: Thank you, Your Honor.

2 THE COURT: Thank you very much for your patience
3 and kindness, folks.

4 (Whereupon, the proceedings were concluded at
5 2:47 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of
South Carolina, do hereby certify that the foregoing
is a true, accurate and complete transcript of record
of all the proceedings had and the evidence introduced
in the hearing of the captioned case in Circuit Court
on the 26th day of May, 2022.

This transcript may contain quoted material.
Such material is reproduced as read by the speaker.

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

October 16, 2023

/s/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Trenton M. Barnes, #362454,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT

) CASE NO. 2018-CP-40-3077
)

ORDER OF DISMISSAL

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S.C. SUPREME COURT

This matter comes before the Court by way of an application for post-conviction relief (PCR). Respondent made its Return on September 10, 2018. Barnes was originally represented by Jonathan Waller, Esquire. Mr. Waller was subsequently relieved as counsel based on a conflict of interest. Ola A. Johnson, Esquire (PCR Counsel), was appointed to represent Applicant and filed an amended application on November 17, 2021.

An evidentiary hearing was convened on May 26, 2022, at the Richland County Courthouse. Applicant was present and represented by PCR Counsel. Josh Edwards, Esquire, and D. Russell Barlow, II, Esquire, represented the State. Applicant and the prosecutor, former Assistant Solicitor Dolly Garfield, testified at the hearing.¹ After hearing the testimony at the PCR hearing and a full review of the record, the Court finds that Applicant's allegations are without merit, denies relief, and dismisses the action with prejudice.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections (SCDC). In February 2014, the Richland County Grand Jury

¹ Counsel for the State explained that Mr. Schnee is no longer a member of the South Carolina Bar, lives out of state, beyond the reach of traditional subpoena power, and has previously been unresponsive.

indicted Applicant for second-degree burglary (2014-GS-40-0755), attempted armed robbery (2014-GS-40-0756), criminal conspiracy (2014-GS-40-0757), kidnapping (2014-GS-40-0754), and murder (2014-GS-40-0752). Mark Schnee, Esquire (Trial Counsel), represented Applicant. Assistant Solicitors Dolly Garfield, Kathryn Luck Campbell, and Nicole Simpson of the Fifth Circuit Solicitor's Office prosecuted the case.

On November 10 – 19, 2014, Applicant and codefendant, Lorenzo Young, proceeded to trial before the Honorable Robert E. Hood. The jury found Applicant guilty as indicted. Without objection, Judge Hood granted deferred sentencing on Applicant due to the recent Aiken v. Byars² decision. On December 12, 2014, Judge Hood sentenced Applicant to imprisonment for concurrent terms of fifteen years for second-degree burglary, twenty years for attempted armed robbery, and fifty years for murder.³ Applicant's kidnapping conviction remained in place, however, pursuant to S.C. Code Ann. § 16-3-910, the sentence for kidnapping was vacated.⁴

Applicant filed a timely notice of appeal. On June 7, 2016, Applicant filed a Final Brief of Appellant in the South Carolina Court of Appeals. The State filed its Final Brief of Respondent on May 24, 2016. Following oral arguments, the South Carolina Court of Appeals issued an opinion on July 12, 2017, affirming the convictions. The Remittitur was returned to the circuit court on September 5, 2017.

² 410 S.C. 534, 765 S.E.2d 572 (SC 2014)

³ The State did not proceed on the criminal conspiracy charge at trial.

⁴ As Judge Hood explained, "a case that involves kidnapping and murder in the same incident, then the sentences are not allowed to run together, and the sentence must be vacated, so I'm beginning by vacating the kidnapping [sentence]." (Trial Tr. p. 1658, ll. 4 – 8).

SUMMARY OF FACTS ADDUCED AT TRIAL⁵

In the early morning of July 1, 2013, Theresa Baskin (Baskin) heard the screams of terror from thirty-three-year-old Kelly Hunnewell (Victim), who worked the early morning shift in the off-site bakery for the Carolina Café. (R. p. 233, line 13 – p. 234, line 20). Baskin, who lived across the street from the bakery on Tommy Circle, heard the dying words of the mother of four after she was shot by Lorenzo Young (Young) and his co-defendant Trenton Barnes (Applicant) in a robbery. (R. p. 232, lines 21-23; p. 234, lines 15-20).

