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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Hampton County

Honorable Eugene C. Griffith, Circuit Court Judge

SIDNEY ANTOINE HOLMES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001946

APPENDIX

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF HAMPTON	)	CASE NUMBERS: 2015-GS-25-265, 266, 267 & 268

STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	
	)	
v.	)	TRANSCRIPT OF RECORD
	)	
SIDNEY ANTOINE HOLMES,	)	
	)	
DEFENDANT.	)	
	)	

MARCH 13TH - 15TH, 2017
COMMENCING AT
HAMPTON COUNTY COURTHOUSE
HAMPTON, SOUTH CAROLINA
BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

APPEARANCES:

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Official Court Reporter

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11	Norman Bostick	B	M
5	Sandra Barnwell	B	F
107	Tiffany Lott	B	F
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20	Casie Brunson	W	F
66	David Greene	B	M
117	Vrajesh Patel	A	M
147	Gwenlyn Smith	B	F
88	David Johnson	W	M

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THE COURT: Call your case, Solicitor.

ASST. SOL. MURDAUGH: Your Honor, the State is ready in 2015-GS-25-265, State v. Sidney Antoine Holmes, charged with murder. He is charged on same day with possession of a weapon during the commission of a violent crime. Another indictment on the same date, he is charged with firing a firearm into a dwelling. Another indictment he is charged with illegal possession of a pistol.

THE COURT: For the record, the murder indictment is 2015-GS-25-265, possession of a weapon during the commission of a violent crime is 2015 at 268. The discharging of a firearm into a dwelling or occupied vehicle is 2015 at 267, and the unlawful carrying of a pistol is 2015 at 266.

Ladies and gentlemen of the jury, please give me your attention. I will remind you that you are under oath. I will now ask you questions to determine your impartiality to serve as a juror in the trial of the case.

The State has called the State of South Carolina v. Sidney Antoine Holmes. Mr. Holmes is charged by these four pieces of paper which I hold in my hands that we call indictments. The indictments charge the defendant with the offenses of murder, possession of a weapon during the commission of a violent crime, discharging a firearm into a dwelling or occupied vehicle, and the unlawful carrying of a pistol. To these indictments, the defendant has pled not

guilty. That places the burden on the State of South Carolina to prove each and every element of the offenses by evidence satisfying you of that guilt beyond a reasonable doubt if you are selected as a juror in the trial of this case.

I tell you that, ladies and gentlemen, because I may even read you some of the allegations in the indictment. The indictment is not evidence in this case. It merely contains the allegations made against the defendant. The burden is on the State of South Carolina to prove the elements of each of the offenses beyond a reasonable doubt. Now, ladies and gentlemen, I want you now to meet the lawyers that are going to be trying this case. First, for the State of South Carolina and then for the defense, and I will ask the defense attorney to also introduce his client, beginning with counsel for the State.

ASST. SOL. MURDAUGH: I am Randolph Murdaugh. I am formerly the Solicitor of the Fourteenth Circuit. Now I am an Assistant Solicitor. Alec Murdaugh and I will be trying this case. This is Corey Williams with the Solicitor's Office as well.

THE COURT: Counsel for the defendant.

ASST. SOL. MURDAUGH: Good afternoon. My name is Bob Hughes and I am with the Fourteenth Circuit Public Defender's Office. I do cases in Allendale, Hampton and

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Jasper. This is Mr. Sidney Holmes from Walterboro, South Carolina.

THE COURT: This is Sidney Antoine Holmes from Walterboro, South Carolina, who is standing beside his attorney, Mr. Bob Hughes, with the Hampton County Public Defender's Office. You may be seated.

All right, ladies and gentlemen, my first question, is any member of my panel related by blood, connected by marriage, or a close personal friend of the defendant, Sidney Antoine Holmes of Walterboro, South Carolina? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Now, you've met the attorneys for both sides, Randolph Murdaugh, his son, Alexander Murdaugh, and Corey, are you going to be involved in this case as well?

MR. WILLIAMS: Just through the jury selection, Your Honor.

THE COURT: Also Corey Williams will be here. All of these lawyers represent the State of South Carolina. Is any member of my jury panel related by blood, connected by marriage, or a close personal friend of any of the attorneys for the State of South Carolina? If so, please stand at this time.

I'm Barbara Vaughn; my jury number is 162.

THE COURT: Thank you, juror 162. I appreciate that. Counsel, this is juror, Barbara Vaughn.

JUROR: My family is close personal friends with the Murdaugh family.

THE COURT: Your family is close personal friends with the Murdaugh family. The fact that your family -- I assume you are referring to your immediate family?

JUROR: Myself, my husband and my in-laws and my brother-in-law.

THE COURT: All right. The fact that your immediate family is friends with the Murdaugh family, would that in any way affect your ability to give the State of South Carolina or the defendant in this case, Sidney Holmes, a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, you may be seated. Anyone else? (NO RESPONSE.) Let the record reflect, no one else is standing. Has any member of my jury panel ever been represented in the past or currently represented by any of the State's attorneys in this case whom you have just met? If so, please stand at this time.

JUROR: Annette Youmans, juror number 173, I think.

THE COURT: Counsel, this is Annette Youmans, juror 173. Ms. Youmans, you stood. Did one of the attorneys for the State represent you in the past or are they currently

representing you?

JUROR: In the past.

THE COURT: Has that representation concluded?

JUROR: Yes, sir.

THE COURT: And who was that?

JUROR: Alec.

THE COURT: Alec Murdaugh. The fact that Alec Murdaugh represented you in the past and he's an attorney for the State in this case, would that in any way affect your ability to give the State or the defendant in this case a fair and an impartial trial?

JUROR: No, sir.

THE COURT: Thank you, ma'am. You may be seated. All right, you've also met counsel for the defendant in this case, Mr. Bob Hughes, with the Hampton County Public Defender's Office.

He actually does work in Hampton, Jasper and Allendale. Mr. Hughes lives in Jasper County. Any member of my jury panel related by blood, connected by marriage or a close personal friend of counsel for the defendant, Mr. Bob Hughes? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my jury panel ever been represented in the past or currently represented by Mr. Bob Hughes, counsel for

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the defendant in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. All right. Ladies and gentlemen, I told you that the indictments were just allegations. If you are selected as a juror, you must base your decision only on the evidence presented in this case. The indictments are not evidence. But I will tell you what is alleged in the indictments in order to ask you questions about your impartiality to serve as a juror.

In the indictment for murder, it is alleged that this happened in Hampton County, South Carolina, on or about August 1st, 2015. It is alleged that the defendant, Sidney Holmes, did with malice aforethought kill one, Stephen Douglas Cochran, and that's C-O-C-H-R-A-N. Mr. Cochran did die as a proximate result of Mr. Holmes's actions. It is alleged that this was a shooting, ladies and gentlemen, in the indictment.

In the indictment for possession of a weapon during the commission of a violent crime, it is alleged that this occurred in Hampton County, South Carolina, on August 1st, 2015. It is alleged that the defendant, Sidney Holmes, did possess a firearm, or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the

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commission of a violent crime.

On the indictment for unlawful carrying of a pistol, it is alleged that it occurred in Hampton County on or about August 1st, 2015, and that Sidney Antoine Holmes did carry about his person a handgun, whether concealed or not, while not being authorized to do so.

Finally, in the indictment for discharging a firearm at or into a dwelling or occupied vehicle, it is alleged that it occurred in Hampton County, South Carolina, on or about August 1st, 2015. It is further alleged that the defendant, Sidney Antoine Holmes, did discharge or cause to be discharged a firearm at or into a dwelling house, other building structure, or enclosure regularly occupied by persons. It is alleged that this discharge occurred at Hampton Garden Apartments in Hampton County on or about August 1st, 2015.

I tell you about those allegations, and that's all they are in the indictments, in order to ask you this. Is any member of my jury panel heard about, read about, or know anything whatsoever about the facts which are alleged in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. I am advised, ladies and gentlemen, that the potential witnesses -- I'm going to read out a list. These are not

necessarily people that will actually testify, but potentially could testify. I'm going to read out a name and I'm going to tell you where they're employed or I'm going to tell you where they live so you will be able to identify a location or an occupation with the name. Because there are several names, please bear with me because at the end of my list of potential witnesses, I'm going to ask you whether you are related by blood, connected by marriage or a close personal friend of any of the potential witnesses in the trial of this case. If the witnesses are present in the courtroom when I call your name, please stand when your name is called and fact my potential jury panel so they can see a face with a name as the name is called.

Major Jake Sullivan, Hampton Police Department. He is standing right in front of you, ladies and gentlemen . Sandra Bryant, Estill, South Carolina. Tanish Bryson Smith, 911 Dispatch, Hampton, South Carolina. Mike Lawson, Hampton Police Department. Rhett Long, Hampton Police Department. Tressie Gates, Hampton County Emergency Services. Brenda Ellis, Hampton County Emergency Services. Dr. Fred Mikell, Hampton Regional Hospital Emergency Room. Nick Ginn, Hampton Police Department. Dr. Erin Presnell, Medical University of South Carolina Pathology Department. Ernie Washington, Hampton County Coroner. Clarissa Bleimeister, Asset Protection Wal-mart. Brian Varnadoe, Colleton County

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Sheriff's Department. Counsel approach.

(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, this name is difficult, so I'm going to spell it for you. My court reporter is going to look at me and wonder how to pronounce it. His first name, Becky, is K-H-A-D-I-J-A-H. The last name is Battiste, B-A-T-T-I-S-T-E, Jasper Sheriff's Department, works in the Jasper County Jail. Michael Eichenmiller, South Carolina Law Enforcement Division. He is in the forensic section, the firearms section.

ASST. SOL. MURDAUGH: Judge, that should be Michelle. She is a lady.

THE COURT: All right. Michelle Eichenmiller, SLED. Kentravia Brown, Hampton, South Carolina. Catherine L-E-I-S-Y, Leisy. She is with the South Carolina Law Enforcement division in the forensic DNA lab. Dylan Hightower, Fourteenth Circuit Solicitor's Office. B.J. Holmes, Hampton, South Carolina. Tremaine Gordon, Hampton, South Carolina. Victor Folk, Hampton, South Carolina. Shanriqua Chisolm, Hampton, South Carolina. Courtney Russell, Hampton, South Carolina. Shanita Johnson, Hampton, South Carolina. Benjamin Holmes, Hampton, South Carolina. Penny Holmes, Hampton, South Carolina. Any additional witnesses from the State?

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ASST. SOL. MURDAUGH: Did you call Michael Smith, Your Honor, please?

THE COURT: No, sir, I did not.

ASST. SOL. MURDAUGH: It should have been on there, sir, I apologize.

THE COURT: Location or employment?

ASST. SOL. MURDAUGH: Employed by the school resource officer for Hampton North District; Allendale County P.D. now.

THE COURT: Ladies and gentlemen, Mr. Michael Smith, formerly with Hampton as a school resource office, but now employed by the Allendale County Police Department. Any additional witnesses from the State of South Carolina?

ASST. SOL. MURDAUGH: None that I'm aware of.

THE COURT: Any additional witnesses from the defendant?

MR. HUGHES: No, Your Honor.

THE COURT: All right, ladies and gentlemen, is any member of my jury panel related by blood, connected by marriage, or a close personal friend of any of the potential witnesses in the trial of this case whose names I have just called? If so, please stand at this time.

(ONE JUROR STANDS.)

JUROR: Juror 155.

THE COURT: Counsel, this is Ms. Mary L. Stutts, juror

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155. Ms. Stutts, a yes or no, are you related by blood to any of the potential witnesses?

JUROR: No, sir.

THE COURT: Are you connected by marriage to any of the potential witnesses?

JUROR: No, sir.

THE COURT: Are you a close personal friend to any of the potential witnesses?

JUROR: Yes, sir.

THE COURT: And what witness?

JUROR: The Sled Agent with the DNA lab, Catherine.

THE COURT: All right. That name that I gave you was Catherine Leisy?

JUROR: Yes, sir. She is a close personal friend of my daughter's. My daughter works at the SLED lab also.

THE COURT: I understand. The fact that Ms. Leisy is a potential witness and is a close personal friend of your daughter and they work together, would that in any way affect you from giving the State of South Carolina or the defendant in this case a fair and an impartial trial?

JUROR: No, sir.

THE COURT: Thank you, ma'am. You may be seated. Let the record reflect, no one else is standing. Ladies and gentlemen, I asked you a little while ago, I asked you about witnesses. I told you in the indictment for murder, it is

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alleged that Stephen Douglas Cochran was killed, or died, in Hampton County, allegedly, on or about August 1st, 2015. I ask now, is any member of my jury panel related by blood, connected by marriage, or a close personal friend of the person who is alleged to be the victim of the murder in this case, Stephen Douglas Cochran, C-O-C-H-R-A-N? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my jury panel formed any opinion whatsoever about the facts which are alleged in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my jury panel formerly a member of the Hampton County Grand Jury, which found the indictments in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my potential jury panel ever been the victim of a violent crime? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my jury panel know of any bias or prejudice they may have about the facts which are alleged in this

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case, any of the potential witnesses that are involved in this case, or any of the parties or attorneys involved in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my jury panel who is a member of or a contributor to any group which has as its primary concern the promotion of law enforcement or victim's rights. These groups would include, but certainly not be limited to, SADD, MADD, CADRE or CAVE. If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Any member of my jury panel know of any reason whatsoever why they can't give, why he or she can't serve as a juror in this case, with particular emphasis being placed on your ability to be fair and impartial to both the State of South Carolina and the defendant in this case, Sidney Holmes? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Any additional voir dire from the State?

ASST. SOL. MURDAUGH: None from the State, Your Honor, please.

THE COURT: Any additional voir dire from the defendant?

MR. HUGHES: No, Your Honor.

THE COURT: All right, ladies and gentlemen, I understand, Madame Clerk, I've been over this with the attorneys. The strikes are 10 and 5 on the jury. They are 2 and 1 on alternates.

(BRIEF PAUSE IN THE COURTROOM WHILE CLERK PRINTS OUT JURY LIST.)

THE COURT: Counsel, my understanding is that the clerk has drawn a list. You both agree that the strikes are 10 and 5. We will try, depending on strikes, to draw three alternate jurors. We certainly can draw two based on what I have now, but we will attempt to draw three.

Madame Clerk, will you give us the jury, please. Have them come to the front of the courtroom and bring their belongings with them.

MADAME CLERK: When I call your name, please come forward and we will tell you where to stand. Bring your belongings when you come up. Number 162, Barbara Vaughn. What says the State?

ASST. SOL. MURDAUGH: Please present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please excuse the juror from the trial of this case.

MADAME CLERK: Number 157, Lee Terry. What says the State?

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THE COURT: What says the State?
ASST. SOL. MURDAUGH: We're considering it, sir. I'm sorry, sir.
THE COURT: I realize that.
ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please seat the juror.
MADAME CLERK: Mr. Terry, you can have a seat. Number 19, Robert W. Brown, Jr. What says the State?
ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please excuse the juror from the trial of this case.
MADAME CLERK: Number 158, William Thompson. What says the State?
ASST. SOL. MURDAUGH: Excuse the juror.
MADAME CLERK: Number 138, Joseph Saxon. What says the State?
ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please seat the juror.
MADAME CLERK: Number 115, Cherry Moore. What says the State?
ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?

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MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 173, Annette Youmans. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please excuse the juror from the trial of this case.

MADAME CLERK: Number 174, Kim Youmans. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 11, Norman Bostick. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 36, Deborah Cope. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please excuse the juror from the trial of this case.

MADAME CLERK: Number five, Sandra Barnwell. What says the State?

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ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please seat the juror.
MADAME CLERK: Number 84, Evelyn Jarrell. What says the State?
ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please excuse the juror from the trial of this case.
MADAME CLERK: Number 107, Tiffany Lott. What says the State?
ASST. SOL. MURDAUGH: Please present this juror.
THE COURT: What says the defense?
MR. HUGHES: Please seat the juror.
THE COURT: Number 110, Jonathon McMillan. What says the State?
ASST. SOL. MURDAUGH: Present the juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please excuse the juror from the trial of this case.
MADAME CLERK: Number 116, Sytonah Orr. What says the State?
ASST. SOL. MURDAUGH: Please present this juror.
MADAME CLERK: What says the defense?
MR. HUGHES: Please excuse the juror from the trial of

this case.

MADAME CLERK: Number 49, Dazon Duffy. What says the State? ASST. SOL. MURDAUGH: Excuse the juror.

MADAME CLERK: Number 65, Michael Gordon. What says the State?

ASST. SOL. MURDAUGH: Excuse the juror from the trial.

MADAME CLERK: Number 159, Karolyn Turner. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 89, Eartha Johnson. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 9, Hannah Bostick. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 20, Casie Brunson. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

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MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 70, Jesse Hadwin. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please excuse the juror from the trial of this case.

MADAME CLERK: Number 66, David Green. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

THE COURT: Alternate number one, two and one on the alternate.

MADAME CLERK: Number 155, Mary Stutts. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please excuse the juror from the trial of this case.

MADAME CLERK: Number 117, Vrajesh Patel. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

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MADAME CLERK: Number 147, Gwenlyn Smith. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

MADAME CLERK: Number 88, David Johnson. What says the State?

ASST. SOL. MURDAUGH: Present the juror.

MADAME CLERK: What says the defense?

MR. HUGHES: Please seat the juror.

THE COURT: All right, counsel, are there any matters of law pertaining to the selection of the jury that need to be decided before the jury is sworn, from the State of South Carolina?

ASST. SOL. MURDAUGH: There are none from the State.

THE COURT: From the defendant?

MR. HUGHES: No, Your Honor.

THE COURT: You understand that decision is irrevocable regardless of when we commence trial, Mr. Hughes?

MR. HUGHES: Yes, sir.

THE COURT: Mr. Murdaugh?

ASST. SOL. MURDAUGH: I understand, yes, sir.

THE COURT: All right. Counsel, approach.

(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)

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THE COURT: All right, counsel, it's my understanding that both sides are ready to proceed with the trial of this case; is that correct, from the State?

ASST. SOL. MURDAUGH: That is correct, sir.

THE COURT: Is that correct, from the defense?

MR. HUGHES: Yes, Your Honor.

THE COURT: Very well. Madame Clerk, would you please swear the jury?

MADAME CLERK: Would you stand and raise your right hand, please?

(Whereupon, the jury is duly sworn.)

THE COURT: Mr. Bostick, would you raise your hand for me, please?

(Mr. Bostick, juror number 11, raises his hand.)

THE COURT: I'm going to ask you, if you would, if you would serve as the foreperson of my jury. Would you trade seats with the lady on the end for me, please.

Now, Mr. Bostick, that will be your seat. The rest of you can sit anywhere you want. I want my alternate jurors to know that you're going to be with the jury throughout the case. If for some reason a member of the jury becomes ill or for some reason cannot continue to serve, you would take their place on the jury. So you will be with them throughout the trial of the case.

For those of you not selected as a juror in the trial

of this case -- Mylinda, do they have the number?

MADAME CLERK: When they go downstairs, the jury office has it at the security desk.

THE COURT: All right. I'm going to ask you, when you leave today, at the security desk downstairs, the security officer will have a telephone number on a card. Call the number after 6:00 tonight. I will have a taped message on that number telling you when, if at all, I might need you to return. On behalf of Hampton County and this Court, I want to thank you for your patience this afternoon during jury selection and jury qualification. I don't know whether I will see you again; I may not need you. However, I need you to call that number after 6:00. There is one message for all jurors who are not on the jury. You may now leave the courtroom at this time.

(Remaining jury panel exit 5:00 p.m. The following is placed on the record.)

ASST. SOL. MURDAUGH: Your Honor, please, we have a matter that we discussed in chambers, but has not been discussed in the courtroom regarding sequestration of witnesses, and I just didn't want to get started.

THE COURT: You are absolutely right. Mr. Hughes, is there a motion for sequestration?

MR. HUGHES: Yes, Your Honor, at this time I would move to sequester all witness, except for the primaries.

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THE COURT: In that case, then, you understand, Mr. Hughes, you have provided me with witnesses for the defendant. Your witnesses would be sequestered if you ask me to sequester the State's witnesses. Get with the clerk and have a place because we're not going on a hunt for witnesses during the trial. The solicitor has a designated place for his witnesses and you will, too. Your request for sequestration is granted and applies equally to both sides. Please now excuse your witnesses, other than the defendant and other than your managing case officer from the courtroom. I realize I also have victims, Solicitor, and under the Victim's Bill of Rights, members of the victim's family, particularly if they are not witnesses in the trial of this case can remain in the courtroom.

ASST. SOL. MURDAUGH: Your Honor, we have one that we have listed as a witness, if Your Honor, please.

THE COURT: All right. I can't tell from the last names, so you will have to tell me.

ASST. SOL. MURDAUGH: Pam Mitchell.

THE COURT: It's not on there.

ASST. SOL. MURDAUGH: Okay.

THE COURT: All right. Any objection to that, Mr. Hughes?

MR. HUGHES: No, Your Honor.

THE COURT: All right. Both of you go back and make

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sure your witnesses now leave the courtroom before we commence in accordance with my ruling. Sequestration is mutual.

(Off the record, briefly.)

THE COURT: All right. Solicitor, has the State now removed all of its witnesses, except for your managing case officer?

ASST. SOL. MURDAUGH: I have had the expert help of Solicitor Alec Murdaugh.

THE COURT: I'm sure you have, but I have to ask you because you're the officer of this Court for the State.

ASST. SOL. MURDAUGH: I assume that it's been done, Yes, sir.

THE COURT: Mr. Hughes, has the defendant removed all of his witnesses pursuant to my Order?

MR. HUGHES: Yes, Your Honor.

THE COURT: Very well. That takes care of sequestration.

(Whereupon, the jury is seated in the jury area and the following is placed on the record.)

THE COURT: All right, Mr. Foreman, ladies and gentlemen of the jury, as I told you earlier, the case we are about to try is the case of the State of South Carolina v. Sidney Antoine Holmes. Mr. Holmes is charged by these indictments as I told you and he's charged with four

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different offenses and I read them out to you.

He's charged in one indictment with murder. He's charged with unlawful carrying of a pistol. He's charged with discharging a firearm at or into a dwelling or occupied vehicle and he's charged with possession of a weapon during the commission of a violent crime.

Now, don't worry about what the elements are of those offenses, because I will charge you the law, including the elements of the crime, in my charge to you on the law at the conclusion of the case. I haven't heard any evidence in this case and you told me you don't know anything about this case when I asked you under oath. You haven't heard any evidence in this case.

These indictments, as I told you, are just the formal written instruments by which the case is filed that brings it into this Court. So they're not in any sense evidence of any of the allegations contained. The defendant has pled not guilty to the indictments. The State of South Carolina has the burden of proving each of the essential elements which I will go over with you in my charge in the indictments beyond a reasonable doubt. It will be your duty, ladies and gentlemen, to decide whether the State has met that burden. It is your solemn responsibility to determine the guilt or the innocence of the defendant and your verdict must be based solely and only on the evidence

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as it is presented to you in this trial and on the law as I instruct it to you to be during the trial of this case.

In just a minute, the Assistant Solicitor will make what is called an opening statement in which he will explain to you the issues in this case or at least what he contends to be the issues in this case, and the attorney for the defendant will make an opening statement.

I want to tell you that the attorneys have worked hard to prepare the case and I want you to listen to them. But what the attorneys tell you in opening statement, what the attorneys argue to you in closing argument, what the attorneys suggest to you by questions that they ask, is not evidence. You must base your decision solely and only on the evidence in this case.

Now, what is evidence? Evidence is sworn testimony that will be presented to you from this witness stand by witnesses who will take this witness stand and take an oath. Evidence may also take the form of an exhibit, such as a photograph, and you will see that I will have the court reporter mark the exhibits. You will hear me say, "The exhibit, such as a photograph, is in evidence." That means they can show it to you, because you can't see an exhibit until I have an opportunity to rule on it, just as I would any question asked by either one of the attorneys during the trial of the case.

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Evidence may also take the form of a stipulation. The parties may agree that a fact is true and therefore, not necessary to be proved. So evidence is sworn testimony from the witness stand, any exhibit, or any stipulation that might occur during the trial of the case.

Under the Constitution of the State of South Carolina, you and you alone, the members of the jury, are the sole judges of the facts of this case, but you must make your decision based solely on the evidence of this case. And the same law that makes you the judges of the jury of the facts based on evidence makes me the judge of the law. I cannot invade your province, ladies and gentlemen, and tell you what the facts are. I can't even make a comment to you about what the facts are. I can't make a comment to you about what the evidence shows. And you should not invade my province, ladies and gentlemen, and differ with me about what the law is. Everything that I say during the course of this trial is being taken down by my court reporter, Becky Hill. If I make a mistake as to the law, the parties can appeal the case to the Appellate Court and if the Appellate Court agrees that I've made a mistake, they will send the case back for a new trial. So don't worry about whether or not I have told you the law correctly. That is somebody else's worry. Your job is to take the law as I give it to you and apply it to the facts as you find them to be based

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on evidence introduced during the trial of this case. After doing that, you will render your verdict a solemn verdict under that oath which each of you just took from the Clerk of Court of Hampton County.

Now, you may hear the attorney's say, "Your Honor, we have a matter of law we want to discuss with you." Or I myself might ask you to step to your jury room. Now, a lot of times my jurors think we are trying to hide something; we're not. The reason for this is exactly what I just told you. You're the sole judges of the facts based on evidence introduced during the trial of this case and I'm the sole judge of the law. Sometimes when I'm talking to the attorneys, by necessity, I have to make a comment to them about the facts in order to rule whether a particular piece of law applies to this case.

Now, I haven't heard any evidence in this case. I haven't ruled on it. I have no idea what the evidence is going to show, just as you haven't heard the evidence in this case. But sometimes, because I'm not supposed to make any comment to you, we take up matters outside your presence. Not to hide from you, but so that you won't be influenced by anything that I might say or do in ruling on whether or not a particular piece of law applies. That is the reason I may ask you sometimes to step to the jury room or we talk up front so you won't be influenced by anything

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that I say, because you're the sole judges of the facts. I can't invade your province and you should not differ with me about what the law is. If any of you have any preconceived opinions about what you think the law is or that you feel the law ought to be and it does not agree with what I tell you the law is, under that oath which you just took, you must put aside any of your preconceived opinions or beliefs. You must decide this case on the law as I instruct it to you to be during the trial and in my charge to you on the law at the conclusion of the trial.

Now, one last thing and we're going to get started. One of the things you're going to have to do in this trial is you're going to have to determine what are the true facts from the evidence. I've explained to you what evidence is. It will be my responsibility to rule as a matter of law whether or not certain testimony is admissible at all or not. Whether or not you believe that testimony as a jury is solely a matter for you, the jury, to determine.

Now, ladies and gentlemen, that means you will have to pass upon the credibility or simply the believability of the witnesses who will testify in the trial of this case. And in passing upon credibility or believability, you as a jury have the right to take into consideration if shown to your satisfaction the interest of any witness, the bias of any witness, the prejudice, if any, of any witness, the

opportunity for the witness to have observed the matters about which he or she might testify. You might even take into consideration what we call the demeanor of the witness, the appearance of the witness, while the witness is on the witness stand. Anything that is in evidence, ladies and gentlemen of the jury, you as a jury have the right to consider in passing upon the believability or the credibility of the witnesses. You will notice, ladies and gentlemen, where the witness stand is located. It's located on the side of the courtroom in closest proximity to you so that you can observe the witness; you can listen to the witnesses.

Don't let your thoughts wander, but give strict attention to the witnesses so that at the end of the case by listening you will have put yourself in a position to determine what the true facts are in the case from evidence introduced during the trial of the case and apply the facts as you find them to be from the evidence to the law as I charge it to you to be in my charge on the law at the conclusion of the case and thus render a just verdict in the case at the conclusion of the case.

Now, you must not consider anything that you may have heard or read about this case outside of this courtroom, whether before or during this trial. Until I submit this case to you, you don't discuss it with each other, your

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fellow jurors, or with anyone else. When I submit it to you, you discuss it only in your jury room with your fellow jurors.

It's very important that each of you keep an open mind and not decide the case until the entire matter has been submitted to you. Why? Because the very last thing in this trial might be something that makes a difference to you. So please don't try to engage in what we call premature deliberations.

I know everybody has a cell phone. I've got one right here, too. Please don't try to do any juror research on your computer or on a social networking website or on your cell phone about anything. Even if you thought it might help you decide the case, that's improper. Both sides have the absolute right to know exactly what information you're basing your decision on. So don't try to do any research on your own. Don't try to look up a lawyer or a witness or any kind of information on your computer about anything that might be raised during the trial of the case.

Now, Mr. Foreman, you will preside in the jury room just like the chairperson of a committee will preside in a committee meeting. It is your job to see that each and every member of the jury has a full and fair opportunity to voice their opinions in the jury room once deliberations begin, but I will instruct you do not engage in any

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discussions about the case until I instruct you to deliberate.

My alternate jurors, you're very important. I don't know whether I will need one of you, all of you, or two or you. You will be with the jury at all times. If a member of the jury becomes ill, or if for some legal reason cannot continue to serve, you will take their place on the jury. So you will be with the jury until the conclusion of the trial of this case.

Now, as you noticed, I'm used to projecting my voice. A lot of people talk softly or mumbles and nobody understands what they say. My court reporter is looking at me right now with that look on her face. If you can't hear, raise your hand. I'll be watching you. I want you to be able to hear.

If an exhibit is introduced into evidence, you will hear me say, "It is in evidence and you may now publish to the jury." If an exhibit is in evidence and you can't see it, raise your hand. I want my jury to be able to hear and see at all times throughout the trial of the case.

Now, Mr. Foreman, we do not allow jurors to ask questions in the courtroom. If at any time a member of the jury has a question, here is the procedure we have to follow. If you are not already in your jury room, you will retire to your jury room. You will write the question on a

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piece of paper and give it to my bailiff and he will bring it out. I will then have to rule as a matter of law whether or not the question can or cannot be answered, just as I would by any question asked by any one of the attorneys during the trial of the case.

I'm going to ask you not to take written notes. Why? Because I've found that if a member of the jury takes written notes and makes a mistake in the written notes, the notes can be harmful rather than helpful in your jury room once deliberations begin. The time-tested system is to listen and listen carefully. Now, if you're worried about remembering, Becky is making an audio recording, not video, but an audio recording. She can play back the entire testimony or a portion of the testimony of any witness. I'm going to ask each of you to listen.

Ladies and gentlemen, thank you very much and I tell you all that so that you have some idea of how we are going to proceed. We are going to try to move forward now. Please give the attorneys your careful attention. Any exceptions or additions to the Court for instructions to the jury, from the State?

ASST. SOL. MURDAUGH: None from the State.

THE COURT: From the defendant?

MR. HUGHES: None from the defense, Your Honor.

THE COURT: Solicitor, you may now commence the trial.

ASST. SOL. MURDAUGH: May it please the Court?

OPENING STATEMENT

BY ASST. SOL. RANDOLPH MURDAUGH:

Mr. Foreman, ladies and gentlemen of the jury, a trial is divided into a number of sections. The first is opening statement. I like to think an opening statement is sort of like a roadmap as to what you're going to see as we go through this trial. You will hear testimony from Jake Sullivan, seated right over there, the Chief of Police in Hampton, that he was on the telephone talking with Steve Cochran, the man that died.

When shots rang out or the call came back in, he was gurgling, losing his ability to talk, and in essence, died when he was talking with him on the telephone. He asked him to send a car around to check on what was going on.

You will then hear testimony of a lady by the name of Zandra Bryant who lived in the Hampton Garden Apartments. That's where this took place. She lived in the Hampton Garden Apartments and she will testify to you under oath that earlier that night there were a number of people that weren't residents of Hampton Garden Apartments that Steve Cochran had asked them to leave and that they had left. Then, two came back -- I think she says two, you will have to check her testimony. That two came back. One of them pulled a gun out and shot Cochran a number of times and

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killed him.

You will hear testimony from the officers that they went out there and did a forensic search of the area and that they found five cartridge cases. That is the thing with projectiles on out of it. And they found four projectiles. One of them went into the building where the office was and in the back was a bedroom where Steve Cochran lived at times.

You will hear from a man in Columbia with SLED who will come down and testify to you. You will also hear the testimony of the pathologist who checked the dead body of Steve Cochran to see what caused his death. In the process of doing that, she found a projectile in his body and she will tell you what caused his death; it was the shooting.

The man from SLED will come down and say, "Yes, I examined these projectiles and I examined these casings, and I examined the projectiles that came out of his body and that they all came from the same gun." I can't tell you what gun it was because Sidney Holmes took it with him when he left the place that night and we have no idea where it is.

You will hear a number of other pieces of testimony, some of which will help you in making your determination. His Honor told you in essence a little bit about what the law is. I'm going to tell you a little bit in lay terms

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what you need to be looking at so you will know which direction to go.

Murder is the unlawful killing of another person in sudden heat or passion with malice aforethought. In other words, malice is defined as having an ill will or being in bad humor. It doesn't make any difference how long you have that malice in your body, but you have to have had it in your mind at the time you did the shooting.

There is a statute in South Caroina that says that if you shoot into a dwelling house that that is a crime. We have him charged with that. You will hear the testimony from Rhett Long, I think, one of the officers that says that they saw a hole go through the office in which the back was a bedroom and went through a wall and was laying on the floor. They picked up that projectile. You will hear all that testimony. Now, that is shooting into a dwelling.

The law also provides that it's against the law to carry a pistol, except under certain conditions. And we will tell you that these were not the conditions that you can be exempted. The law also says when you commit a violent offense, any violent offense, that if you use a pistol to do the offense, then you are subject to an additional charge of the use of a weapon and a violent offense. Those are the things: four charges. Murder, use of a weapon in a violent offense, illegal possession of a

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pistol, and shooting into a dwelling house.

There will be other testimony other than what I have told you about. We don't want to waste your time, but you will hear it come from that witness stand. You must make a decision based upon the testimony that comes from the witness stand and any evidence that is put in the record.

His Honor told you a minute ago that you have to determine what the truth is and in doing that, we don't ask you to come in her and leave your common sense outside on the street. We ask you to bring your common sense and the things you have learned all of your life in attempting to raise children, to grow up, to live. In other words, we want you to bring your life experiences in here. It's not like Old England, you know, you see people how they put their hand on the Bible and hold up their right hand? You know why they do that? In Old England, if they ever found somebody telling a lie in Court, they would put a P in the palm of their hand for perjurer. So when you came to Court, they made you hold up your right hand to see whether or not you were a liar. But that's what y'all have to determine is who is telling the truth and who isn't if there is a difference in testimony. I frankly don't know that among the witnesses I will use that there will be any difference in testimony. But you must make that decision.

I also tell you that you have the right to use not only

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the way they act when they hold up their hand and swear to tell you the truth, you have the right to consider what one has to gain or lose by telling you something that is true or not true.

You have a right to just use your good common sense. How many of y'all have ever looked at your child or your brother or your sister when you knew they had done something wrong and asked them a question and they told you something that wasn't exactly right, you knew. It's just life experiences. You can tell when they are being straight with you. That is what we are asking you to do is to use your good common sense and your life experiences in deciding this case.

Then, you must reach a verdict. Verdict is derived from the Latin word "veredicto," which means to speak the truth and that is what we are asking you, that your verdict speak the truth. Thank you.

THE COURT: Mr. Hughes?

MR. HUGHES: May it please the Court?

OPENING STATEMENT

BY MR. HUGHES:

That's one of the few times that we are actually in agreement. Do not leave your common sense at the door. Have it with you as you sit here.

I have done a number of trials against this gentleman.

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He is one of the best lawyers I know. But he is fast. You're going to have a lot of witnesses up there. Justice is never fast. Justice is slow and steady. I'm going to ask y'all to listen very, very, very carefully to everything that is said. Watch all the witnesses and I'm going to give you a dirty little secret about court right now; just don't tell anybody. Sometimes it can get boring. I know you find that hard to believe. This is a murder trial, how can it be boring?

The time change was yesterday. Everybody here got up an hour earlier. Everybody here would love to have their mommies tell us it's time for our nap. You're going to get drowsy. Tomorrow, this is going to go on after lunch. If you have a big lunch like some of us, you're going to get even more drowsy. I talk and project. Solicitor Murdaugh talks and projects. Not all witnesses who will be on that stand will talk and project. So if you can't understand them, raise your hand. Ask the judge to have them repeat it. It's up to you to get all of the facts. You're the finder of facts. That's what a jury does. Based upon those facts, you determine the truth. So all I'm asking is that you pay attention, listen closely, and tonight when you go home, think to yourself, what am I going to need to hear so that I will know what happened, happened beyond a reasonable doubt.

When we get back and I talk to you again when this case is over, keep in mind what you would have needed to hear and I'll show that you didn't hear it. Again, stay awake, listen closely and I'll talk to you when this is over. Thank you.

ASST. SOL. MURDAUGH: We call Jake Sullivan.

THE COURT: Come around and be sworn by the clerk.

(Whereupon, Mr. Jake Sullivan is duly sworn.)

THE COURT: Have a seat and adjust that chair. That microphone is going to amplify your voice. State your full name and spell your last name for the court reporter.

MR. SULLIVAN: Jacob Sullivan, S-U-L-L-I-V-A-N.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. MURDAUGH:

Q Mr. Sullivan, by whom are you employed?

A Hampton Police Department.

Q In what capacity are you employed by them?

A I'm the Assistant Chief of Police and I hold the rank of Major.

Q Okay. Did you hold that rank in August the 1st of 2015?

A No, sir, at that time I was the Captain.

Q Okay. And who was the Major?

A Major James "Jim" Boltin.

Q Blue Boltin?
A Blue Boltin, yes, sir.
Q And I believe he has died, has he not?
A Yes, sir, that's correct.
Q And you were promoted at that time?
A That's correct.
Q Okay, sir. I ask you whether or not on the first day of August, 2015, you were on duty somewhere?
A No, sir. I was actually off that evening.
Q Oh, you were off?
A Yes, sir.
Q Okay. Did you have your cell phone?
A I did, yes, sir.
Q Did you receive a telephone call from anybody?
A I did at approximately 11:03.
Q And who was that you received a call from?
A Steve Cochran.
Q Okay, sir, is that the fellow who got killed out there?
A Yes, sir.
Q Okay. What did the call consist of?
A It was a Saturday evening. My family and I had just returned home from an outing. Like I said, around 11:03 my phone rang. I recognized the number as Steve's. I answered the phone and Steve was on the other end of the line and he stated that he had been trying to call the police department

and had tried several times and couldn't get anyone. I laughed at him and told him, you know, the police department is not open 24 hours a day. We have office hours and that he would have to call 9-1-1. He said, "Well, the office wasn't open, so I just decided to call you since I had your number." We continued to talk and I told him that in the future he could call our dispatch non-emergency number and he told me to text him that number after the phone call was over. I told him I would. He went on to say that the reason for the call was that he had approached a group of black males in the Hampton Garden Apartments a few minutes before. They were out there drinking and had loud music and potentially were smoking some illegal narcotics. He stated that he had run them off. He advised them that if they lived in the apartments to go back to their apartment. If they did not live there, to go to the apartment of the individual they were visiting. He said they left the scene and he just asked for us to have an officer come back through a little later just to make sure they didn't return. At that time, we kind of ended that part of the conversation and started talking about other instances that we were familiar with. During the course of his talking, he abruptly stopped and started screaming. He started screaming, "Help me! Help me! Help me, Jake!" and during that time, I started hearing additional screaming in the

background. Several women screaming and just a lot of loud commotion. I started asking Steve, "What's going on, Steve? What's going on?" He wouldn't answer me and I was still hearing a lot of commotion, screaming. I could hear women screaming more so than anyone else, in addition to Steve screaming, "Help me!" At that time, I didn't know exactly what was going on. I went and grabbed my handheld radio from the bedroom. I came across the radio and contacted our officers that were working that evening and told them to head to the projects that I had an open line and I didn't know what was going on. At that point, the call dropped.