Victim arrived every morning at 3:00 am to make the bagels and sandwiches for the popular downtown deli. (R. p. 244, line 2-p. 245, line 6). Victim would typically work until 11:00 am so she could go home and care for her four young children. (R. p. 245, lines 1-18). On the morning of the murder, Applicant and Young intended to rob the nearby Original Ale House. (R. p. 229, lines 2-16). When they realized the bar was closed, Applicant and Young chose the next most convenient victim. Victim was in the bakery next door with the lights on and the door propped open. (R. p. 234, lines 3-6). The men approached Victim, who was working at the stove, and had her back to the door. (R. p. 828, line 20 – p. 829, line 2). The suspect in the red hoodie pointed his gun at her head. (R. p. 829, line 19 – p. 830, line 19). After a struggle in which Victim tried to defend herself, the men shot her multiple times. (R. p. 830, line 17 – p. 831, line 24). Victim collapsed on the floor with a bullet lodged in her back, drowning in her own blood. (R. p. 597, line 16; p. 604, lines 2-21).

Victim's neighbor heard her screams and called the police. (R. p. 235, lines 1-8). The police arrived within minutes and found Victim dead on the floor. (R. p. 235, lines 9-10; p. 223, line 14- p. 225, line 11; p. 236, lines 15-20). The police processed the scene, collecting four .45

⁵ These facts were taken from the Final Brief of Respondent with slight alterations.

Glock Automatic Pistol (G.A.P.) shell casings and two .40 caliber Smith and Wesson casings, projectiles, and video surveillance footage. (R. p. 227, line 5- p. 228, line 9; p. 237, lines 3-11; p. 238, lines 10-14; p. 240, lines 20-25; p. 241; line 16-p. 242, line 11; p. 797, line 22 –p. 799, line 10). The bakery's security cameras recorded the murder from several different views. (R. p. 246, line 6 – p. 247, line 4). In the video, Victim is working at the stove when two suspects, one in a red hoodie and one in a grey hoodie, enter the bakery. (R. p. 281, line 9 – p. 282, line 3). The suspects point guns at her and shoot her. A third suspect comes to the door as the shooting begins, and the three suspects flee. (R. p. 282, lines 20-24).

Investigators canvased the area around the bakery to look for witnesses. (R. p. 257, line 11 – p. 258, line 24). The police released the video to the media in an effort to gain more information about the perpetrators. (R. p. 649, line 21 – p. 650, line 9). Police received tips identifying Applicant, his brother Troy Stevenson (Stevenson), and Lorenzo Young as the men who committed the crime. (R. p. 248, line 14 – p. 249, line 14; p. 259, line 4 – p. 261, line 4; p. 652, line 21 – p. 653, line 21; p. 657, lines 6-18). All three suspects lived near the bakery. (R. p. 394, lines 12-17; p. 642, lines 15-24; p. 698, line 11 – p. 699, line 20).

Donald Moore (Moore), a friend of Applicant and Stevenson, testified for the State. (R. p. 374, line 1 – p. 375, line 22). Though he recanted his story later, he testified that he contacted the police after he saw the story about the murder on television. (R. p. 376, line 10 – p. 377, line 15). Moore told police that Young and Stevenson talked about robbing the Ale House before the murder. (R. p. 378, lines 9-15). Moore also told police he saw Young showing off a Glock gun prior to the murder, and he told Young to put the gun away because of the nearby children. (R. p. 379, line 17 – p. 381, line 17). Moore also identified Young in the video as the man wearing the red hoodie. (R. p. 382, line 19 – p. 383, line 23).