Q You're talking about the telephone call?

A The telephone call dropped. Just a minute later, it rang again. It was Steve again. He screamed, "Help me, Jake! They shot me." I could also hear a woman in the background say, "They shot him." At that time, I grabbed my radio again and contacted the officers to let them know it was a shooting incident they were going to so they could protect themselves as well. I asked dispatch if she was getting reports of the incident and she said they were getting numerous phone calls at that point. I continued to try to talk to Steve and he said one more time, "Help me, Jake. They shot me." And at that point, I couldn't -- he didn't speak anymore. I started hearing gasping for air. You could hear a gurgling sound in his voice like almost

like he was choking on something, on blood, I'm not sure exactly what, but it was a very eerie sound to listen to him. He was gasping for air. You could tell he was struggling at that point to breathe. At that point, I continued to try to get him to respond to me. He would not respond. A female individual finally picked up the phone and came across. I identified myself to her and let her know I was a police officer. She identified herself to me as Zandra Bryant. At that point, I told her that officers were on the way and that I would be personally on my way and that I wanted to speak to her when I got there.

Q Yes, sir.

A And that was the end of that conversation.

Q Okay. Did you know Steve Cochran?

A I did, yes, sir.

Q Do you know whether or not he lived all the time or some of the time in the rooms in the back of the office building there?

A Yes, sir. He had just been hired as the new maintenance man a couple of months before. The previous property manager, Pete Light, introduced me to him when he came to town. I had encountered Steve several times throughout town and restaurants and things like that. He was beginning to become one of the community members, you know. He was becoming a citizen of the town. And he did

stay at the apartments from time to time. On that evening, he was staying and through the course of our investigation, we found out he was going to be going to the beach the next day, so he was staying there that evening.

Q Okay. Did you testify as to the name of the person that got on the phone and talked to you?

A Yes, sir, Ms. Zandra Bryant.

Q Zandra Bryant? Okay.

ASST. SOL. MURDAUGH: If Your Honor, please, I would like to stop with his testimony now and with permission to put him back up with an unrelated part of the case.

THE COURT: Any objection, Mr. Hughes?

MR. HUGHES: No, Your Honor.

THE COURT: Very well. Pass the witness. Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:

Q Okay. You were on the phone with him, correct?

A Yes, sir.

Q And y'all were talking and he had asked you to have officers ride through later?

A Yes, sir.

Q And then he started screaming?

A Yes.

Q And you heard women screaming?

A Yes.

Q And they were screaming, "They shot him"?
A That's correct.
Q And then later he said, "They shot me"?
A Yes, sir.
Q Did you ever hear the shots?
A I did not, No, sir.
Q Okay. But you were sure of what he said?
A Yes, sir. I won't forget it.
Q I can understand that. And you are sure of what you heard the women say?
A Yes, sir.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. MURDAUGH: No redirect, sir. But with the chance to recall ---

THE COURT: Without objection. You may call your next witness.

ASST. SOL. R. MURDAUGH: Call Zandra Bryant. (to Mr. Alec Murdaugh) Are you ready?

ASST. SOL. A. MURDAUGH: Oh, we're already that far along? Will you get Ms. Bryant, please?

Your Honor, the next witness is going to be Zandra Bryant.

THE COURT: She's already been called.

(Witness enters the courtroom and is duly sworn.)

THE COURT: Have a seat. Make yourself comfortable. Adjust that microphone. It's going to amplify your voice. I want you to speak up so my jurors at the end can hear you. State your full name and spell your last name for the court reporter.

MS. BRYANT: My name is Zandra Bryant, B-R-Y-A-N-T.

DIRECT EXAMINATION

BY ASST. SOL. MURDAUGH:

Q Good afternoon, Ms. Bryant.

A Good afternoon.

Q Tell me a little bit about yourself. Where are you from, ma'am?

A Hampton.

Q How long have you lived in Hampton? Were you born and raised in Hampton?

A Yes, sir.

Q Got a family?

A Four kids.

Q How old are your kids, Ms. Bryant?

A Twelve, eleven, four and two.

Q Busy, busy lady. And where do you live Ms. Bryant?

A [redacted] Palm Street Apartment [redacted] Hampton.

Q And that's what is commonly known as Hampton Gardens?

A Hampton Gardens.

Q Okay. And how long have you lived in Hampton Gardens?

A Fifteen years.
Q A long time. You lived in the same apartment over there?
A No, sir.
Q You moved around within Hampton Gardens?
A Yes, sir.
Q And your current residence is which one?
A [redacted].
Q All right. On August 1st, 2015, where were you?
A At my sister's apartment at first in the bottom of our apartments.
Q So you were at the Hampton Gardens apartment complex?
A Yes, sir.
Q And on the evening of August 1st, 2015, did you observe a group of people?
A I observed a group of individuals standing outside talking, drinking.
Q Okay. And tell me what happened. Tell me what you saw.
A I noticed Mr. Steve driving down and he stopped at the end of this road and was talking to them. Then, after exchanging words with them, with individuals, he got in his truck and went back towards the office.
Q At that point, you were down a little bit at your sister's place?

A Yes.
Q And that's a building or two down from your place; is that correct?
A A couple of buildings down.
Q All right. And therefore, were you closer to the end where that group had gathered?
A Yes, sir.
Q Okay. And were you able to -- what was your impression of what Mr. Steve was telling them to do?
A To leave.
Q All right. And after Mr. Steve tells them to leave, what did Mr. Steve do? Well, first off, let's get this. Mr. Steve is who?
A He was our maintenance man.
Q All right. He's the guy that you see regularly and you know who he is?
A Yes, sir.
Q And he's out there all the time taking care of the building?
A Yes, sir.
MR. HUGHES: Your Honor, I don't mind leading usually, but this is getting too much.
THE COURT: Very well. Direct examination. Objection sustained.
Q All right. And after that, after Mr. Steve told them

to leave, what did you observe?
A I observed Mr. Steve get into his vehicle and drive away and then the group of boys were standing out a couple of minutes later and then they got into the vehicle and left.
Q Before they left, were there any words between the group and Mr. Steve?
A No, sir.
Q All right. And as Mr. Steve left, as the group was leaving or before they left, did the group have any words for Mr. Steve?
A They was talking and saying words, but they didn't say anything directly to him.
Q What was your impression as to whether they were happy or unhappy to have to be leaving?
A Mad.
Q All right. Now, did the group leave?
A Yes, sir.
Q And after they left, what did you do?
A After the group left, I proceeded to go to my apartment. Then, was standing outside talking to a group of individuals there.
Q All right. And so what were you doing down there at that point in time?
A We were standing outside talking with our kids.

Q All right. And where was Mr. Steve?
A He was standing at the edge of the office.
Q Okay. And that's right across the road from where you were standing; is that correct?
A Yes, sir.
Q And after that, what did you observe?
A I observed an individual walk from behind the building, stop directly in front of Mr. Steve, and just started shooting.
Q And Ms. Bryant, how much time elapsed from the group leaving and this person coming from behind the building?
A Something like 20 minutes.
Q All right. Now, are you familiar with a person named Banger?
A Yes, sir.
Q All right. And was Banger in that group of people who were ran out of Hampton Garden Apartments that day?
A Yes, sir.
Q And did you recognize the individual that came from behind the building and started shooting Mr. Steve?
A Yes, sir.
Q And who was that?
A It was Banger.
Q All right. And do you see Banger in this courtroom today?

A Yes, sir.
Q And where is he seated?
A Right there in the blue shirt.
Q Right beside where I'm standing?
A Yes, sir.
Q All right. And after that, what did you do, Ms. Bryant?
A Like the first shots, we pushed the kids away. Then, we heard Mr. Steve yell for help. We ran back across the street to Mr. Steve, but while we was running, he ran directly in front of me and that's when I saw who he was. Then, we ran to Mr. Steve. As I got to Mr. Steve when he was yelling for help, I picked up his cell phone and talked to the person that identified himself as Mr. Jake Sullivan.
Q And what did you tell Mr. Sullivan?
A He asked me who I was. I told him who I was. Then, he told me he was Jake Sullivan, stay there, and he had an officer on the way and he needed to talk to me.
Q Okay. And is Hampton Gardens lighted at nighttime?
A Yes, sir.
Q There are lights around for safety?
A Yes, sir.
Q Did they appear to be working that night?
A Yes, sir.
Q All right. Did you have plenty of light to be able to

identify the person you know as Banger?
A Yes, sir.
Q All right. And to make sure for this jury, Ms. Bryant, is there any question in your mind but that the gentleman that I'm standing beside is the person that you saw shoot Steve Cochran?
A No, sir.
ASST. SOL. MURDAUGH: Please answer any questions Mr. Hughes has.
THE COURT: Cross-Examination.

CROSS-EXAMINATION

BY MR. HUGHES:
Q Doing your civic duty showing up here today, aren't you? A Yes, sir.
Q The night this happened, did you talk to law enforcement?
A Yes, sir.
Q Do you remember what you told them?
A No, sir.
Q Would you deny that you told them you didn't know anything?
A No, sir.
Q Okay. The night this happened, you talked to law enforcement and you told them you didn't know anything about what happened; is that correct?

A I maybe did. I was shooken and scared, so maybe did.
Q Did you give a description later of the person?
A Yes, sir.
Q Okay. Well, actually, the same day on August 1st. Did you tell Captain Sullivan that the person you saw was wearing all black with a red shirt and a white ball cap pulled down?
A Yes, sir.
Q Okay. Then you saw him run out the main entrance?
A Yes, sir. He ran right past me.
Q Okay. What was he doing while he was running?
A He was, appeared to me, putting on another t-shirt.
Q And you recognized him?
A Yes, sir.
Q But you gave a description, you told them what he did, what he was wearing, but you never told them his name, why?
A I was scared.
Q You tell one officer you didn't see anything. Then, when Captain Sullivan, Major Sullivan comes in, you give a description and the only thing you leave out is who it was?
A I only talked to Sullivan.
Q You didn't talk to Officer Ginn?
A I don't believe so. I'm not sure.
Q You still live at those apartments?
A Yes, sir.

Q The day after this happened, did people come talk to you? Just your neighbors and everything to find out what happened?
A I left.
Q Where did you go?
A I went to a friend's house.
Q Okay. When you came back, did people start to talk to you? I mean, not threatening, just a friendly ---
A Just neighborly talk.
Q Yeah, gossip.
A Gossiping, just neighborhood talk.
Q I mean, that happens, right?
A Yeah.
Q You stand around, you gossip. Everybody's talking about what happened to the caretaker, correct?
A Yes, sir.
Q And since you're the one who went over to the phone, they would talk to you a lot, right?
A No, sir.
Q The neighbors didn't talk to you about what happened?
A No, sir.
Q Okay. When the caretaker got shot, did you hear anybody yelling anything?
A I heard Mr. Steve yell.
Q What did he yell?

A "Help me. I've been shot. Please, help me."
Q Okay. Did you yell anything?
A I didn't yell anything. I ran to him and picked up his cell phone and talked to Mr. Jake, which was on the phone already.
Q Okay. Where were your kids?
A My kids was with me outside at the time. Two of my kids was outside with me at the time.
Q And how old were they?
A He was 10 at the time and 2 at the time.
Q So the 10 and the 2 were up at 11:00?
A Yes, sir.
Q And what were they doing?
A We was just coming back from my sister's house.
Q Okay. And after the shooting started, what did you do with the children?
A It was a group of us. We pushed the kids away.
Q Where did you push them?
A Into my apartment.
Q Okay. Then what did you do?
A We ran to Mr. Steve.
Q Who is "we"?
A It was me, Shanita Thompson, Courtney Russell and Trivia -- I don't know the last name.
Q Were they yelling anything?

A Courtney was on the phone.
Q Who was she on the phone with?
A I think she called 9-1-1.
Q Okay. And you talked to police officers that night and you told them you didn't see anything, correct?
A No, I never told them I didn't see anything.
Q Did you talk with either Sgt. Ginn or Sgt. Lawson that night?
A I'm not sure. I know I talked to Sullivan.
Q Okay. But you don't remember talking to either one of those and telling them you didn't know anything?
A No, sir.
Q Okay. I hate to do this, because it's asking a woman her age, basically, but is your birthday [redacted] 1984?
A Yes, sir.
Q And apartment [redacted]?
A Yes, sir.
Q And you talked to the Major, correct?
A Yes, sir.
Q Gave a description, white ball cap, red shirt, black pants, correct?
A Yes, sir.
Q But didn't give a name?
A No, sir.
MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY ASST. SOL. MURDAUGH:

Q Ms. Bryan, did you observe this crowd out there on occasions before this date?

A Yes, sir.

Q This crowd of guys that was down there?

A Yes, sir.

Q Is that the crowd that you're a little bit intimidated by?

A Yes.

Q What I really want to know is the night of the murder, were you scared in identifying Banger when you first talked to police?

A I was scared after I saw Mr. Steve got shot, yes, sir.

Q Okay. And as we sit here today, just to make sure, is there any question whatsoever but what Banger is the person who shot Steve Cochran?

A He is the person.

Q And is there any question whatsoever but that Banger is the gentleman seated in this courtroom in this blue shirt?

A Yes, sir.

Q Okay. Thank you. Actually, is there any doubt in your mind -- I think we got caught up. Is there any doubt in your mind that this is the person who shot Steve Cochran?

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A No, sir.
Q Thank you.
THE COURT: Recross, limited to redirect?
MR. HUGHES: No questions, Your Honor.
THE COURT: As to this witness?
ASST. SOL. MURDAUGH: No, sir.
THE COURT: May she be excused?
ASST. SOL. MURDAUGH: Yes, sir.
THE COURT: Subject to recall or not?
ASST. SOL. MURDAUGH: I don't think so, no, sir.
THE COURT: Any objection?
MR. HUGHES: No, Your Honor.
THE COURT: All right. Ms. Bryant, you may step down and you're excused from the trial of this case. Counsel approach.
(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)
THE COURT: Mr. Foreman, ladies and gentlemen of the jury, I'm going to stop at this point because I want to get you home. In the morning, I want you to report to your jury room. You haven't been to your jury room yet. I. W. is going to take you to your jury room so you will know where to come in the morning. Do not come to the courtroom. Come to the jury room. We're going to start in the morning at 9:30, so I want you here before 9:30 in the jury room. We

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will have something for you to drink in there.

Over the overnight recess and throughout this trial, please do not discuss this case with anybody, amongst yourselves or anybody else. If somebody tries to talk to you about the case, tell them the judge said you can't talk about it. If they persist in wanting to talk to you, you get their name and bring it to me and I'll handle that problem for you, ladies and gentlemen. That person won't bother you anymore; I can assure you.

Please don't try to do any research on your computer or on your smart phone. I don't know whether there will be anything on radio, in the newspaper, or on television. Please do not read such, watch such, or listen to such. You must decide this case solely and only upon evidence which is introduced during the trial of this case when both sides are present with the right of cross examination. So don't please to watch anything or read anything or listen to a radio account or try to do any research. I want to thank you for your patience and for your service on the jury. Please report to your jury room prior to 9:30 in the morning. I want to start as close to 9:30 as I possibly can because I want to get you home in a timely fashion. Does everybody understand what to do? Are there any questions from anybody?

(NO RESPONSE.)

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Now, if you will go with I. W., he is going to show you the jury room so you will know where to report. Come there in the morning prior to 9:30. You may retire at this time. Everyone else remain seated while the jury is leaving.

(5:35 p.m., Whereupon the jury exits the courtroom and the following is held on the record.)

THE COURT: All right. Let the record reflect that the jury is not present. Anything on the record outside of the presence of the jury, from the State of South Carolina?

ASST. SOL. MURDAUGH: No, sir.

THE COURT: From the defendant?

MR. HUGHES: No, Your Honor.

THE COURT: Counsel, I will expect y'all to be here ready to roll in the morning before 9:30.

(Whereupon, the trial in this case is in recess for the evening. Thereafter, the trial resumes the next morning at 9:40 a.m. The following is placed on the record.)

THE COURT: All right. The defendant is present. Is the State ready to proceed?

ASST. SOL. MURDAUGH: The State's ready, if, Your Honor, please.

THE COURT: Is the defendant ready to proceed?

MR. HUGHES: Yes, Your Honor.

THE COURT: Very well. Bring us the jury, please.

(9:44 a.m., whereupon, the jury enters the courtroom

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and the following is held on the record.)

THE COURT: Good morning, ladies and gentlemen of the jury, thank you for being here on time. We had a little delay this morning. Sometimes that happens. I appreciate your service and I appreciate you being on time so I can get you home on time.

Mr. Foreman, yesterday I went over your duties, so I want to make sure you are aware of this, because it's one of the duties of my law clerk, Skyler Hutto. At the conclusion of this case, I will prepare a verdict form. I will explain that to you in my charge. You will be signing the verdict form for the jury. Whatever you sign on that verdict form, I will also get you to sign on the indictments, he's holding them in his hands. So do not leave after the case is over until you've signed the indictments consistent with whatever you put on the verdict form; you understand?

MR. FOREMAN: Yes, sir.

THE COURT: You're also the jury spokesperson here in the courtroom should the need arise during the trial of the case, the foreperson speaks for the entire jury. As I told you yesterday, it is your job, just like the chairperson of a committee to preside once deliberations begin in the jury room to see that each and every member of my jury has a full and a fair opportunity to voice their opinions in the jury room once deliberations begin. So you will be the person to

see that that's done, once I instruct you to start deliberations.

Now, we have everyone present now. We will now continue with the testimony in the trial of this case. Solicitor, you may call your next witness.

ASST. SOL. ALEC MURDAUGH: Tinish Bryson Smith.

THE COURT: Come forward to be sworn.

(Whereupon, the witness, Mr. Tinish Smith, is duly sworn.)

THE COURT: Counsel approach.

(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)

THE COURT: All right. If you will adjust that microphone to your height, it's going to amplify your voice. Please state your full name and spell your last name for the court reporter.

Tinish Latrelle Bryson Smith. Last name is B-r-y-s-o-n-Smith, S-m-i-t-h.

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Where are you from, Ms. Smith?

A Hampton County.

Q Born and raised in Hampton County?

A Yes.

Q You live here now?

A Yes.
Q You have a family?
A I do.
Q Tell us a little bit about your family.
A I'm married. I've been married for six years. I have two kids.
Q How old are they?
A Elven and thirteen.
Q Good. By whom are you employed, Ms. Bryson-Smith?
A Hampton County Communications.
Q And what role are you employed?
A Dispatcher.
Q For how long have you been so employed?
A Ten years.
Q All right. And in your employment, in your role with them, what are your duties?
A To receive and dispatch incoming 9-1-1 emergency calls, as well as administrative calls.
Q Were you on duty August 1st, 2015, as the dispatcher?
A Correct.
Q Did you receive 9-1-1 calls concerning the incident at Hampton Gardens Apartments?
A I did.
Q And when those calls come in, those are digital calls?
A They are.

Q All right. And do you store them in the process of your job?
A Yes, sir, we do.
Q And there's a mechanism by which they're organized and stored?
A Correct.
Q And you are the person that oversees that someone else does that?
A Correct.
Q All right. And at our request, did you take all of the calls that came in on August 1st, 2015, and have them downloaded to a disc?
A All the calls were downloaded on a disc, correct.
Q All right. And I hand you State's Exhibit One and ask, do you recognize that?
A Yes. This is a recording from the night of August 1st, 2015.
Q All right. And are these your initials on the top of the disc?
A They are.
Q All right. Now, how many calls came in concerning the incident at Hampton Gardens Apartment?
A There were approximately eight calls that evening.
Q All right. And I just reference to you that there are nine calls listed on the sheet, does that sound correct?

A Yes.

ASST. SOL. MURDAUGH: All right. At this time, Your Honor, we would like to play those.

THE COURT: You want to offer State's Exhibit One into evidence, counsel?

ASST. SOL. MURDAUGH: Yes, sir.

THE COURT: Is there any objection?

MR. HUGHES: No objection, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number One will be admitted into evidence in the trial of this case without objection. You may now publish to the jury.

(Whereupon, State's Exhibit Number One, 9-1-1 disc, is received into evidence.)

(State Exhibit One, 9-1-1 disc is played for the jury.)

Q Thank you, Ms. Bryson-Smith. Please answer any Questions that Mr. Hughes may have.

MR. HUGHES: I have no questions.

THE COURT: As to this witness, Solicitor, may she be excused?

ASST. SOL. MURDAUGH: Yes, sir, please.

THE COURT: Any objection, Mr. Hughes?

MR. HUGHES: No, Your Honor.

THE COURT: Ma'am, you may step down and you are excused from the trial of this case. Call your next

witness.

ASST. SOL. MURDAUGH: The State calls Rhett Long.

(Whereupon, Mr. Rhett Long enters the courtroom and is duly sworn by the Clerk.

THE COURT: Have a seat. Adjust that chair so that you can speak into the microphone. It's going to amplify your voice. State your full name and speak up so my jurors can hear you and spell your last name for the court reporter.

MR. LONG: My name is Richard Long; everybody just calls me Rhett. Last name is Long, L-O-N-G.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Mr. Long, tell us a little about yourself. Where are you from, sir?

A I'm from Estill, South Carolina.

Q All right. And how long have you lived in Estill, sir?

A All of my life.

Q Born and raised in Hampton County?

A Yes, sir.

Q And by whom are you currently employed?

A Hampton Police Department and the Savannah River Site.

Q All right. How long have you been in law enforcement?

A Since 2008.

Q All right. Did you go through all the training and

certification through the South Carolina Criminal Justice Academy?

A Yes, sir.

Q And on August 1st, 2015, by whom were you employed?

A Hampton Police Department.

Q And did you receive a call concerning the Hampton Garden Apartments on that day?

A Yes, I did.

Q Tell us what you did in response to receiving that call, please.

A I received a call from Major Sullivan about an incident that took place at the Hampton Projects. It was unknown exactly what it was while I was responding to it, got further information that a shooting had taken place. Once I arrived on scene, I found the victim laying in front of the office with several people standing around him. I was able to clear back everybody that was there and secure the scene until Sgt. Lawson arrived and Lt. Smith from Varnville arrived. Once it was cleared, I stayed with EMS just to make sure for their safety, because it was unknown at that time just who the shooter was.

Q All right. And so it's my understanding that you were the first responder on the scene?

A Yes, sir.

Q All right. And at that point in time upon arriving,

did you go straight to Mr. Cochran, the victim?
A Yes, I did.
Q And did you make sure that Mr. Cochran was not moved in any manner?
A Yes, I did.
Q And at any point in time before EMS arrived, was Mr. Cochran moved in any manner?
A No, he was not.
Q I'm going to hand you a ---
THE COURT: Would you like to approach the witness?
ASST. SOL. MURDAUGH: Yes, sir. Your Honor, may he come down in front of the jury?
THE COURT: Get the portable microphone. Mr. Hughes, you may come outside the jury box so that you can view also on behalf of the defendant. (To Witness: You're going to have your back to my court reporter, so I need you to use that microphone and speak up so she will be able to ascertain your words.)
Q All right. Officer Long, I ask you if you can identify this Google Earth image. Is that in fact the Hampton Garden Apartments?
A Yes, that's Hampton Garden Apartments right here and that's Holly Ridge right here.
Q All right. And if you will, show us on this image so that everyone understands where Mr. Cochran was laying when

you arrived on that scene.
A The office would be located right here under this tree covering. And there's a, like a little small fence right there. He was in between that fence and the office building and the apartment that adjoins it right there on the sidewalk.
Q And while you were with Mr. Cochran, Officer Lawson was on the scene as well?
A Yes, he was.
Q And he's going to be up next, but he was taking care of preserving the scene?
A Yes, he was.
Q Please answer any questions Mr. Hughes may have.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:
Q Officer Long?
A Yes, sir.
Q You interviewed some people that night, correct?
A Yes, sir.
Q Did you interview a Kentravia Brown?
A Yes, I did.
Q And isn't it true that she told you ---
ASST. SOL. MURDAUGH: Your Honor, please, that is absolutely, totally improper.

THE COURT: On what grounds, counsel?

ASST. SOL. MURDAUGH: Hearsay, sir.

THE COURT: Sustained.

Q Okay. Did she give you any information about ---

ASST. SOL. MURDAUGH: Your Honor, please, again, sir.

THE COURT: Counsel approach.

(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)

THE COURT: Let's move along.

Q On the night that this happened, did you talk to Kentravia Brown?

A Yes, I did.

Q Did she give you any information?

A She did.

Q That night she gave you information?

A Yes.

Q And did you write an incident report supplemental?

A Yes, I wrote several supplementals in this case.

Q And why do you do that?

A That way, when it comes time for trial, if it goes to trial, I can reflect back and remember all of the details. It's been two years.

Q Have you looked at this recently?

A I glanced over all of my notes, but not entirely.

MR. HUGHES: May I approach, Your Honor?

THE COURT: You may.
Q I'm going to show you this and ask you to identify it.
THE COURT: Step back so the jury can see the witness.
A Yes, I do.
Q What is that?
A It's a supplemental report from the incident when it took place.
Q And why do you make those?
A That would be to reflect back on as the case continues to move on.
Q So basically, what you write down there is the truth of what happened?
A It is what the witnesses give us at the time it happened.
Q And again, I repeat my question; did you talk to Ms. Brown?
A Yes, I did.
Q And based upon that report, did she give you any information?
A At the time that this was done, no she did not come forth.
MR. HUGHES: Your Honor, may I approach again?
THE COURT: You may.
Q Did you talk to anybody else?
A Yes, I spoke to several people that night.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. MURDAUGH: No, sir.

THE COURT: As to this witness, may he be excused?

ASST. SOL. MURDAUGH: Your Honor, we may recall Officer Long at a later point in the trial, please, sir.

THE COURT: Have you explained to this witness my Order concerning sequestration?

ASST. SOL. MURDAUGH: No, sir, I have not. I will do so, though.

THE COURT: (to witness) I'm going to ask you to remain with us. Mr. Murdaugh is going to explain to you that you can't discuss your testimony with any other witnesses. Call your next witness.

ASST. SOL. MURDAUGH: Mike Lawson.

(Whereupon, Officer Mike Lawson enters the courtroom and is duly sworn.)

THE COURT: Have a seat for me. Make yourself comfortable. Begin by stating your full name and speak up so everybody in the jury box can hear you. Spell your last name for the court reporter, please.

MR. LAWSON: Michael Ray Lawson, L-A-W-S-O-N.

THE COURT: Your witness, counsel.

ASST. SOL. MURDAUGH: May it please the Court?

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Tell us about yourself, Mr. Lawson. Where are you from?

A Hampton.

Q How long have you been living in Hampton?

A About 30 years.

Q Born and raised here?

A Born in Beaufort and then moved here.

Q Grew up in Hampton?

A Yes, sir.

Q Do you have a family?

A Yes, sir.

Q Married?

A Divorced.

Q Children?

A Two.

Q How old are they?

A Five and seven.

Q Good. By whom are you employed?

A Hampton Police Department.

Q And how long have you been so employed?

A About three years.

Q In what role are you employed?

A I'm an investigator now, but was with road patrol during this incident.

Q All right. And have you received your qualifications and certifications from the South Carolina Criminal Justice Academy?
A Yes, sir.
Q All right. And were you so certified on August 1st, 2015?
A Yes, sir.
Q Tell us how you came to learn about the shooting at the Hampton Garden Apartments.
A Major Sullivan called across the radio and said there was an incident going on and wanted us to go over there. A few minutes later, he came back across the radio and said he understood there was a shooting that took place. Once I arrived at Hampton Garden Apartments, Sgt. Long was already on scene. I got out of my car and he was tending to Mr. Cochran. I got the crime scene tape out and taped around the crime scene and started the crime scene log.
Q And what is the purpose of taping the crime scene?
A To make sure nobody goes in or out that is not supposed to.
Q All right. And you were the second responder on scene?
A Yes, sir.
Q And Officer Ginn was with Mr. Cochran in front of the office when you arrived?
A Sgt. Long was.

Q Sgt. Long, I'm sorry. Sgt. Long was there when you arrived?
A Yes, sir.
Q And is that standard police protocol to preserve the crime scene?
A Yes, sir.
Q And while you were there, was anyone other than emergency first responders in law enforcement allowed into the scene?
A No, sir.
Q And were you present when the other officers arrived to gather evidence?
A Yes, sir.
Q Were you at the scene when EMS arrived?
A Yes, sir.
Q Other than Officer Long, did anyone deal with Mr. Cochran until EMS got there?
A No, sir.
Q And where was Mr. Cochran?
A He was on the ground outside of the office building; I believe it was D13.
Q Did you go to Mr. Cochran?
A I did not.
Q Thank you. Please answer any questions Mr. Hughes has.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:

Q Did you interview anybody that night?

A That night, I walked around with Sgt. Ginn going door to door to each apartment.

MR. HUGHES: May I approach the witness, Your Honor?

THE COURT: You may.

Q I'm going to show you this and ask if you would identify that, please.

A That's a supplemental that Sgt. Ginn did.

Q Okay. Would you look over it and see if you see any inaccuracies.

A (Witness complies.) It looks fairly accurate.

MR. HUGHES: May I approach, Your Honor?

THE COURT: You may.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Officer Lawson, when you are investigating crimes or situations at the Hampton Garden Apartments, is it your experience that it's difficult to get people to come forward?

A Yes, sir.

Q And was it difficult in this instance to find people

who were willing to testify?
A Yes, sir.
Q Thank you.
THE COURT: Recross, limited to redirect?
MR. HUGHES: No questions.
THE COURT: As to this witness?
ASST. SOL. MURDAUGH: He can be excused.
THE COURT: Any objection, Mr. Hughes?
MR. HUGHES: None, Your Honor.
THE COURT: Mr. Lawson, you are excused from the trial of this case. Call your next witness.
ASST. SOL. MURDAUGH: Tressie Gates.
(Whereupon, Ms. Gates enters the courtroom and is duly sworn by the Clerk of Court.)
THE COURT: Have a seat. Pull that microphone over. It's going to amplify your voice so that everyone can hear you, particularly my jury. I want you to begin by stating your full name and spelling your last name for the court reporter.
MS. GATES: Amanda Tressie Gates, G-A-T-E-S.
THE COURT: Direct examination.

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:
Q Ms. Gates, how are you employed?
A I'm a former paramedic for Hampton County.

Q Are you employed in Hampton County now?
A No.
Q All right. Where are you now, ma'am?
A Personal Care Ambulance.
Q In what capacity are you employed now?
A Full time paramedic.
Q Okay. So when did you leave Hampton County?
A October of 2015.
Q So on August 1st, 2015, by whom were you employed?
A Hampton County EMS.
Q In what capacity?
A Full time paramedic.
Q And how long did you serve here in Hampton County?
A Almost six years.
Q So tell us a little bit, on August 1st, 2015, what was your qualifications or certifications?
A Full time paramedic.
Q All right. And just explain to us a little bit about what you have to do to obtain that certification. What training and education do you have to have?
A There are multiple levels to different certifications. There is an EMT Basic that's a six month program. Intermediate is a two month program. Advanced EMT is a two month program and rescue training in Savannah has a paramedic program for 10 months.

Q And you underwent and completed all of those certifications?
A Yes.
Q And on August 1st, 2015, were you dispatched to provide care at Hampton Garden Apartments?
A Yes.
Q Tell us how you came to learn about that call?
A Dispatch sent me.
Q All right. So you got a radio call?
A We were toned out and told over the radio to respond to the Hampton Garden Apartments.
Q And where were you when you received the call?
A At headquarters.
Q At your office EMS headquarters?
A Yes.
Q And did you in fact go to Hampton Garden Apartments?
A Yes.
Q And were you accompanied by a co-worker?
A Yes.
Q And who was that co-worker?
A My supervisor, Brenda Ellis.
Q And it's typical for EMS responders to travel in pairs?
A Yes.
Q To assist one another, is that correct?
A Yes.

Q And when you have a call, is one person the primary respondent and the other serves as sort of a backup?
A Pretty much.
Q On this particular call, who served as the primary technician?
A I was primary.
Q Okay. And as a result of the treatment that you provide when you go to an EMS call, do you prepare a report?
A Yes.
Q And did you, in fact, prepare a report in this case?
A Yes.
Q All right.
ASST. SOL. MURDAUGH: May I approach the witness?
THE COURT: You may.
Q I ask you if this is a copy of the report that you prepared in this case?
A Yes.
Q All right. Now, tell us what you found when you arrived at Hampton Garden Apartments on August 1st, 2015.
A Medic One was dispatched to Hampton Garden Apartments for a gunshot wound. Patient was found lying at an apartment door at the ground level next to a small trash can in the right recumbent position with his left arm across his chest. Patient appears to be having agonal respirations at three to four breaths per minute. Patient's lips and

extremities are turning blue. No pulse was palpated at the carotid artery. CPR was initiated. The patient was bagged with an adult VBO at 12 breaths per minute. Patient placed on a cardiac monitor, ventricular rhythm was showing. The pulse was approximately 50. Unable to obtain a blood pressure.

First responders assisted in bagging the patient doing compressions, placed the patient on a long spine board, secured him with straps, he was placed into the medic unit. CPR was continuously performed. The patient was unresponsive, not breathing. Airway was secured with a size five king LT tube. Patient was bagged with 100 percent oxygen, 12 to 16 breaths per minute. Patient oxygen saturation was initially 49 percent and after establishing an airway with oxygen, his stats went up to 85 percent.

Two 18-gauge IV's were established with normal saline at a wide open rate. One in the left AC and one in the right forearm. Patient has multiple gunshot wounds from right arm, upper right chest, lower right pelvic area, one in his back. Unknown if it was entrance or exit wounds. Patient has discoloration around most of the gunshot wounds. Patient report was given to the hospital via radio with no questions or orders. Patient was placed in bed seven in Hampton Regional ED for further evaluation. Patient was unable to sign the transport form due to an emergency.

Nurse signed for patient care. Dr. Michael was on duty. And at the ER, Dr. Michael stopped resuscitation efforts after his team attempted to resuscitate the patient. Time of death was called at 11:38.

Q All right. And you made reference in there to patient several times. Who, in fact, was the patient that you were treating on this particular call?

A We didn't find out until later.

Q And what did you find out?

A His name was Steven Cochran.

Q Okay. Just to clarify, what is a recumbent position manner in which he was lying?

A The patient was laying on his right side. One arm was up and the left arm was across his upper area. So he was just kind of laying on his side.

Q Okay. And at that point in time, you testified he was turning blue. In your experience as an EMT, what would cause a person to be turning blue?

A Somebody that is not breathing adequately.

Q Okay. And did you personally observe the gunshot wounds?

A I saw gunshot wounds, but I don't know what was entrance and was exit.

Q All right. And do you recognize what's in these two pictures, ma'am?

A Yes.
Q And is that in fact who you treated on August 1st, 2015?
A Yes.
Q Let me show Mr. Hughes.
THE COURT: Any objection?
MR. HUGHES: I object, Your Honor.
THE COURT: Counsel approach.
(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)
THE COURT: Objection withdrawn. Counsel, I understand you haven't marked them. Please mark the exhibits and offer them into evidence.
Q Ms. Gates, do these two photographs accurately depict what you observed on your arrival at Hampton Garden Apartments on August 1st, 2015?
A His arm is not across his chest and he's not blue.
Q Is that the person whom you treated on August 1st, 2015?
A Yes.
Q All right. And do those photographs accurately show him after the incident on August 1st, 2015?
A Yes.
ASST. SOL. MURDAUGH: At this time, Your Honor, we would move State Exhibits Three and Four into evidence.

THE COURT: It's my understanding there is no longer any objection; is that correct?

MR. HUGHES: That's correct.

THE COURT: Ladies and gentlemen of the jury, State's Exhibits Three and Four will be admitted into evidence in the trial of this case without objection. You may publish to the jury.

(Whereupon, State Exhibit Number Three, photo, is received into evidence.)

(Whereupon, State Exhibit Number Four, photo, is received into evidence.)

Q Please answer any questions that Mr. Hughes may have.

THE COURT: Cross-examination?

MR. HUGHES: No questions, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOL. MURDAUGH: She can be excused, Your Honor.

THE COURT: Any objection?

MR. HUGHES: No objection, Your Honor.

THE COURT: Ms. Gates, you may step down and you are excused from the trial in this case. You may leave the courtroom. Call your next witness.

ASST. SOL. MURDAUGH: Brenda Ellis.

MR. HUGHES: May we approach, Your Honor?

THE COURT: Counsel approach.

(Whereupon, a bench conference is held off the record

and out of the hearing of the jury.)

ASST. SOL. MURDAUGH: If Your Honor, please, we would represent to the Court that this witness's testimony ---

THE COURT: You're referring to Ms. Ellis?

ASST. SOL. MURDAUGH: Ms. Ellis -- would be substantially the same as the last witness, Ms. Gates, and that we would have no question but to offer her for cross-examination if the defense wishes to cross examine her.

THE COURT: And you're willing to so stipulate, Mr. Hughes?

MR. HUGHES: Yes, Your Honor.

THE COURT: Do you wish to cross examine this witness?

MR. HUGHES: No, Your Honor, I have no need to waste the jury's time.

ASST. SOL. MURDAUGH: She may be excused.

THE COURT: Ms. Ellis, you are excused from the trial of this case. You may leave the courtroom. Thank you very much.

ASST. SOL. MURDAUGH: We call Dr. Fred Michael, if Your Honor, please.

(Whereupon, Dr. Fred Michael enters the courtroom and is duly sworn by the Clerk.)

THE COURT: Have a seat, please, Dr. Michael. Make yourself comfortable. Adjust that microphone which is going to amplify your voice. I want you to begin by stating

your full name and spelling your last name for the court reporter.

DR. MICHAEL: Dr. Fred Michael, M-I-C-H-A-E-L.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Dr. Michael, you are you doing, sir?

A Good. Thank you.

Q Doctor, are you a medical doctor licensed by the State of South Carolina to practice medicine?

A Yes.

Q Where did you receive your undergraduate schooling, sir?

A Walbash College.

Q I have heard of Walbash College all of my life. Where is that, sir?

A It's in Crawfordsville, Indiana.

Q Okay. And did you graduate from that school?

A Yes.

Q Did you then go to a medical school?

A Yes.

Q And where did you go to medical school?

A Indiana University School of Medicine.

Q Okay. Did you successfully graduate from med school?

A Yes, I did.

Q Okay, sir. Following your graduation from medical school, did you receive any residency or internships or anything of that nature?
A Yes. I completed an internship in surgery and a residency in family medicine.
Q In family medicine?
A Yes, sir.
Q Okay, sir. And when did you do that?
A I finished in 1999. I've been licensed since 1993.
Q Okay, sir. And you have practiced medicine continuously since that time?
A Yes.
Q Where are you employed now, sir?
A The Hampton Regional Medical Center.
Q And were you so employed on August 1st, 2015?
A Yes.
Q Okay, sir. And what do you do at Hampton Regional Medical Center?
A I'm an emergency room physician.
Q Okay. Do you work weekends or all week?
A Full time.
Q Full time. Okay, sir.
ASST. SOL. MURDAUGH: I offer him as an expert in medical doctoring, sir.
THE COURT: Any objection as to qualifications?

MR. HUGHES: I don't think I've ever heard of expert in medical doctoring, but I don't have any problem with Dr. Michael answering the solicitor's questions.

ASST. SOL. MURDAUGH: I couldn't think of anything else to say, Judge.

THE COURT: Ladies and gentlemen of the jury, you are about to hear the testimony of a witness who claims to have special knowledge, skill, experience, training, education in the field of medicine. Normally, ladies and gentlemen, the law does not permit a witness to get on the witness stand and give an opinion or a conclusion. An exception to that rule is for those witnesses whom we call expert witnesses, if qualified by the Court, are permitted to give an opinion as to matters in which they claim to be so skilled. In determining the weight to be given to any such opinion, you should consider the qualifications and the credibility or believability of the expert and the reasons given for his or her opinion. You are not bound by any expert opinion. You give it the weight, if any, to which you deem it should be entitled. The witness is qualified in the field of medicine without objection. You may proceed.

Q Dr. Michael, did you have an occasion to see a fellow on the night of August 1st, 2015, by the name of Steven Cochran?

A Yes.

Q And would you tell the jury the condition that he was in when you saw him?
A The patient was brought in by the ambulance, the paramedics who had CPR in progress. They had alerted me on the radio on the way in that the patient had agonal respirations at the scene, meaning that that's something that happens shortly before death in many cases. He did not have a pulse. They were administering CPR, as well as ACLS medications, advance cardiac life support. And when the patient arrived, he did not have any signs of life. We continued attempts to resuscitate him, but unfortunately those failed.
Q Okay. Was he breathing?
A No.
Q Was his heart beating?
A No.
Q When that happens, what does it mean?
A Death.
Q Did you announce him dead?
A I did.
Q Thank you. I have no further questions.
THE COURT: Cross-examination?
MR. HUGHES: No questions, Your Honor.
THE COURT: As to this witness?
ASST. SOL. MURDAUGH: The doctor may be excused, Your

Honor.

THE COURT: Any objection?

MR. HUGHES: None whatsoever.

THE COURT: Dr. Michael, you may step down from the witness stand and you are excused from the trial of this case.

ASST. SOL. MURDAUGH: We call Michael Smith.

(Whereupon, Mr. Michael Smith enters the courtroom and is duly sworn by the Clerk.)

THE COURT: Make yourself comfortable. Adjust that microphone. It's going to amplify your voice. State your full name and spell your last name, please.

MR. SMITH: Michael Smith, S-M-I-T-H.

THE COURT: Your witness, counsel, direct examination.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Your name is Michael Smith?

A Yes, sir.

Q By whom are you employed now, Michael?

A With Allendale Police Department.

Q On August 1st, 2015, by whom were you employed?

A The Town of Varnville, Varnville Police Department.

Q Okay. How long have you been in police business?

A Twenty-two years.

Q Okay, sir. Most of it in Hampton County?

A Yes, sir.
Q Okay. I ask you if on August 1st, 2015, you were working for Varnville as a policeman?
A Yes, sir.
Q Did you respond to a call that they had at Hampton Garden Apartments?
A Yes, I did.
Q And when you got there, did you take some pictures?
A Yes, I did.
Q And what pictures did you take, sir?
A I took some pictures of a gentleman that had been shot at the office in the projects.
Q Okay, sir. I show you two photographs that are marked State's Exhibits Number Three and Four and ask you if you took those pictures?
A Yes, I did.
Q And is that a fair representation of what you saw when you got there?
A Yes, sir, it is.
Q Had the scene been blocked off, taped off, so people could not get in and around it?
A Yes, sir. Officer Lawson was taping off the scene.
Q Thank you. I have no further questions. Answer any questions Mr. Hughes may have.
THE COURT: Cross-examination?

MR. HUGHES: No questions.

THE COURT: As to this witness?

ASST. SOL. MURDAUGH: He may be excused.

THE COURT: Any objection?

MR. HUGHES: None, Your Honor.

THE COURT: Mr. Smith, you may step down from the witness stand and you are excused from the trial of this case. You may leave the courtroom. Call your next witness.

ASST. SOL. MURDAUGH: Ms. Erin Presnell.

(Whereupon, Dr. Erin Presnell enters the courtroom and is duly sworn by the clerk.)

THE COURT: Please have a seat. Make yourself comfortable. Adjust that microphone. Would you state your full name and spell your last name.

DR. PRESNELL: My name is Susan Erin Presnell, P-R-E-S-N-E-L-L.

MR. HUGHES: Your Honor, I am perfectly willing to stipulate to Dr. Presnell's qualifications as an expert and I do not mind the solicitor having her announced.

ASST. SOL. MURDAUGH: Your Honor, I want to ask her ---

THE COURT: Very well. You're entitled to do so. You may proceed.

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Doctor, how are you doing?

A I'm fine, thank you.

Q I haven't seen you in a good while.
A Yes, sir.
Q Doctor, where do you work now?
A I'm a forensic pathologist at the Medical University of South Carolina
Q If you would, tell the ladies and gentleman of the jury what a forensic pathologist is.
A Let me start off by saying that I think everyone is getting a little more familiar with what forensic pathology is, but just to back up a little bit, Forensic Pathology is a sub-specialty of pathology. So general pathology, which is what I'm trained in first, is where a pathologist looks at tissue. Let's say if you go to your family doctor and they do a biopsy or get surgery and some tissue is removed. That tissue goes to the pathologist, they look at it, they look under the microscope and they diagnose a disease or no disease; so I'm trained in that and that's general pathology.

Forensic pathology is a sub-specialty where you're not just looking at a piece of tissue, but you're looking at a whole individual and you're examining that person, not only for disease, because a lot of our cases may end up having died from disease, but you're also diagnosing trauma. And of course, the process that we do is called the autopsy. So we will look externally and then inside the body and take

samples if we need to, do other studies that we need to, and then ultimately put it all together to decide the cause of death.

Q Thank you, Doctor. Tell the ladies and gentlemen of the jury how you go about getting the B.A. of a Forensic Pathologist.

A Well, I went to Clemson and graduated with a degree in microbiology. Then, I went to MUSC for medical school and I stayed there ever since; so I did medical school there. After medical school, I decided on the specialty of pathology, as compared to family medicine or surgery or pediatrics; I chose pathology.

Then, I did my five-year training program in that and then an additional year in forensic pathology. I finished up in that training in 1999. I've taken the Boards, so I'm Board Certified in pathology and forensic pathology and I've been on faculty ever since 1999 at MUSC, and I'm licensed to practice medicine in South Carolina.

Q Okay. Do you also teach pathology?

A I do. We have a medical school at MUSC, which is where I went, but I also teach with the medical students.

Q Have you written articles about pathology?

A I have, yes.

Q And by doing that, does that show an expertise normally above the normal?

A Well, you can -- the Board certification is a certification of expertise and then because I'm an academic, I'm also required to publish.

Q Okay.

ASST. SOL. MURDAUGH: Your Honor, please, I offer her as an expert in forensic pathology. I realize that Mr. Hughes has stipulated that, but I think that the Court needs to make a finding.

THE COURT: Any objection?

MR. HUGHES: None whatsoever.

THE COURT: Ladies and gentlemen of the jury, recalling my earlier statement, you are about to hear the testimony of a witness who claims to have special knowledge, skill, experience, training, education in the field of medicine. Normally, ladies and gentlemen, the law does not permit a witness to get on the witness stand and give an opinion or a conclusion. An exception to that rule is for those witnesses whom we call expert witnesses, if qualified by the Court, are permitted to give an opinion as to matters in which they claim to be so skilled. In determining the weight to be given to any such opinion, you should consider the qualifications and the credibility or believability of the expert and the reasons given for his or her opinion. You are not bound by any expert opinion. You give it the weight, if any, to which you deem it should be entitled.

The witness is qualified in the field of medicine without objection.

THE COURT: You may proceed.

Q Dr. Presnell, I ask you whether or not subsequent to August 1st, 2015, did you have an occasion to autopsy the dead body of Steven Cochran?

A Yes. The Hampton County Coroner, Mr. Ernie Washington referred Mr. Cochran to us and we did the autopsy at MUSC on August 3rd, 2015.

Q Okay. Will you tell the ladies and gentlemen of the jury what you found when you did the autopsy -- what is an autopsy?

A Well, I kind of referred to it earlier when we examine a body, we do the external examination, document any disease or trauma, and then we open and look at all the insides of the body, again documenting any disease or trauma.

Q Okay. Can you tell us what you saw when you began the autopsy on Mr. Cochran.

A Well, Mr. Cochran had up to four gunshot wounds.

Q I'm sorry, I couldn't hear you.

A He had up to four gunshot wounds to his body.

Q Okay.

A And so I can go through those right now. So, a total up to four. So he has one gunshot wound to the right arm. One to the right chest. One to the right lower abdomen, and

one to the right hip. So they're all coming onto his right side of his body. The one to the right arm goes into the top of the right arm and comes out the inside of the right upper arm, and it's just going through soft tissue. The one to the right chest goes into the chest, through the ribs, through the middle and lower lobe of the right lung, through the ribs in the back and then out the back. The gunshot wound is also going from his right to his left and then down.

The gunshot wound to the lower abdomen, the right lower abdomen, just goes in and out through some soft tissue, so in and out. Then he has an additional gunshot wound to the right hip area. That bullet goes in to his right buttock and the bullet stays in his body. We recovered that bullet. I made reference to four gunshot wounds. There is a possibility that this complex here on the right abdomen, right hip, is actually one gunshot wound, an in and out and then back in.

ASST. SOL. MURDAUGH: With the Court's permission, may I approach the witness and get her to show?

THE COURT: You may. Mr. Hughes, if you want to come around, you can.

ASST. SOL. MURDAUGH: May I take my coat off?

THE COURT: You may.

Q Doctor, if you would, please show the ladies and

gentlemen on the jury, and take this pencil. I used to do it in pen, but my wife raised cane with me. Take that pencil, please and indicate for the jury where the shots you are talking about came from and went to.

A You would like for me to draw on you?

Q Yes, ma'am.

A Okay. So we have an entrance to his right upper arm, and I'll use an X for the exit, so in and out. We have an entrance to the right upper chest -- turn around, please. This goes down through the chest and through the right lung and exits from the back. And then we have the in and out right here that is just through the soft tissue, in and out. Then, another in right here on the right hip. This won't show on your pants, but the bullet was recovered from the right buttock.

Q Alright, now, the wound up here, can you take this pencil and show them the direction that it goes?

A Yes, it's going about 15 back and 45 degrees down, so --

Q So that would be the angle of the bullet?

A Right. This is the angle of the bullet going through his body. Certainly his body can be in any kind of position. I don't know at the time of autopsy what position he was in, but this is the direction through his body.

Q Okay. The other ones?

A This one is going down to the exit right here. This is going down into the left and this is going down toward the back of his buttocks. What I suspect is that he might have his leg bent somewhat, so that kind of changes the angle a little bit when you straighten him up.

Q All right. Thank you. You can get back up on the stand.

A Okay.

Q Doctor, do you have an opinion to a reasonable degree of medical certainty as to what caused his death?

A Yes, it was the gunshot wound to his chest.

Q I'm sorry?

A The gunshot wound to his chest that disrupted his lung and ended up having over a liter of blood in his right chest cavity.

Q Okay. I show you -- you say that you recovered an object from his body?

A Yes, we recovered a bullet.

Q I show you this item and ask you if you can identify it.

A This is a container from autopsy with the autopsy label with Mr. Cochran's name and the autopsy number and this appears to be the bullet that we recovered.

ASST. SOL. MURDAUGH: Your Honor, please, I would offer this as an exhibit.

THE COURT: Has it been marked?
ASST. SOL. MURDAUGH: No, sir.
THE COURT: Have the court reporter mark it.
THE COURT: Any objections?
MR. HUGHES: None.
THE COURT: It will be five, Becky?
COURT REPORTER: Yes, sir.
THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Five will be admitted into evidence in the trial of this case without objection.
(WHEREUPON, STATE'S EXHIBIT NUMBER 5, BULLET, IS RECEIVED INTO EVIDENCE.)
Q Doctor, I show you a series of photographs and ask you if you can identify these.
A I did not take these, because there is no autopsy label on these, I recognize -- I don't recognize this first one, but I recognize the second one, the third one -- I don't recognize number 38, but the others are photographs of his gunshot wounds.
ASST. SOL. MURDAUGH: Your Honor, please, I would offer these are exhibits.
THE COURT: Let's mark them and have her identify them for the record. Any objection? I know that you've reviewed them, Mr. Hughes.
MR. HUGHES: Thirty-eight is out? The one you had

marked as 38?

THE COURT: Don't use that number, because it hasn't been marked yet.

MR. HUGHES: Sorry, Your Honor

THE COURT: He will show you the one that she referred to.

MR. HUGHES: (Looks at item 38.) Not a problem, Your Honor.

THE COURT: All right. State's Exhibits Six through Nine.

Q Doctor, showing you State's Exhibit Number Six, I ask you what that is a photograph of?

A State Exhibit Six is gunshot wounds to his right abdomen/hip area.

ASST. SOL. MURDAUGH: Okay, Your Honor, may I publish it?

THE COURT: No objection?

MR. HUGHES: No objection.

THE COURT: Ladies and gentlemen, State Exhibits Six, Seven, Eight and Nine are going to be admitted into evidence in the trial of this case without objection.

(WHEREUPON, STATE'S EXHIBIT NUMBER 6, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE'S EXHIBIT NUMBER 7, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE'S EXHIBIT NUMBER 8, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE'S EXHIBIT NUMBER 9, PHOTO, IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish number six to the jury. Have her identify seven.

Q State Exhibit Seven, Doctor.

A Number Seven is the exit gunshot wound to the right upper arm.

Q Okay. Eight?

A State Exhibit Eight appears to be the entrance gunshot wound to his chest, his right chest.

Q That would be this one?

A Correct.

Q Okay. And Nine?

A State's Exhibit Nine is the entrance wound to his right upper arm.

Q Okay. Thank you, ma'am. Doctor, in addition to the bullet, did you also get some clothing from him?

A Yes, he came to us with some clothing that -- he wasn't really dressed. It appeared that it was cut off from his clothing, but it was still with him.

Q Okay. Was one piece of the clothing a shirt?

A Yes. A grey sleeveless shirt.

Q Did that shirt have an indication of a bullet hole?

A It had holes that was like in the general area of the gunshot wounds.
Q Was that shirt cut off of Mr. Cochran?
A Yes, it was.
Q Okay. I show you an item and ask you if you can identify this.
A That appears to be the shirt; it used to be grey, but with having dried and aged, it now looks like kind of a tan-brown color. So this is a sleeveless shirt and here is the front of the shirt and here is a hole that would correspond with the one to the chest, the right chest. On the back is a hole in the middle that would correspond to the exit from the chest.

ASST. SOL. MURDAUGH: And Your Honor, please, I would offer this as an exhibit.

MR. HUGHES: That would be number 10?

THE COURT: State's 10.

MR. HUGHES: No objection.

THE COURT: Please have the court reporter mark it. You may publish to the jury. State's Exhibit Number 10 is admitted into evidence in the trial of this case without objection.

(WHEREUPON, STATE'S EXHIBIT NUMBER 10, SHIRT OF DECEASED VICTIM, IS RECEIVED INTO EVIDENCE.)

ASST. SOL. MURDAUGH: With the Court's permission ---

Q Excuse me, you found another hole, I think?
A Right. So here, looking at the right side of the shirt on the edge of the sleeves is another one that went with one of the gunshot wounds on his right arm.
Q Okay.
ASST. SOL. MURDAUGH: With the Court's permission, may I put this in a bag and have it marked?
THE COURT: Any objection, Mr. Hughes?
MR. HUGHES: None whatsoever.
THE COURT: State's Exhibit 10 is in evidence. Madame Clerk, if you would please, since it's in evidence, make sure that when the exhibits go to the jury that gloves are also given to the jury in case the jury wishes to examine the exhibit.
CLERK: Yes, sir.
ASST. SOL. MURDAUGH: Your Honor, please, that's all the questions I have.
THE COURT: Cross-examination?
MR. HUGHES: A few quick questions for the doctor.

CROSS-EXAMINATION

BY MR. HUGHES:
Q Hello, again, Doctor.
A Hi.
Q Number 10, the shirt, is there any indication on that shirt how far away the gun was when it was fired?

A So one of the things that we do when we're looking at injuries or at gunshot wounds is try to look to see if there is any evidence that there was a contact gunshot wound, a close range gunshot wound, or a distant gunshot wound. One of the things that we're looking for is if there is any soot on it or some gun particles. I did not see any at the time.

Q All the shots entered from the front and headed backwards, correct?

A Correct.

Q So there is a good possibility that the decedent was looking at whoever was shooting at him?

A He was facing -- he could have been facing in that direction, yes.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. MURDAUGH: No questions, if Your Honor, please. May she be excused?

THE COURT: Any objection?

MR. HUGHES: No objection.

THE COURT: Dr. Presnell, you may step down. You're excused from the trial of this case and you may leave the courtroom at this time.

Mr. Foreman, ladies and gentlemen of the jury, we're going to take our mid-morning break at this time. Stretch your legs, use the restroom if you need to. Please do not

discuss the case. You have not heard all the evidence in the case. I will be right back with you as soon as I can. you may retire to your jury room at this time.

(11:00 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Solicitor, we will take our mid-morning break at this point. I need to see my lawyers, briefly, in chambers.

(11:30 a.m., whereupon, the following is placed on the record.)

THE COURT: Is the State ready to proceed?

ASST. SOL. MURDAUGH: Yes, sir.

THE COURT: Is the defendant ready to proceed?

MR. HUGHES: Yes, Your Honor.

THE COURT: Bring us the jury, please.

(11:30 a.m., whereupon, the jury enters the courtroom and the following is placed on the record.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, we will now continue with the testimony in the trial of this case. Solicitor, you may call your next witness.

ASST. SOL. MURDAUGH: We would call Coroner Ernie Washington.

(Whereupon, Mr. Washington enters the courtroom and is duly sworn by the clerk.)

THE COURT: Have a seat. Make yourself comfortable. Adjust that microphone to you. Please begin by stating your full name and spelling your last name for my court reporter.

MR. WASHINGTON: Ernie J. Washington. Washington, W-A-S-H-I-N-G-T-O-N.

THE COURT: Very good. Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Mr. Washington, what is your current position in Hampton County?

A I'm Hampton County Coroner.

Q How long have you served as coroner?

A From 2011 to now.

Q And that's an elected position?

A Yes, it is.

Q And Mr. Washington, are you from Hampton County?

A Originally, I'm from Barnwell County, originally.

Q How long have you been living in Hampton County?

A Since 1972.

Q All right. And you're married to a Hampton County girl?

A Yes.

Q And your family lives here in Hampton County?

A That's correct.

Q And on August 1st, 2015, were you serving in the

capacity of coroner?
A Yes, I was.
Q And what involvement did you have -- were you notified about the shooting death of Steven Cochran?
A Yes, I was.
Q How were you notified?
A The hospital called me around 11:40.
Q All right. And as a result of the death of Steven Cochran, what steps did you take?
A I arrived at the hospital at 12:15 a.m. I went into the examination room where he was and I examined him and then I went back and talked with the doctors.
Q All right. And in your role as coroner, are you the person responsible for transporting bodies?
A Yes, I am.
Q And did you do that in this case?
A Yes, I did.
Q When did you do that?
A On August 3rd.
Q And tell us what steps that you take in transporting the deceased.
A When I finish examining the remains, I have to take them to Charleston. I put them in a disaster pouch. That's to keep all of the evidence enclosed so nobody can mess with it.

Q And where were you taking the deceased?
A The MUSC morgue.
Q And from the time you sealed the remains in the bag, did it remain closed until you delivered the body to MUSC?
A Yes, it did.
Q And did anyone have access to that?
A No, sir.
Q Was Steven Cochran's body in the same state when you delivered it to MUSC as it was when you sealed it?
A Yes, it was.
Q As a result of the pathologist's work, were you delivered any items from the pathologist?
A Yes, I was.
Q What items were you delivered?
A A shirt, a bullet.
Q And when you received the bullet -- received those items, were they in a evidence bag?
A Yes.
Q Were they sealed?
A Yes.
Q And to whom did you turn those items over to?
A I brought them back from MUSC and returned them to Captain Blue Boltin with the Hampton Police Department.
Q And were those items tampered with from anyone in the time you received them until the time you delivered them to

the Hampton Police Department?
A No, sir. No one had them but me.
Q Thank you, sir. Please answer any questions that Mr. Hughes has.
MR. HUGHES: May we approach, Your Honor?
THE COURT: Counsel approach.
(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)
DIRECT EXAMINATION CONTINUES
BY ASST. SOL. ALEC MURDAUGH:
Q Coroner Washington, do you recognize what is marked as State's Exhibit Five?
A Yes.
Q And is that the bullet that you received from MUSC?
A The one I saw in this container is the same bullet.
Q And I hand you what is marked as State's Exhibit 10. Is that the shirt that you received?
A Apparently it's the same shirt.
Q Thank you, Mr. Washington.
ASST. SOL. MURDAUGH: No further questions, Your Honor.
THE COURT: Cross-examination?
MR. HUGHES: No questions, Your Honor.
THE COURT: As to this witness, Mr. Murdaugh?
ASST. SOL. MURDAUGH: He may be excused, sir.
THE COURT: Any objection?

MR. HUGHES: No objection.

THE COURT: Mr. Washington, you may step down and you are excused from the trial of this case. You may leave the courtroom. Call your next witness.

ASST. SOL. RANDOLPH MURDAUGH: We call Jake Sullivan.

(Whereupon, Officer Jake Sullivan takes the witness stand.)

THE COURT: I remind you that you're still under oath.

OFFICER SULLIVAN: Yes, sir.

THE COURT: State your name and spell your last name for the court reporter.

OFFICER SULLIVAN: Jacob Sullivan. Sullivan, S-U-L-L-I-V-A-N.

THE COURT: Ladies and gentlemen of the jury, this witness was previously sworn as a witness in the trial of this case. He understands he is under oath. your witness, Solicitor, direct examination.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Mr. Sullivan, on August 1st, 2015, did you and a fellow by the name of Blue Bolton help in the investigation out there?

A Yes, sir. When I arrived on scene, Major Bolton had just gotten to the scene. Sgt. Lawson and Sgt. Ginn had secured the scene. At that point, Major Bolton and I

proceeded to investigate the shooting of Mr. Cochran.
Q Okay. And did somebody help you?
A Yes, sir. During the course of the investigation, Sgt. Nick Ginn also assisted in the processing of the crime scene. We had Sgt. Lawson and Sgt. Long interviewing everyone in the apartments that evening, and also Sgt. Ginn assisted with that at a later point.
Q Okay. Blue Bolton, that's the name of the fellow that ---
A Yes, sir. Major James "Jim" Bolton, everybody here knows him as "Blue".
Q He was the Assistant Chief of Hampton at that time?
A At that time, he was the Assistant Chief. He was the Major in the position that I hold now. I was Captain. I was just under him in rank. He and I handled all of our major investigations.
Q Is Blue dead now?
A Yes, sir, he unfortunately passed away.
Q Died of a heart attack?
A Yes, sir.
Q Okay. I ask you on that night, did y'all do an investigation of the area around the place where the dead body was found?
A That's correct.
Q What was your purpose in doing that?

A To collect evidence.
Q All right. Did you collect any?
A Yes, sir.
Q And what did you collect?
A We recovered shell casings, four different shell casings at the scene. We also collected projectiles and we also photographed the scene as well.
Q Okay. You got four shell casings?
A That's correct.
Q May I see them?
A Actually, there are five shell casings.
Q Okay. Now, Mr. Sullivan, the shell casings that you have handed me are in a plastic bag?
A That's correct.
Q Okay, sir. What is this plastic bag?
A That's an evidence protective bag. It has an adhesive on it so that once it's sealed it can't be tampered with.
Q I gotcha. And who put the shell casings in there?
A Major Bolton.
Q And was it in your presence?
A That's correct.
Q Okay. You saw him put them in there and seal it?
A Yes, sir.
Q Okay. And were they later taken to SLED?
A They were later sent to SLED for DNA processing.

ASST. SOL. MURDAUGH: Your Honor, please, I would offer these five shell casings for exhibits.

THE COURT: Has it been marked?

ASST. SOL. MURDAUGH: No, sir.

THE COURT: As to State's Eleven?

MR. HUGHES: Is it going to be Eleven A, B, C, D, E?

THE COURT: It's just State's Eleven, just one.

MR. HUGHES: If I may see it. (Examines exhibit.) No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Eleven will be admitted in the trial of this case without objection. State's Eleven is now in evidence. You may publish to the jury.

(Whereupon, State's Exhibit Number 11, shell casings, are received into evidence.)

Q Mr. Sullivan, I show you a yellow folder, one page which has been marked as Exhibit Number Two. Do you recognize all of the contents of that yellow folder?

A Yes, sir, I do.

Q And was that prepared by Nick Ginn?

A That's correct. At my order, it was prepared by him, yes, sir.

ASST. SOL. MURDAUGH: Your Honor, please, I would offer this as an exhibit, which would be inclusive of Exhibit Number Two.

THE COURT: Any objection?

MR. HUGHES: Your Honor, I would have no objection provided that Officer Ginn verifies that, in which he assumes that he will.

THE COURT: It's your intention to call him?

ASST. SOL. MURDAUGH: Yes, sir, I intend to call him next.

MR. HUGHES: Well, then, I have no objection to this folder.

THE COURT: Do you have any objection to it being admitted at this time with the solicitor advising you that he intends to call the witness?

MR. HUGHES: None whatsoever, Your Honor.

THE COURT: All right. Ladies and gentlemen, State's Exhibit Two that was previously marked for identification only, but rather than offering into evidence when it was utilized before; am I not right on that?

COURT REPORTER: That's correct.

THE COURT: All right. This will be State's Twelve, without objection.

(State's Exhibit Number Twelve, yellow folder of information, is received into evidence.

THE COURT: Have the witness identify it because of the fact that a previous part of it was marked for I.D. only.

ASST. SOL. MURDAUGH: Yes, sir.

Q Mr. Sullivan, can you tell the ladies and gentlemen of the jury what this folder contains?
A Yes, sir. The first page is a drawing of the front of the office building where Mr. Cochran was shot. The second picture is a Google map of the Hampton Garden Apartments and the Holly Ridge Apartments.
ASST. SOL. MURDAUGH: If Your Honor, please, may I take him down to the jury and it will save him testifying more than one time?
THE COURT: You may. Let Mr. Hughes get around.
Q Explain to us what this is.
A The first picture here is a drawing that was done by Sgt. Ginn of the front of the office building where Mr. Cochran was found.
Q Next page.
A This is a Google map that shows Holly Ridge Apartments here and Hampton Garden Apartments here.
Q Okay. Where was the body found?
A The office is under this tree area here.
Q Okay. The next one.
A The next one is also a drawing done by Sgt. Ginn of the inside of the office building itself, the layout.
Q Okay. And the next page?
A These drawings are just we tried to do it step by step to show you different items which were found and put into

evidence. This one here is ---
Q What is this?
A This is Hampton Garden Apartment [redacted], which is the office building.
Q Okay.
A The second one here is a drawing of basically all of the apartments and the layout and the roadway coming in, the cul de sac at the end. It shows where the office is. It shows where the body was found, where the shell casings were found.
Q You say it shows where the shell casings were found?
A Right.
Q Is it identified by markings on this thing?
A Yes, right. This diagram over here shows you what each one is. The red dot here are the shell casings, the five shell casings that were found. The blue dots are the projectiles that were found and their locations.
Q Thank you. Next page.
A This one just shows where the body is found. We took out all the other items.
Q Next page.
A This one shows just where the projectiles were found.
Q Next page.
A This one shows just where the shell casings were found and this one shows where the victim's truck was found.

Q And that is this black mark right here?
A Yes, sir.
Q This thing I've got my finger on is the office?
A That's correct.
Q And the body was found next to it?
A Yes, sir.
Q Okay. Next page.
A This is just another map of Hampton Gardens. It's the same thing here, just giving you a couple of different angles of the Hampton Garden Apartments.
Q Okay.
ASST. SOL. MURDAUGH: With the Court's permission, I'm going to go to the other end.
THE COURT: Very well.
ASST. SOL. MURDAUGH: Can all y'all see down there?
JURY: Yes.
Q Okay. Start us off at the beginning, and let's go through it again.
A This is a drawing of the front of the office building, prepared by Sgt. Ginn.
Q (Turns page.)
A This is a Google map of Hampton Garden Apartments here; Holly Ridge Apartments here.
Q Okay. Where was the body found?
A The body was found near the office area under this tree

right here.
Q Okay.
A This is a depiction of the inside of the offices. That blue mark is where a projectile was found.
Q (Turns page.)
A This is, again, Apartment [redacted], which is the office area. This one here has everything in the diagram. This is your entrance into the apartments, the cul-de-sac down here. Each one of the apartment buildings. This is the office. The red body indicates the body of the victim. The black here is the truck of the victim. These red dots here are shell casings that we recovered and these blue dots are where we found projectiles.
Q Okay.
A This one here, we took everything out except for the victim's body. This one has only the projectiles. This one has only the shell casings. This one has only the victim's vehicle.
Q (Turns page.)
A This is another Google map of Hampton Garden Apartments, just to give you a couple of different angles. Same thing here and here.
ASST. SOL. MURDAUGH: Were all of y'all able to see it?
JURY: Yes, sir.
Q Mr. Sullivan, we have introduced as State's Exhibit

Eleven, five shell casings. Are they indicated on State's Exhibit Number Twelve as the red dots?

A Yes, sir. They are the red dots.

Q Okay. Did you also find projectiles?

A Yes, sir, we did.

Q Okay. Let's go back to the casings. Do you have pictures of where the casings were found?

A I do, yes, sir.

Q May I see them?

A Yes, sir.

ASST. SOL. MURDAUGH: Your Honor, please, I would offer these as exhibits.

THE COURT: Show them to counsel.

(Shows to Mr. Hughes.)

MR. HUGHES: No objection, Your Honor.

THE COURT: This will be Thirteen A, B, C, D, E, F and G. No objection, correct?

MR. HUGHES: No objections, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibits Thirteen A, B, C, D, E, F and G will be admitted into evidence in the trial of this case without objection.

(State's Exhibit Thirteen A-G, photos of seven shell casings, are received into evidence.)

ASST. SOL. MURDAUGH: May I bring him down to show the jury?

THE COURT: Yes, you may. Bob, you may come around. Please identify the exhibit number for the record. It's in evidence without objection.

Q I show you State's Exhibit Number Thirteen G and ask you to identify that, please, sir.

A We have it marked as photo number one for our identification purposes. That was a daytime overview of the shell casings one through five.

Q Now, I noticed some, looked like orange markings on the pavement and on the grass?

A Right. The orange markings indicate where we found shell casings one, two, three and four. The pink piece here identifies shell casing number five. We didn't locate shell casing number five on that night. It was found the next day when we -- well, when the sunlight came up. So we marked it with that.

Q You talking about this little flag right there?

A Yes, sir.

Q Okay. Tell the far end of the jury what Thirteen G is.

A Shell casing one, two, three, four and we found shell casing five, after we had marked those, when the sun came up.

Q Okay. State's Exhibit Number Thirteen A.

A Thirteen A is what we have identified as photo number two. This is a nighttime view of the four shell casings

that we found and marked; the same four that we have marked in the daytime photos.

Q And G was taken the next day?

A Well, hours later. We worked the scene all night.

Q Okay. So Thirteen A was taken that night?

A Correct.

Q Okay. So this is the same as Thirteen G?

A Right.

Q Okay, sir. Thirteen B?

A This we have identified as photo number three, which is the location of shell casing number one. It's kind of hard to see, but it's inside the flashlight and is actually shining a light directly on the shell casings.

Q Okay. Thirteen C?

A That is what we have as photo four, which is the location of shell casing number two.

Q Okay. Thirteen D?

A Photo number five for us. That's the location of cell casing number three.

Q Okay. Thirteen E?

A That is what we have as number six, shell casing number four.

Q And Thirteen F?

A That is what we have as photo seven. That is the location of shell casing number seven we found when the sun

came up.
Q That's that little pink thing right there?
A Yes, this one here.
Q Okay. The other end one more time. In Thirteen B?
A This is photo number three for us. That's the location of shell casing number one. It's hard to see, but the light is shining right on the shell casing.
Q Thirteen C?
A This is what we have as photo number four. It's the location of shell casing number two.
Q Thirteen A?
A We have it as photo number two, which is an overview of all four of the shell casings we located that night.
Q Thirteen D?
A D is photo number five, which is the location of shell casing number three. Again, the light is shining right on it and it's hard to see the shell casing.
Q Thirteen E?
A This is what we have as photo number six and that is the location of shell casing number four.
Q And Thirteen F?
A Thirteen F is our photo number seven, which is the location of shell casing number five.
Q And is that the thing that is right under my thumb nail?

A That's correct.
Q Okay. You may sit back on the stand.
MR. HUGHES: Your Honor, just for the record, when he said, "That's the thing right under my thumb nail," what photo was he referencing?
ASST. SOL. MURDAUGH: F.
MR. HUGHES: Thirteen F?
ASST. SOL. MURDAUGH: Yes.
MR. HUGHES: Okay.
THE COURT: Are you satisfied, Mr. Hughes?
MR. HUGHES: Yes, sir.
Q Mr. Sullivan, did you also do a search for projectiles?
A Yes, we did.
Q And did you find any?
A Yes, sir. We located four projectiles.
Q Where did you find those?
A As we documented on that diagram, it has the locations. One was located inside the residence, or the office, and the others were found outside the front of the building and one at the entrance coming into Hampton Garden Apartments, which we believe was a ricochet.
Q Okay, sir. Do you have those projectiles with you?
A Yes, we do.
Q May I see them?
A Yes, sir.

Q And you've handed me four evidence packages. Are these the projectiles that y'all found that night?
A That is correct.
ASST. SOL. MURDAUGH: Your Honor, please, I would offer them as exhibits.
MR. HUGHES: I have no objection, Your Honor.
THE COURT: One exhibit?
ASST. SOL. MURDAUGH: Yes, sir. We can number them A, B, C and D.
THE COURT: Identify the sub-parts. Counsel, this will be Fourteen A, B, C and D, Mr. Hughes, and I understand there is no objection?
MR. HUGHES: That is correct, Your Honor.
(State Exhibits 14 A, B, C, D, projectiles, are received into evidence.)
Q Mr. Sullivan, without going through the same thing that we did with the casings, is it indicated on State Exhibit Number Twelve in blue where those projectiles were found?
A That is correct, yes, sir.
Q Now, there is one projectile, State's Exhibit Fourteen C, and I ask you what that is?
A That is the projectile found inside the office itself. It went through a window, a wall, in the back side of the wall, and was found in the office area in the middle of the floor.

Q Okay, sir. Was anybody living in that office building?
A Mr. Cochran stays there from time to time when he was there. Q Was there a bed in there?
A Yes, sir.
Q Was his clothing in there?
A He had a bag in there where he was going to be staying that night, yes, sir.
Q Okay. Were those gathered by you and Blue Boltin and Nick Ginn?
A That is correct, yes, sir.
Q And were they packaged in those bags in your presence?
A That is correct, yes, sir.
Q Okay. And were they sent to SLED?
A They were.
Q Okay. The projectiles that you found, did you take pictures of the areas where they were found?
A Yes, sir, we did.
Q And do you have them there?
A Yes, sir, I do.
ASST. SOL. MURDAUGH: Your Honor, please, I would offer these as an exhibit.
THE COURT: Show them to counsel.
(Shows item to Mr. Hughes.)
MR. HUGHES: May we approach?
THE COURT: Counsel approach.

(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)

THE COURT: All right, Solicitor, I understand that the photographs have been marked by the court reporter as 15A through I, and Mr. Hughes, I understand you have an objection to one of them.

MR. HUGHES: Yes, sir. I object to photograph 15A. I feel that it is unduly prejudicial.

THE COURT: Let me see 15 A. (The Court looks at 15A.)

The Court has held a sidebar with counsel. The Court has reviewed the photograph and the Court overrules the objection. State's Exhibits 15 A, B, C, D, E, F, G, H and I will be admitted into evidence. The other photographs, I understand you have no objection to, is that correct, Mr. Hughes?

MR. HUGHES: I don't believe he has identified the ---

THE COURT: I'm going to have him do that, but you've reviewed all of them?

MR. HUGHES: I have no objection to anything except 15A.

THE COURT: The only objection you're making is to Fifteen A?

MR. HUGHES: Correct, sir.

THE COURT: And I will put my ruling, which I discussed with you in the sidebar, on the record at the appropriate

time as to 15A. You're objection is overruled. Fifteen B through I are admitted without objection.

(State Exhibits 15 A through I are received into evidence.)

You may now ask the witness to identify the photographs, Solicitor.

Q Mr. Sullivan, I show you State's Exhibit number 15A and ask you if you can identify that.

A Yes, sir. We have this document as photo number 17. This is a fragment of a projectile found on the rug in front of the apartments in the entrance of the doorway.

Q Okay. Do you know which of these fragments that is?

A Number four, State's Exhibit Number 14B.

Q State's Exhibit 14B, is that the projectile that you found in this photograph of 15A?

A Yes, sir, it does appear to be the same one.

Q I ask you what 15B is?

A Fifteen B is photo number 25. That is the doorstopper that was on the wall where a bullet exited through a wall inside the apartment.

Q You have lost me now. That's a doorstopper?

A Yes, sir. That's a wall doorstopper, so a plate, like this ---

Q Okay. It's up off the floor?

A Right. It's probably waist to chest high so that when the door opens, the door knob itself would hit that instead of hitting the wall.
Q Okay. Fifteen C?
A That is where the projectile came in and hit off the wall.
Q Okay. Fifteen D?
A That is photograph number 23, which is a bullet hole on the inside of the wall after it came through the window. On the back side of this wall is where that doorstopper was.
Q And is that in the dwelling?
A Yes, sir, this is inside the office.
Q All right. Fifteen E?
A That is photo number 22. That is the exit of the bullet hole through the window. As you're looking -- if you're inside the building looking out of the window, this is from the inside of the office there.
Q Okay, sir. Fifteen F?
A This is the outside. You're on the outside looking into that window. That's the screen and it goes into the window, out of the window, into the wall, and then comes out of the wall and into that door stop, blowing it off of the wall and then the projectile is on the ground.
Q Fifteen G?
A This is the actual projectile found on the floor inside

of the office.
Q Fifteen H?
A That's photo number 31, which is a projectile we found in the parking lot at the entrance of the apartments.
Q Okay. And Fifteen I?
A That's photo number 29, which is a projectile we found right outside of the apartments.
Q Okay. Thank you, sir. Answer any questions that Mr. Hughes may have.
A Yes, sir.
THE COURT: Cross-examination?
MR. HUGHES: Thank you. May I approach, Your Honor?
THE COURT: You may.

CROSS-EXAMINATION

BY MR. HUGHES:
Q I'm showing you what's marked as State's Number 12, I believe that is a drawing of where everything was located?
A That's correct.
Q There is not a scale in that, so what is the distance from the casings to the body?
A I could not tell you.
Q Okay. Do you have a rough idea?
A It would only be an estimate.
Q Okay. What would your guesstimate be?
A Fifteen to twenty feet, maybe?