Based upon Moore's information, the police obtained and executed a search warrant for Young and his girlfriend Rolanda Coleman's (Coleman) home, in which they found ammunition of the same caliber as those found near the body of Victim. The search produced live round bullets from a .40 caliber Smith and Wesson, a 9 mm Luger, and a .45 G.A.P. (R. pp. 472-475). Crime scene analysts also found a Glock magazine in Coleman's purse and several pairs of black gloves. (R. pp. 470-471). The police also confiscated a pair of black Nike shoes, a scan disc, a camcorder, a laptop, and two cell phones. (R. p. 482-485). Testing later revealed gunshot residue on the black gloves. (R. p. 486, lines 7-14).

Coleman told police he spent the evening before the murder with Stevenson, and he called his mother the morning after to pick him up from Stevenson's home. (R. p. 290, line 18 – p. 293, line 25). Young returned home the morning of the murder with his firearm, wrapped it in his shirt, and hid it in a crib. (R. p. 284, lines 17-24; p. 294, line 21 – p. 295, line 24). Coleman overheard a conversation between Young and his mother shortly after seeing a news video about the murder in which his mother told him to get rid of the gun. (R. p. 301, lines 1-9). Coleman also recognized the man wearing the grey hoodie in the video as Applicant. (R. p. 301, line 10 – p. 302, line 15).

Applicant's mother testified that her sons were with Young at her house the night of the murder. (R. p. 386, lines 1-24). She testified that Young and Applicant left the house around midnight. (R. p. 387, lines 5-14). Around three in the morning, she received a phone call from Young, asking to talk to another man staying at the house. (R. p. 388, line 14 – p. 389, line 8). Cell phone records confirmed these calls. (R. p. 605, line 8 – p. 606, line 3). The second time Young called, Ms. Barnes told him to send Applicant home. (R. p. 389, line 21 – p. 390, line 7). After a few minutes, she sent her other son, Stevenson, to locate the men to bring his brother home. (R. p. 391, lines 2-20). Ms. Barnes testified that Young was wearing a red hoodie when he left the

house, and Applicant was wearing a grey hoodie, which she could identify from a tear in the fabric. (R. p. 393, lines 3-19). When Stevenson left to look for his brother, he was wearing a dark jacket. (R. p. 393, line 23 – p. 394, line 8).

After Applicant was arrested, he wrote a letter to his mother implicating himself and Young in the crime:

Your Son

Trenton. B

Wassup Ma they got me in lock up for 25 days for some crazy stuff they was go let me stay in the dorm but I came down here so I can talk to troy. I'm down here with troy and renzo. I talk to troy about the case. I'm ready to talk back with them people and tell them the truth ma tell that troy ain't had nothing to with it I should of told them that troy really came down there to get me. Ma what really happen was I was on the phone with Ty indika lul sis and renzo was on the phone with his baby mama we was the only two up and he got off the phone was like let me talk tew you when you done. Then he was like I got this lul lick and then I was like I don't know bruh I'm koolin talking to my lady and he was like money come first. I ain't tell him yea or no yet. So I woke troy up and ask him what should I do and he said hell no don't go with dat man and he whent back to sleep. I whent back in my room renzo was back on the phone then Ty had text me renzo got off the phone and was like you ready and I told him I'm koolin then he started talking bout how much money was go be there then he said let's go scoope it out we ain't got to do nothing then we went outside and I said bruh I ain't tryna go to jail and he said on my baby you ain't going to jail lul bruh he ask me do I have a gun and I said no but I know way one at he said way at and I said **I know way Shorty be putting his gun at out side** so I took him to it and he pulled out his gun and said which one you won't and **I said the small one** then we started back walking then I said what type of lick is it because I don't be on that other stuff I just take moped's and dirt bikes and he was like just a lul lick so we was at the bar down the street from the house it started raining hard and I was like I'm bout to go home and he said hold on lul bruh then he was like damm they closed so I said come on let's go back to my house then he said you see that lady over there. I said I don't see nobody he was like come on then we was by the door and **I seen a lady walk pass** and I looked back and seen troy waveing his hand telling me to come back then renzo walk into the place and I went behind him then he grabed her and put the gun to her head and told

me to get in front of her and **she swang at me and I closed my and jump I got scared ma I didn't want to do it.** I'm sorry. I said it was troy because I was scared to go to jail with renzo by myself im sorry ma ma. I just wanna come home. I'm be good mama I promise. I miss you mama. **I should never listen to renzo.** I just wanna come home and be with you people keep telling me **im going to prison for a long time** love you mama

I just wanna come home real soon not no grown man.