Q What -- the casings were found in the cul-de-sac area?
A No, sir. A few of them were on the roadway area.
MR. HUGHES: May I approach, Your Honor?
THE COURT: You may.
Q When I say in the cul-de-sac area, I'm talking about in this circle area.
A Correct.
Q And they were in the cul-de-sac area?
A Right.
Q And what is the lighting like there?
A They have lighting throughout the apartments.
Q But in the cul-de-sac area, could you read a newspaper at night?
A If you were in the right place, you probably could.
Q Do you know where the lighting is there?
A I do not.
Q But it's fairly well lit?
A It's fairly well lit.
Q And do you have any evidence that the bullet hole in the window and through the wall and the cartridge and the projectile you found in the house were shot that night?
A Could you repeat the question?
Q Is there any evidence that says that the bullet hole through the window and through the wall was made that night?
A I would say so. There is no indication that that

bullet hole or anything else had been done beforehand; no reports of it.

Q Okay. But you don't know that it was done that night? You just know there were no reports?

A With the other shell casings and other slugs found, I would say that it was done that night.

Q Okay. But that's your opinion, correct?

A That's correct.

Q Now the projectile that you say was a ricochet, how far was that from where the body was found?

A It was about midways up from the entrance. It was probably middle between where you enter the projects to the office, probably midways.

Q And about how far was that?

A Totally an estimate, I would say probably 100 feet maybe.

MR. HUGHES: No further questions, Your Honor.

ASST. SOL. MURDAUGH: You may come down. We call Nick Ginn.

THE COURT: Just one moment. Any objection to this witness?

MR. HUGHES: No, sir.

THE COURT: Call your next witness.

ASST. SOL. MURDAUGH: Nick Ginn.

(Whereupon, Mr. Nick Ginn enters the courtroom and the

following is held on the record.)

THE COURT: Have a seat for me, Mr. Ginn. She is going to pull that microphone towards you. It's going to amplify your voice. Begin by stating your full name and spelling your last name for the court reporter.

MR. GINN: Nicholas Adrian Ginn, G-I-N-N.

THE COURT: Thank you. Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Nick, by whom are you employed?

A The Hampton Police Department.

Q And where are you from?

A Hampton.

Q Been here all your life?

A I moved to Walterboro for a few years and then I moved back.

Q Okay. How long have you been with the law enforcement in Hampton County?

A Just over three years, I believe.

Q All of it in Hampton?

A The last three years, yes, sir. I started in 2001 in Walterboro.

Q With the City or the Sheriff?

A With the City, and I also went to the Sheriff's Office later on.

Q Okay. And I ask you whether or not you were employed with the Town of Hampton on the 1st of August 2015?
A August 1st of 2015, I was employed by the Town of Hampton.
Q And were you involved in investigations of the death of Steven Cochran?
A Yes, sir.
Q And were you helping Blue and Jake in the gathering of certain evidence?
A That's correct.
Q Okay. I also ask you, showing you State's Exhibit Number 12 I think it is, whether or not you prepared that folder?
A Yes, sir, I did.
Q Okay. Now, I will show you some photographs and ask you if you can identify these photographs.
A This first photograph is of Mr. Cochran ---
Q First of all, do this for me. You go through them and see if you can identify them and if you can't, let's take the ones out that you can't identify.
A Okay. I can identify all of them.
THE COURT: Any objection?
MR. HUGHES: Not anymore, Your Honor.
THE COURT: Okay. Have the court reporter mark them.
(Court reporter marks exhibits.)

THE COURT: I understand there is no objection to what has now been marked as State's Exhibits Number 16A through 16G; is that correct?

MR. HUGHES: Yes, Your Honor.

(State's Exhibits Sixteen A - G, photos, are received into evidence.)

Q Okay. I show you photograph Sixteen A; can you identify that?

A That's Mr. Cochran's cell phone and glasses on the back side of the air conditioning unit to the front of the office apartment.

Q Okay. Do you know how it got there?

A I do not.

Q Okay, sir. I show you Sixteen B.

A That is what I refer to as the mailbox on the front of the office apartment.

Q Did you find anything unusual about the mailbox?

A Yes, sir. There is what appears to be a bullet hole on the bottom right-hand side.

Q Okay. I show you another item and ask if you can identify this one.

A Yes, sir. That's the same mailbox that's in the picture.

Q And bottom right-hand side, this hole, is that what you're talking about?

A That's correct.

ASST. SOL. MURDAUGH: Your Honor, please, I offer this into evidence.

THE COURT: Show it to counsel.

MR. HUGHES: I have no objection, Your Honor.

THE COURT: State's Exhibit 17 will be admitted into evidence without objection.

(State Exhibit Number Seventeen, mailbox, is received into evidence.)

THE COURT: State's 17 in evidence, as well as State's 16A through G.

Q I show you State's Exhibit 16C and ask you what that is, sir?

A That is the bed and duffel bag that is in the office apartment area.

Q Looking at State's Exhibit Number 12, the second page on it.

A This room would be room number one.

Q And what did it have in it?

A It had the victim's clothing.

Q And what else?

A A bed, table, looks like an alarm clock, lamp.

Q And it would be room number one?

A That's correct.

Q And is that clothing on that bed in the same condition

as it was that night? Was it there that night?
A Yes, sir.
Q Okay. State's Exhibit 16D?
A That is a trash can that was next to the air conditioner at the front of the apartment where the cell phone and glasses were.
Q Okay. I'm sorry, I asked you a question and didn't hear what you said.
A It's a trash can that was next to the air conditioner where Mr. Cochran's cell phone and reading glasses were.
Q Sixteen E?
A That's the front of the office apartment building from an angle from the right side.
Q Sixteen G?
A That's where the victim was. Also, the trash can, the glasses, the cell phone, and blood stains.
Q Mailbox?
A I can't see it on this photo.
Q Okay. Sixteen F?
A Sixteen F is very similar to that first photo with the mailbox attached to the front of the wall.
Q Okay. I noticed that in Sixteen F and in Sixteen G there is --- what is this?
A A pair of flip-flops.
Q They are flip-flops?

A Yes, sir.
Q Do you know who they belong to?
A Mr. Cochran.
Q Okay. Answer any questions that Mr. Hughes may have.

CROSS-EXAMINATION

BY MR. HUGHES:

Q I want to show you what has been marked previously as State's Number 12. Do you recognize this?
A Yes.
Q You prepared that, correct?
A That's correct.
Q The one that you have your finger on right now, that is the drawing of the area that you prepared?
A That's correct.
Q Okay. I don't see a scale on there. Do you see where it has previously been identified as marking the shell casings?
A That's correct.
Q How far are they from the red thing that marks the body?
A As far as measurements, I could not tell you. That's why I have "not to scale" on the bottom.
Q Okay. But when you prepared that, could you give us a rough estimate on how far you think they are?
A No, I can't.

Q Would you say they are from me to you now or further?
A Well, each one of them was a different distance, so we would have to measure each one to come up with an accurate measurement.
Q Okay. A couple of them are by the curb?
A Yes, sir.
Q Okay. Was the curb as close to me to -- if I was the body, would the curb be where you are or would it be closer or further?
A Depends on which curb. You've got the right side, the left side and the front that has a curb.
MR. HUGHES: May I approach, Your Honor?
THE COURT: You may.
Q I am going to ask him about the curb where it meets the cul-de-sac turn. Right here is one of the shell casings. That marking where the cul-de-sac starts to curve and meets the road; do you see that one?
A Yes, sir.
Q Could you tell me is it as close from me to you or is it further?
A It would be maybe a little bit further.
Q Say when.
A Estimate somewhere around in there.
Q Okay. Thank you. I'm going to ask if you can identify what that is.

A That is a list of individuals we spoke to, myself and Sgt. Lawson, out at the Hampton Garden Apartments the night of the murder.

Q Is there anything on that list that you see now as being put down wrong or inaccurate as to what happened that night?

A During the time that this took place, this is an accurate rendition of what happened.

Q Thank you.

MR. HUGHES: No further questions, Your Honor.

ASST. SOL. MURDAUGH: I have no questions.

THE COURT: As to the witness?

ASST. SOL. MURDAUGH: If Your Honor, please, I would like him to remain.

THE COURT: Have you advised him concerning my Order?

ASST. SOL. MURDAUGH: No, sir, I have not.

THE COURT: Then I would instruct you to do so.

ASST. SOL. MURDAUGH: I will do that.

THE COURT: Any objection, Mr. Hughes?

MR. HUGHES: I would have no objection.

THE COURT: Mr. Ginn, if you will step down, he needs to speak with you outside the courtroom. Please remain with us.

ASST. SOL. MURDAUGH: Your Honor, please, the State will call Ms. Eichenmiller.

(Ms. Eichenmiller enters the courtroom and is duly sworn.)

THE COURT: Have a seat. Adjust that microphone. It's going to amplify your voice. State your full name and spell your last name for the court reporter.

MS. EICHENMILLER: Michelle Eichenmiller, E-I-C-H-E-N-M-I-L-L-E-R.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Ms. Eichenmiller, by whom are you employed?

A I work for the South Carolina Law Enforcement Division in the forensic lab in the firearms department.

Q Is that better known as SLED?

A Yes.

Q Okay. And you work in the forensic department?

A Yes.

Q And what is that?

A I work in the forensic lab in the firearms department.

Q Okay. What training have you had to work in the firearms department?

A In order to be hired at SLED, I need a Bachelor's degree. So I have a Bachelors of Biology. I also have a Master's of Science in Forensic Science. In order to learn how to be a firearm's examiner, though, there is no college

you can go to. you have to complete an apprenticeship-like program. So once I got to SLED, I started the SLED in-house training program of the firearms examiners. After three or four years, I completed my training. I took a comprehensive final and then they deemed me qualified to work cases on my own.

Q Okay. The training that you took in the lab itself, was that under the supervision of somebody?

A Yes. It was under the supervision of all the examiners that were there. I went in different examiners offices, learned how they did casework, learned what they were examining and looking for. I did a lot of reading on my own. Mostly, it was under their supervision that I did a lot of comparisons.

Q Okay. Did you do certain work and then have it compared to work that your supervisor had done?

A Yes.

Q To compare whether or not what you did was correct?

A Yes.

Q And was it correct?

A Yes.

Q Okay. In the process of learning firearms, did you learn about not only guns but about ammunition?

A Yes. As part of my training, we did the history of firearms, the history of ammunition. We learned about

current ammunition, new things that come out. We keep doing continuing education on that, too.

Q Okay.

ASST. SOL. MURDAUGH: If Your Honor, please, I would offer her as an expert on firearms and ammunition and related matters.

THE COURT: Any objection, counsel? I will be happy to let you cross-examine her.

MR. HUGHES: I would like to cross examiner her.

THE COURT: Proceed.

CROSS-EXAMINATION AS TO EXPERT:

BY MR. HUGHES

Q Have you ever testified as a firearms expert before?

A I have.

Q How many times?

A Approximately 45.

MR. HUGHES: Then no objection, Your Honor.

THE COURT: Ladies and gentlemen, recalling my earlier instruction to you concerning expert witnesses, the witness is qualified without objection in firearms and ammunition. Proceed, counsel. Direct examination.

DIRECT EXAMINATION CONTINUED

BY ASST. SOL. RANDOLPH MURDAUGH:

Q I ask you whether or not you had occasion to examine State's Exhibit Number Five?

A Whenever I receive evidence in a case, I will mark it, the outer container and then the actual item itself with a lab number, the item number and my initials. This is what I examined for this case.

Q Okay. I ask you whether or not you had an occasion to examine State Exhibit 14 A?

A Yes, I did.

Q Fourteen B?

A Yes, I did.

Q Fourteen C?

A Yes.

Q Fourteen D?

A Yes.

Q When you received those items, were they -- what do you call those? Tamper proof bags?

A Yes, they are.

Q Why?

A Because if they were tampered with, you would be able to tell.

Q Okay. Had they been tampered with when you got them?

A No.

Q Okay. I ask you whether or not you also examined the contents of State's Exhibit Number 11?

A Yes. These are the cartridge cases that I examined as well.

Q You examined those casings?
A Yes. There are five items in here and I've examined them.
Q Okay. And what was our purpose in examining all of this stuff I just asked you about?
A Whenever I went in to receive in the lab from the firearms department, we examine any fired ammunition components, bullets, or cartridge cases. If there is a firearm involved, we will also examine that. We also attempt to determine if the bullets in cartridge cases were fired by a firearm. In the absence of a firearm, we can do other examinations to give a list of firearms that could have fired the bullets, sort of an investigative tool to help the investigators, and then we can also tell how many firearms were involved. So if there were more than one firearm involved, I would be able to tell them.
Q Okay. Did your investigation determine if more than one firearm was involved with these items?
A In this case, after examination and microscopic comparison, the five cartridge cases were fired by one firearm. I couldn't tell if the five bullets and bullet fragments were fired by the same firearm, but they had consistent characteristics that could have been the same firearm. It was just not enough there to tell.
Q You couldn't eliminate them, but you just can't say it

wasn't by the same firearm?
A Correct.
Q Okay. What kind of shells were those casings? Does that give you some kind of indication of what kind of ammunition it was?
A I don't understand your question.
Q What caliber?
A They were 40 S&W caliber.
Q What's the difference between the caliber and the brand?
A Forty S&W is a caliber that many manufacturers make. We can tell the manufacturer based off of the headstamp, which is writing on top of the cartridge case.
Q Okay. What brand were those cartridge casings?
A In this case -- if I may look at my notes?
Q Sure.
A My Item One -- so part of the cartridge cases that are in this ---
THE COURT: You have to refer to the exhibit number for the record. I realize you have an item number.
A State's Exhibit 11, one of the items in Exhibit 11 has a Winchester headstamp. One of them has a Tool Ammo headstamp.
Q A what?
A A Tool Ammo. It's another manufacturer of ammunition.

And then the last three have Perfecta headstamps.
Q Perfecta, okay. Perfecta, is that a popular brand?
A I see it in casework frequently.
Q Okay. I have no further questions.
THE COURT: Cross-examination.
CROSS-EXAMINATION
BY MR. HUGHES:
Q And what were the other two brands?
A There was one Winchester, one Tool Ammo, and three Perfectas.
Q Winchester, is that a rare brand? No one ever uses Winchester?
A No, that is pretty common as well.
Q And the third one?
A Tool Ammo?
Q Yes.
A It's becoming more popular.
Q Now, why are there cartridge casings not in the gun? I mean, is there a type of gun that would expel the cartridge casings?
A Yes. A semi-automatic pistol expels the cartridge cases after they are fired.
Q Do all pistols expel their cartridge cases?
A Most times, unless there is an issue.
Q Can you tell me the difference between a revolver and a

semi-automatic?
A A semi-automatic will use the force of the recoil of a firearm and the firing will cycle the gun, and then the cartridge case will get ejected and another one will load. A revolver is like a cowboy firearm if you've ever seen an old western that they have a cylinder with several cartridges in there, and with each pull of the trigger, the cylinder will rotate to have another one under the hammer for the next firing.
Q And after it fires, it ejects the cartridge?
A A revolver doesn't have that.
Q So there is a gun that doesn't eject the cartridge or doesn't throw the cartridge out?
A Correct. Revolvers do not, pistols do.
Q I thought a revolver was a pistol?
A They're both firearms, just different categories of firearms.
Q Okay. That shows my ignorance.
MR. HUGHES: No further questions, Your Honor.
THE COURT: Redirect?

REDIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:
Q Ma'am, what kind of shells did you say the three -- the three of them were what?
A There's one Winchester brand cartridge case, there's

one Tool Ammo, and there's three Perfecta.
Q Perfecta?
A Perfecta.
Q Who sells Perfecta?
A I'm not real familiar with who sells Perfecta. I believe that Wal-mart is one place that you can buy them.
Q Okay. Thank you, ma'am.
ASST. SOL. MURDAUGH: I have no further questions. I have no objections to her being excused.
THE COURT: Recross, limited to redirect.

RECROSS-EXAMINATION

BY MR. HUGHES:
Q Do other places sell Perfecta that you know of?
A I'm not familiar with other places.
Q Do other places sell Winchester?
A Yes.
Q Do other places sell Tool Ammo?
A Yes.
Q So it's not just limited to Wal-mart?
A Correct.
MR. HUGHES: No further questions, Your Honor.
THE COURT: As to this witness, Solicitor?
ASST. SOL. MURDAUGH: Can be excused, sir.
THE COURT: Any objection?
MR. HUGHES: None whatsoever.

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THE COURT: Ms. Eichenmiller, you can step down and you are excused from the trial of this case. Take your file. Counsel approach.

(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)

THE COURT: Ladies and gentlemen of the jury, I'm going to stop at this point for your lunch break. Please don't discuss the case over the lunch break. I want to try and get as much done today. I'm going to get you home early today, but I want to try and get as much done. Please be back in your jury room at 2:00 today. Over the lunch break, if somebody tries to talk to you about it, just tell them you're on the jury and the judge said you can't talk about the case. If they persist, get their name and give it to me. Hope everybody has a pleasant lunch. You may leave the courtroom at this time.

(12:45, WHEREUPON THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Counsel, we will stop at this point for lunch, unless there is something for the record.

I do need to put one thing on the record. I issued a ruling overruling Mr. Hughes's objection and it was 15A. Let me see the photograph so I can remember. Mr. Hughes objected to photograph 15A. It purports to be a photograph of a projectile in this case which I admitted over

objection.

Mr. Hughes objected on the basis that he felt this was unduly prejudicial because there was blood in the photograph in proximity to the location. I informed Mr. Hughes that even though there was blood when the photograph was taken, because it was taken as to the location of the projectile as testified to earlier by the witnesses.

There has also been testimony in this trial concerning the location of the body. In fact, Mr. Hughes later asked that question twice of witnesses the relationship of location of either projectiles or of casings to the body, and because the photograph illustrates that the jury could infer the location because of the blood to the projectile, I felt that it's any prejudicial effect that there was probative value to the photograph and that I did not think the prejudice outweighed its probative effect and therefore his objection was overruled. I'm giving you that photograph so there is a record of my ruling.

Now, is there anything on the record from the State before we adjourn for lunch?

ASST. SOL. MURDAUGH: No, Your Honor.

THE COURT: Anything on the record from the defendant before we adjourn for lunch?

MR. HUGHES: Nothing, Your Honor.

THE COURT: All right. We will start back at 2:00.

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(Whereupon, a recess is taken in the trial of this case. Thereafter, at 2:00 p.m., the following is held on the record.)

THE COURT: Is the State ready to proceed?

ASST. SOL. MURDAUGH: Yes, Your Honor.

THE COURT: Is the defendant ready to proceed?

MR. HUGHES: Yes, Your Honor, but I have one request.

THE COURT: Yes, sir.

THE COURT: Could the Solicitor avoid standing at the witness stand and talking to them and leaning on the witness box during questioning?

THE COURT: I will certainly see to it that your view of the witness is not blocked. Solicitor, please remember not to approach a witness without asking permission from the Court. That applies as much to your son, although the apple does not fall far from the tree.

MR. HUGHES: Thank you, Your Honor.

THE COURT: Bring us the jury, please.

(WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Mr. Foreman and ladies and gentlemen of the jury, we will now continue with the testimony in the trial of this case. Solicitor, you may call your next witness.

ASST. SOL. MURDAUGH: The State calls Kadijah Batist.

(Whereupon, the witness, Ms. Batist, enters the

courtroom and is duly sworn.)

THE COURT: Have a seat for me. You can adjust that microphone to your height. Please speak up so my jury can hear you. State your full name and spell your last name. And if you don't mind, because I wrote this down and I don't know if that's correct, would you spell your first and last name please.

MS. BATIST: Kadijah, K-A-D-I-J-A-H, Batist, B-A-T-I-S-T.

THE COURT: Very well. Your witness, Counsel.

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Ms. Batist, where are you currently employed?

A By the Jasper County Detention Center.

Q Okay. And what is our title?

A My title is housing unit manager.

Q All right. And as the housing unit manager, what are your duties in regards to the assigning of I.D. numbers to inmates?

A When they come in, I issue them a pin number and an account number to use the phone.

Q And you are the person who issues that pin number?

A Yes.

Q All right. And other than the inmate to which a number is assigned, and the administration and the jail, does

anyone else have access to that number?
A No.
Q I want to hand you this document and ask you if you can tell us what number was assigned to Sidney Holmes?
A 1188159108.
Q And that's an I.D. and a pin number?
A Yes.
Q And to use the telephone at the facility, does an inmate have to enter that number?
A Yes.
Q Is there any way to use the phone without doing that?
A No.
Q And again, just to be clear, other than the administration and the inmate to which a number is assigned, does anyone have access to that number?
A No.
Q Thank you.
ASST. SOL. MURDAUGH: No further questions.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:
Q Is there anything stopping someone from giving someone else their number?
A No.
Q Okay. Thank you.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. MURDAUGH: No, sir.

THE COURT: As to this witness, Solicitor?

ASST. SOL. MURDAUGH: She may be excused.

THE COURT: Any objection, Mr. Hughes?

MR. HUGHES: No, Your Honor.

THE COURT: Ms. Batist, you may step down. You are excused from the trial of this case. Call your next witness.

ASST. SOL. MURDAUGH: The State calls Dylan Hightower.

(Whereupon, Mr. Hightower enters the courtroom and is duly sworn.)

THE COURT: Please have a seat. Adjust that microphone. State your full name and spell your last name.

MR. HIGHTOWER: My name is Dylan Hightower, H-I-G-H-T-O-W-E-R.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q By whom are you employed, Mr. Hightower?

A I'm currently employed by the Fourteenth Circuit Solicitor's Office as an investigator. I also oversee the criminal intelligence unit.

Q How long have you been employed in that role?

A I've been there approximately six years. And to

include my duties, I supervise the criminal intelligence unit. I also assist local agencies; local agencies, state agencies, federal agencies with criminal investigations.

Q I got a little bit ahead of myself. What sort of background, training and education do you have in the law enforcement field?

A I graduated in 2011 from SLED, a six-week criminal intelligence analysis, basically on the job course, a four week training to give me an idea as to what I was getting into basically. I'm involved in criminal intelligence analysis; I do everything from social media, monitoring jail phone calls, cell phone forensics analysis, things of that nature. I also serve as the regional coordinator of the South Carolina Gang Investigators Association. This is my second year doing that as well. I graduated from the Criminal Justice Academy in 2013 to get my class warrant certification as a law enforcement officer in the State of South Carolina.

Q Mr. Hightower, do you monitor all the calls for all the inmates?

A Most of the time. For serious offenses, I always try and make sure that I listen to, or monitor, each defendant's phone calls as they come in, just to make sure that if they do say anything, I will forward it to the prosecutor and/or the investigator who is working the case.

Q And did you monitor phone calls for Sidney Holmes?
A Yes, sir, I did.
Q All right. And in monitoring those phone calls, what did you learn?
A Well, I got through about six or seven calls on Mr. Holmes' account using my log-in information and I came across a phone call on August 10th of 2015 at 13:25 hours, which is 1:25 in the afternoon. There was some interesting information in there that I felt was relevant and important to the case officer involving this case.
Q And as a result of hearing that call, what steps did you take?
A I basically pulled the recording off of the system and I e-mailed everyone involved in the case as far as who the case officer was, any investigators in my office who was assisting with the case, as well as the Captain of the local police department, Mr. Jake Sullivan.
Q And what about phone call that you are referencing, what did you find that concerned you as being relevant?
A So there is a terminology called "the whistle" and it was the defendant speaking to someone on the other end; I'm not sure who it was, but it said something along the lines of "Did you sell that whistle? Did you get rid of that whistle?" And in my training and experience of being in this position for six years, I knew the term whistle as a

street slang term for firearm or a gun.
Q All right. And as part of your duties, did you download the recording that you listened to?
A Yes, I did.
ASST. SOL. MURDAUGH: May I approach the witness?
THE COURT: You may.
Q Did you place that phone call on a disc?
A Yes, sir, I did.
Q Please identify what I have placed in front of you.
A This is a copy of the audio file that I pulled from the Jasper County Phone System with my initials and today's date, along with the inmate's pin. His account number is 118815. And his pin number is 1188159108.
Q Okay. And you're making reference to the pin number that you're using as the number that is assigned to him by the Jasper Detention Center?
A Yes, sir, that's correct.
Q All right.
ASST. SOL. MURDAUGH: At this time, Your Honor, we move this into evidence and would like to play it for the jury.
THE COURT: Has it been marked?
ASST. SOL. MURDAUGH: No, sir. It will be State's Exhibit Number 18.
THE COURT: As to State's Exhibit Number 18?
MR. HUGHES: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit 18 will be admitted in the trial of this case without objection. You may publish to the jury.

(State Exhibit Number 18, CD of phone call audio by the defendant at the Jasper County Detention Center, is received into evidence.)

(Audio begins play.)

ASST. SOL. MURDAUGH: Your Honor, I would ask that we play that beginning again just because it jumped out there so blurry.

THE COURT: Any objection?

MR. HUGHES: No, Your Honor.

(State Exhibit Number 18 plays again.)

Q And just to be clear, the number used to activate that phone call is number 118815108?

A 1188159108, yes, sir.

Q All right. 1188159108?

A Yes, sir.

Q And again, the records correlate that that number is assigned to who?

A Mr. Sidney Holmes.

Q Please answer any questions that Mr. Hughes has.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:

Q Who's on the tape?
A I believe it to be Sidney Holmes.
Q Why do you believe it to be Sidney Holmes?
A Because I pulled it from his inmate pin information on the Jasper County Detention Center System.
Q Do you know if it's possible for another inmate to use someone's pin?
A It's possible, yes.
Q So the only thing you are basing that statement on is what?
A It came from the inmate pin assigned to Sidney Holmes. I listened to multiple phone calls prior to that one as well and the voice actually sounds very much the same.
Q Are you can expert in voice recognition?
A I am not, no, sir.
Q Did you bother to send this to SLED for voice analysis?
A No, I did not.
Q So the only thing saying that this is Sidney Holmes on there is your opinion?
A It came from the inmate phone system pin assigned to Sidney Holmes and it was similar to the voice that I heard over a series of calls. I probably heard over 50 or 60 calls involving Mr. Holmes, so, yes, everything was similar, so I figured it was the same person.
Q Okay. So it's your opinion?

A Yes, sir.
Q Okay. Now, the other question is this, you translated "whistle" to mean gun?
A Yes, sir. It's a common street term that a lot of criminals use.
Q So you don't know if it meant guns, drugs, or any other illegal thing, it's your opinion that it meant gun?
A Based on my training and experience, it is very important for the case officer to know this information because of my previous experience and knowing what a whistle meant, it means a firearm or a gun, so I figured I would send it on the case officer to make sure he was aware of it.
Q So you again used your opinion that all of this is Sidney Holmes talking about a gun?
A Yes, sir. Again, I've seen it used many times in other criminal investigations as well. There are other references to it. Actually, if you would like me to really get down to the base reference, if anyone has ever seen The Wire on HBO, that term is actually used a lot referring to firearms.
Q Okay. So we're now getting our information from a television show, is that what you're telling us?
A That's one of the resources, yes, sir. But as far as my training and experience in this line of work, I've heard that term used a number of times as a street term for a firearm.

Q So again, it is basically your opinion with no physical evidence, no scientific test whatsoever that that was Sidney Holmes talking about a gun?
A What I believe to be a gun, yes.
Q Okay. And there's no chance it could be anything else?
A I mean, it's always possible he could be referring to something else.
Q And it's also possible that it could have been someone else talking on the phone?
A Well, the murder weapon was also missing in this case, so I figured we would try to do everything we could to identify where it could be, as well as forwarding this information on to the case officers to see if we could possibly identify where that gun may be, and this was the way to possibly get to that point.
Q I'm not sure that I asked that question, but that's no problem. You have nothing, other than your opinion, that this was Sidney Holmes talking about a gun?
A Based off my training and experience, I believe whistle to be the term for -- a street term for a firearm.
Q Okay. I'm still not sure you answered my question. Do you have anything, other than your opinion, that this was Sidney Holmes talking?
A Can you rephrase the question, sir?
Q Do you have any other evidence, other than your

opinion, that this was Sidney Holmes talking on that telephone call?

A I mean, I believe it to be Sidney Holmes, yes. According to how the system works. Again, what I previously stated regarding the other phone call I listened to sounded very similar to the voice I heard on this phone call.

Q So I take that as a "no"; would that be correct?

A I believe it to be.

Q Sir, I wasn't asking you about your beliefs. I asked about do you have any evidence?

A The only way I would know for 100 percent certainty is if I were standing next to that person while he was making that phone call.

Q You didn't send it to SLED for voice analysis?

A No, sir, I did not. I was assigned to his pin number and the Jasper County Phone system and therefore, I figured it out through that.

Q And it's possible for someone else to use his pin number?

A It's possible, yes.

Q Okay. So other than playing something that may have come from Sidney Holmes recorded at the Jasper County Detention Center, you've shown us nothing?

A (NO RESPONSE.)

MR. HUGHES: I have no further questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. MURDAUGH:

REDIRECT EXAMINATION

BY ASST. SOL. MURDAUGH:

Q Mr. Hightower, when inmates are placed in the custody at the detention center, are they told that their phone calls will monitored when they make those phone calls?

A Yes, sir. When the phone call is initiated, when they actually get done entering their account information and the phone number they are dialing, there is actually a voice recording coming on the line saying this call is being monitored and recorded.

Q And so, knowing that those phone calls can be monitored, what is your experience in inmates giving out their pin numbers to other inmates?

A It happens; we do see that. The administration within the Jasper County Detention Center, or any detention center within the Fourteenth Circuit, closely monitors that and does everything they can to prevent that.

Q And did you hear the same voice on every call that you monitored?

A Yes, I did.

Q No further questions.

THE COURT: Recross, limited to redirect.

RECROSS-EXAMINATION

BY MR. HUGHES:

Q As a matter of fact, at the desk right there beside the phone there is a sign that says, "This phone call is subject to being monitored," correct?

A Yes, sir, that is also correct.

Q And their pin number is what is being recorded? If they have to put their pin number in, they know it must be in the system?

A Every time they initiate a call, there is that recording, yes.

Q So a person would be stupid to enter their own pin number and say, "Have you gotten rid of the gun?"

A Perhaps.

MR. HUGHES: No further questions, Your Honor.

THE COURT: As to this witness?

ASST. SOL. MURDAUGH: No further questions.

THE COURT: May he be excused?

MR. HUGHES: No objection.

THE COURT: You may step down and you are excused from the courtroom at this time. Call your next witness.

ASST. SOL. MURDAUGH: Brian Varnadoe.

(Whereupon, Mr. Brian Varnadoe enters the courtroom and is duly sworn.)

THE COURT: State your full name and spell your last name for the court reporter.

MR. VARNADOE: David Brian Varnadoe, V-A-R-N-A-D-O-E.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Mr. Varnadoe, where do you work?

A I work for the Colleton County Sheriff's Office.

Q How long have you been with them?

A Approximately three years.

Q Prior to that, where did you work?

A Prior to that, I worked for the Department of Corrections.

Q Whereabouts?

A Ridgeland, South Carolina.

Q How long did you work for them?

A Approximately 18 years.

Q Okay. During your period of working with the Department of Corrections and with the Sheriff's Department, have you had an occasion to study gangs?

A Yes, sir.

Q Okay. Tell me where it was and what you did.

A Well, I had different classes that I took at the Department of Corrections on gang validation, identification with SCDC before coming to Colleton County. With Colleton County, I received training from the South Carolina Criminal Justice Academy.

Q Okay. In what regards did you receive training from the Criminal Justice Academy?
A Gang identification, gang overview, criminal street gangs were some of the classes they offered.
Q And was that -- were you assigned any particular unit in Colleton County?
A I am now, yes, sir.
Q And what unit are you assigned to?
A For the past two years, I've been the Gang Investigator for Colleton County.
Q Okay. And why is that, sir?
A We have a problem in our county with gang involvement, gang activity.
Q Okay, sir. During the course of you learning about gangs, did you learn the vernacular that they use?
A Yes, sir.
Q You know what a "whistle" is?
A I know what is referred to as a whistle.
Q What?
A It's a handgun.
Q Thank you. I have no questions. Answer any questions that Mr. Hughes may have.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:

Q Could it be anything else not gang related? Could it be anything else?
A Not in the terminology and culture and gang involvement that I'm familiar with.
Q But I mean, I'm not talking about in gangs. I'm just talking about could it be anything else to someone not in a gang?
A It could be.
MR. HUGHES: No further questions, Your Honor.
THE COURT: Redirect?
ASST. SOL. MURDAUGH: No redirect, sir. May Mr. Varnadoe be excused?
THE COURT: Any objection?
MR. HUGHES: No objection.
THE COURT: Mr. Varnadoe, you may step down and you are excused from the trial of the case. You may leave the courtroom.
ASST. SOL. MURDAUGH: We call Clarissa Bliemeister.
(Whereupon, Ms. Clarissa Bliemeister enters the courtroom and is duly sworn by the clerk.)
THE COURT: Have a seat on the witness stand. Make yourself comfortable. Adjust that microphone over and move it to your height. It's going to amplify your voice so that everybody can hear you. Please begin by stating your full name and spelling your last name for the court reporter.

MS. BLEIMEISTER: Clarissa Michelle Bliemeister, B-L-I-E-M-E-I-S-T-E-R.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. MURDAUGH:

Q Ms. Bliemeister, by whom are you employed?

A Wal-mart.

Q And in what capacity are you employed with them?

A I'm an Asset Protection Manager.

Q What does that mean?

A I am in charge of theft, safety, and compliance in our store.

Q Okay. Does cameras in the store come under your heading?

A Yes, they do.

Q Okay. I ask whether or not you've had an occasion at some time subsequent to August 1st, 2015, to check a tape out?

A I actually gave Mr. Ginn the video on August 17th.

Q Okay. And do you have it with you?

A Yes, sir, I do.

Q May I see it?

A (Witness gives Mr. Murdaugh the video.)

ASST. SOL. MURDAUGH: Your Honor, please, sir, I would offer this as an exhibit.

THE COURT: Mr. Hughes?

MR. HUGHES: No objection.

THE COURT: State's Exhibit 19 will be admitted into evidence in the trial of this case without objection.

(State's Exhibit Number 19, Wal-Mart video, is received into evidence.)

THE COURT: You may proceed, Solicitor.

ASST. SOL. MURDAUGH: Your Honor, please, may I bring Ms. Bliemeister down where she can do some things with the computer as she goes along?

THE COURT: Yes, you may.

ASST. SOL. MURDAUGH: And if I may get the microphone, if Your Honor, please.

Q Describe what we are looking at, Ms. Bliemeister.

THE COURT: Let the record reflect that State Exhibit 19 is on the screen at this time in evidence without objection. Proceed.

(State's Exhibit 19, video, begins play.)

A On the register on the left side of the screen you will see the defendant and his counterparts with a black jacket and a white tank top on standing near the belt of the register. She is finishing up with the first customer now and they are next in line. The box of ammo is on the belt there.

Q What's that he has in his hand?

A The one with the white tank top?
Q Yes, sir.
A I do believe it's cash.
Q Okay.
A And she is now beginning with his transaction. She just put the ammunition in a shopping bag.
Q Who gets the plastic bag?
A The gentleman in the white tank top has it in his left hand. And this is the grocery-side entrance and these are the individuals walking out of the grocery door.
Q Does the fellow right behind the girl is the fellow at the counter, was it him?
A That's correct.
Q Okay. Can you zoom in a little closer to his face, Sidney Holmes?

MR. HUGHES: Objection, Your Honor. There is nothing that says that she would know who Sidney Holmes was.

THE COURT: Sustained.

Q Do you know who the defendant is in this case?
A No, sir.
Q Okay. Thank you. You may return to the witness stand.
A (Witness complies.)
Q This transpired on the -- what date did that transaction take place?
A July 4th of 2015.

Q July the 4th of 2015, and you checked it on the 17th of August?
A Yes, sir.
Q Okay. Did you also make a determination of what it was they purchased?
A We did. We pulled the transaction which stated it was ammunition.
Q I show you an item and ask you if you can identify that.
A The item was sold on register five on July 4th at approximately 22:02. The item was ammunition for $15.94.
Q Do you have any idea what kind of ammunition it was?
A No, sir.
Q Okay.
ASST. SOL. MURDAUGH: If Your Honor, please, I would like to offer this into evidence.
THE COURT: As to State's 20?
MR. HUGHES: No objection.
THE COURT: Ladies and gentlemen, State's Exhibit Number 20 will be admitted into evidence in the trial of this case without objection. You may publish.
(State's Exhibit Number 20, Wal-mart receipt, is received into evidence.)
Q I have no further questions. Answer any questions that Mr. Hughes may have, please, ma'am.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HUGHES:

Q You have no idea who was on that video?

A I cannot determine. All I can do is pull up the video and release it to law enforcement.

Q And you don't know what type of ammo they bought?

A No, sir.

MR. HUGHES: No further questions.

ASST. SOL. MURDAUGH: You may come down. May she be excused?

MR. HUGHES: No objection.

THE COURT: You may step down and you are excused from the trial of this case. You may leave the courtroom. Call your next witness.

ASST. SOL. MURDAUGH: We call Nick Ginn.

(Whereupon, Mr. Nick Ginn enters the courtroom.)

THE COURT: Mr. Ginn, I remind you that you were previously sworn in the trial of this case and you are still under oath.

MR. GINN: Yes, sir.

THE COURT: State your full name and spell your last name for the record.

MR. GINN: Nicholas Adrian Ginn, G-I-N-N.

THE COURT: The witness has been previously sworn. He

has stated his name again for the record. Direct examination. Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. RANDOLPH MURDAUGH:

Q Mr. Ginn, I ask you whether or not you had an opportunity to view a tape that was done from Wal-mart by Ms. Bliemeister?

A Yes, sir, I did review it.

Q Okay. The people in it, can you tell us who they are?

A I can tell you that one of them is Mr. Sidney Holmes, the defendant.

Q Can you tell me which one that was?

A Can you be more specific as far as ---

Q Can you identify him in any way?

A Yes, sir. He is very similar to how he looks today with his haircut and through a photo lineup that was obtained from SLED.

Q I'm going to show you that video, State's Exhibit Number 19.

(Video begins to play.)

A The gentleman in the front with the camouflage pants and black hoodie is Mr. Sidney Holmes. I do not know the female's name. The one in the back is Chris Bonner.

Q Okay.

A He was identified by Mr. Varnadoe from Colleton County.

Q Let me ask you this, how did you come to go to Wal-mart?
A I don't recall if it came from his initial interview, but I'm familiar with the brand of ammunition casings that were found at the crime scene.
Q What's that?
A That's Perfecta.
Q Perfecta?
A Yes, sir. I know that Wal-mart -- I can't say they are the only company that specifically carries that brand of ammunition. That's just the only one that I've ever seen carry it. I have a Federal firearms license and can also order ammunition and firearms and I can't even get it through my distributors. So I assume it's for Wal-mart. You can identify the colors of the box by the video that is specific to Perfecta ammunition.
Q Okay. So that was Perfecta ammunition that they bought?
A Yes, sir. If I'm not mistaken, they bought two different boxes. I don't recall what the other one was.
Q Thank you. Answer any questions that Mr. Hughes may have.
THE COURT: Lights, please. Cross-examination, Mr. Hughes.

CROSS-EXAMINATION

BY MR. HUGHES:

Q How many Wal-marts did you check?

A Just the one, Walterboro.

Q Okay. Did you check the one in Varnville?

A No, sir.