Love You MAMA

Your BaBy Boy

Trenton

(R. p. v, State's Exhibit 404 (errors in original)(emphasis added); R. p. 400, lines 1-22.) In his letter to his mother, Applicant admits telling Young where he can find a gun ("I know way Shorty be putting his gun out side"); he admits choosing which gun he wants to use in the robbery ("the small one"); he admits he knows the victim is inside the bakery ("I seen a lady walk pass"); and he admits shooting the victim after she resisted him ("she swang at me and I closed my and jump I got scared ma I didn't want to do it"). Applicant also admits he was complicit in Young's actions ("I should never listen to Renzo"), and he recognized the likely consequences of his actions ("im going to prison for a long time").

Mary Brown (Brown), a neighbor, and acquaintance of Applicant, Young, and Stevenson, also saw the men wearing the red and grey hoodie the night of the robbery. (R. p. 542-545). Brown saw the video released to the news media and recognized Applicant and his codefendant, but did not know their names. (R. p. 547, line 6 – p. 550, line 18).

Following Young's arrest, he approached inmate Dominique Wright (Wright) to assist him in the defense of his case. (R. p. 453, line 17 –p. 454, line 10). Wright was helping another inmate with some legal work, and Young overheard the men discussing the "stand your ground law." (R. p. 456, lines 7-10). Young told Wright he and two other men intended to rob a club, but because the club was closed, they went next door to a bakery. (R. p. 455, lines 5-13). Young told Wright

that when the woman in the bakery resisted, he shot her twice. (R. p. 455, lines 10-13). Wright testified that Young sought his advice to discuss how he could use the victim's efforts to defend herself as an advantage to reducing his charge. (R. p. 456, lines 13-15). Wright documented what Young told him and sent the information to an investigator, who passed it on to the solicitor's office. (R. p. 457, line 19 – p. 458, line 5).

Another inmate, Michael Peterson (Peterson), testified Young discussed the murder with him while they were in the law library together. (R. p. 488, line 11 – p. 489, line 8). Young heard Peterson was familiar with the law and asked for help. (R. p. 489, lines 7-10). Young explained to Peterson that he "went on this lick." (R. p. 489, lines 18-19). When Peterson asked Young if he meant the bakery job on Beltline, Young confirmed, saying, "yeah, it was all over the news." (R. p. 489, lines 18-20). Young told Peterson he shot the victim when she acted like she was about to use her phone to call the police. (R. p. 490, lines 1-4). Young told Peterson, "Yeah, my homies must have seen the blood and started running, so I turned around and started running, too." (R. p. 490, lines 8-10). Young told Peterson he was not concerned because the police only found shell casings and identified him from the clothing he wore that night. (R. p. 491, line 7 – p. 492, line 1). Peterson later overheard Stevenson and Young discussing the robbery in the prison showers. (R. p. 498, lines 1-11). Peterson said Young was nervous and reassured Stevenson the police only had shell casings. (R. p. 498, lines 1-25).

Michael Schaefer (Schaefer), another inmate at Alvin Glenn Detention Center, testified he had several opportunities to speak with Young while they were housed together in the same dorm. (R. p. 552, line 13 – p. 553, line 19). Schaefer and Young discussed their respective cases, and Schaefer testified to the following:

Okay, he said him and two other people by the name of Trap [Stevenson] and Trigg [Barnes] went out to rob a nightclub in the

1990

1. Applicant's trial counsel, Mark Schnee, failed to discuss a defense strategy with applicant.
2. Applicant's trial counsel, Mark Schnee, failed to review evidence with Applicant or provide a copy of the evidence to applicant.
3. Applicant's trial counsel, Mark Schnee, failed to properly investigate the case.
4. Applicant's trial counsel, Mark Schnee, failed to object to the leading question of Ms. Baskin regarding screams "did they seem scary" (p. 306, line 18).
5. Applicant's trial counsel, Mark Schnee, failed to hearsay statement stating "they said there was a victim inside" (p. 312, line 9-10).
6. Applicant's trial counsel, Mark Schnee, failed to object to the leading question regarding information regarding make and model of a firearm, type of ammunition (p. 370, line 19-20).
7. Applicant's trial counsel, Mark Schnee, failed to object to DNA swabs (p. 376, line 25).
8. Applicant's trial counsel, Mark Schnee, failed to object to evidence regarding a spoon containing DNA evidence (p. 382, line 5).
9. Applicant's trial counsel, Mark Schnee, failed to object to hearsay "that's what I was told by Lorenzo" (p. 524, lines 6-10).
10. Applicant's trial counsel, Mark Schnee, failed to object to a testimony that the defendant wrote a letter and the letter introduced into evidence EX 403, 404 that implicated the defendant (p663, line 11-24) (p.683, line 13) (p.685, line 25) and was published to the jury (p703, line23) with an enlarged version entered into evidence without objection EX 405, 419 (p711, lines 3).
11. Applicant's trial counsel, Mark Schnee, failed to review evidence when invited to do so by the state (p. 1216, line 22-24) and was unfamiliar with notes referred to by Inv. McCoy.

Applicant proceeded on all of the amended allegation claims at his evidentiary hearing.

SUMMARY OF RELEVANT PCR EVIDENTIARY TESTIMONY

APPLICANT'S TESTIMONY

On direct examination, Applicant testified that Trial Counsel never discussed a defense strategy, reviewed evidence with Applicant, provided a copy of discovery, investigated his case, and never hired an investigator. Applicant testified that Trial Counsel failed to object to or explain why he did not object to the following:

1. Leading question about screams on page 306 l. 18;
2. Hearsay statement about a victim inside on page 312 l. 9-10;
3. To leading regarding make and model of firearm on page 370 l. 19-20;
4. Admission of DNA evidence on page 326 l. 25;
5. Admission of spoon DNA evidence on page 382 l. 5; and
6. Hearsay at page 524 l. 6-10.

Applicant testified that Trial Counsel never explained why he did not object to the letter used in evidence that implicated him. Applicant further testified that Trial Counsel never explained why he did not object to the enlarged version of the letter being entered into evidence.

Applicant testified that Trial Counsel "implicated" him and that it was evidence of his guilt. Applicant testified that the judge asked him if he wrote the letter, and it "implicated" him. Applicant testified that Trial Counsel never explained why he did not review discovery with the solicitor. Applicant testified that Trial Counsel failed to test the credibility of the two-jailhouse informants and their letters. Applicant testified that the main thing Trial Counsel told him was "to remain silent." Applicant testified that Trial Counsel implicated him in that he wrote the letter to his mother to free his brother. Applicant testified and asked how Trial Counsel could say Applicant wrote that letter incriminating him.

On cross-examination, Applicant testified that his mother provided the letter and testified at trial that it was Applicant's handwriting. Applicant was asked if he admitted to the murder in the letter to which he replied, "[he] did not write it." Applicant was asked if when going to the police station with his mom did he state he was the lookout man to which he replied, "I do not recall." Applicant testified that he did not recall telling law enforcement that he was at the scene. Applicant testified that he did not ever say his brother shot Ms. Hunnewell.

On redirect examination, Applicant was asked what he wanted to testify to the letter, and he replied that he never admitted to writing that letter – there was no benefit to writing that letter

– Trial Counsel said he wrote it to free his brother – he never confessed – he never said he did nothing – Trial Counsel put that on the record.

DOLLY GARFIELD'S TESTIMONY

On direct examination, Dolly Garfield (Garfield), who prosecuted the case testified that she authenticated the letter entered at trial through a handwriting expert at the Schmerber⁶ hearing. Garfield testified that it was the mother who gave the letter to law enforcement. Garfield testified that Applicant's mother also testified that it was Applicant's handwriting. Garfield testified that she admitted the evidence as an admission against Applicant's own interest. Garfield testified that Trial Counsel took every opportunity to object when he could.