Q Hardeeville?

A No, sir.

Q Beaufort?

A No, sir.

Q Hilton Head?

A No, sir.

Q Let's see, Aiken?

A No, sir.

Q Orangeburg?

A No, sir.

Q Okay. Well, can you tell what caliber of ammo is being bought?

A You can by the receipt.

Q How?

A Through Wal-mart's Asset Protection, because I asked them specifically for Perfecta ---

MR. HUGHES: Your Honor, that would be hearsay, I believe. They had the chance to produce that witness ---

THE COURT: Hold on. Counsel approach.

(Whereupon, a bench conference is held off the record

and out of the hearing of the jury.)
Q In that case ---
MR. HUGHES: May I approach, Your Honor?
THE COURT: You may.
MR. HUGHES: May I see Number 20, please?
Q Okay. I show you what has been previously labeled as State's Exhibit 20. Can you tell me what on that indicates what type of ammo it is?
A No, sir, I cannot. One way to be able to determine that is by the SKU number. I was previously a manager at Wal-mart as well, and that's the way that you look up whatever item was sold at Wal-mart.
Q But you can't look at that number and say that's what it was?
A No, sir.
Q You have to get Wal-mart to do it?
A Yes, sir.
Q Where were you a manager at Wal-mart?
A In Beaufort.
Q How many Wal-marts are within a 100 miles of here?
A Quite a few. I couldn't even come up with a number.
Q And Wal-mart is the only one you know of that sells that type of ammo?
A As far as my knowledge, yes, sir.
Q How about Winchester?

A They're sold in many different places.
Q And let's see, Tool Ammo?
A It's sold in different places, but all three of those are sold at Wal-mart.
Q And judging from that receipt, how many boxes were bought?
A If I recall, it was just one Perfecta.
Q Okay. And when you looked at the video, who bought the ammo?
A That's kind of hard to tell because Mr. Holmes picks up the box of ammo, but he also -- I can't tell if it's a receipt or money or both, exchanges the paper.
Q And when they're leaving, the girl looks like she is with the guy in the white; is that your opinion?
A Yes, sir.
Q And that was a young female cashier?
A That left with them?
Q No, no, that sold -- that rang up the purchase?
A I believe so, yes, sir.
Q Have you looked at the video of the purchase?
A A little bit.
Q Doesn't that look like Mr. Holmes is more interested in talking to the cashier? As a matter of fact, he stays there after the purchase is made talking to her?
A That I'm not sure. There is no audio, so I wouldn't be

able to tell you.
Q Okay. But you've seen the video?
A Yes, sir.
Q All right.
MR. HUGHES: No further questions, Your Honor.

REDIRECT EXAMINATION

BY ASST. SOL. MURDAUGH:
Q Out of curiosity, how come you went to Walterboro?
A Mr. Holmes was from Walterboro and he also made a statement to me that he and his homeboy went there to buy 40-caliber ammunition to shoot on July 4th.
Q Thank you, sir.
THE COURT: Recross, limited to redirect.

RECROSS EXAMINATION

BY MR. HUGHES:
Q And the purchase was when? What day?
A July 4th, I believe.
Q And he went to Wal-mart with a friend of his?
A Yes, sir.
Q And they bought ammo?
A Yes, sir.
Q On Fourth of July?
A That's correct.
Q Just like he told you?
A Yes, sir.

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MR. HUGHES: No further questions, Your Honor.

ASST. SOL. MURDAUGH: No further questions.

THE COURT: As to this witness?

ASST. SOL. MURDAUGH: I mentioned to you a minute ago, if we could take a short -- very short break.

THE COURT: All right. Ladies and gentlemen of the jury, I'm going to ask you if you would to step to your jury room. I will be back with you in a moment. Please do not discuss the case.

(2:55 P.M., whereupon, the jury exits the courtroom and the following is held on the record.)

THE COURT: Let the record reflect, the jury is outside the courtroom. I just want to say one thing to my audience. I don't know if I've ever had a young person in my courtroom who was better behaved than your child, John Marvin, and I want to make sure that she knows that I've taken notice of how she's acted throughout this trial. I wish more young people came to court and behaved like your daughter has behaved. I couldn't be prouder of her.

All right, Solicitor, as to this witness, do you want him to stay?

ASST. SOL. MURDAUGH: Yes, sir.

THE COURT: If you will remain with us.

(Off the record, briefly.)

THE COURT: Is the State ready to proceed?

ASST. SOL. MURDAUGH: Yes, sir.

THE COURT: Is the defendant ready to proceed?

MR. HUGHES: Yes, Your Honor.

THE COURT: Mr. Hughes, would you like to come to the bench since they want to talk to me?

(Whereupon, a bench conference is held off the record.)

THE COURT: Bring us the jury, please.

(3:23 p.m., whereupon, the jury enters the courtroom and the following is held on the record.)

THE COURT: Call your next witness, counsel.

ASST. SOL. MURDAUGH: Your Honor, please, we would call Shanriqua Chisolm.

(Ms. Shanriqua Chisolm enters the courtroom and is duly sworn by the Clerk.)

THE COURT: Please have a seat. Adjust that seat. Bring that microphone closer to you. It's going to amplify your voice. Please speak up for me. State your full name and spell your last name for the court reporter.

MS. CHISOLM: Shanriqua Chisolm, C-H-I-S-O-L-M.

THE COURT: Your witness.

DIRECT EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:

Q Ms. Chisolm, where do you live?

A I stay in Hampton.

Q Okay. And in August of 2015, where you living in

Hampton County?
A Yes.
Q And in what community in Hampton County were you staying?
A In Varnville.
Q In what's known as the Sand Ridge Community?
A Yes.
Q All right. And you know the defendant, Sidney Holmes?
A Yes.
Q And back in August of 2015, were you and Sidney Holmes involved in a relationship?
A Yes.
Q All right. Do you and Mr. Holmes have children together?
A Yes.
Q Okay. On August of 2015, on that night of August 1st, 2015, did you have any communications with Mr. Holmes?
A Yes.
Q All right. And did he call you?
A Yes.
Q All right. And did he give you a call around midnight of that night?
A Yes, it was around that time.
Q Okay. Tell me -- he called you. Tell me what y'all discussed.

A He asked me to take him home because his mother was in the hospital.
Q Okay. And did you go get Mr. Holmes?
A Yes.
Q Where did he tell you to pick him up?
A He was at Benjamin's house.
Q Whose house?
A Benjamin's house.
Q Okay. And where is that house located?
A It's located in Hampton behind the library.
Q Okay. Behind the library right here in Hampton?
A Yes.
Q And when you picked him up, where were you taking him?
A To Walterboro.
Q I'm sorry?
A To Walterboro.
Q To the hospital to visit his mom?
A Yes.
Q All right. Now, on the way there, did you learn that she wasn't in the hospital?
A Yes.
Q Okay. And where did you end up taking Mr. Holmes?
A We went to his mom's house.
Q Had you and Mr. Holmes had any discussions earlier in the day that day?

A Yes.
Q And what did you tell him?
A That if he needed to go home and handle him business then we should go now or I'm not going to take him.
Q Okay. And so when he called you and asked him to take him to his mother's home because she was sick?
A Yes.
Q Okay. And when you got near the hospital, what did you learn?
A We just went straight to his mom's house.
Q So on the way, you learned that she wasn't in the hospital?
A Right.
Q Now, Sidney Holmes, what nicknames do you know Sidney Holmes by?
A Antonio, Sidney, Banger.
Q All right. Now, being in a relationship with him in August of 2015, you and he ---
ASST. SOL. MURDAUGH: May I approach the witness, Your Honor?
THE COURT: You may.
Q In August of 2015, were you familiar with Sidney "Banger" Holmes' Facebook page?
A Yes.
Q All right. And you communicated with him regularly on

that page?
A I guess.
Q All right. I'm going to show you a picture of this. Do you recognize this as Sidney Holmes' profile page from Facebook?
A Yes.
Q All right. And you communicated with Sidney Holmes. Do you have personal knowledge that he acknowledged he created his Facebook page?
A Do I have personal knowledge that he had made it?
Q That he acknowledged that he had made it?
A Well, it is his page, so.
Q Okay.
MR. HUGHES: I think we need to talk, Your Honor. May we approach?
THE COURT: Counsel approach.
(Whereupon, a bench conference is held off the record and out of the hearing of the jury.)
THE COURT: Is there an objection, Mr. Hughes?
MR. HUGHES: No, Your Honor.
THE COURT: Have the court reporter mark it.
ASST. SOL. MURDAUGH: Your Honor, at this time, we would move State's Exhibit Number 21 into evidence and ask that it be published to the jury.
THE COURT: Ladies and gentlemen of the jury, State's

Exhibit Number 21 will be admitted into evidence in the trial of this case without objection.

(State's Exhibit Number 21, Facebook page, is received into evidence.)

THE COURT: State's 21 is in evidence. You may publish.

Q Now, when you took Banger Holmes to his mother's house; is that correct?

A Uh-huh (affirmative). Yes.

Q What did you do?

A I took a shower.

Q Did you stay there as well?

A Yes.

Q And when did you leave?

A I left the next morning.

Q Okay.

THE COURT: Anything further?

ASST. SOL. MURDAUGH: No, sir. No further questions.

THE COURT: Cross-Examination.

CROSS-EXAMINATION

BY MR. HUGHES:

Q Y'all had a relationship?

A Yes.

Q So you know him well, right?

A Yes.

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Q What do most people call him?
A Banger, Antonio, they call him different names.
Q Is it Antonio more or Banger more?
A Antonio.
Q So most people know him as Antonio?
A Yes.
Q And most people around here know him as Antonio?
A Yes.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. MURDAUGH: None, Your Honor.

THE COURT: As to the witness?

ASST. SOL. MURDAUGH: She may be excused.

THE COURT: Any objection?

MR. HUGHES: None whatsoever.

THE COURT: Ms. Chisolm, you may step down and you are excused from the trial of this case.

ASST. SOL. MURDAUGH: Your Honor, please, that concludes the State's case.

THE COURT: Very well. Ladies and gentlemen of the jury, at this point, we are going to stop for today. I told you I was going to get you home early today and I'm going to keep my word to you. I'm going to ask you to be back in your jury room in the morning at 10:00. Get home early

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today, but you've got to be here prior to 10:00. Please report to your jury room. Please do not discuss the case overnight. I don't know whether there will be anything on the television, radio, newspaper. Please don't read such or listen or watch such. You must decide this case only upon the evidence which has been presented during the trial of the case. Please don't try to do any research on your own through a computer, smart phone, or any other electronic devices, even if you think it would help you in deciding some issue in this case. Both sides have the absolute right to know exactly which information you are basing your decision on. I look forward to seeing each of you in the in the morning. Please report to your jury room. You may leave the courtroom at this time. Everyone remain seated while the jury is leaving.

(3:35 p.m., whereupon, the jury exits the courtroom and the following is held on the record.)

THE COURT: Mr. Hughes, I understand the State has rested. Are there any matters of law from the defendant that I need to take up at this time?

MR. HUGHES: One moment, Your Honor. I'm watching the jury leave. I'm going to wait until they are all out.

THE COURT: Is the door open?

MR. HUGHES: Well, they can see through the glass there. Your Honor, I move for directed verdict on the

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charge of murder. I don't believe the State has met all of the elements of that. On the charge of use of a weapon during the commission of a violent crime, again, that would relate to the murder, I move for a directed verdict on that. The charge of firing into a dwelling, I'm not sure if the State has managed to demonstrate the location that was actually a dwelling house. And on the charge of possession of a pistol, I have not been informed and I didn't know what a pistol was, that there are two typed of guns that look like a pistol and I'm not sure that the State has established, based upon their witness's testimony, that the item that was possibly used was a pistol.

THE COURT: Solicitor, do you wish to be heard on this motion?

ASST. SOL. MURDAUGH: No, sir, I don't.

THE COURT: Mr. Hughes, your motion for directed verdict as to murder is respectfully denied. You know the standard that I've used at the close of the State's case. Your motion for unlawful carrying of a pistol is respectfully denied. Your motion for discharging a firearm at or into a dwelling or structure is respectfully denied. And your motion for possession of a weapon during the commission of a violent crime is also respectfully denied.

Let the record reflect that I have shown counsel in chambers a verdict form and they tell me they have no

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objection to it. They have both reviewed it in my chambers. I have also been over with them everything in my preliminary proposed charge, which my law clerk and I have prepared during the pendency of this trial. I have asked each of them as of this moment, and I realize we haven't finished the evidence in this case whether they have any additional requests to charge other than what I have shown them the Court intends to charge, and I have been informed by counsel for the State and the defendant that at this time, they have no additional requests to charge.

With that, I'm ready to adjourn, but if there is anything else we need to put on the record outside the presence of the jury before we adjourn, from the State?

ASST. SOL. MURDAUGH: No, sir.

THE COURT: From the defendant?

MR. HUGHES: No, Your Honor.

THE COURT: Very well. This Court is in recess until 10:00 a.m. tomorrow morning.

(Whereupon, the trial in this case is in recess for the evening. Thereafter, at 10:55 a.m., on March 15th, 2017, the trial resumes and the following is placed on the record.)

THE COURT: When I arrived at the courthouse this morning, I was greeted by the Clerk of Court and one of my deputies concerning an incident that occurred after court had adjourned yesterday afternoon. My deputy has reviewed a

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video in which a juror apparently had conversation with allegedly a member of the defendant's family. In light of that fact, I'm going to bring the juror out first and inquire about that matter. We have alternate jurors. I've already met with the lawyers about this in chambers this morning. I need just Eartha Johnson, please, juror number 89.

(Ms. Eartha Johnson, juror number 89, enters the courtroom.)

THE COURT: Ms. Johnson, have a seat for me in the jury box if you would. Ms. Johnson, when I arrived this morning, I was informed by a deputy that you had come to talk to him last night.

MS. JOHNSON: Yes, sir.

THE COURT: And I understand that after court adjourned, that you had a conversation on the courthouse grounds with the defendant's father, who you now realize that you knew and you reported that to the deputy; is that correct?

MS. JOHNSON: Yes, sir.

THE COURT: Now, what did you talk to the defendant's father about?

MS. JOHNSON: It wasn't nothing. He recognized me and I just asked him, "Oh, what you doing here?" And he let me know who he was, and I said, "Oh, I didn't know that."

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THE COURT: How long have you known the defendant's father?

MS. JOHNSON: We go back a couple of years.

THE COURT: Did you have any discussion with the defendant's father about this case?

MS. JOHNSON: No, I did not.

THE COURT: Well, I want to thank you for reporting it to my deputy, for coming to see him. Of course, I've instructed you throughout the trial. Of course, I recognize that the defendant's father may not have been present on Monday when we selected the jury and it didn't give you an opportunity to see him and inform me that you had a friendship with him. Because of that and because of the relationship between the defendant's father and you, it gives me, obviously, some concern only because you found out after the fact.

Did you discuss any of your conversations with the defendant's father with any of your fellow jurors?

MS. JOHNSON: No, I did not.

THE COURT: All right. Well, Ms. Johnson, here's what I'm going to do so that we don't have any problem with any appearance. I want to thank you for reporting it to the deputy, because I think you did exactly what you should have done. I understand that people come up to you and try to talk to you, and I also understand is the parties selecting

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the juries need to know about any relationship you have with a defendant's family, because it might affect whether they use their strike or not. For that reason, I'm going to excuse you from service in the trial of this case. I will use one of my alternates. I'm instructing you not to return to the jury room. This concludes your service this week on the jury and I thank you for your service. You may leave the courtroom at this time.

MS. JOHNSON: All right.

THE COURT: Now, I'll inquire of the jury when I bring them out to make sure to see if anyone has had any conversations or if anyone has approached them about this case to make sure I don't have any other problems.

But I'm speaking now to the people in my courtroom. Although certainly, there is nothing wrong with speaking a pleasant, "Good morning" or "Good afternoon," the jury has been instructed not to discuss this case. Even if you have some relationship with a juror, it is not the time to engage in conversation when a trial is going on. Because even what you consider to be an innocent conversation gives the appearance that you are providing or possibly adding to some influence over the juror and outcome of the juror's decision in a trial. I will not allow that and I will use this Court's powers of contempt with anybody that attempts to have conversations with a juror, particularly about anything

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involving this case.

Now, that doesn't mean you can't speak to one if you know one, but I don't want to find -- we have a video of what occurred and there was a conversation that lasted for several period of time. Then, there was an embrace between the person who obviously knew the defendant's father and the juror, and that gives the appearance of impropriety. And the Court will not tolerate that when a trial is in progress.

I want everyone in this courtroom to be aware that any such conduct I will deal with, with contempt powers of this court if it should occur again.

Mr. Hughes, you and your client come around. Madame Clerk, swear the defendant.

(Whereupon, the defendant, Mr. Sidney Holmes, is duly sworn.)

THE COURT: All right. State your name for the record, please.

MR. HOLMES: Sidney Antonio Holmes.

THE COURT: Mr. Holmes, at this time, I'm going to explain to you certain of your rights. If you do not understand anything that I say, you let me know. If you want me to explain anything in further detail, you let me know; do you understand?

MR. HOLMES: Yes, Your Honor.

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THE COURT: We have now reached the stage of the trial where you may present your defense. You have the right to testify on your own behalf. However, no one -- no one, this Court or anyone can make you testify. You have the constitutional right to remain silent. In the event that you have a record for any conviction involving dishonesty or false statement or for a crime punishable by imprison of more than one year and this Court would determine the probative value of admitting this evidence outweighs its prejudicial effect to you. If you testified and had such a record, the Solicitor could be able to introduce this record for impeachment purposes for purposes of trying to attack your credibility or your believability. Solicitor, does the defendant have a criminal record?

ASST. SOL. MURDAUGH: A substantial one, yes, sir.

THE COURT: All right. Are you aware of it, Mr. Hughes?

MR. HUGHES: Yes, sir.

THE COURT: And you agree with the Solicitor?

MR. HUGHES: Yes, sir.

THE COURT: All right. It appears that you have a substantial criminal record that if you took the stand would involve prior convictions of imprisonment of more than one year, as well as a record possibly involving dishonesty or false statement, and therefore, if you took the witness

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stand and if I ruled as a matter of law that the probative value of admitting that evidence outweighed its prejudicial effect to you, the Solicitor could be able to introduce this record for impeachment purposes. If you elect not to take the witness stand, I will charge the jury that they are not to give the fact that you did not testify any consideration whatsoever, and there is to be absolutely no prejudice to you because you did not testify.

The decision as to whether or not you testify in the trial of this case will be left up to you. You may talk with your attorney, Mr. Hughes, but it is not Mr. Hughes' decision. It is your decision. So the ultimate decision of whether or not you testify in this case will be left entirely and completely up to you. Have you understood what I've just told you?

MR. HOLMES: Yes, Your Honor.

THE COURT: Do you want a moment to talk to your lawyer?

MR. HOLMES: Yes, Your Honor.

MR. HUGHES: It's your decision.

MR. HOLMES: I wish not to testify.

THE COURT: You do not wish to testify? And that's your decision?

MR. HOLMES: Yes, Your Honor.

THE COURT: And that's no one else's decision but your

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own?

MR. HOLMES: Yes, Your Honor.

THE COURT: No one forced you into that decision?

MR. HOLMES: That's right.

THE COURT: No one promised you anything?

MR. HOLMES: No, Your Honor.

THE COURT: No one threatened you?

MR. HOLMES: No, sir.

THE COURT: Very well. And you understand that you do not wish to testify in the trial of this case; is that correct?

WITNESS: Yes, sir.

THE COURT: Very well. You may return to your seat with your attorney. Mr. Hughes, we have reached the point in the trial where the State has rested and I understand that you may wish to put up some evidence; is that correct?

MR. HUGHES: Your Honor, I was informed this morning of a potential impeachment witness. I need to have a little time to find out exactly what they would say and whether or not they would be necessary. I would request from the Court to at least allow me to find this person and talk to them.

THE COURT: I've already given you a half hour, Mr. Hughes, since you learned of it. It's now 10:30 and we were scheduled to start at 10:00 a.m., but because of the situation involving a juror, I was going to use that as

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additional time for you to locate a witness. My understanding is that this witness you wanted to recall was Xandra Bryant; is that right?

MR. HUGHES: Xandra Bryant and Courtney Russell are the people I need to talk to.

THE COURT: Well, Courtney Russell, obviously, did not testify in this case. Zandra Bryant did, and you agreed to excuse Zandra Bryant at the conclusion of her testimony. I inquired of both the Solicitor and you whether or not there was any objection to excusing the witness and allowing the witness to leave the courtroom as to Zandra Bryant, and you informed me there was no such objection.

Now, I have no knowledge of the whereabouts of Courtney Russell who has not been a witness for the State but who you are correct was on the potential witness list for the State. I understand that both of these people live in Hampton County and therefore they are subject to your subpoena power. Because I have to deal with finishing this trial and have a jury, Mr. Hughes, I will give you an additional 10 minutes and we will move forward with this trial. Do you understand, Mr. Hughes?

MR. HUGHES: I would ask for more time, Your Honor.

THE COURT: We will take 10 minutes at this time.

(Whereupon, the Court is in recess in the trial of this case. Thereafter, at 11:00 a.m., the case resumes in this

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trial.)

THE COURT: All right. Let the record reflect that I have given Mr. Hughes -- he asked for 10 and I've given him an additional 20. It is now 50 minutes past the time to start Court. Mr. Hughes was able to locate his witnesses and then he asked for an additional five minutes, which I gave him, to talk to his witnesses. They are now present in the courtroom. Mr. Hughes advises me that he has two witnesses he wishes to call. He advised his witness of my Order of sequestration. I wanted the record to be clear as to that.

When I bring the jury out, once the defendant is present, I will inquire of them whether or not anybody has had any conversations with anyone about this case during the recess. I need the defendant brought out.

(Whereupon, the defendant, Sidney Holmes, enters the courtroom.)

THE COURT: Bring us the jury, please, I.W. Let the record also reflect that I met with counsel during the break and the order of closing argument will be the State will make an opening argument in full if the defendant puts up evidence, followed by the defense, and then a reply argument by the State but they do not introduce any new matter. Both sides agree with that and have 30 minutes each side.

(Whereupon, the jury enters the courtroom and the

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following is held on the record.)

THE COURT: Good morning, ladies and gentlemen of the jury, as frequently happens in a trial, matters of law come up and that's the reason I take complete responsibility for the delay. I know we are an hour behind schedule, but that's because I had to deal with some matters of law.

As I told you from the outset, you're the sole judges of the facts and I'm the sole judge of the law. Sometimes by necessity when I'm ruling on a matter of law, I have to make a comment to the attorneys about the facts so that you won't be influenced by anything that I might say or do in ruling on whether or not a particular piece of law applies to this case. The custom is that those discussions take place out of your presence. So I want to thank you for your patience.

Now, you notice we have an empty chair, and counsel, I assume y'all have agreed to take the alternates in the order in which they were selected without redrawing; is that correct, from the State?

ASST. SOL. MURDAUGH: Yes, sir, Your Honor.

THE COURT: From the defendant?

MR. HUGHES: Yes, Your Honor.

THE COURT: Mr. Patel, congratulations. I'm going to ask you to come down and take a seat here. You are now a part of the jury as my alternate number one.

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MR. HUGHES: Your Honor, what was his juror number?

THE COURT: 117.

MR. HUGHES: Thank you.

THE COURT: Mr. Patel is now a part of my jury. He was alternate number one. Ladies and gentlemen, I need to ask you in light of the situation, obviously, we had to excuse a juror. Has anyone had any conversations either amongst yourselves or with anybody else about this case since we recessed court, or actually since we started this trial? If so, would you raise your hand for me? Anybody try to talk to you about this case?

(NO RESPONSE.)

THE COURT: Let the record reflect, no hands were raised.

THE COURT: As I've instructed you throughout this trial, if somebody tries to talk to you about the case, just tell them you're on the jury and you can't talk about it. Sometimes, ladies and gentlemen, people just trying to be friendly, speak to you, but the problem that arises from that sometimes is that it gives the appearance that you might be discussing the case, so if anybody tries to talk to you, please tell them that you cannot discuss the case and report that to me. I appreciate that very much.

All right, ladies and gentlemen, we've heard from the State of South Carolina in this case. We will now hear from

the defendant. Mr. Hughes, you may call your first witness.

MR. HUGHES: May it please the Court? The defense calls Courtney Russell.

(Whereupon, Courtney Russell enters the courtroom and is duly sworn by the clerk.)

THE COURT: Have a seat. Pull your chair up. Adjust that microphone. It's going to amplify your voice. I need you to speak up so that everybody on the jury can hear and the people in the courtroom can hear. I want everybody to hear you. I want you to begin by stating your full name and spelling your last name.

MS. RUSSELL: Courtney Russell, R-U-S-S-E-L-L.

THE COURT: Your witness, Mr. Hughes. I remind you that this is direct examination.

DIRECT EXAMINATION

BY MR. HUGHES:

Q Ms. Russell, where are you from?

A Hampton.

Q Have you lived here all of your life?

A Not really.

Q Where do you live now?

A I stay in Hampton.

Q Where were you on August 1st, 2015?

A In front of Xandra Bryant's apartment.

Q Did you live in the apartment complex?

A Yes, I did in [redacted].
Q And where did Ms. Bryant stay?
A I don't know what the letter was, but she stayed in [redacted].
Q And tell the jury what happened, what you saw, and what you said.
A Me, Xandra Bryant, Kentravia Brown, Shanita -- I don't know her last name, we were outside having a conversation, but Shanita was talking to Mr. Steve at the office. So me, Kentravia and Xonie was ---
Q When you say "Xonie" you mean?
A Xandra Bryant.
Q Okay.
A We was talking and having a conversation. And Shanita walked towards us. Then, a couple minutes later, we heard gunshots. We heard gunshots -- everybody run into Xandra Bryant's house.
Q When you say everybody, who do you mean?
A Xandra Bryant, Kentravia Brown, Shaniqua, and myself.
Q Okay. Then, what happened?
A We sit in there for a little amount; I don't know how long. Then, we came out. When we came out, we went straight towards Mr. Steve. Zandra Bryant took Mr. Steve's phone. I think Mr. Steve was talking to Jake Sullivan on the phone. I took out my phone and I called 9-1-1.
Q Okay. Did you see anybody?

A No.
Q Was anybody around Mr. Steve?
A Just like the people that live out there.
Q From where you were in the apartment, could Ms. Bryant have seen anything outside?
A No, sir, because she was in the apartment with us.
Q Okay. And y'all left together.
A Uh-huh (affirmative).
THE COURT: You can't say "Uh-huh". You have to say yes or no.
A Yes, sir.
Q And you would have seen anything that she saw?
A Yes, sir, I would have saw everything that she saw.1
ASST. SOL. MURDAUGH: Your Honor, that's an improper question. That calls for ---
THE COURT: Sustained. Rephrase the question.
Q You did not see anybody ---
ASST. SOL. MURDAUGH: Your Honor, please, that's got to be leading, sir.
THE COURT: Sustained. Direct examination. Ask direct questions.
MR. HUGHES: I apologize.
Q Did you see anybody shoot Mr. Steve?
A The only thing that I saw was somebody running out of the apartments and they was in a red shirt. And that was

from the behind.
Q Okay. How far was that?
A When we walked out the apartments, the person was already at the top.
Q Okay. How far is that? Is that from here to me?
A No, sir, a little further. Maybe to the door.
Q When you say "door," do you mean this door?
A No, a little further.
Q About here?
A Yes, sir.
Q And their back was turned?
THE COURT: Come on back up here for my court reporter, Mr. Hughes.
A Yes, sir.
Q And where was Ms. Bryant when you saw this person?
A She was walking out with me. We was going towards Mr. Steve. Mr. Steve's dog was chasing the unknown person and the dog came back towards Mr. Steve.
Q And you were with Zandra Bryant for the entire time from when the shooting started until she went and picked up Mr. Steve's phone?
A Yes, sir.
MR. HUGHES: No further questions, Your Honor.
THE COURT: Cross-examination?

CROSS-EXAMINATION

BY ASST. SOL. MURDAUGH:

Q Ms. Russell, how are you doing?

A Fine. How you doing?

Q Did you see Steve Cochran get shot?

A No, I didn't.

Q Do you remember giving a statement to the Hampton Police Department?

A It depends on what statement you are talking about.

Q Do you remember telling them that an unknown person came around the building and shot Mr. Steve"?

A No, I don't remember saying that.

Q I ask you whether or not this is in your handwriting, ma'am?

A Oh, yeah, this is the recent one.

Q My question to you, do you remember writing this?

A Yes, I do.

Q Okay. Now, you say you did not see that, that somebody threatened you?

A (NO RESPONSE.)

Q You think something's funny about that?

A I'm thinking.

Q Ma'am?

A I said I'm thinking.

Q Excuse me, I apologize. When you finish thinking, let me know.

A Yes, I had talked to Jake Sullivan, because I met him at the baseball field, sir.
Q My question to you is did you write this statement?
A Yeah, I did wrote that statement.
Q And in this statement, you said, "I saw the man shoot Steve Cochran."
A No, I didn't, sir.
Q Ma'am ---
A I put an unknown person.
Q Ma'am, an unknown person?
A Yes.
Q I saw an unknown person shoot Steve Cochran?
A Yes.
Q And Zandra Bryant was right beside you when that happened, wasn't she?
A Yes, she was.
Q Okay.

ASST. SOL. MURDAUGH: Your Honor, I have no further questions. I would offer this as an exhibit.

THE COURT: Counsel? Show it to counsel.

MR. HUGHES: No objection.

ASST. SOL. MURDAUGH: Your Honor, it is a statement consisting of two pages.

THE COURT: State's Exhibit 22 will be admitted into evidence in the trial of this case, ladies and gentlemen,

without objection.

(State Exhibit Number 22, Statement of Courtney Russell, is received into evidence.)

THE COURT: State's 22 is in evidence. Redirect, Mr. Hughes?

REDIRECT EXAMINATION

BY MR. HUGHES:

Q What did you see that night?

A Nothing, just somebody running with a red shirt on.

MR. HUGHES: No further questions, Your Honor.

THE COURT: Recross, limited to redirect.

RECROSS-EXAMINATION

BY ASST. SOL. MURDAUGH:

Q You only saw somebody running?

A Yes, sir.

Q You did not see anybody shoot anybody?

A Sir ---

Q Just yes or no, then you can explain yourself any way that you want to.

A No.

Q You did not see anybody shoot anybody?

A No.

Q You lied when you gave that statement?

A No, I didn't.

Q In that statement, you said you saw him shoot, didn't

you?
A No, I didn't. I said it was an unknown person. By the time we ran ---
Q I didn't say you saw any particular person. Didn't you say in that statement, "I saw a man come around the building and shoot Mr. Steve"?
A If I did, I don't remember it.
Q Well, read the statement, ma'am. I show you State's Exhibit Number 22 and ask if you can identify it. Read it and tell these people what you're telling them now. Did you see anybody or not?
A Yes, I did say that in my statement.
Q Ma'am?
A Yes, I did say that in my statement.
Q Did you see anybody shoot Steve Cochran?
A All I seen was an unknown person.
Q Ma'am?
A An unknown person, sir, but I didn't see who ---
Q Anybody?
A If it's an unknown person, it's a human. I don't know who the person was.
Q I didn't ask you who it was, ma'am. I asked you if you saw anybody shoot Steve Cochran.
A Yes.
Q Okay. And Zandra Bryant was standing right almost

beside you when it happened, wasn't that true?
A Yes.
Q I have on further questions.
THE COURT: As to this witness, Mr. Hughes?
MR. HUGHES: I ask that she be excused, Your Honor.
THE COURT: Any objection?
ASST. SOL. MURDAUGH: I certainly don't need her.
THE COURT: All right. You are excused and you may leave the courtroom. Call your next witness, Mr. Hughes.
MR. HUGHES: Benjamin Holmes.
(Whereupon, Mr. Benjamin Holmes enters the courtroom and is duly sworn by the clerk.)
THE COURT: Have a seat. Make yourself comfortable. Adjust that microphone. It's going to amplify your voice. I need you to speak up so that everybody on the jury can hear and the people in the courtroom can hear. I want everybody to hear you. I want you to begin by stating your full name and spelling your last name.
MS. RUSSELL: Benjamin Holmes, the third, H-O-L-M-E-S.
THE COURT: Your witness, Mr. Hughes. I remind you that this is direct examination.

DIRECT EXAMINATION

BY MR. HUGHES:
Q Mr. Holmes, where do you live?
A [redacted] First Street.

Q Where is that?
A Hampton.
Q How far is that from here?
A Right down the road.
Q Is that sort of behind the library?
A Yes, sir.
Q How long have you lived there?
A Fifteen plus years.
Q Okay. Where do you work?
A Scotsman.
Q What do you do at Scotsman?
A Maintenance ice machines.
Q How long have you worked there?
A Going on two years.
Q And where did you work before then?
A Nowhere.
Q Do you know Mr. Sidney Holmes?
A Yes, sir.
Q How do you know him?
A He's my first cousin.
Q I would ask how long you've known him, but since you're relatives, I'm going to -- you've known him most of his life?
A Yes, sir.
Q How old are you, sir?

A Twenty-five.
Q Do you remember the night of August 1st, 2015?
A Yes, sir.
Q Tell the jury what happened.
A Starting from?
Q Starting from while it was still daylight or when you first talked with Sidney.
A He was staying at my house. We woke up and were drinking lemonade and went to the projects.
Q About what time did y'all go there?
A Six-ish, seven-ish.
Q Why did y'all go there?
A Go hang out.
Q Okay. What did you do?
A Nothing, chill out.
Q How long were y'all there?
A An hour maybe.
Q Do you know the gentleman, Mr. Steve?
A (Witness shakes head.)
THE COURT: Don't shake your head; say yes or no.
A No.
Q Did y'all have any confrontation with anybody while y'all were there?
A No.
Q Where did you go after you left the apartments?

A Back to my house.
Q And how long were you there?
A The rest of the night.
Q Who was with you?
A Me, Sidney, Vic, Six and my mom and dad.
Q How long were you there? I'm sorry, what were y'all doing?
A Nothing. Chilling, drinking, talking, nothing.
Q And at any point, did anybody get a phone call?
A Later on that night, my mom got a call.
Q Okay. Where was Sidney when she got the call?
A Sitting in the living room.
Q And how long had y'all been there?
A All night.
Q Do you know where Sidney was about 11:00 that night?
A At my house.
Q You saw him there?
A Well, I was in the room playing a game, but he was in the living room.
Q He was in the living room and you were in the -- where?
A In my room.
Q Could he have left without you knowing it?
A Maybe.
Q Did you ever get up and just go in there and he was -- was he ever not there that you know of?

A No.
Q Was he there when your mother got the phone call?
A Yeah.
MR. HUGHES: No further questions, Your Honor.
THE COURT: Cross-examination?

CROSS-EXAMINATION

BY ASST. SOL. ALEC MURDAUGH:
Q Mr. Holmes, tell me who was with you that day?
A I already went.
Q Sir?
A Me, Banger, Six and Vic.
Q You, Banger, Six and Vic?
A Yes.
Q Okay. Who was Homey-G?
A Who?
Q Maybe that's Homey-six. All right. You, Banger, Six and Vic?
A Yeah.
Q All right. And y'all started out that morning, y'all went to a cookout down at the projects?
A No.
Q In Varnville?
A Yes.
Q All right. So you woke up at mid-day?
A Uh-huh (affirmative).

Q Did I understand you correctly?
A Yeah.
Q That day, August 1st, did I understand you to say that y'all got up about midday?
A No.
Q What time did you get up that day?
A I don't remember.
Q Was it the morning or the afternoon?
A I don't remember.
Q All right. So when you got up, you went to a cookout in Varnville?
A I don't recall.
Q You don't recall going to a cookout in Varnville?
A No.
Q All right. You don't remember going to somewhere in Varnville to a cookout, drinking and chilling, with your people?
A No.
Q Okay. All right. Tell me what's the first thing you remember when you got up that day?
A Chilling at my house.
Q Chilling in your house?
A Yeah.
Q All right. Did you stay there all day?
A No.

Q Tell me what you did.
A Woke up, chilling, drinking, and went to the projects, and then came back to my house.
Q So basically, the day was spent chilling and drinking and laughing with your folks?
A Yeah.
Q Okay. Do you remember what you did the day before?
A No.
Q And you have no idea on that day you got up?
A No.
Q But you do know that when you got up, you started chilling and drinking with Vic, Six and Banger?
A Yeah.
Q And then, at some point you when to the projects?
A Yeah.
Q And what time was that?
A Like seven.
Q Okay. So it was getting dark when you went around there?
A Yeah.
Q And how long did you stay there?
A Um, an hour, close to an hour.
Q Okay. And y'all were chilling and drinking and all at the projects?
A Yeah.

Q And y'all were -- when you go in the projects, there's a long road that leads down there and a big circle down at the end, right?
A Yeah.
Q And y'all were chilling and drinking down in the circle at the end, correct?
A Yeah.
Q And at some point, Mr. Steve came down there to y'all?
A Yeah.
Q Is that correct?
A Yeah.
Q All right. And what did he tell you?
A He pulled up and I walked to the truck. He was like, "What y'all doing here?" I say, "Nothing. We just chilling." He was like, "You know y'all can't be out here. Y'all got to go." So I told them we got to go and went back to my house.
Q Did he say anything that made you irritated?
A He said like, "Y'all get the fuck out of here."
Q Okay. So that's what he told y'all? "Y'all got to get the fuck out of here"?
A Yes.
Q All right. And what did y'all do?
A I went to them and told them, "We got to go."
Q All right. And so y'all loaded up and then you left?

A Yes.
Q And that's when y'all went to your house and started playing video games?
A No, we was still chilling and then I went in my room.
Q Okay. So you went to your house, you, Vic, Banger and Six, and y'all drank and chilled some more?
A Yeah.
Q Okay. So at that point, y'all sent over there at 7:00, so that would have been several hours later?
A Yeah, about an hour ---
Q I understand that, but you got up that day. When you got up and you started drinking and you started chilling with Vic, Banger, Six and yourself. You drank and you chilled all day and you went to the projects. You drank and you chilled and you partied over there. Steve ran y'all off. You went back to your house. You drank and you chilled some more?
A Yeah.
Q And then you started playing video games?
A Yeah.
Q All right. What game were you playing? Call of Duty?
A Most likely.
Q All right. And that's just a video game where you control a man?
A Yeah.

Q And the man navigates certain paths?
A Yeah.
Q Kind of like a war game, very fun war game?
A Yeah.
Q All right. And you got people that are throwing things at you trying to take you out and you are trying to take people out?
A Yeah.
Q Fair enough?
A Yeah.
Q Very involved game?
A Yeah.
Q You got to keep your hands on and you got to pay attention?
A Yeah.
Q All right. And you were back there playing that?
A Yeah.
Q Banger was in another room is what you've just told us, correct?
A Yeah.
Q All right. And who was playing the video game with you?
A I was online.
Q So you were playing against the computer or you were playing against another person?

A I was playing online.
Q All right. Online, just so we all understand, you can get online and you compete and people that aren't there via the internet can compete against you?
A Yeah.
Q Correct?
A Yeah.
Q So you're playing against them. And as many as -- and I'm not all -- my children play this. I'm not all up to speed. I know a little bit about it, but as many as 8 people can play at one time, is that correct?
A Yeah.
Q Am I right about that?
A Yeah.
Q So and that's normally the way it works. When you get online, the slate gets full and all 8 slots gets filled, so you're competing against 8 other people?
A Yeah.
Q Okay. So when you're doing that, there isn't time -- it's a really intense interactive fun game, isn't it?
A Yeah.
Q All right. And it requires your full attention, doesn't it? A I won't deny that.
Q And while you were playing this game -- and if I remember right, there's a bunch of stages in Call of Duty,

correct?
A Yeah.
Q And so you go through a stage and then you get like 10 seconds and you go into the next stage; isn't that right?
A Yeah, something like that.
Q All right. And a stage lasts about 8 minutes?
A Close.
Q Isn't that right?
A It depends.
Q But a normal stage is about 8 to 9 minutes.
A About 5 to 6 minutes.
Q And then you get about 10 seconds in between stages?
A Yeah.
Q Okay. And were you the only person in the room in your house playing the game?
A Yeah.
Q Okay. And while you were playing the game, Sidney Holmes was in the other room?
A Yeah.
Q And when you're playing this game, you will admit to me and acknowledge to me, because I've seen it, that you can't pause and get up and walk around because the other people that are playing will kill you; isn't that correct?
A Yeah.
Q So y'all went back after chilling and drinking to the

house. You chilled and drinked some more. You started playing the video game and then somebody called the house and you know Sidney was there then, correct?

A Yes.

Q Banger was there then?

A Yes.

Q All right. And you will agree with me that when you're playing this video game and you're in these stages that last that long and you're playing with eight people, it is impossible for you to know what he was doing in the other room.

A How? I can get up and walk.

Q Well, you just told us a minute ago, now, Mr. Holmes, that you can't get up and walk around while the game is going on or you get killed. That's what you just told me now.

A You can't pause it.

Q Okay. So it's going to be your testimony that you're playing this game against eight other people and that you just got up and walked around and let your man get killed?

A Yeah.

Q That's what your testimony is?

A Yeah.

Q Okay. How many times is it your testimony that you let that

happen and you walked outside?
A Many times.
Q Because when you put the thing down and you walk away, your man gets killed, doesn't he?
A Yeah.
Q And that's the end of the game, isn't it?
A No.
Q Now, this house y'all were at, it's your moma's house?
A Yeah.
Q And it's behind the library?
A Yeah.
Q So let's get this exactly straight. It is about three blocks down one way to Holly Street?
A Yeah.
Q And about a -- what? A half a mile down the projects?
A I guess.
Q So from your house, if you were in a car, how long does it take to drive a car from your house to the projects and come back?
A I don't know.
Q Less than two minutes, doesn't it?
A Probably.
Q You never went out that room and saw Mr. Holmes while you were playing that game, did you?
A Yes, I did.

Q You saw Mr. Holmes there when the telephone call came later that night.
A He was in the house while I was playing the game.
Q What was the telephone call about?
A I don't know. Somebody called my moma and said they found somebody in the projects.
Q And while you were playing video games, the rest of the group kept chilling and drinking?
A Yeah.
Q What time do you normally get up, Mr. Holmes?
A When? On the weekends?
Q On a regular day?
A On a regular day, I work and get up around 6:00.
Q So on a day you aren't working, what time do you normally get up? Morning time?
A Twelve-ish.
Q So if it was a normal day, you would have gotten up at Twelve-ish-O'clock, and that means y'all got up at 12 and started drinking and chilling around 12:00 is when that started that day? A I don't remember.

ASST. SOL. MURDAUGH: No further questions.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. HUGHES:

Q Mr. Holmes, unfortunately, I don't play this video

game, but it sounds to me like the way the solicitor was saying it, that you have to play it constantly. You can't stop it ever.

THE COURT: Mr. Hughes, redirect now.

MR. HUGHES: Okay.

Q Can you stop this video game?

A You can't pause it, no.

Q I don't understand. You can pause it or not?

A No, you cannot pause it.

Q Okay. Can you pause it when you're at one of these 10-second intervals?

A No.

Q So why don't you -- why isn't it played constantly?

A Huh?

Q I mean, if you can't stop it, are you still playing it?

A If I can't stop it -- no, if I can't stop it -- what do you mean am I still playing?

Q Did you just say you couldn't stop it?

A I can put the controller down and walk away, yeah, I can do that, but you cannot pause the game.

Q Okay. Is there a stop for it ever?

A You can exit the game, yeah.

Q And that's what everybody does?

ASST. SOL. MURDAUGH: Objection to the form of the question, as to leading.

THE COURT: Sustained. Don't suggest yes or no answers, counsel. Rephrase your question.

Q These people who play the game, how can they not be playing the game anymore? Is there any way to not play the game?

A I don't play it anymore.

Q If you get killed in the game, do you have to start over?

A Yeah.

Q And when you picked up the controller that day, you had to start over?

A Yeah.

Q And every time you play the game, you have to start over?

A What do you mean?

Q The solicitor made it seem that you couldn't put the --

THE COURT: Counsel, no argument. Ask a question.

MR. HUGHES: Okay.

Q Can you put the controller down?

A Yeah.

Q Is there any way -- I'm -- do you put the controller down on a regular basis?

A If the game is still playing, yes.

Q Okay. Did you put the controller down that night?

A Yes.
Q Now, the solicitor says it's a half mile from your house to where this took place, is that about right?
A I guess.
Q So it's a mile there and back?
A Yeah.
Q And what type of car does Sidney have?
A He doesn't have a car.
Q So what kind of car does he usually drive?
A He doesn't drive.
Q And you never -- did you ever go to get a beer or anything from the refrigerator while you were playing the game?
A Yes.
Q Was Sidney there?
A Yes.
Q Did you ever get up to go to the bathroom?
A Yes.
Q Was Sidney there?
A Yes.
Q Was there any time that you ever got up from the game and Sidney wasn't there?
A No, not that I recall.
Q And you did get up and go out of your bedroom a number of times that night?

A Yes.
Q And you didn't do it at a regular interval, like wait for 30 minutes and then go?
A No.
Q So completely random or not?
A Yeah, random.
MR. HUGHES: No further questions, Your Honor.
THE COURT: Recross, limited to redirect, counsel.

RECROSS EXAMINATION

BY ASST. SOL. MURDAUGH:
Q How did Banger get to the projects earlier that night?
A We were all with Six.
Q So you had a car -- there was a car there?
A Yeah.
Q Who is Six?
A I don't know his real name.
Q Huh?
A I don't know his real name.
Q Is this somebody you hang around with regular?
A Yeah.
Q And you have no idea what his real name is?
A No.
Q Where does he live?
A I don't know.
Q Where is he from?

A He's from here.
Q He's from Hampton?
A Yeah.
Q And you don't have any clue what his real name is?
A No.
Q Okay. Now, just talking about this game, one of the things that I understand about this, one of the fun parts about this game is you're a warrior. You have to outfit him, correct?
A Yeah.
Q And you have to choose what ---
MR. HUGHES: Your Honor, I don't see how this is ---
THE COURT: You asked about the proceses of the game. It's permissible on recross because of what you raised on redirect. Overruled. Proceed.
Q One of the fun things about this game, or at least what I like about it is outfitting your man that you're going to control, correct?
A Yeah.
Q And that's one of the fun parts, isn't it?
A Yeah.
Q You get to choose what gear he's gonna wear?
A Yeah.
Q What weapons he's gonna use?
A Yeah.

Q There are a number of choices to choose from, correct?
A Yes.
Q I mean, dozens?
A Yes.
Q All right. And when I say dozens, there are dozens of choices about what weapons you're going to use. There are dozens of choices of what gear you are going to put on. There are dozens of choices for what helpful items you're going to get, like GPS and those types of things, right?
A Yeah.
Q So at the start of the game, you go through and you set your man up, correct?
A Yeah. You have a loadhouse you can choose from.
Q Right. And so you go through and you outfit your man each time?
A Yeah.
Q And you have to do that when you start a game?
A Yeah.
Q And one of the aggravating parts, even though it's fun ---
A You don't got to keep customizing them each time, you know.
Q You have to outfit your man each time. And every time your man dies, you have to do that?
A Not every time, no.

Q Mr. Holmes, every time you start a new game, you have to outfit your man, don't you?
A Yes.
Q All right. And so if normally when you're playing the game, you play several stages and it takes a while to play a game, and you know that, don't you?
A Yes.
Q Okay. That's all the questions I have.
THE COURT: As to this witness, may he be excused?
MR. HUGHES: Yes, sir.
THE COURT: Any objection?
ASST. SOL. ALEXANDER: No, Your Honor.
THE COURT: You may step down and you are excused from the trial of this case. Call your next witness.
MR. HUGHES: Begging the Court's indulgence.
Off the record, briefly.
MR. HUGHES: Your Honor, at this time, the defense rests.
THE COURT: Is there any reply testimony from the State of South Carolina?
ASST. SOL. MURDAUGH: We have no reply, sir.
THE COURT: Mr. Hughes, for the record, the matters of law that we took up at the conclusion of the State's case are now noted for the record at the conclusion of all the evidence. I've already discussed this with the attorneys.

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Ladies and gentlemen of the jury, you are now going to hear closing arguments of the attorneys. You will first hear argument from the State of South Carolina, followed by argument from counsel for the defendant and then a reply from counsel for the State of South Carolina. Then, you will hear my charge on the law in this case. I ask you to please give the attorneys your careful consideration. For the record, I've noted the matters of law and my ruling on those matters of law at the close of evidence remains as it was at the close of the State's case.

MR. HUGHES: Thank you, Your Honor.

ASST. SOL. MURDAUGH: May it please the Court?

THE COURT: Yes, sir, proceed.

CLOSING ARGUMENT

ASST. SOL. MURDAUGH:

Mr. Foreman, ladies and gentlemen of the jury, I told you at the very beginning that the case is divided up into various components, opening statement was the first time I talked to you and Mr. Hughes talked to you, then we had the trial which you heard testimony and evidence was put in for y'all to see. Then, now is final arguments. And arguments is exactly is what they say, what I say has no evidentiary value. It only is an attempt to help y'all remember certain things, same with Mr. Hughes. He's going to attempt to help you remember certain things that came out at the trial.

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When that's over with the next segment of the case will be the charge. That is when the judge tells you what the law is. During my argument, I'm going to tell you in lay terms what the law is, but if I differ from what he says, y'all don't pay no attention to me because he's a lot smarter than I am. So y'all listen to what he says about the law.

He can't tell y'all what the facts are, because that is your province. I can't tell you what they are. I can tell you what you need to think about in determining what the facts are. Remember I told y'all at the beginning, we want you to come in with your everyday experience and use that in determining whether or not the truth came out from people on the stand and what happened from what you saw with the pictures, the photographs, the testimony.

In this case, murder, the unlawful killing of another person with malice aforethought. As Your Honor will charge you that malice can be an act that puts another person in danger of being killed, or words to that effect. He will tell you that malice does not have to be in the minds for any length of time but only at the time of the killing.

Shooting into a dwelling house. That is when you fire a gun into a dwelling house; it's just that simple. Illegal possession of a pistol and use of a weapon during the commission of a violent crime. Murder is a violent crime.

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If you're guilty of murder and you use a weapon, you're guilty of using a weapon during the commission of a violent crime.

Now, let's look a little bit at the facts. We know that Sidney Holmes, Banger, had access to a pistol. Now you say, how do we know that? Well, if you will remember, there are two things that happened. He was being housed in the jail in Ridgeland. He made a telephone call. A fellow by the name of Dylan Hightower that monitors the phone calls and he works for the Solicitor's Office. He monitored a call that says, "Did you get rid of the whistle?" And he says that in his experience in the gang vernacular that that means gun.

We then put up a fellow by the name of Brian Varnadoe -- I'm getting so old I can't hardly remember anything, but I think it was Brian Varnadoe, and Brian Varnadoe said he worked with the prison for some 18 years, and then a couple years in the sheriff's department. He said in his experience, a whistle means gun.

And Hightower says that he monitored -- how many calls was it? A pile of calls. Says that the voice on every one of them sounded the same. So you got to assume that that was Sidney Holmes. But that's not all. He went to the Wal-mart, along with another fellow and bought some ammunition. Do y'all remember that testimony? State's Exhibit Number 20

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is the receipt for the ammunition. Then he again testified and said -- and I asked him the question, you know, Mr. Hughes asked him, "Did you go to Varnville? Did you go to Bluffton? Did you go to Hardeeville?" I asked him, "Why did you go to Walterboro? He said because Sidney told me he had bought .9 mm ammunition over there. Do you remember that?

So we know now that he had a gun. And by the way, talking about that, he also told Mr. Ginn that "We bought the ammunition to shoot on the Fourth of July." But you can't shoot ammunition without a pistol. He said it was a .40 caliber gun.

So we know he had a gun at some point in time. Then, a lady who I have got all the admiration in the world for, that woman is scared to death her entire life. She's got four children that live out there. She is scared of these people, but she had the guts to walk into this courtroom and she had the guts to tell you the truth. The truth being that Sidney Holmes walked up and shot Steve Cochran because he was teed off with him for running him off earlier. How she had the guts to do it, I don't know, but I admire her.

We have got all the other evidence that we had. Jake Sullivan, and Blue Bolton, who is now dead, and Nick Ginn, they went in there and picked up the cartridge casings and they picked up the projectiles. We had the lady from

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Columbia come up and say that the cartridge casings and two of the projectiles that they found at the scene came from the same gun. Don't know what gun that is, because we don't have a gun, because they threw the whistle away apparently. But we know that those things came from the same gun. They were .40 caliber Perfecta. The same kind of bullets they bought at Wal-mart, Perfect, .40 caliber.

You heard the testimony of Erin Presnell. Ms. Presnell -- my wife gets made with me everytime I do this, but she drew all over me where the shots went in. Do you remember where she said they were? She told you they were four wounds. The one that killed was the one in the chest. She said in her -- she had an opinion, and in her opinion was that wound to the chest killed him.

We know that a bullet was found. I show you State's Exhibit Twelve. This picture, you see that little blue thing? That's the projectile that they found on the floor and in this room, do you remember the photograph of a bed with a bad on top of it? No question that he was living there off and on. That's all it takes. If he shot a projectile into that building, he is guilty of that one. We know he had a gun out there because he shot Steve Cochran, so he is guilty of possession of a pistol. We know that he shot him and killed him, so he's guilty of murder. And if he used the pistol, he is guilty of using a weapon during a

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violent crime.

There is no question -- and there's a bunch of stuff here and y'all are going to have it all in your jury room. I could talk to y'all about it, but there's no question, ladies and gentlemen, that Banger, Sidney Holmes, is guilty of murdering Steve Cochran. Jake Sullivan, Steve Cochran's family, and I will be awaiting your verdict, your verdict of guilty. Thank you, ladies and gentlemen.

CLOSING ARGUMENT

BY MR. HUGHES:

Nothing that I'm going to tell you will be evidence. Nothing the solicitor told you is evidence. As a matter of fact, the solicitor heard different evidence than I heard it, but that doesn't matter, it's what you heard that matters.

You are the finders of fact. You are the finders of truth. And in most cases, nothing said up there can you assume to be proven true until you decide that it's true. There are exceptions. The United States Constitution gives a certain civil right of the right to confront your accused, it's called confrontation clause. That's the reason why we have a jury. That's the reason we have the defendant sitting there listening to every person that testifies either for or against him.

But occasionally, there is something called hearsay.

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Y'all all have seen on every courtroom television show, someone is on the stand and they say something and a lawyer sitting in behind the desk, stands up -- he's always younger and better looking than me. "Objection, Your Honor, hearsay." And the judge, who is always older than Judge Buckner, says, "Sustained." What is hearsay? "Hearsay is a statement by a third party inserted for the truth of the matter thereof." What in the world does that mean? That means that a person can't get on the stand and say, "I heard so-and-so say that so-and-so did it." It's as simple as that. Right to confront their accuser. If so-and-so gets up there and testifies on himself, then there is no problem. If someone comes up and says, "I say something happen." That's not hearsay. But if someone says I heard someone say such and such, and the person they heard isn't going to testify, that doesn't come in, that's hearsay.

Congratulations. Y'all have just had an entire law school semester because that is what we had to learn in evidence, but there is a kicker. The exception to the hearsay rule. In Courts, society have decided there are certain things that are so inherently true -- inherently true, that they overcome the civil right to confront your accuser. Now, I'm not going to try and explain the business rule exception. I had to sit through that class, but there are two cases, two exceptions to the hearsay rule that

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happened in this case.

The first one is excited utterance. If you're standing outside and your back is to the road and you hear someone say, "That red car just ran the red light and hit that man." That's an excited utterance, because we feel that society, and the court's feel, that an initial impression vocalized is true. You don't have time to think of a lie. You don't have time to think of anything else. You say what you saw. And people usually say what they saw. Excited utterance is allowed to come in. This time we have two of them. Y'all heard one of them.

The second 9-1-1 call -- the entire 9-1-1 call is excited utterance. I didn't stand up and object because I knew they were excited utterances and y'all have the right to hear them, because the courts and society have deemed them to be inherently true.

But something that someone said in the second 9-1-1 call that caught my attention. "They shot him." Y'all can hear it. Y'all can listen to it. Please do. It's going to be in evidence. It is in evidence. Y'all can listen to it. "They" shot -- it might have been Mr. Steve or something else, but I remember those two words, "They shot him." The second time the excited utterance came in, Major Sullivan was on the phone to the victim when he was shot. He heard in the background people yelling and the solicitor got him

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to say what he had heard and I got him to repeat it, because it was important. It was an excited utterance. It was inherently true. You remember what it was? "They shot him." Two times. Two different people. "They shot him." The other type, or the other exception to the hearsay rule is the most pointed and most truthful of all the exceptions. It's called a dying declaration. This is basically the law acknowledging a person's life in death. A dying declaration is admitted as an exception to the hearsay rule because, and I'm quoting, "A man will not go meet his maker with a lie upon his lips." "A man will not go meet his maker with a lie upon his lips."

He saw the person that shot him or the persons that shot him. I asked, and the solicitor asked, "Where was he shot?" He was shot in the front. He was shot at a distance. From here to the witness stand, he was on the phone with Major Sullivan and the absolute last thing that this man said was "They shot me." He knew he was dying. He knew his last act was to convey to Major Sullivan what had happened to him. He didn't say, "He shot me." He didn't say, "The black man shot me." or something to the equivalent of that. He said, "They shot me."

Now, those are truths. Those are truths that the court and society have deemed more important than the civil right of confronting your accuser. Most juries don't get to go

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back into their jury room already knowing a truth that everybody agrees is a truth. Everything else that y'all talk about must be based upon the truths that were given to you. Your job is to find out the whole truth. The Court has given y'all a foundation to build upon that truth. We do know that it was "they" who shot him. "They shot him." And if the testimony does not meet the truth that you have in front of you, then the testimony is a lie. To add more truth, you have to build on that truth. If it doesn't match that truth then you can't take it as truth. It has to be a lie.

Ms. Bryant says that she saw one person and that she saw everything, but could she have? Now, the solicitor calls her a very brave person. I call her a very smart person. She still lives at the projects with her kids. She admitted that she lied. She said she lied. Then sometime later, she changed her story. We don't know how much later, but she said that Banger, which the solicitor for some reason or another loves to say is the one who did it. How does she know who Banger is? Nobody said anything about if we even know if she knew who Banger was. But she identified him in court.

Ladies and gentlemen, if someone is standing right here saying, "Do you see the person you saw that night sitting here?" And the only young African American man who is

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sitting on this side at these tables, is sitting with this heavy-set, gray-haired lawyer who y'all have already been introduced to, it's not that hard to go, "That's the person I saw." How does she know him? She called him by name, but how does she know him? We don't know. There was no testimony about that.

Would she have recognized him from a photo lineup? We don't know. There is no testimony for that. Nothing to build on the truth that y'all have. Why did she come forward to talk now? We don't know. But we do know that "They shot me." "They shot him."

Now, the 9-1-1 operator; I didn't object to those tapes. I knew they weren't hearsay. I wanted y'all to hear the response. Listen to them. Y'all will have the capability. Y'all can see every piece of information as many times as y'all want to. Y'all can hear everything as many times as y'all want to. Rhett Long was next, Hampton Police Department, he was the first on the scene. Mike Lawson was second on the scene, taped off the crime scene. Ms. Gates, the chief paramedic, tried to resuscitate him. Brenda Ellis, the other EMT, which I don't want to waste your time, I just basically said -- it is going to be the same testimony plus a waste of time, please just let's go forward. We'll agree to anything that she said, it's no problem.

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Dr. Michael, if I had known what he was going to testify to, I wouldn't have wasted your time, I would have agreed to this. Dr. Smith took some photos. Dr. Presnell, she told you how he died. She told you how he was facing. She told you what killed him. She also basically confirmed that he didn't die right away. She had time to give you that truth. Coroner Ernie Washington. Gordon transported the body.

Jake Sullivan testified again. He testified about the cartridges and the bullets they recovered. Forty caliber bullets, three different times. One time that my client actually admitted to being with somebody while they were buying shells. And y'all even watched the video of the other guy buying the bullets on Fourth of July to shoot for Fourth of July.

Now, I don't shoot bullets on Fourth of July, but the other guy was buying them for the other guys gun, and yes, they went to Wal-mart, but what does this have to do with this case? A .40 caliber gun was used to kill. But, is there anything tying him to this gun? Yeah, you know, somebody that has a .40 caliber. And if you know someone that has a .40 caliber, and I know somebody that has a .40 caliber, and the Solicitor knows somebody who has a .40 caliber, and I believe every police officer in here knows somebody who has a .40 caliber; that does not prove a thing.

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It goes back to what goes on; the truth that you already have.

Okay. The detention center phone calls. I don't watch HBO, so I have no idea about the slang that was popular two years ago when this show was actually filmed -- out West or in New York or whatever, a "whistle". Okay, if we were prosecuting someone who was on that show then, yeah, we would have something. If we were prosecuting someone who was in a gang, then, yeah, we would have something. If we were prosecuting someone who we knew used that slang, yeah, we would have something. But what do we have? We have that truth. That's all we've got.

Please, I want y'all, if you get a chance, if you want to, to look at that video. The other guy is buying the ammo. Watch what my client does. He buys a candy bar and he flirts with that cashier, and I'm glad his girlfriend did not see that. Courtney Russell, the young lady that I called this morning. It seems that nobody at the projects wants to talk to police, but she did. She came here basically saying that, yeah, the lady was with her. Does that match that table of truth that you already have in front of you? Take it for what it is worth.

Mr. Holmes, the guy, who probably spends as much time playing video games as the junior assistant solicitor there, he could have walked out any time and would know if Sidney

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was there or not. If it doesn't match the truth that you have in front of you, do with it what you want.

Now, in closing, I am going to say this. When you all go back in your jury room, you all are going to have to say one word. Yes, he said, "They shot me." Yes, the other people said, "They shot him," and here is the word, but maybe they meant only one. If you say maybe to what you just said, well, that is reasonable doubt.

I can't prove anything. I cannot prove a negative. I cannot prove anything. The Law and the Court say that I have given you -- that the witnesses have given you a truth that you all have, but I cannot prove anything and I don't have to. You cannot prove a negative. You cannot prove that you did not have sirloin last night, unless you have a bunch of people who witness what you did have. But if you just say I did not have sirloin, you can't prove it. If you say maybe, you say reasonable doubt, and you have to have a verdict beyond a reasonable doubt.

If you cannot get beyond a reasonable doubt, there is only one verdict, and that is not guilty. He spoke from the grave and said, "They shot me." That is the truth, and you have to say who is they? And if it is not anything but maybe, it has to be not guilty. Thank you.

THE COURT: Mr. Murdaugh?

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REPLY ARUGMENT

By ASST. SOL. MURDAUGH:

May it please the Court? Mr. Foreman, ladies and gentlemen of the jury, I've listened to Mr. Hughes talking, and imagine something just for a minute. Let's assume that -- what do we have fourteen now? Fourteen of you all and me, so that would be fifteen people. And we went down to the Burger King or the KFC or somewhere like that, and we start walking back and I pull out a pistol and shoot somebody. The fellows sit there and say, "T hey shot him." It does not mean you shot him, it does not mean you shot him, it does not mean anyone of you all shot him, other than me. So, that just does not make any sense whatsoever.

Do you remember what Zandra Bryant said? She didn't say, "They shot him." She said, "Banger shot him." And if you all have any question about that, go back and listen to her testimony.

Courtney Russell said the same thing that Zandra Bryant said, except she did not name him. You remember what she said in that paper that she did not say, but she did say? And maybe she said it, and "I don't think I did," but it's in this paper and that's what happened, and I know that doesn't make any sense, but that's about what it amounted to. She says the fellow came from behind the building, shot Mr. Steve. Do you remember that?

If you have any question about that, look at State's Exhibit Number Twenty, I believe it is -- State's Twenty-Two. And you will have all of this stuff in the jury room with you, so you don't have to worry about asking if it came in there. Right in here, ladies and gentlemen, I'm just going to point it out so you will know where to look. "Then, an unknown person came from around the building and shot Mr. Steve." And if y'all believe B.J. Holmes, we've got a sad state of affairs. Thank you.

JURY CHARGE

BY THE COURT:

All right. Mr. Foreperson, ladies and gentlemen of the jury, it is now my duty to charge you on the law of this case. The State of South Carolina has charged the defendant, Sidney Holmes, with four different charges and four different indictments. Murder, unlawful carrying of a pistol, discharge of a weapon into a dwelling or structure, and possession of a weapon during the commission of a violent crime.

I remind you that the fact that the defendant was arrested, charged, and indicted in this case is not evidence in this case, nor does it create any presumption or inference of guilt. These documents I hold in my hand, which we call indictments, ladies and gentlemen, they are simply as I told you in the outset, the formal written

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instruments by which this case is brought into this Court and contains the charges made against the defendant, Sidney Holmes.

Now, to these indictments, the defendant has pled not guilty, and that plea of not guilty puts the burden on the State of South Carolina to prove the defendant guilty beyond a reasonable doubt.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you, ladies and gentlemen, that it is an important rule of the law that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued, unless guilt has been proven by evidence satisfying you the jury of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies every defendant throughout the trial until you, ladies and gentlemen of the jury, reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled, unless you, the jury, are satisfied from the evidence of the defendant's

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guilt beyond a reasonable doubt.

What is a reasonable doubt in the law? A reasonable doubt, ladies and gentlemen, is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as a juror in the past in a civil case, such as a contracts case or a wreck case; those are examples of civil cases.

In a civil case, the jury is told that it is only necessary to prove that a fact is more likely true than not true. In a criminal case, such as the case here, the State's proof must be more than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you, the jury, firmly convinced of the defendant's guilt.

Now, there are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If based on your consideration of the evidence you are firmly convinced that the defendant is guilty of the crime or crimes charged, you must find the defendant guilty.

On the other hand, if you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find the defendant not guilty.

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I remind you, ladies and gentlemen, that during this trial you and I have certain duties to perform. As the trial judge it has been my responsibility to preside over the trial of the case, and I also have the duty to rule on the admissibility of the evidence that's been offered during the trial.

You are to consider only competent evidence that has been presented during the trial of this case before you. If there was any testimony ordered stricken from the record in this case during this trial, you should disregard that testimony. You are to consider only the testimony from the witness stand, any exhibits which have been introduced into evidence during the trial of the case and any stipulations or agreements or counsel that may have occurred during the trial of the case and deciding upon the evidence in this case.

Now, I, also, as a presiding judge, have the additional duty to charge you the law that applies to this case. As the presiding judge as I've told you, I'm the sole judge of the law in this case, and it is your duty, ladies and gentlemen, under the oath which each of you took, to accept and apply the law as I now state it to you.

If any of you have any opinions, or preconceived ideas as to what you feel the law is, or what you think the law ought to be, and it does not agree with what I now tell you

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the law is, you must abandon any of your preconceived ideas or opinions because you took an oath, and in that oath each of you swore or affirmed that you would accept the law and you would apply the law exactly as I now state it to you.

In every case tried in this Court before a jury, the jury becomes the sole and the exclusive judges of the facts in the case based on evidence introduced during the trial of the case. A trial judge such as myself cannot intimate, comment on, can't make any kind of statement to a trial jury about the facts in the case.

Since you, ladies and gentlemen, the members of the jury are the sole judges of the facts in this case, you are not to infer from what I have said during the progress of this trial, or anything I might say now during the course of my charge to you on the law, that I have any opinion whatsoever about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is a matter, ladies and gentlemen, the facts based on the evidence, solely for you, the jury, to determine. It is your duty, ladies and gentlemen, as jurors to determine the effect, the value, the weight, and ultimately the truth of the evidence that's been presented during the trial of this case.

Now, ladies and gentlemen, the law has names for many things. In trials, there are two types of evidence, which

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are generally presented during the trial, and the law calls those general types of evidence direct evidence and circumstantial evidence.

Direct evidence, ladies and gentlemen, is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness to an event. Direct evidence is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence, as contrasted with direct evidence, is proof of a chain of facts and circumstances indicating the existence of a fact. Circumstantial evidence is evidence which establishes collateral facts from which the main fact may or may not be inferred. Circumstantial evidence, ladies and gentlemen of the jury, is based on inference and not on personal knowledge or personal observation.

The law makes absolutely no distinction between the weight or the value to be given to either direct evidence or circumstantial evidence, nor is there a greater degree of certainty required of circumstantial evidence rather than direct evidence.

You, ladies and gentlemen of the jury, should weigh, or consider, or evaluate all the evidence in this case, both direct and circumstantial. And if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you

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must find the defendant not guilty. On the other hand, after hearing, considering, and evaluating all of the evidence in this case, both direct and circumstantial, if you are convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant guilty.

Now necessarily, as I've told you, you are going to have to determine the credibility, which simply means the believability, of the witnesses who have testified here in the trial of this case. It becomes your duty, ladies and gentlemen, to analyze as jurors, to evaluate the evidence, and you will have to determine, as a jury, which evidence convinces you of it's truth.

In determining the believability of the witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or you may reject the testimony of a witness in its entirety.

You may consider whether any witness has exhibited to you any interest, any vice, any prejudice or other motive in this case. You may also consider as I've told you in deciding about the believability of the witnesses what we call the demeanor of the witness, the appearance of the

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witness, while the witness is on the witness stand.

Anything that is in evidence, you as a jury have the right to consider in evaluating the believability or the credibility of the witnesses who have testified during the trial of this case.

Now, as I've told you during the trial and you've heard me instruct you, normally witnesses don't get on the witness stand and say, "Let me tell you about my opinion on this," because the rules of evidence do not permit witnesses to testify to opinions or conclusions.

An exception to that rule exists for those witnesses we call expert witnesses. A witness who by education, experience, and training claims to have become an expert in some art, science or profession, and those witnesses are qualified by the Court, may state an opinion as to matters in which they claim to be an expert; and they also may state the reasons for their opinion.

You should consider any expert opinion received in evidence in this case, and just like any other evidence you give it the weight you think it deserves. If you decide the opinion of an expert is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the expert opinion entirely. An expert witness's opinion is to be

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given no greater weight than that of other witnesses, simply because the witness is an expert.

Ladies and gentlemen, during the course of this trial you have heard evidence of statements allegedly made by the deceased victim after alleged injuries. I have determined that the statements would be admitted into evidence in this case. It is for you to determine the believability of those statements. In deciding that question, ladies and gentlemen, you may consider whether the victim was dying, and knew he or she was dying, and whether the victim had lost all hope of recovery at the time the statements were made.

In order to establish criminal liability, or criminal responsibility, ladies and gentlemen, I charge you that criminal intent is required. Let me give you some examples when we talk about that. The mental state required to be proven by the State for a particular crime, it might be -- in other instances, purpose or intent, knowledge, recklessness; those are examples of criminal intent.

Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation based on evidence introduced during the trial of the case.

Now, ladies and gentlemen, there is no way to prove

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intent to any kind of mathematical certainty. There is no way, ladies and gentlemen, that medical science can dissect a person's brain and tell what that person had in mind.

So the law says, ladies and gentlemen, that criminal intent may be inferred from the circumstances shown to have existed based on evidence introduced during the trial of the case. This, ladies and gentlemen, is how you as a jury make a determination of whether or not any element in any crime requiring intent -- this is how you make the determination of whether or not the element requiring intent was present.

It is not necessary to establish intent by direct evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case based on the evidence introduced.

Criminal intent, ladies and gentlemen, is a mental state. It is a conscious wrong-doing. It is up to you, the jury, to determine what the defendant intended to do, based on the evidence introduced during the trial of the case. Criminal intent can arise from action, or a faded act. It can arise from all sorts of things: negligence, recklessness, and indifference to duty are the consequences considered by the law to be the equivalent of criminal intent.

Now, I charge you, ladies and gentlemen, that an issue

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in this case is the identification of the defendant as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied, ladies and gentlemen, beyond a reasonable doubt at the accuracy of the identification of the defendant before you may convict the defendant. I instruct you that the burden of proof is on the State and it extends to every element of the crime or crimes charged and that specifically includes the burden of proving beyond a reasonable doubt, the identity of the defendant as the person who committed the crime. If, after examining the testimony, you have reasonable doubt as to the accuracy of identification, you must find the defendant not guilty.

I instruct you, ladies and gentlemen, that the fact that the defendant did not testify in this case is not a factor to be considered by you in any way in your deliberation, or in your consideration on the question of the guilt or the innocence of the defendant. A defendant has a constitutional right to remain silent. So the fact that the defendant did not testify must not be considered by you in your jury room in any manner whatsoever, and the assertion of your constitutional right to remain silent must not be considered by you in your deliberations.

You are to draw no conclusion whatsoever from the fact that the defendant in this case did not testify. It should

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not be discussed in your jury room. The burden of proof, as I've stated, is on the State of South Carolina. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

I will now define the offenses for you. The defendant is charged in one indictment with the offense of murder. The State must prove for this offense, beyond a reasonable doubt, that the defendant killed another person with malice aforethought.

Malice, ladies and gentlemen, is hatred, ill-will, hostility towards another person. It is the intentional doing of a wrongful act without any just cause, without any excuse, and with an intent to inflict injury. Malice of forethought, ladies and gentlemen, does not require that malice exist for any particular time before the act is committed, but malice must exist, ladies and gentlemen, in the mind of the defendant just before and at the time of the act being committed.

Therefore, there must be a combination of the evil intent, or the hostility, and the act itself. Malice aforethought may be expressed or implied. These terms expressed and implied do mean different kinds of malice, but merely the manner in which malice may be shown to exist. That is either by direct evidence or causative evidence from

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the evidence introduced during the trial of the case.

Express malice would be shown when a person speaks words which express hatred or ill-will or hostility towards another person. Those are examples of express malice. Malice may also, ladies and gentlemen, be inferred from conduct showing a total disregard for human life. If facts are proven beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction, this inference would simply be an evidentiary fact to be considered by you along with the other evidence in this case, and you may give it the weight you decide it should receive.

I charge you, ladies and gentlemen, in addition to the offense of murder, the defendant is also charged with the offense of unlawful carrying of a pistol. The State must prove to this offense beyond a reasonable doubt that the defendant carried the pistol about his person, whether concealed or not. It is about a defendant's person if it is readily accessible and convenient for immediate use. The pistol need not be actually touching the person of the defendant.

I charge you, ladies and gentlemen, that the defendant is also charged with the offense of discharging a firearm at or into a dwelling or structure. For this offense, ladies and gentlemen, the State must prove that beyond a reasonable doubt that the defendant used a firearm to shoot or

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discharge a projectile towards a dwelling house, other building, structure or enclosure that is regularly occupied by person or persons.

A firearm, ladies and gentlemen, means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, or is designed to be, or may be readily converted, to expel a projectile. A dwelling house, ladies and gentlemen, is a building in which a person or persons ordinarily sleep.

I charge you, ladies and gentlemen, that the defendant is also charged with possession of a weapon during the commission of a violent crime. The State must prove for this offense beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm during the commission of a violent crime.

A firearm, ladies and gentlemen, means a machine gun, automatic rifle, revolver, pistol, or any weapon which or is designed or may be readily converted to expel a projectile. In order, however, to find the defendant guilty for the possession of a weapon during the commission of a violent crime, you must, ladies and gentlemen of the jury, first find the defendant guilty of committing a violent crime.

I charge you, ladies and gentlemen, that murder is a violent crime under the laws of the State of South Carolina. Now, Mr. Foreman, and ladies and gentlemen of the jury, I

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have prepared a verdict form for you. Pay absolutely no attention to the order in which we wrote the forms verdict. I obviously had to write one before the other, so the order has no significance whatsoever.

I have placed the caption of this case at the top of your verdict form, Mr. Foreman and ladies and gentlemen of the jury, it says, "The State of South Carolina County of Hampton," and then it says In the Court of General Sessions, which is criminal court, and it has the indictment numbers on it, 2015-265, 266, 267, 268. Those were the offenses in the indictments that I just charged you about.

Under that, I put the caption of the case, "The State of South Carolina v. Sidney Antoine Holmes, defendant, and I wrote the word verdict. There are several questions on your verdict.

Question one. We, the jury, by unanimous consent, find the defendant, Sidney Holmes, in indictment number 2015-GS-25-00265, that is the indictment for murder, and the first form of verdict under question one is guilty of murder.

If that be your form of verdict, Mr. Foreman, you would place a check mark on the line beside that form of verdict. The second form of verdict under question one is not guilty of murder. If that be your form of verdict, Mr. Foreman, you would place a check mark on the line beside that form for verdict. You must find one form of verdict or the

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other, you cannot find both. Either guilty or not guilty.

The second question on your verdict form. We, the jury, by unanimous consent, find the defendant, Sidney Holmes, in indictment number 2015-GS-25-00266, and that first form of verdict under question two, guilty of unlawful carrying of a pistol.

If that be your form of verdict, you would check on the line, Mr. Foreman, for the entire jury by that form of verdict. The second form of verdict under question two is not guilty of the unlawful carrying of the pistol. If that be your form of verdict, you would check on the line beside that form of verdict under question two. You must find one form of verdict or the other under question two, you can not find both. Either guilty or not guilty.

Question three. We, the jury, by unanimous consent find the defendant, Sidney Holmes, in indictment number 2015-GS-25-00267 either guilty of discharge of a firearm at or into a dwelling or a structure, and that would be the first form of verdict under question three, or not guilty of discharge of a firearm at or into a dwelling or a structure. You must find one form of verdict or the other, you cannot find both. Either guilty or not guilty of discharge of a firearm at or into a dwelling or structure.

Now, your last question on the verdict form, I wrote you some instructions because of my charge to you. The last

question deals with possession of a weapon during the commission of a violent crime indictment, and I wrote the following instructions. The jury may only find the defendant guilty of possession of a weapon during the commission of a violent crime if it has already found him guilty of murder. I charged you that murder is a violent crime under the laws of the State of South Carolina. If you have found that the defendant is not guilty of murder, you cannot find the defendant guilty of possession of a weapon during the commission of a violent crime. Those are my instructions to you.

I put those in bold print above question four just as I read it to you. Question four. We, the jury, by unanimous consent, find the defendant, Sidney Holmes, in indictment number 2015-GS-25-00268 either guilty of possession of a weapon during the commission of a violent crime. If that be your form of verdict consistent with my charge to you and the instructions on the verdict form, you would check on the line beside that form of verdict. The second form of verdict under question four is not guilty of possession of a weapon during the commission of a violent crime. If that be your form of verdict, you would check on the line beside that form of verdict.