Garfield testified that she had worked with Trial Counsel for over nineteen years. Garfield testified that Trial Counsel was a prepared, zealous, and tenacious lawyer who understood the law. Garfield testified that Trial Counsel made objections with arguable merit. Garfield testified that Trial Counsel did not neglect this case and he did his job. Garfield testified that she did not recall any objections to the opening statement. Garfield testified that Trial Counsel filed extensive pretrial motions including a motion to sever. However, that motion was denied. Garfield testified that Trial Counsel fully litigated this case. Garfield testified that she never introduced Applicant's gang activity because of Trial Counsel's motion. Garfield testified that Trial Counsel filed a Belcher⁷ motion and motion to exclude photos and some of the photos were excluded.

Garfield testified that the case against Applicant was very strong because Applicant was on video – there was partial DNA evidence linking Applicant – Applicant's letter confessing to his role – evidence from a cell phone – Applicant's mother implicated Applicant on video and recognized Applicant on video. Garfield testified that Applicant's interview with law enforcement

⁶ Schmerber v. California, 384 U.S. 757 (1966).

⁷ State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009).

was not credible and was not used. Garfield testified that Trial Counsel served her office four days after Applicant was charged and he was very thorough. Garfield testified that Trial Counsel asked for thirty years, but Applicant got fifty years' imprisonment.

On cross-examination, Garfield testified that the DNA samples used were swabs. Garfield testified that the letter Applicant wrote to his mother was helpful. Garfield testified that she did not know what legal theory Trial Counsel would have objected to. Garfield testified that Trial Counsel made extensive objections to the jailhouse conversations.

On redirect examination, Garfield testified that there was nothing of substance that would have made a difference at trial because it could not be shown it was exculpatory.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court further had the opportunity to observe the witnesses at the evidentiary hearing and evaluate their credibility, and the Court has weighed their testimony accordingly in its discussion below. This Court finds the combined record of the trial transcript, and the testimony and evidence presented at the evidentiary hearing establish Applicant received effective assistance of counsel. Accordingly, this Court denies relief and dismisses this application with prejudice. Set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code.

INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Applicant alleges that he received ineffective assistance from his Trial Counsel. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, post-conviction relief allegations are centered upon an allegation that the applicant did not receive effective

assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in post-conviction relief actions). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is "necessarily linked to the practice and expectations of the legal community." Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, "does not guarantee perfect representation[—]only a 'reasonably competent attorney.'" Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct "so

undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is "no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities." Harrington, 562 U.S. at 110.

Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential[, as] it is all too tempting for a defendant to second-guess counsel's assistance after conviction or [an] adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort to be made to eliminate the distorting effects of hindsight, reconstruct the circumstances of counsel's challenged conduct, and evaluate the conduct from counsel's perspective at the time. Id. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a "strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." Butler, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts "must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed [at] the time of counsel's conduct." Strickland, 466 U.S. at 690. An applicant making a claim of ineffective assistance "must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment." Id. The reviewing court must then "determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance." Id.

The Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; see also Harrington, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under de novo review, the standard for judging counsel's representation is a most deferential one. Harrington, 562 U.S. at 105.

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show that the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." Id. at 696 (emphasis added).

The performance and prejudice standards, however, "do not establish mechanical rules . . . [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Id. at 696. Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Id. at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. Id.

This Court finds Applicant cannot meet his burden as to his claims of ineffective assistance of trial counsel. The specific claims are addressed below:

Allegation 1: Failure to Discuss a Defense Strategy

Applicant alleges Trial Counsel was constitutionally ineffective for failing to discuss a defense strategy with him. This Court finds this allegation is without merit.

On direct examination, Applicant testified that Trial Counsel never discussed a defense strategy with him.