Now, after you are completed with the check marks, Mr. Foreman, for the entire jury, you would sign your name where

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it says foreperson. I've already put in today's date, March 15th, and Hampton, South Carolina. Once you've completed the verdict form, signed your name, you would then knock on your jury room door and tell the bailiff you have reached the verdict and we will bring you back out in the courtroom to publish your verdict.

Whatever you write on this verdict form I've prepared, my law clerk is going to want you to sign the exact same words under the words verdict on the indictment. Each indictment, whatever you write on the verdict form, we will want you to write on the indictment. So, Mr. Foreman, do not leave the courtroom without having signed the indictments after you return the verdict as I instructed you.

Now, Mr. Foreman and ladies and gentlemen of the jury, your verdict must be unanimous. That is, it must be the verdict of each and every one of you. All twelve of you must agree on a verdict. I've now charged you on the law in order to try and help guide you to a just result in this case. You are the judges of the facts in this case and based on your determination of the facts from the evidence and the law as I have now explained it to you, you are soon going to begin your deliberations.

Now, I'll remind you that each of you were selected as fair and impartial jurors and that each of you took an oath

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from the Clerk of Court of Hampton County. In that oath, you swore that you would fairly and that you would impartially try and determine the facts of this case, and when you do that ladies and gentlemen, no one can criticize your verdict. But you are to decide this case, ladies and gentlemen, not on passion, not on sympathy, not on your feelings about anyone, not on any emotion; you must decide this case based on the evidence that has been introduced during the trial of this case. Testimony from the witness stand, the exhibits which have been introduced into evidence, and if they occurred, any stipulations of counsel.

Ladies and gentlemen, you have to decide the issues in this case without any bias on your part, without any prejudice toward either party, the State or the defendant. So you can't allow yourself to be governed by prejudice for or against any person, or by public opinion, or for any other arbitrary factor such as emotion. Both the defendant and the State of South Carolina have the absolute right to expect that each of you on this jury will carefully and impartially consider all of the evidence in this case, and that you will follow the law as I've instructed it to you to be in reaching your verdict in this case.

All right, ladies and gentlemen in my jury panel, if you would, I'm going to ask you to step to your jury room. Do not begin your deliberations. When it is time for you to

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begin your deliberation, I will send the verdict form in that I went over with you, along with all the exhibits with the exception of an exhibit that you might need to view out here because we don't have that equipment in your jury room, you'll have to come back out here so that we can use the equipment for exhibits that have to be viewed in the courtroom.

But when it is time for you to begin your deliberations, I will send the other exhibits that you can view in your jury room along with the verdict form and instruct my bailiff that you may then commence your deliberations. Please do not start until I instruct you to do so. You may retire to your jury room. My alternate jurors please remain the courtroom with us.

(12:42 p.m., whereupon, the jury exits the courtroom and the following is held on the record.)

THE COURT: I want to thank you on behalf of Hampton County and this Court for your service. All that a judge can ask of a juror is that you listen, ladies and gentlemen. I watched you during the trial of this case and that's exactly what both of you did.

I want to thank you for your service. This concludes your service for the week and I appreciate that. You now have finished your jury service. On behalf of Hampton and this Court, I want to thank you for that service. If you

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need a work excuse from having been on the jury this week, go downstairs to Mylinda's office, you can get that and your lunch is there also.

One other thing I want to tell you. Sometimes people are curious and they want to ask you about your impression from serving on the jury. You have every right to talk to them if you so desire. If you don't want to talk to them, just tell them you don't want to talk to them and if they persist, get their name and give it to me. I'll handle that problem for you. I appreciate your service. You are free to leave the courtroom.

(The two alternate jurors leave the courtroom.)

THE COURT: Any exceptions or additions to the charge from the State of South Carolina?

ASST. SOL. MURDAUGH: None from the State, Your Honor.

THE COURT: From the defendant?

MR. HUGHES: None from the defense.

THE COURT: I'd ask that counsel come forward, with Becky Hill, and go through the exhibits.

THE COURT: Exhibits One, Eighteen, and Nineteen should remain in the courtroom because they don't have the capability of playing it.

MR. HUGHES: I do.

THE COURT: Do you agree, Solicitor?

ASST. SOL. MURDAUGH: Yes, sir.

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THE COURT: With the exceptions of One, Eighteen and Nineteen, are you satisfied, Solicitor, that the court reporter has all the exhibits?

ASST. SOL. MURDAUGH: Yes, sir.

THE COURT: And do you have any objection to the bailiff taking the verdict form and the exhibits, other than those three, into the jury room and telling the jury they may now commence their deliberation?

ASST. SOL. MURDAUGH: No, sir.

THE COURT: Mr. Hughes, are you satisfied that the court reporter has all the exhibits?

MR. HUGHES: Yes, Your Honor.

THE COURT: And with the exception of the three exhibits, which I've placed on the record, are you now willing to let the bailiff take the verdict form and the remaining exhibits into the jury room and having the bailiff inform the jury that they may now commence their deliberation?

MR. HUGHES: Yes, sir.

THE COURT: Very well. If you will take the box and the verdict form and tell the foreman and ladies and gentlemen of the jury they may now commence their deliberations. We will be at ease while we await the jury's verdict.

(12:47 p.m., whereupon, the verdict form and exhibits

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are taken to the jury room.)

(At 2:10 p.m., the Court is informed that the jury has reached a verdict.)

THE COURT: Ladies and gentlemen, I understand that the jury has reached a verdict. If you can't control your emotions, you need to leave, because I'm going to deal with you if there is any emotional outburst. I don't want one word spoken in this courtroom in the presence of the jury. If you can't control your emotions, I'm going to ask you to please step out at this time. I can assure you I will enforce that. All right, is the State ready?

ASST. SOL. R. MURDAUGH: Yes, Your Honor.

THE COURT: Is the defendant ready?

MR. HUGHES: Yes, Your Honor.

THE COURT: Bring us the jury, please.

(2:20 p.m., the jury enters the courtroom and the following is placed on the record.)

MADAME CLERK: Mr. Foreman, have you reached a verdict?

FOREMAN: Yes.

THE COURT: Madame Clerk, you may publish the verdict. Defendant will rise with counsel.

MADAME CLERK: The State of South Carolina, County of Hampton, the State of South Carolina v. Sidney Holmes, in indictment numbers 2015-GS-25-265, 266, 267 and 268. Verdict: We, the jury, by unanimous consent find the

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defendant, Sidney Holmes, in indictment number 15-GS-25-265, guilty of murder.

Number two: We, the jury, by unanimous consent find the defendant, Sidney Holmes, in indictment number 15-GS-25-266 guilty of unlawful carrying of a pistol.

Number three: We, the jury, by unanimous consent find the defendant, Sidney Holmes, in indictment number 15-GS-25-267 guilty of discharging a firearm at or into a dwelling or a structure.

Number four: We, the jury, by unanimous consent find the defendant, Sidney, Holmes, in indictment number 15-GS-25-268 guilty of possession of a weapon during the commission of a violent crime. Signed by the foreman, Mr. Norman Bostick in Hampton, March 15th, 2017.

THE COURT: Mr. Hughes, are there any matters involving the jury that you wish to bring to the Court's attention before I excuse the jury?

MR. HUGHES: Request that the jury be individually polled, Your Honor.

THE COURT: Very well. Please be seated along with your client. Madame Clerk, I'm going to ask that you call each individual member of the jury. Ladies and gentlemen, as your name is called by the clerk, I'm going to ask you to stand. She will ask you two questions. The first question will be, "Was that your verdict?" as published by the Clerk

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of Court; you will answer yes or no. She will then ask, "Is that still your verdict?" And you will answer yes or no.

Madame Clerk, please poll the jury.

MADAME CLERK: Lee Terry. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

MADAME CLERK: Joseph Saxon. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

MADAME CLERK: Jerry Moore. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

MADAME CLERK: Kim Youmans. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

MADAME CLERK: Norman Bostick. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Still your verdict?

JUROR: Yes.

MADAME CLERK: Sandra Barnwell. Was this your verdict?

JUROR: Yes.

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MADAME CLERK: And is it still your verdict?

JUROR: Yes.

MADAME CLERK: Tiffany Lott. Was this your verdict?

JUROR: Yes.

MADAME CLERK: And is it still your verdict?

JUROR: Yes.

MADAME CLERK: Carolyn Turner. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

MADAME CLERK: Hannah Bostick. Was this your verdict?

JUROR: Yes, ma'am.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

ADAME CLERK: Cassy Brunson. Was this your verdict?

JUROR: Yes, ma'am.

MADAME CLERK: Is it still your verdict?

JUROR: Yes, ma'am.

MADAME CLERK: David Greene. Was this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

JUROR: Yes.

MADAME CLERK: Raja Patel. Is this your verdict?

JUROR: Yes.

MADAME CLERK: Is it still your verdict?

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JUROR: Yes.

THE COURT: Mr. Foreman, if you will stay right there my law clerk, Skyler Hutto, is coming to you, I need you to write -- he will show you where. Sign your name on the indictments consistent with the verdict form.

Mr. Hughes, the jury has been polled by the clerk and the jury has confirmed their verdict. Anything further from the defendant concerning the jury before I excuse the jury?

MR. HUGHES: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury panel on behalf of Hampton County and this Court, I want to thank you for your service. All a judge can do is ask a jury to listen, and I watched each of you during the trial of this case and each of you did exactly that. I appreciate your service and Hampton County appreciates your service. This concludes your service for the week. I told you I was going to get you home early this week. You are also going to be exempt from jury service, if the computer were to choose any of you for the next three years, if you choose to claim your exemption. If any of you need a work excuse because you've been here this week serving on the jury, if you will go downstairs to the clerk's office and see Deborah in the clerk's office, we'll be happy to provide a work excuse to you. Also, we'll be mailing you that exorbitant check that we pay you for your jury service at the address that we sent

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you your summons. You will be receiving that in the mail.

Finally, I want to tell you this. Many times people might want to talk to you about your jury service. Many people feel they can learn how to improve the way they handle court by talking to you and obtaining your observations or your feelings.

If you want to talk to someone about your service, you are certainly at liberty to do so, but if you do not want to talk to anyone about your service you do not have to. All you have to do is say I don't want to discuss it, if that person persists in wanting to talk to you, all I ask is you get me their name and bring it to me. I'll be happy to handle that problem.

Now, sentencing in this matter is going to occur now. In fact, as soon as I finish speaking to you, the defendant will come forward and we will proceed, unless there are any post-verdict motions. I am happy for you to remain in the courtroom for sentencing if you would like to do so. However, you do not have to remain because your service has concluded. If you would like to leave the courtroom you may leave at this time or you may stay right in your box and remain for sentencing. Anybody that would like to leave can stand up, leave through this door at this time.

Mr. Hughes, are there any post-verdict motions from the defendant?

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MR. HUGHES: No, Your Honor.

THE COURT: Very well. Please come around with your client and Solicitor for sentencing; are you ready?

ASST. SOL. MURDAUGH: Yes, sir.

THE COURT: Mr. Hughes, are you ready?

MR. HUGHES: One second, Your Honor. Yes Your Honor, thank you.

THE COURT: Very well. All right, Solicitor, do you have the sentencing sheets?

ASST. SOL. MURDAUGH: Your Honor, if you will please, I do not have the sentencing sheets, but I'm getting them filled out now. I'll have them for you by the time we finish talking.

THE COURT: I'll be happy to hear from you.

ASST. SOL. MURDAUGH: If Your Honor please, several members of the family would like to address the Court, and Peggy is getting their names and will get them to me in just a minute. I need to tell you about his record.

THE COURT: All right.

ASST. SOL. MURDAUGH: If Your Honor, please, starting in February of 2003 as a juvenile, he was sentenced for simple assault and battery, put on probation, violated his probation in May of 2004. He was charged with obstruction of justice in April of 2007, miscellaneous traffic offenses, public drunk in 2008, public disorderly conduct in February

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2008, simple assault and battery. March of 2008, unlawful possession of a weapon, for which he got a year suspended with eighteen months probation. May of 2008, violation of a city ordinance interfering and hindering officers, convicted and got thirty days.

In April of 2008, he got a violation of a city ordinance, doesn't say what it is. May of '08 charged with unlawful carrying of a weapon, convicted, and got one year suspended, eighteen months probation. On 9-4-08, he got convicted of possession of marijuana. Probation violation in 9-08. In 12-08 he got convicted of entering a premises after warning, was convicted.

In July of '09, he was charged with carrying a firearm and got a five month sentence; that was in Walterboro. In 09-08, he got charged with failing to appear for a simple possession of marijuana charge. In 07-11, assault and battery, first degree. And indecent exposure, a non-conviction. Assault and battery with intent to kill. A plea was taken for second degree and he was given 110 days credit for time served, but it does not say what his sentence was.

In January of 2013, he was charged with illegal possession of a weapon that was stolen. And some sort of a drug charge in January of 2013, he was charged with contributing to the delinquency of a minor in January of

'13, and a drug violation -- a non-conviction on parts of it, but a conviction on the unlawful carrying of a weapon; and a non-conviction on contributing. That appears to be the record that we have.

THE COURT: Very well. I understand that your victim assistance officer has members of the family that wish to address the Court. Do you have the list yet?

ASST. SOL. MURDAUGH: Yes, sir.

MR. HUGHES: Your Honor, this is Ms. Cochran. She is the daughter of the deceased, Steve Cochran. She would like to address the Court.

THE COURT: Ms. Cochran, if you would, for my court reporter and the record, would you state your full name.

MS. COCHRAN: Samantha Jane Cochran.

THE COURT: And spell your last name.

MS. COCHRAN: C-O-C-H-R-A-N.

THE COURT: Be happy to hear from you anything you want to tell me.

MS. COCHRAN: I have lost half of me to a man who did not care what they were taking from me. Senseless anger to many moments of love in my life. I'll never have those father-daughter moments. I don't get to have my dad walk me down the aisle at my wedding or tell me that he's proud of me or hold any of my children. I did not get to prepare for his passing like a child is supposed to get. I had twenty-

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two years and it was supposed to be at least 60 more. Twenty-two years doesn't seem like a lot, but it was so short and it's not fair. There's not a day that it doesn't hurt to breathe. I don't have him in my life anymore. I can only hope that one day he can understand what he's taken from so many people, not just me, but my whole family and my friends and this community. That's all I have to say.

ASST. SOL. MURDAUGH: Thank you, ma'am. Your Honor, please, Pam Mitchell. The sister of the deceased would like to address the Court.

THE COURT: Give me your name please.

MS. MITCHELL: My name is Pamela Ray Mitchell and my last name is M-I-T-C-H-E-L-L.

THE COURT: Ms. Mitchell.

MS. MITCHELL: Yes, sir. I am one of three children that we were raised together and Steven was my baby brother. I was fortunate enough to be part of his life for fifty years and he was a wonderful child and he was a wonderful man. He loved his family and he loved his friends, and he was a good person and he was honorable. He spent a tremendous amount of his life helping others. He fostered children, he rescued animals, and I will forever for the rest of my life think of him alone that night, without his family by his side as he passed away, and I'm the one that took the phone call and I had to call my brother and I had

to call Samantha and we had to go together and tell my eighty-eight year old father that his youngest son had been killed, and we didn't know why. We didn't know what the circumstances were or what led up to it. We have to face his friends and we had to have a memorial service and he wasn't there.

It's just taken so much from our lives. There's not a day that doesn't go by that I don't look at his picture and tell him that I miss him. There's not a day that doesn't go by that I can listen to a Jimmy Buffet song and not break down in tears. And on the last night of his life he spent time doing what he loved most. And he was with friends and he was with his dog who was never away from his side, and he went to the beach and he took a beautiful picture of a scene and he sent it home to his family. And he said I wish you were here to share this with me. And that picture hangs in my home and will forever haunt me. There just aren't words to express our loss. But he was loved, and he was honored and he was honest. And it wasn't right that he was taken in the way that he was.

THE COURT: Thank you for taking the time to address the Court. I appreciate your thoughts. Anyone else?

ASST. SOL. MURDAUGH: No, sir. We had a second witness that was going to testify, and on Friday she told us that she would have testified exactly like Zandra Bryant

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testified. She said that things have happened and I can't testify. We know and think we know somebody threatened her, and we think we know who threatened and we are doing an investigation of it.

I might also tell the Court that this morning, Jake Sullivan received a message from Zandra Bryant, the lady that testified first, saying that she had been getting threats from the Cowboys in Walterboro. I hope the people in this courtroom will send a message, because I'm going to tell you one thing here, if one person bothers any of the witnesses in this case, it is the intention of the State of South Carolina to pull the full pressure down on them, and I just want them to know that.

Now, if Your Honor would please, very seldom have you ever heard me get up and tell you what the sentence ought to be; I realize that belongs to you. But in this case, I think you ought to -- the carrying a gun makes no difference what you do. The rest of them, I think you ought to give consecutive sentences and I think you ought to give him a life sentence for the murder, and I just say that because his record indicates that nothing real bad, but just a total disrespect for the law, and can't say it changes.

THE COURT: I need my sentence sheets. Counsel approach.

(Off the record, briefly.)

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THE COURT: All right. Mr. Hughes, I will be happy to hear from you on behalf of your client in mitigation.

MR. HUGHES: Your Honor, to begin with, there are some parts of the record that we disagree with. My client informs me that he never had a ABWIK charge. It was reduced down to an A&B 2nd, which I believe the Solicitor talked about. He does have a firearm record, which is the reason why I did what I did earlier today.

Your Honor, he's 26 years old. He is -- he has his life in front of him. What the jury said he did, he still denies. I've explained to him what he's looking at. I've explained to him what the next process is going to be. But you and I know that any appeal will take time and it will also depend upon errors of the law and not errors of fact. Errors of fact were ended today. However, your sentencing can reflect that he's looking at thirty to life on the murder charge. He's looking at up to two years on the charge of the firing into a dwelling. He's looking at five years on the use of a weapon during the commission of a violent crime, and one year on the pistol charge. He's 26 years old. The bare minimum, including the consecutive charge on the use of a weapon during the commission of a violent crime is 35 years. Murder, as you know, is a day for day sentence. He would be 56 before he even got through with the murder charge. He would be in his 60's before he

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got through the use of a weapon during the commission of a violent crime. Any additional charge, like the Solicitor is asking for being consecutive, would put him into his 70's before he would be eligible to get out.

He's 26 years old, Your Honor. The State didn't ask for life during anything until the final charge. We're asking that you give him some hope. Murder has a minimum sentence of 30 years. The use of a weapon during the commission of a violent crime is a consecutive sentence. We're asking for the minimum on both, 35 years, and make the other two charges consecutive to the murder charge. He would still be in his 60's before he could get out of prison, but that would give him something to work toward. That's all we're asking for, Your Honor. We're not asking for vigilante justice. We're not asking for punishment for having a life that doesn't match what the Solicitor thinks, because there's no real violence on that. We're not talking about major violence on his record. We're just talking about a young man, young and stupid.

Now as far as the so-called gang activities that may be involved in threatening people, Your Honor, he has been incarcerated this entire time. The Solicitor's Office, as Mr. Hightower so eloquently pointed out, monitors all communication from the detention center's outside world. This wasn't anything done to any of the so-called witnesses.

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It was not done at his request. It was not done with his knowledge. Don't punish him for the actions of others. The jury has spoken . We know that. We're asking for a minimum sentence and mercy. Thank you, Your Honor.

THE COURT: Mr. Holmes, is there anything you would like to tell me prior to sentencing? I'd be happy to hear from you.

MR. HOLMES: I didn't commit no crime.

THE COURT: Anything further from the defendant, Mr. Hughes?

MR. HUGHES: No, Your Honor.

THE COURT: Solicitor, anything further from the State?

ASST. SOL. MURDAUGH: Yes, sir. If Your Honor, please, I want the Court to know that I'm not accusing the defendant of anything about this gang stuff. I did that for purposes of sending notice to tell them if they cross the line into this county, we're going to bust their behinds, sir.

THE COURT: Mr. Hughes, I note on the sentence sheet that you have not given me any address, nor have you given me a date of birth, nor have you given me any social security or drivers license number.

MR. HUGHES: Your Honor, that can be filled out. That is generally done by the Solicitor's Office on guilty verdicts. I have never held a sentence sheet from a murder trial before. We don't write on that.

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THE COURT: I understand that. But it needs to have some identifying information on it for the defendant. Do you have that information, Solicitor?

ASST. SOL. MURDAUGH: No, Your Honor.

THE COURT: Obtain it from your client, Mr. Hughes.

(BRIEF PAUSE IN THE COURTROOM.)

THE COURT: Very well. First of all, to my ladies and gentlemen of the jury, I want to thank you for your patience. As you can see, we don't have the opportunity as Mr. Hughes and the Solicitor pointed out, the paperwork concerning sentencing sheets, which is the province of the Court, not yours. You've done your job, ladies and gentlemen. I listened to this evidence, just as the people in this courtroom did. I couldn't agree more with your verdict. There was, in my opinion, clear evidence beyond a reasonable doubt of the guilt of the defendant.

I take into consideration for sentencing several things. Mr. Hughes disputes a conviction. I certainly will not consider that, Mr. Hughes. However, Mr. Holmes, you've had convictions for things such as obstruction of justice, disorderly conduct, assault and battery, simple assault, unlawful possession of a weapon, interfering with an officer, unlawful carrying of a weapon, drug charges, carrying a firearm, illegal possession of a weapon. There seems to be a pattern in your life with the use of weapons.

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I take into consideration your prior record, as well as your age at 26 years of age. I also have to take into consideration how difficult it is -- Mr. Hughes, I agree with you. Your client is not being charged with threatening any witness in this case. Although the Solicitor wants to express his intentions publicly about his feelings if he feels an investigation show that. I also have to say that I think it probably did take courage for Ms. Bryant to appear in the courtroom and testify. Very often, ladies and gentlemen, people are somewhat hesitant or intimidated about coming to testify in a courtroom. We need people to be able to give us all facts and circumstances in order that Courts can perform justice.

Taking all of that into consideration in my sentencing, I wanted you to know what I'm looking at. Mr. Hughes, you are correct that the defendant is entitled to credit for time that he has served. I will see that my sentence sheet reflects that. My sheet, so you will know, Mr. Holmes, was run on March the 13th, which was two days ago. Today being the 15th and my sheet from the sheriff of Hampton County reflects that you've been in custody for 587 days as of March 13th. The record of the jail will be forwarded to the Department of Corrections concerning the time served.

On Indictment 2015-GS-25-00265, the State v. Sidney Antoine Holmes, indictment for murder, the sentence of the

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Court is the defendant is committed to the State Department of Corrections for a term of 40 years.

On Indictment 2015-GS-25-00268, possession of a weapon during the commission of a violent crime, the sentence of the Court is the defendant is committed to the State Department of Corrections for a term of five years. Sentence will run consecutive to the murder case.

On Indictment 2015-GS-25-00267, discharging a firearm at or into a dwelling, the sentence of the Court is the defendant is committed to the State Department of Corrections for a term of five years. Sentence will run consecutive to the murder case and the possession of a weapon during the commission of a violent crime.

Finally, on Indictment 2015-GS-25-00266, unlawful carrying of a pistol. Sentence of the Court is defendant is committed to the State Department of Corrections for a term of one year. Sentence will run consecutive to the discharging of firearm, possession of a weapon during the commission of a violent crime and murder. The total of your time that I have sentenced you today is 51 years. The sentences are to run consecutively. Thank you very much, ladies and gentlemen of the jury, this concludes your service. I want to thank you very much for your service. You may leave the courtroom at this time.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department 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 in the hearing of the captioned case, in the Court of General Sessions for Hampton County, South Carolina, on the 15th day of March 2017.

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

June 19, 2017

Rebecca H. Hill

Rebecca H. Hill,
Official Court Reporter

FILED
10:55 AM/PM
DEC 12 2018

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA

County of Hampton

In the Court of Common Pleas

2018-CP-25-501

Sidney Antoine Holmes
Full name and prison number (if any) of Applicant,

vs.

Attorney General office
Name of Respondent.

South Carolina

APPLICATION FOR POST-CONVICTION RELIEF

INSTRUCTIONS — 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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention M.C.I. Redemption Way McCormick S.C. 29859.

2. Name and location of Court which imposed sentence In The Court of General Sessions Hampton County.

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
   (a) 2015-GS-25-265, 266, 267 § 268
   (b)
   (c)

4. The date upon which sentence was imposed and the terms of the sentence:
   (a) March 13th, 15th, 2017
   (b)
   (c)

5. 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 _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

i. S.C. Supreme Court

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. Sept 1, 2018

ii. Oct 17, 2018

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. 2018-UP 384

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) 6th

(b) 14th

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) See "Memorandum of Law Support PCR Application

(b) _____

(c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? Yes

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

(d) any other petitions, motions or applications in this or any other Court?

No

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Direct Appeal

ii.

iii.

iv.

(b) the name and location of the Court in which each was filed:

i. Supreme Court

ii.

iii.

iv.

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv.

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

i. NA

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. NA

ii. _____

iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) NA

(b) _____

(c) _____

16. 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? Yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

i. Mr. Robert Hughes, Esq, Public Def - office

ii. Hampton, SC 29924

iii. Wanda Carter Appellate Defense office

(b) the proceedings at which each such attorney represented you:

i. Trial

ii. _____

iii. _____

18. State clearly the relief you seek in filing this application.

Vacate Conviction Sentences

19. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

County of McCormick

VERIFICATION

I, Sidney Antoine Holmes, 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.

Sidney Holmes

SWORN to and subscribed before me this 4 day of December, 20 18.

Bobby L Wideman (L.S.)
Notary Public

My Commission Expires: 9-30-26

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Sidney Antoine Holmes, 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 therefor.

Sidney Holmes
Applicant

SWORN or affirmed to and subscribed before me this 4 day of December, 20 18.

Bobby L Wideman
Notary Public

My Commission Expires 9-30-26.

Date 12/4 2018

Dear Honorable Clerk of Court

Enclosed Please find for filing within your office of clerk of Court Hampton County PCR Application Requesting a clocked-dated stamped copy.

Respectfully Submitted

S/ [signature]

Notary- [signature]
Exp. 9-30-26

CC: M.N.
CC: H.C.C.

JIAM JACBU

State of South Carolina) In The Court of
County of Hampton) Common Pleas
) CA
applicant)
X Sidney Antoine Holmes) ~~Affidavit~~ of
) SERVICE
State of South Carolina)
Respondent)

FILED
10:53 AM/PM
DEC 12 2018
MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

To Respondent's

I Applicant here by served a true copy of Post-Conviction Relief Application to Honorable Clerk of Court Hampton by Placing a true copy in the united states mail list below.

(1) Mylinda Nettles
Clerk of Court
P.O Box 7
Hampton, SC. 29924

s/ Delroy Holmes

Date 12/4 2018

State of South Carolina) In The Court of Common
County of Hampton) Pleas
)
) C/A
Applicant)
) Memorandum of Law
Vs) In Support of PCR
State of South Carolina) Application
Respondent)
)
To Respondents.)

FILED
10:55 AM/PM
DEC 12 2018
MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATEMENT OF FACTS

On August 1st, 2015 shooting occur In Hampton County, SC. on or about August 1st 2015, It is alleged that the Respondent's charge defendant, With Murder, And possession of A Weapon commission of A Violent crime, and the applicant has receive ineffective assistance of Counsel, And Due Process of Law In Violation 6th And 14th Amendment.

JAM JACDJ

Argument 1

Trial Counsel prejudice applicant by failure conduct Pre-trial investigate requesting for Chain of Custody Report and Ballistic Report Genuie Material Evidence facts Bullet remove from decease. pg 105-106, 107. Tr.

In Tucker Prelesnik 181 F3d 747, 745 6th Cir (1999) Counsels failure to introduce and obtain known critical evidence prejudicial because areasonable fact finder would likely Not convict defendant had all relevant evidence been presented, Williams V Taylor 529. US 362, 120 sct 1995, Keynote 2#3; Lockhart V Fretwell 506 U. S. 364 U.S state V Hatacher.

Counsel has satisfied the two components of Strickland V Washington, 104 S. Ct. 2052. By failure conduct pre-trial investigate requesting for chain of custody Report and Ballistic Report genuie material Evidence facts Bullet remove from decease counsel prejudice applicant to a fair trial.

Conclusion

Wherefore applicant should be granted A Newtrial set-aside his conviction.

s/ Sidney Parker

Date 12/4 2018

LEGAL MAIL

STATE OF SOUTH CAROLINA COUNTY OF HAMPTON	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
Sidney Holmes #335918, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2018-CP-25-0501 **RETURN**

FILED
11:54 AM/PM
MAR 18 2019
JBC
MYLINDA D BETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

The State (Respondent), making its Return to the application for Post-Conviction Relief (PCR) filed on December 12, 2018, would respectfully show this Court:

I. Procedural History

Sidney Holmes (Applicant) is presently confined pursuant to orders of the Hampton County Clerk of Court. In April 2016, the Hampton County Grand Jury indicted Applicant for Murder, Unlawful Carrying of a Pistol, Discharge of a Firearm at or into a Dwelling or a Structure, and Possession of a weapon during the commission of a violent crime. (2015-GS-25-00265,266,267,268).

Robert Hughes, Esquire, represented Applicant. Assistant Solicitor Randolph Murdaugh and R. Alexander Murdaugh, Esquire prosecuted the case. On March 13, 2017, Applicant proceeded to trial before the Honorable Perry M. Buckner III and a jury. At the conclusion of the trial, the jury found Applicant guilty as charged. Judge Buckner sentenced Applicant to forty years imprisonment for murder, five years imprisonment for possession of a weapon during the commission of a violent crime, five years imprisonment for discharging a firearm into a dwelling, and one year imprisonment for unlawful carrying of a pistol. Judge Buckner ordered all sentences

be run consecutively. Applicant filed his notice of appeal on March 16, 2017. The Court of Appeals dismissed the appeal in an unpublished opinion filed on October 17, 2018.

II. Current Application

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
2. Due Process Violations
3. Failure to Investigate

In relief sought, Applicant is seeking: "a new trial set aside his conviction."

Attached to this Return and incorporated by reference are the records of the Hampton County Clerk of Court regarding the subject convictions, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials. Applicant alleges he received ineffective assistance of counsel. Nevertheless, Respondent contends Applicant's counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

III. Ineffective Assistance of Counsel

In a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in his or her application. See Butler, 286 S.C. at 442, 334 S.E.2d at 814. Where ineffective assistance of counsel is alleged as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. See Strickland, 466 U.S. at 669. Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced 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. With respect to plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. See Hill v. Lockhart, 474 U.S. 52, 52 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record, a question of fact is raised which can only be resolved by an evidentiary hearing. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983). Because Applicant's claims of ineffective assistance of counsel are not conclusively refuted by the record, then Respondent would request an evidentiary hearing to fully resolve this issue.

IV. Due Process Violations

Applicant alleges a denial of due process of law. Applicant's allegation claims infringement of his rights as afforded to him under the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that Applicant must "...specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon Applicant to make a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Because Applicant has failed to make a prima facie showing that his constitutional right to due process was violated, Respondent submits this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based and relief is sought.

V. Failure to Investigate

Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland v. Washington, 466 U.S. 668, 691, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Thus, "[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, counsel's decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). "[A]t a minimum, counsel has the duty to interview potential witnesses and to make an independent **634 investigation of the facts and circumstances of the case." Ard v. Catoe, 372

S.C. 318, 331–32, 642 S.E.2d 590, 597 (2007) (internal quotation marks omitted) (emphasis omitted). "[C]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions...." Strickland, 466 U.S. at 691, 104 S.Ct. 2052. "[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Id. at 690, 104 S.Ct. 2052. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014). Respondent submits that Applicant cannot meet his burden in regards to any claims that counsel was ineffective for failure to investigate.

VI. State's Assertion and Reservation of Rights

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.

VII. Request for Evidentiary Hearing

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to the claims regarding the General Session Court's alleged lack of Subject Matter Jurisdiction and the alleged violations of Applicant's Fourth Amendment rights, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South

Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

Conclusion

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel.

Respectfully submitted,

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Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

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Senior Assistant Deputy Attorney General

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March 13, 2019

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON)

FILED
11:14 AM
MAR 18 2019
JBC
MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

2018-CP-25-0501

SIDNEY A. HOLMES, #335918)

Applicant,)

vs) AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James K. Falk, Esquire
Falk Law Firm, LLC
Post Office Box 1058
Charleston, South Carolina 29402

DATED this 13th day of March, 2019.

Tamieka Russell-Brown, Legal Assistant

STATE OF SOUTH CAROLINA	) COMMON PLEAS COURT
	)
COUNTY OF HAMPTON	) FOURTEENTH JUDICIAL CIRCUIT
SIDNEY A. HOLMES	) NO. 2018-CP-25-0501
	)
VS.	) TRANSCRIPT OF RECORD
	)
THE STATE OF SOUTH CAROLINA	) Post-Conviction Relief Hearing
	)

B E F O R E:

The Honorable Eugene C. Griffith, Jr., Judge

Beaufort, South Carolina

DATE: Friday, August 13, 2021

9:43 a.m.

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

James K. Falk, Esquire

Attorney for the Applicant

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Reported by: Cathy J. Provost, RMR, Official Court Reporter

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COURT REPORTER LEGEND:

dash -- intentional/purposeful interruption; change in thought
ellipses ... trailing off
[ph] phonetically written
[sic] written as said
[indiscernible] unable to be understood due to low volume or quality of audio

-- P R O C E E D I N G S --

(Court called to order.)

THE COURT: Ms. Weidauer.

ATTORNEY WEIDAUER: May it please the Court.

THE COURT: Yes, ma'am.

ATTORNEY WEIDAUER: Samantha Weidauer on behalf of the State of South Carolina. This is the post-conviction relief matter of Sidney A. Holmes v. State, case no. 2018-CP-25-0501 out of Hampton County.

For a brief procedural background, in his underlying General Sessions case Mr. Holmes was indicted for murder, possession of a weapon during commission a violent crime, firing a firearm into a dwelling, and illegal possession of a pistol.

On March 13th through 15th, 2017, applicant proceeded to jury trial before The Honorable Perry Buckner. Applicant was represented by Robert Hughes, who is present in the courtroom today. Applicant was found guilty of all charges and sentenced to consecutive sentences resulting in an aggregate sentence of 51 years.

Applicant filed a notice of appeal. Appellant Defender Susan Hackett filed an *Anders* brief on applicant's behalf, and his appeal was dismissed on October 17th of 2018. Applicant filed then an application for post-conviction relief on December 12, 2018, and this hearing follows.

THE COURT: All right. Mr. Falk.

ATTORNEY FALK: Your Honor, we filed an amended PCR application and if the Court would like, I could read the specifications, I guess.

THE COURT: Okay.

ATTORNEY FALK: We believe that trial counsel should have requested some type of in-camera hearing, whether it would be under *Liverman* or under *Biggers*, before Zandra Bryant was permitted to make an in-court identification of my client, and we believe that there was a considerable amount of hearsay testimony that came in which we believe trial counsel should have objected to. Does your packet have my amended --

THE COURT: I don't have that packet.

ATTORNEY FALK: Okay, because I've got the page numbers if you want to note specifics.

THE COURT: Okay.

ATTORNEY WEIDAUER: I'm not sure if I have the whole thing in here.

ATTORNEY FALK: I can give it to you. I mean, I have it right here. I can identify them by line number.

THE COURT: All right. And these are all under hearsay failures?

ATTORNEY FALK: Yes.

THE COURT: Okay.

ATTORNEY FALK: So the transcript in the record of appeals are obviously the same since this was an *Anders* brief. So it

would be transcript page no. 48, lines 20 through -- oh, excuse me -- page 48, line 24 through page 49, line 19.

THE COURT: All right.

ATTORNEY FALK: And there was a defense witness called Benjamin Holmes who, I think his testimony, did considerably more damage than it possibly could have done good, and I think it there possibly was a failure to properly prepare for that testimony. And then I believe -- I believe there were improper closing arguments at page 243, lines 13 through 21, and page 255, lines 7 through 9.

THE COURT: Give me those pages again?

ATTORNEY FALK: So the closing issues was at page 243, lines 13 through 21, and page 255, lines 7 through 9.

THE COURT: Okay. All right.

ATTORNEY FALK: And I would like to call Mr. Hughes to the stand.

THE COURT: All right. Mr. Hughes, come forward and be sworn.

ROBERT M. HUGHES,

having first been duly sworn, was examined and testified as follows:

CLERK OF COURT: And then if you'll speak directly in the mic, and state your name and spell out your last name for the court reporter.

THE WITNESS: Robert M. Hughes, H-u-g-h-e-s.

DIRECT EXAMINATION

BY ATTORNEY FALK:

Q Mr. Hughes, thank you. Can you tell me a little bit about this case? You were appointed to represent Mr. Holmes?

A Yes, sir. I work with the public defender's office. Our office got the case, and I was appointed to it.

Q These cases sort of fall into a couple categories; they're alibi cases or it-wasn't-me type cases. What was your sort of defense strategy in this case?

A Low light/distance identification.

Q Okay.

A There was no forensic evidence other than the low-light identification.

Q So would you admit that the identification made by Zandra Brown was compelling evidence?

A No.

Q Why was that?

A She was very impeachable. The fact that she was their star witness helped me more than it helped them.

Q Could you explain that point?

A Certainly. They attempted to say that she was able to see this, and I was able to show that it was easy to make a mistake, especially with questionable six-packs. I wanted the jury to realize that the identification could not be what she said it was.

Q Are you saying there was a six-pack?
A Oh, yes.
Q Was it ever introduced?
A I believe one of the officers introduced it. Now, I will apologize, I did not get a transcript of this, but I'm almost positive that one of the deputies -- excuse me, one of the Hampton Police Department officers did have a six-pack drawn up of this. If I'm wrong, I confused it with another case.
ATTORNEY FALK: May I have a moment to talk with my client?
THE COURT: Sure.
(Attorney Falk and the defendant confer.)
Q Mr. Hughes, do you have a copy of the transcript up there?
A No, sir.
Q I'm going to give you mine.
ATTORNEY FALK: May I approach?
THE COURT: Yes. Is the witness's name Zandra Bryant?
ATTORNEY FALK: Z-a-n-d-r-a.
THE COURT: Okay.
THE WITNESS: B-r-y-a-n-t, Your Honor.
THE COURT: Yeah, I got it. I see it here. I was looking. I thought you said Bryan, but it's Bryant.
ATTORNEY FALK: I may have said that.
THE COURT: Okay. I found where she's testifying on the page.
Q Mr. Hughes, could you go to page 250 of the transcript?

A I beg your pardon?
Q Would you mind turning to page 250?
A Okay.
Q Lines 7 and 8.
A Okay. I apologize. I was mistaking this case for another case.
Q Okay. Thank you. May I get my transcript back? Some of the issues that you were impeaching her testimony with, could you not have raised those at an in-camera hearing prior to allowing her to testify?
A Yes.
Q And what was the basis for your decision, and --
A I'll interrupt you. I never even considered a *Neil v. Biggers* hearing because I wanted her to testify, and I wanted her to show to the jury why what she thought she saw she couldn't have seen.
Q Okay. So that was trial strategy, you said?
A Yes.
Q Okay. Fair enough. Fair enough. What else did they have to identify Mr. Holmes?
A Very little.
Q You kind of remember this case. I guess it's one of the --
A This was one of the apartment complexes. The victim was an older, white male that was known in the community.
Q Was he like the super. for the apartment complexes?

A I don't recall. I don't think he was hired by the complex, I do not know for sure about that, but he was sort of like the fix-it guy.