On direct examination, Garfield **credibly** testified that Trial Counsel was a prepared, zealous, and tenacious lawyer who understood the law. Garfield testified that Trial Counsel did not neglect this case, and he did his job. Garfield testified that Trial Counsel filed extensive pretrial motions, including a motion to sever. However, that motion was denied. Garfield testified that Trial Counsel fully litigated this case. Garfield testified that she never introduced Applicant's gang activity because of Trial Counsel's motion. Garfield testified that Trial Counsel filed a Belcher⁸

⁸ State v. Belcher, 385 S.C. 597 (2009)

motion and motion to exclude photos, and some of the photos were excluded.

From the record, it is clear that Trial Counsel had a defense strategy that included witness credibility, motive, lack of direct evidence, and Applicant was protecting his older brother. During the opening statement, Trial Counsel stated, "Witness credibility is going to be one of the most important issues that you're going to have to decide in this trial." (Trial Tr. p. 285, ll. 19 – 21). Trial Counsel provided that there were witnesses with pending charges, witnesses that have changed their stories, and motives to protect and lie. (Trial Tr. pp. 285, l. 22 – 286, l. 24). Trial Counsel pointed out that Applicant was a "child" of just sixteen years old when this crime was committed, which goes to the "pressures" he was facing from family and the need to protect his brother. (Trial Tr. p. 287, ll. 5 – 21). Trial Counsel describes how and why Applicant would have reason to write the letter he did to his mother incriminating himself. (Trial Tr. pp. 287, l. 22 – 288, l. 24). Trial Counsel ended with the following:

The only thing I am going to can ask you to do is keep an open mind, pay attention to the witnesses, but concentrate on motivations for liars. There are going to be quite a few getting up there. They all have reasons to lie or to withhold information. Keep that in your mind at the forefront.

(Trial Tr. p. 290, ll. 3 – 8).

In Trial Counsel's closing statement, he attacked the veracity of two people's DNA being on a spoon that touched one person. (Trial Tr. p. 1585, ll. 12 – 25). Trial Counsel raised questions about the DNA profile, unable to exclude Applicant, but they could also not exclude "100 million people in the United States." (Trial Tr. p. 1586, ll. 1 – 8). Trial Counsel raised the credibility of multiple witnesses who testified. (Trial Tr. pp. 1586, l. 22 – 1590, l. 10). Trial Counsel raised that the State tested several pairs of gloves for gunshot residue which provided positive results, but the State did not test any of the gloves for DNA. (Trial Tr. p. 1591, ll. 6 – 21).

Initially, this Court finds Applicant has failed to meet his burden proving Trial Counsel's alleged deficiency prejudiced him. Applicant presented a single self-serving answer regarding whether Trial Counsel discussed defense strategy with him, but no evidence at the PCR evidentiary hearing regarding this allegation. In addition to providing no evidence at the evidentiary hearing, Applicant failed to provide what defense strategy Trial Counsel should have used. Therefore, whether the discussion of a defense strategy would have changed the outcome of Applicant's trial is mere speculation. However, speculation cannot satisfy Applicant's burden of proving prejudice. See Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 267 (1993) (concluding pure conjecture fails to establish prejudice).

Accordingly, this Court finds Applicant has failed to establish Trial Counsel's deficiency or prejudice. Thus, this allegation must be **DENIED** and **DISMISSED WITH PREJUDICE**.

Allegation 2: Failure to Review and Provide a Copy of Discovery

Applicant alleges Trial Counsel was constitutionally ineffective for failing to review and provide a copy of discovery. This Court finds these allegations are without merit.

On direct examination, Applicant testified that Trial Counsel did not review any discovery with him and did not provide a copy of discovery to him.

Without presenting further proof of Trial Counsel's alleged failure to review all the discovery with him or provide him a copy, Applicant has failed to overcome the strong presumption that Trial Counsel rendered adequate assistance. See Butler, 286 S.C. at 442, 334 S.E.2d at 814. In addition, Applicant has not presented any new evidence or defenses that could have been discovered by Trial Counsel's further review of the discovery, nor has he explained how further review would have changed the outcome of his trial. Hill, 474 U.S. at 59; see Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (holding an applicant must show what