Q Yeah. Okay. And so what was the context that this came up, the alleged shooting, came up?

A He had been in the complex that afternoon or evening -- it was still light -- and got into an argument or discussion or something with some young men. And we don't know but I think he asked them to leave the complex. I don't know if he had the authority but it was sort of implied that he did. They left. He contacted an officer who worked for the Hampton Police Department.

And later that evening at the complex, at the apartments, he was shot, and my client was tentatively identified as the shooter.

ATTORNEY FALK: Your Honor, I'm going to approach again and give him a copy.

THE COURT: Sure.

Q This is going to take me a minute to get my digital copy up. So could you look at page 48 of the transcript?

A Yes, sir.

Q And so starting at lines 21, on page 48, who is testifying there? Is that Jake Sullivan?

A Okay. Yes, so Sullivan is testifying.

Q And what was Jake Sullivan's rule in this?

A He was one of the officers, maybe the first officer, on scene, but he worked for the Hampton Police Department.
Q Starting at line 21, what was he testifying to?
A A phone called he had received from the victim.
Q Okay. Did you consider whether or not the testimony, starting at about lines 24, going through page 49, lines 19, to object to that as hearsay?
A No.
Q And what was the --
A It didn't hurt me. It was going to come in. Primarily it had absolutely no effect on this case whatsoever.
Q But wasn't that the only testimony there was about some kind of prior altercation?
A I don't remember if there was any other testimony. I just know that I recognized it as hearsay. In this situation Judge Buckner would have looked at me to see if I was going to object. I shook my head no. I would not have objected to something I knew was, A, going to come in and, B, in the long run was not really hurting me.
Q I'm considering more the testimony starting at about line 9 where he went on to say that the reason for the call -- line 9 on page 49, the reason for the call -- was that he had approached a group of black males in the Hampton Gardens Apartments a few minutes before. They were out there drinking, with loud music, and potentially were smoking some illegal narcotics. He stated

that he had run them off. He advised them that if they lived in the apartments that they could stay; if they didn't live there, they needed to leave.

So, I mean, the fact that there was this prior altercation, or meeting, between the deceased and the group of black males outside the apartment, did that not help show, maybe, a motive for?

A No.

Q What exception to the hearsay rule did you think was going to come in on --

A That would not have come -- the phone call, I could have kept out, but there was no need. The altercation could have been brought in by any number of witnesses that would have seen it. This way, it was something in passing. The juror -- jury may have made -- not have paid that much attention to it. But the primary thing is it did not really hurt the low-light identification that I was working on.

Q Did you think you could you keep the whole phone call out?

A No.

Q Okay.

A And if I may --

Q Yes.

A -- I did not want to keep that testimony out because if I kept out any part of it a juror would be more questioning about what was said and what I was hiding.

Q If you could get to page 243?
A 243?
Q Yes, sir.
A Okay.
Q I've got mine marked up, a copy, so it's taking me a minute to find it on this pad here. If you'd look at the paragraph starting on line -- just sort of read it to yourself to familiarize yourself, starting at line -- 13.
A Okay.
Q Why don't you tell me something about the environment around where that apartment complex was?
A It is a fairly nice apartment complex. It's not situated in what I would call an upscale neighborhood. It's fairly close to some of the stores. I'm not sure what you're asking.
Q Well, I mean, because it seemed like the solicitor is really trying to draw some sympathy for the lady who testified. Then a lady, who I've got all the admiration in the world for, the woman who's scared to death for her life, she's got four children that live out there and she's cared of these people, but she had the guts to walk into the courtroom and she had the guts to tell you the truth, I was just trying to get an idea if this was some kind of --
A This wasn't the O.K. Corral, but there had been a number incidents, not necessarily of this caliber, but in that area.
Q Does it sound as though he was vouching for his own witness?

A Yes.
Q Did you consider whether or not to object to that in the closing argument?
A The reason why I didn't is because the person talking was Randolph Murdaugh. Randolph Murdaugh was a long-winded person who would basically lull a jury to sleep. He would have moments of extreme passion but most of the time he was monotone and would basically lull a jury.

Now, the last thing I wanted to do was to wake up a juror and go, Hey, you needed to listen to this, this was important. No curative instruction in the world would have prevented a jury from hearing what he just said.

The only thing I had going for me as far as the jury ignoring it was the fact that the jury was thinking about other things while he was talking. And Mr. Murdaugh would ramble on and on, and that helped me.

Q Let me just identify -- have you identify -- the other passage. If you're saying strategy, that's fine. I just want to make the record. So the lines 7 through 9 where he's calling --
A I'm sorry. What page?
Q I'm sorry. You're right. Page 255.
A 255.
Q Lines 7 through 9 where he's kind of calling your witness a liar.
A Right. Same strategy. I meant --

Q Beg your pardon?
A It was the same strategy. I did not want -- the main thing that I took, that I hoped the jury would take away is, then an unknown person.
Q Okay.
A That was my whole argument.
Q So how much time -- I want to talk to you just --
ATTORNEY FALK: If I just could just get some water. Your Honor, could I just leave the bench --
THE COURT: Yes, sir.
ATTORNEY FALK: -- a second and get some water? Be right back. My apologies.
Q So B.J. Holmes, that was Sidney's brother?
A A cousin, I think.
Q What's that?
A Brother or cousin. It was a relative.
Q And whose idea was it to call him as a witness?
A Mr. Holmes.
Q And what did he tell you about that?
A He told me that he wanted me to call these two people as witnesses.
Q And did you talk to Mr. Holmes before? What did you do to prepare B.J. Holmes to testify?
A Absolutely nothing.
Q And why was that?

A Because I felt that he would perjure himself, and the last thing I wanted to do was to get any solid information that he would perjure himself so I would avoid putting perjury testimony up.

Q Did you discuss that with Sidney Holmes?

A The defendant --

Q Yes.

A -- yes, I did.

Q And so how did that discussion go?

A After the State had rested I met with Mr. Holmes and my assistants, and told him about what I was going for, why I was doing that, what I was planning on making in my closing argument. I had absolutely no plans whatsoever to put up any witnesses.

He insisted that I call these two people as witnesses. My assistants, both of them local young ladies who knew the area and knew the people, had talked to all these people, had talked to the two people that Mr. Holmes wanted me to call, and basically said, Don't do it; they're not going to help you; they're going to hurt you. I trust these two women. They have been around. They know the people. I did not want to call any witnesses. I definitely did not want to lose final argument.

ATTORNEY FALK: If I may approach, I need to get my transcript back.

Q Which Murdaugh was it? Was this the older?

A There were two Murdaughs as assistant solicitors. There was

Randolph Murdaugh III who was former solicitor who recently passed away, and his son, Alex Murdaugh, who does work as a part-time assistant solicitor. He is with the law firm of Peters, Murdaugh, Parker, Eltzroth and Detrick.

Q All right. So it's Alex Murdaugh who was the assistant solicitor. Were they both -- did they tag-team this?

A Yes.

Q Okay. I wasn't paying attention to --

A Alex did a lot of the cross on the two witnesses that I put up.

Q Alex knew an awful lot about that video game?

A Yes, he did. That shows a lot about him, either misspent used or misspent adulthood.

Q Can you just kind of characterized his cross-examination versus -- well, first of all, what was the substance of his alibi testimony?

A That he had been with the witness; that Mr. Holmes had been with the witness.

Q And they were in the house together?

A Yes.

Q And what, was he testifying, why were they both in the house? I mean, what was he doing in the house?

A I do not remember.

Q No. What was B.J. doing in the house?

A I'm sorry?

Q What was the cousin doing in the house?
A Playing a video game.
Q Okay. That's what I meant. And so --
ATTORNEY FALK: Your Honor, this starts at about page 222.
THE COURT: Okay.
Q Is it fair to describe this video game as one of these online games where you're playing with a bunch of other players?
A That were the impression I got from both the witness and from Assistant Solicitor Murdaugh.
Q So you didn't know anything about the game?
A I had absolutely -- I had never heard of the game before.
Q Would you admit that his cross-examination of Mr. Holmes was prejudicial to your case?
A He ate him alive.
Q If I could just lead just a little bit here, so, I mean, basically his testimony was he couldn't have known where Sidney was if he was playing a video game because every time he'd leave his controller, he'd die; right?
A That was the impression that I got.
Q It was one of these online war games like Call of Duty?
A I don't play online video games, so I don't know what it's like.
Q I don't know, either, other than reading this.
A Right.
Q And so it seemed to me, from reading this cross-examination,

that he lied about it; that if he left the game he got shot and he would have to start all over from the beginning?
A That was the impression I got also.
Q And so he left the jury with the impression that B.J. Holmes wouldn't have taken his focus off the television screen for a second?
A That was the impression I got also.
Q Okay. And, therefore, he wouldn't be reliable testimony regarding where Sidney Holmes was?
A Correct.
Q You said the ladies in your office, they're like parallel staff's assistant?
A They're staff assistant. They are people who are local, who grew up in the area, who know the people. They act as quasi-investigators. I have learned over the years that they're very reliable as far as judging people. Since I am not local to Hampton County I trust people who are local to know the people, know their reputation, know rumors, know gossip.
Q Okay. But did they ever talk to Holmes about the alibi?
A Which Holmes?
Q Did they ever interview B.J. Holmes about --
A I got the impression that they had definitely talked to both of the people that Mr. Sidney Holmes wanted me to call.
Q So that would include B.J. Holmes?
A Yes.

Q And his testimony was the most damaging; would you not agree?
A I won't call it damaging. It didn't help. It did help bolster the assistant solicitor, but I don't know if it definitely hurt the case. It didn't help me.
ATTORNEY FALK: One moment, Your Honor.
THE COURT: Sure.
Q But you would agree that if Ms. Bryant was not able to point out Sidney Holmes in the courtroom the State would have a hard time proving identity; would you not?
A Yeah. Yes, I would. I would agree with that 100 percent.
Q When did Sidney Holmes first talk to you about B.J. Holmes, calling him as a witness?
A Oh, months before. He talked about a number of different things, a number of people. You know, I want to find out if he's with somebody. It's very nice if they're sitting in a restaurant somewhere --
Q Right.
A -- when this takes place, that I can get the films. When he tells me that he's at a relative's house, that causes me concern. I don't see that as an alibi. Jurors don't trust relatives.
Q Sure. And you had alluded to the fact that you thought Mr. Holmes, B.J. Holmes, would perjure himself?
A I was scared that he would, and I was even more scared that a jury would think that he was.

Q But obviously -- I mean, you led him through a direct examination; you didn't just ...

A Right, because I did not know that he -- and I will say this: Both witnesses were 100 percent honest. They took their oaths serious. It didn't help me, but they were honest.

ATTORNEY FALK: Your Honor, I have no further questions at this time.

THE COURT: All right. Ms. Weidauer.

CROSS-EXAMINATION

BY ATTORNEY WEIDAUER:

Q Good morning.

A Good morning.

Q I'd like to lay some preliminary questions down for the record.

A I'm sorry. Could you speak up?

Q Yes. I would like to ask some preliminary questions for the record.

A Yes, ma'am.

Q How long have you been practicing law?

A I have been practicing law for 18 years.

Q And how much of that has been criminal?

A All but one year when I did Family Court.

Q How long before Mr. Holmes' trial were you appointed?

A I do not know the exact date, but generally, a murder case, we got a year other two before the case goes to trial.

Q And do you remember roughly how many times you met with Mr. Holmes before or over the course of your representation?
A I would try to see once a month. At that time I had probably seven or eight clients charged with murder over a three-county area. If I didn't meet with him, my assistants did. They did go to the Hampton Detention Center a number of times. We would make sure that he was provided with any discovery he requested or anything like that. I tried to meet with him as often as possible. I cannot give you exactly number times or when.
Q And you felt like you had enough time to meet with him before trial?
A Oh, definitely. The week before trial I generally see them two or three times.
Q During those meetings you discussed the State's burden of proof?
A Yes.
Q And did you discuss the strengths and weaknesses of your case?
A I'm sorry?
Q You discussed the strengths and weaknesses of Mr. Holmes' case?
A Of course.
Q What type of investigation did you do or did Mr. Holmes suggest that you do?

A The investigation I did would be have my assistants go talk to people, see if they picked up anything. I would read over the incident report, looking for pluses and minuses.

I do remember in this case the big pluses were there was no forensic evidence. That is always -- because jurors want to see CSI, they want to hear the lab techs. That helps in this case.

Minuses: He wasn't local. I know you're not supposed to take that in consideration, but jurors do.

Q And your strongest defense, you testified before, was that it was a low-light environment in which this --

A Low-light/distance environment to a stranger.

Q Were there any issues that you felt were particularly problematic for him?

A He wasn't local.

Q He wasn't local, okay. And you had discussions with Mr. Holmes about your theory and strategies before trial?

A Of course.

Q I'd like to clarify your testimony before regarding the *Neil v. Biggers* hearing, that applicant alleges you should have made or had. You said that was part of your trial strategy?

A I wanted the juror to put theirselves in a situation where, if they could try to identify someone at night, in low light, from a distance, and how sure they could be.

Yes, she identified him from the stand, but he was the African-American man sitting next to the heavy-set, white guy at

the table where the solicitor wasn't at. He was the person that she was going to point to. That didn't hurt me. That's easily explained.

Q And you, I believe, made that same argument in your closing?

A Yes.

Q As to the allegation of your failure to object to testimony from Jake Sullivan, the man that applicant called on the night that --

A Didn't hurt me.

Q Okay. And that did not identify your client in any way?

A No.

Q Let's move on to Benjamin Holmes, his cousin. Whose decision was it ultimately to call Benjamin Holmes?

A Sidney Holmes. I did not want him.

Q And you believed there were specific risks involved with calling him?

A It has been my feeling, my -- and it's been shown that jurors generally do not believe a relative to provide an alibi.

And what's even more scarier is that, if a juror thinks that someone that I trust enough to put on the stand is going to lie to them, everything I have said to them or will say to them is a lie; that I would do anything to get my client off, and that just total ruins the case.

Q And you do recall that this was a last-minute decision to put him on?

A The State had already rested. I was preparing closing. I was going to rest, but when I talked to Mr. Holmes, Mr. Holmes insisted that I call these two people as witnesses.

I explained to him, my associates explained to him, how dangerous that was, but this was Mr. Holmes' case. Mr. Holmes was the one up on trial, and even though I was the one in charge of the trial I bowed to Mr. Holmes' wishes because, like I said, this is what he wanted.

Q And it's your opinion that that ultimately hurt him?

A I won't say that it ultimately hurt him, but it had absolutely no positive effect. Mr. Alex Murdaugh's cross did a wonderful job of promoting Mr. Alex Murdaugh, and even though the two young men told the truth, they had absolutely positive effect on the case.

ATTORNEY WEIDAUER: Thank you.

REDIRECT EXAMINATION

BY ATTORNEY FALK:

Q Would you agree that if you had an in-camera hearing on Zandra Bryant's testimony you still could have tried to impeach her before the jury if you lost?

A Yes.

Q And you would agree that if you had the hearing and Judge Buckner let it in and you objected, you could have saved the issue for appeal; is that correct?

A Yes.

ATTORNEY FALK: No further questions.

THE COURT: All right. You may step down.

THE WITNESS: Thank you, Your Honor.

ATTORNEY FALK: I'd like to call Mr. Holmes.

SIDNEY A. HOLMES,

having first been duly sworn, was examined and testified as follows:

CLERK OF COURT: And if you could just state your first and last name, and spell out your last name for the court reporter.

THE WITNESS: Sidney Holmes, H-o-l-m-e-s.

DIRECT EXAMINATION

BY ATTORNEY FALK:

Q Mr. Holmes, so Robert Hughes represented you in this case?

A Yes, sir.

Q What kind of conversations do you recall regarding the strategy?

A Oh. We was -- we was going off of -- he was saying that there was --

Q I think you're going to have to quit rocking and be in front of the mic, because I can't quite hear you.

A We was going off of Zandra Bryant identification. She made, like, two prior statements, like, the night of it this saying she didn't know what happened, and she gave a description of a guy wearing all black with a red shirt and a ball cap pulled down low. So that basically what we was going off of, cause he was

saying that there was nothing else that could have tied me to it.

So probably like a week or a couple days before my trial, that's when the statement came in with Zandra Bryant stating that she saw me do this, two-and-a-half years later. And all throughout my two-and-a-half years, I couldn't get my motion or nothing. When I finally did start talking to Mr. Hughes, and that's what we was going off of, and so he asked me did I have any -- know of anybody who can vouch that I wasn't there. So I told him my cousin B.J. and his mom. That's who allegedly it was supposed to be.

The second day of my trial, that's when I asked for Courtney -- I forgot, I can't remember Courtney's last name -- but she said she was with Miss Bryant when this happened, you know, and they didn't see nothing.

Q Ms. Bryant originally told the police officers that she didn't name you as at the scene?

A Yes. When she talked to Jake Sullivan, Jake Sullivan was on the phone when the incident occurred, and Miss Bryant picked up the phone, and Mr. Sullivan told her that he wanted to talk to her whenever he get there.

So she talked to another officer before Mr. Sullivan got there, and she stated to that officer that she didn't know what happened.

Q Okay.

A When Mr. Sullivan came that's when she didn't -- told him

she didn't know anything, and just give a description of what the guy had on. So that was my reason of calling Miss Courtney on, like, the second day of my trial, or the third.

Q Okay. Whose decision was it to call B.J. Holmes?

A Me.

Q Okay.

A It was supposed to be B.J. and my Aunt Pam [ph], cause we was all at the house.

Q Okay. Now, Mr. Hughes said that you weren't local. What did he mean by that?

A I'm from Colleton County, from Walterboro.

Q And this took place in Hampton County, obviously?

A Yes, sir.

Q In Hampton?

A Yes, sir, in Hampton.

Q And had you ever met Zandra Bryant before?

A No, sir.

ATTORNEY FALK: Your Honor, I have no further question.

CROSS-EXAMINATION

BY ATTORNEY WEIDAUER:

Q It's your testimony that you've never met Zandra Bryant before?

A Yes, ma'am.

Q How do you think, in regards to failing to prepare B.J. Holmes, how do you think your attorney failed to prepare him to

testify?
A Probably should have talked more. You know.
Q Okay.
A I didn't -- I didn't really know nothing about it. You know, he asked me, like, did I have somebody who could put me at my aunt house. You know. Like, we wasn't there, cause a phone call, like, moments later, and, you know, we was there with my aunt and my uncle and some more people. He stated who I was with. I told him who I was with.
Q What did you expect Mr. Holmes to say at trial or testify to?
A The truth, that I was at my aunt house when it happened, cause the call came when I was there.
ATTORNEY WEIDAUER: Thank you, Your Honor.
THE COURT: Okay. Anything else, Mr. Falk?
ATTORNEY FALK: No, Your Honor.
THE COURT: All right. You may step down.
ATTORNEY FALK: We have no further witnesses.
THE COURT: All right. Do you want to --
ATTORNEY WEIDAUER: Your Honor, if we could make a brief closing statement?
THE COURT: Sure. I was just about to ask if you all wanted to briefly summarize. I'll let you do that.
ATTORNEY FALK: Who goes first?
ATTORNEY WEIDAUER: My computer just shut off, if you'd like

to go first.

ATTORNEY FALK: Your Honor, we appreciate that certainly a lot of latitude is given to trial strategies and certainly Mr. Hughes was in the courtroom and I wasn't, so as far as some of my concerns about the closing argument by Mr. Murdaugh, that is what it is. I'm not sure.

But the thing I really have a problem with is I see it as having been no risk to try and challenge that in-court identification whenever the lady first -- first of all, she changed her testimony from, you know, didn't know who it was, and right on the eve of trial she then says, Oh, it was Sidney Holmes.

And then all the evidence that Mr. Hughes had as far as low-light identification, he could have presented that to Judge Buckner, along with his change in testimony, and Judge Buckner may or may not have let the testimony in.

I think that lacking any other identification testimony -- I mean, if he keeps that testimony out the State can't survive a directed verdict motion. And I'm not sure, you know, it's hard to say what they would do now, but the trial strategy to not to at least try that when there was so much in this case as far as low lighting and the fact that, you know, she sort of identified him by his name but, you know, he's not from the area, I think there was plenty there, there was plenty meat on the bone that Judge Buckner may not have allowed the lady to testify. But we

don't know what Judge Buckner was going to do.

I appreciate that I have the burden to show prejudice here, but there was just no -- I don't see the risk that he faced by trying the hearing first, and then at least he could have preserved the issue for appeal.

I think it was sort of a risky trial strategy to go forward with. I mean, I appreciate, you know, he was trying to do to her what the State did to him as far as B.J. Holmes. I think anytime you put a witness up and they're unreliable, it hurts the entire case. I can appreciate that part of the strategy, but not taking a free swing at it first, I don't understand.

And that's basically my point.

THE COURT: Okay.

ATTORNEY WEIDAUER: I'd like to start by saying that our Supreme Court has never recognized cumulative error, and that each allegation should be judged independently of one another.

We talked about B.J.'s testimony. Other than B.J.'s testimony, counsel discounted each allegation and raised it as part of a clear trial strategy that he had at the time of trial based on his 18 years of experience.

His testimony today reflected -- today reflecting on what he could have done is not relevant to his valid trial strategy at the time of the trial.

To the *Neil v. Biggers* issue, counsel stated there was no photo lineup and, therefore, there was no reason to request a

Biggers hearing.

He also stated that the full testimony, he wanted that to come in to show the jury, through cross-examination, that the identification at all was wholly unreliable due to the low light and the distance.

As to the failure to object to hearsay in the solicitor's closing argument, counsel stated, again, was a clear trial strategy for that to why he did not object.

Finally, his failure to prep B.J. Holmes, applicant's cousin, counsel stated he did not call plan on calling him as a witness because he was, again, scared B.J. would perjure himself and the jury would recognize that and that would weaken their case. Counsel also stated that, in his experience, juries generally distrust family members, especially for something like establishing an alibi. He also believed that the jurors' distrust in B.J. would cause the jury to question everything that they had put down at that point.

THE COURT: All right.

ATTORNEY FALK: Your Honor, I'm not resting -- I mean, *Biggers* is sort of narrow, but I believe that *State v. Livermore* case is a little bit more expansive and it follows -- I'm not sure if it's -- *Perry v. New Hampshire*, or something, where, my reading of the case -- because prior to *Livermore* you never got a *Biggers* hearing if the person knew him. All the person had to say was, I already knew him before, so it's not a stranger

identification. And I think certainly the tenor of *Livermore* was that basically anytime there's an eyewitness identification, that's an opportunity to have an in-camera hearing regarding reliability.

THE COURT: I think that's consistent with law. Okay. All right. Let me read all this stuff, and I'll let you know.

ATTORNEY FALK: Thank you.

(End of Transcript of Record.)

CERTIFICATE OF REPORTER

I, Cathy J. Provost, Official Court Reporter for the Fourteenth 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/proceedings of the captioned case in the Court of Common Pleas for Hampton County, South Carolina, on the 13th day of August, 2021.

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

Date: July 4, 2023

\s\ Cathy J. Provost
Cathy J. Provost, RMR
Official Circuit Reporter

STATE OF SOUTH CAROLINA COUNTY OF HAMPTON	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT
Sidney Holmes, #335918, Applicant,	)	Case No.: 2018-CP-25-0501
v.	)	**ORDER OF DISMISSAL**
State of South Carolina, Respondent.	)	

FILED
AM/PM
DEC -7 2023
MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

This matter comes before this Court by way of an application for post-conviction relief (PCR) filed by Sidney Holmes (Applicant) on December 12, 2018. Respondent made its return requesting an evidentiary. On August 13, 2021, an evidentiary hearing convened before the Honorable Eugene C. Griffith, Jr. Applicant was present and represented by James K. Falk, Esquire. Assistant Attorney General Samantha J. Weidauer represented Respondent. At the hearing, Applicant testified on his on behalf and called as a witness trial counsel Robert Hughes, Esquire. After reviewing all records and evidence before this Court, this Court finds Applicant failed to meet his burden of proof and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections serving a cumulative fifty-one-year sentence. In April 2016, the Hampton County Grand Jury indicted Applicant for murder (2015-GS-25-00265), unlawful carrying of a pistol (2015-GS-25-00266), discharging a firearm at or into a dwelling or a structure (2015-GS-25-00267), and possession of a weapon during the commission of a violent crime (2015-GS-25-00268). On March 13, 2017, Applicant proceeded to a jury trial before the Honorable Perry M. Buckner, III. Robert Hughes, Esquire, represented Applicant, and Randolph Murdaugh and R. Alexander Murdaugh, Esquires,

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prosecuted the case. The jury convicted Applicant as indicted, and Judge Buckner sentenced him consecutively to forty years for murder, five years each for possession of a weapon and discharging a weapon, and one year for unlawful carrying of a pistol.

Applicant filed a timely notice of appeal that was perfected by Appellate Defender Susan B. Hackett through filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The Court of Appeals dismissed pursuant to Anders. The remittitur was sent December 13, 2018.

Summary of Relevant Trial Testimony

On August 1, 2015, Steve Cochran (Victim), the maintenance man at Hampton Garden Apartments, was shot after running off a group of men. (R. 49-52). At trial, Officer Jake Sullivan testified Victim had called him that evening to ask him to send an officer to check the apartment complex; Sullivan told him he had run off a group of men that were drinking and wanted to make sure they did not return. Sullivan testified that while he was on the phone with Victim, Victim began screaming, "Help me, Jake! They shot me." Sullivan testified he also heard screaming in the background and a woman say, "They shot him." Sullivan responded to the scene. (R. 49-50).

Zandra Bryant testified she was at the apartment complex that evening and saw a group of people outside drinking. She stated Victim approached them and told them to leave. (R. 55-57). Bryant testified the group left but appeared to be mad about leaving. (R. 57). She stated about twenty minuts later she "observed an individual walk from behind the building, stop directly in front of [Victim], and just start[] shooting." (R. 58). Bryant identified Applicant as the shooter, whom she knew as "Banger." (R. 58-59). Bryant stated she initially did not provide Applicant's name to law enforcement because she was scared. (R. 61, 65). However, she stated he ran right past her and she recognized him. (R. 61).

Another witness, Courtney Russell, was standing outside the apartment talking to Bryant

and two others when she heard gunshots. (R. 210-11). She ran inside for several minutes before checking on Cochran and dialing 911. (R. 210-11). She repeatedly stated she did not see who shot Cochran. (R. 211-12, 214, 216). She then stated that the shooter was in a red shirt. (R. 212). Thereafter, she stated that an unknown person shot the deceased. (R. 217).

Cochran suffered four gunshot wounds, including a fatal one to his chest. (R. 104-05, 107). Five shell casings were recovered from the scene, and they were determined to have been fired from the same gun. (R. 121, 153). The State also presented a jail call placed using Applicant's pin number; in the call he asked, "Did you sell that whistle" or "Did you get rid of that whistle." (R. 165). An investigator testified that based on his training, the term "whistle" is street slang for a firearm. (R. 165-66).

Applicant called his cousin, Bejamin Holmes, to testify. He stated that he and Applicant were at the apartment complex between 6pm and 7pm that night before returning to Holmes' house for the night. (R. 219-20, 224).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Ineffective assistance of counsel.
2. Due Process Violations.
3. Failure to investigate.

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel for:
    a. Failure to request a *Liverman* or *Biggers* hearing.
    b. Failure to object to hearsay.
    c. Failure to prepare Benjamin Holmes' testimony.
    d. Failure to object to the State's improper closing argument.

All other allegations raised in his initial application and amendments are deemed waived

and abandoned and, accordingly, will not be addressed in this order.

Summary of PCR Testimony

Counsel testified he was appointed Applicant's case while at the Public Defender's Office. (PCR 6). He stated the trial defense was to challenge the identification based on low lighting and distance identification. (PCR 6). Counsel testified Bryant's identification was not compelling because it was very impeachable and there was a lot of room for error when making the identifications. (PCR 6). Counsel testified the State introduced a six-pack photo lineup at trial. (PCR 7). He stated he did not consider a Biggers hearing because he wanted the witness to testify at trial to show the jury that she could not have seen what she thought she saw, and he wanted to focus on cross-examining her. (PCR 8, 22). Counsel testified there was very little other evidence implicating Applicant. (PCR 8). Ultimately, as his strategy, he wanted to stress to the jury that the identification was flawed because it was done at night in low light and from a distance. (PCR 8, 22). He stated he made this argument during closing argument. (PCR 23). Counsel acknowledged, however, that had he had an in-camera hearing with Bryant, he could have tried to impeach her and, ultimately, preserved the issue on appeal. (PCR 24).

Counsel testified Jake Sullivan was one of the first officers on the scene. (PCR 9-10). He acknowledged he did not object to Sullivan testifying about the phone call he received from the victim. (PCR 10). Counsel averred he could have excluded a portion of the call, but several other witnesses could have testified about the prior altercation. He explained that by allowing evidence of the altercation through the phone call, the jury may "not have paid that much attention to it." (PCR 10-11). Counsel further explained, "[T]he primary thing is it did not really hurt the low-light identification that I was working on." He did not believe he could keep out the entire phone call and explained, "I did not want to keep that testimony out because if I kept out any part of it a

juror would be more questioning about what was said and what I was hiding." (PCR 11). Counsel averred Sullivan's testimony was not harmful and did not identify his client in any way. (PCR 23).

Counsel testified that he did not object to the State's closing argument because the prosecutor was long winded and boring, and the "last thing [he] wanted to do was to wake a juror up." (PCR 13). He stated that he thought the jury was ignoring the prosecutor. (PCR 13-14).

Counsel testified Applicant wanted to call his brother to testify at trial, but he did not prepare his testimony because he thought the brother would perjure himself. He explained, "[T]he last thing I wanted to do was to get any solid information that he would perjure himself so I would avoid putting perjury testimony up." Counsel stated he discussed this with Applicant. (PCR 15). He stated he did not plan on calling any witnesses, but Applicant that they be called despite counsel's advice to the contrary. (PCR 15).

Counsel stated Applicant's alibi defense was he had been with Holmes playing video games, but the solicitor destroyed Holmes on cross-examination. (PCR 16-18). He stated Holmes ultimately was not helpful to the defense and bolstered the State's case. (PCR 19). He stated he talked to Applicant about this witness months before trial, and he believed Applicant being at a relative's house as his alibi was problematic because "[j]urors don't trust relatives." (PCR 19). He clarified it was Applicant's decision to call Holmes to testify; counsel did not want to call him and did not believe his testimony helped the defense. (PCR 23-24).

On cross-examination, he stated he had this case for about a year or two before trial. (PCR 20). He stated he tried to meet with Applicant about once a month, and he did not meet with Applicant personally, his assistants did. (PCR 21). He stated he met with Applicant two or three times the week before trial and discussed the burden of proof and the strengths and weaknesses of the case. (PCR 21-22). Counsel testified that his investigation of the case consisted of having his

assistants talk to people, reading over the incident report, and assessing the strengths and weaknesses of the case. (PCR 22). He stated there was no forensic evidence, but the biggest weakness was Applicant was not local. (PCR Tr. 22). Counsel testified he discussed trial strategy with Applicant. (PCR 22).

Applicant testified counsel focused on the questionable nature of Bryant's identification and the lack of evidence beyond the identification. (PCR 25-26). He stated he asked counsel to call "Courtney," who was with Bryant and "didn't see nothing." (PCR 26-27). He testified he had never met Bryant. (PCR 27). Applicant averred counsel should have talked to Holmes more before he testified at trial. (PCR 28). He stated he expected Holmes to tell the truth; namely that Applicant was at his aunt's house when the incident occurred. (PCR 28).

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the records before it, including the Hampton County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, Applicant's appellate records, the trial transcript, and this PCR action's records. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of fact and conclusions of law as required by S. C. Code Ann. § 17-27-80 (2017).

Ineffective Assistance of Counsel

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). In a PCR action, an applicant bears

the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When the application alleges ineffective assistance of counsel, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, a PCR applicant must prove that 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.

Failure to Request Biggers Hearing

This Court finds Applicant failed to prove counsel was ineffective for not requesting a Biggers hearing. The United States Constitution's Due Process clause prohibits police eyewitness identification techniques that are "so suggestive as to violate due process." Manson v. Brathwaite,

432 U.S. 98, 105 (1977). An identification procedure must be *both* unnecessarily suggestive and conductive to irreparable misidentification in order to violate due process. State v. Traylor, 360 S.C. 74, 81, 600 S.E.2d 523, 526 (2004). "Only if [the procedure] was suggestive need the court consider the second question—whether there is a substantial likelihood of irreparable misidentification." State v. Moore, 343 S.C. 282, 287, 540 S.E.2d 445, 447-48 (2000). Factors considered in analyzing whether the identification was mistaken include "the opportunity of the witness to view the criminal at the time of the crime, the witness' degree of attention, the accuracy of the witness' prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation, and the length of time between the crime and the confrontation." Neil v. Biggers, 409 U.S. 188, 199-200 (1972).

Initially, this Court finds it is not reasonably likely the identification testimony would have been excluded had counsel requested a Biggers hearing. Specifically, at trial, Bryant testified she saw Applicant—whom she knew as "Banger"—shoot Victim and run past her. Nothing about this testimony suggests she identified him from a lineup or shows police engaged in an unduly suggestive police procedure, and Applicant did not set forth at the PCR hearing *what* was unduly suggestive that could have excluded the identification.[1] Ultimately, Applicant failed to show a reasonable likelihood the identification would have been suppressed through a Biggers hearing and thus failed to prove prejudice.

Additionally, this Court finds counsel's testimony to be credible to wit: that he chose to focus on cross-examining Bryant rather than conducting a Biggers hearing. Because nothing suggested an unduly suggestive identification procedure by police, this Court finds counsel's decision in this case to focus on cross-examining Bryant rather than preparing for a Biggers hearing

[1] Notably, at the PCR hearing, Applicant did not introduce any lineups used or show how they were allegedly unduly suggestive. Thus, any finding about an unduly suggestive lineup would be pure speculation.

was reasonable under prevailing professional norms. Thus, Applicant did not prove deficiency or prejudice, and this claim is denied.

Failure to Object to Hearsay

This Court finds that Applicant has not met his burden of proving counsel was ineffective for failure to object to Officer Sullivan's testimony concerning the phone call he received from Victim on the grounds of hearsay. In support, he points to the following testimony from Officer Sullivan:

> I answered the phone and [Victim] was on the other end of the line and he stated that he had been trying to call the police department and had tried several times and couldn't get anyone. I laughed at him and told him, you know, the police department is not open 24 hours a day. We have office hours and that he would have to call 9-1-1. He said, "Well, the office wasn't open, so I just decided to call you since I had your number." We continued to talk and I told him that in the future he could call our dispatch non-emergency number and he told me to text him that number after the phone call was over. I told him I would. He went on to say that the reason for the call was that he had approached a group of black males in the Hampton Garden Apartments a few minutes before. They were out there drinking and had loud music and potentially were smoking some illegal narcotics. He stated that he had run them off. He advised them that if they lived in the apartments to go back to their apartment. If they did not live there, to go to the apartment of the individual they were visiting. He said they left the scene and he just asked for us to have an officer come back through a little later just to make sure they didn't return.

(R. 48-49).

Initially, counsel articulated a reasonable, strategic decision for not objecting. Specifically, counsel credibly testified that he did not think Sullivan's testimony hurt his case or countered his defense. Additionally, he credibly testified the State had other witnesses who could have testified about the altercation, and he did not want to draw further attention to Sullivan's testimony about an altercation by objecting. This Court finds that counsel's decision was reasonable and not

deficient.

Additionally, Applicant failed to prove prejudice. Although some of the forgoing could have potentially been excluded under a hearsay objection, much of it—such as testimony about how Victim called the police department rather than 9-1-1—was not material to Applicant's guilt and innocent. Thus, it is not reasonably likely the outcome would have been different had that testimony been excluded. Likewise, Sullivan's testimony that Victim said he had run off a group of individuals was cumulative to Bryant's testimony that she observed Victim run off a group of individuals; thus, it is not reasonably likely the outcome would have been different had that statement been excluded. Ultimately Sullivan never identified Applicant as a potential shooter. Applicant failed to point to testimony that likely would have been excluded based on hearsay *and* that would have made a difference in the outcome of trial. Thus, Applicant failed to prove prejudice, and this claim is denied.

Failure to Prepare Holmes' Testimony

This Court finds that Applicant has not met his burden of proving counsel was ineffective for not further preparing Benjamin Holmes to testify at trial. Initially, this Court finds credible counsel's testimony that he did not speak to Holmes before trial because he was concerned his conversations would reveal perjured testimony. (PCR 15). This Court further finds credible counsel's testimony that he did not believe Holmes's testimony would offer a credible alibi, but he ultimately called him at Applicant's insistence. Based upon the foregoing, this Court finds counsel's decision to not further prepare Holmes was reasonable under prevailing professional norms and not deficient.

Further, Applicant did not provide any evidence of what Holmes's testimony would have been had counsel further prepped his testimony and thus did not prove prejudice. Because Applicant has failed to meet his burden, this claim is denied.

Failure to Object to the State's Closing Argument

This Court finds Applicant failed to prove counsel was ineffective for not objecting to the State's closing argument. "To find whether the assistant solicitor's comments in closing argument violated the defendant's due process rights, we must determine whether the comments were improper, and if so, whether the improper argument so unfairly prejudiced the defendant as to deny him a fair trial." Fortune v. State, 428 S.C. 545, 549, 837 S.E.2d 37, 39 (2019). In determining whether an improper comment prejudiced a defendant, "[t]he relevant question is whether the prosecutors' comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." Darden v. Wainwright, 477 U.S. 168, 181 (1986).

At the PCR hearing, Applicant averred counsel should have objected to the following:

> So we know he had a gun at some point in time. Then, a lady who I have got all the admiration in the world for, that woman is scared to death her entire life. She's got four children that live out there. She is scared of these people, but she had the guts to walk into this courtroom and she had the guts to tell the truth. The truth being that Sidney Holmes walked up and shot Steve Cochran because he was teed off with him for running him off earlier. How she had the guts to do it, I don't know, but I admire her.

(R. 243).

> And you will have all of this stuff in the jury room with you, so you don't have to worry about asking if it came in there. Right in there, ladies and gentlemen, I'm just going to point it out so you will know where to look. "*Then, an unknown person came from around the building and shot Mr. Steve." And if y'all believe B.J. Holmes, we've got a sad state of affairs. Thank you.*

(R. 255).[2]

[2] The italicized portion is the portion Applicant identified as objectionable.

Initially, this Court finds the forgoing are reasonable inferences from the trial testimony. Applicant did not identify any legal basis for objecting to these statements in his application or at the PCR hearing and thus did not meet his burden of proving deficiency. Further, this Court finds credible counsel's testimony that the jury was bored and seemingly tuning out during the State's closing argument, and an objection might have "woken them up." Counsel was present at trial and in the best place to ascertain how the jury was responding to the closing. Ultimately counsel articulated a valid reason for not objecting and was not deficient. Likewise, Applicant failed to identify what objection should have been made and thus did not prove deficiency.

Further, the foregoing comments did not "so infect the trial with unfairness as to make the resulting conviction a denial of due process." See Darden v. Wainwright, 477 U.S. 168 (1986) (finding prosecutor's improper comments—which included statements such as "He shouldn't be out of his cell unless he has a leash on him" and "I wish that I could see him sitting here with no face, blown away by a shotgun"—did not "so inject the trial with unfairness as to make the resulting conviction a denial of due process"). Applicant failed to prove deficiency or prejudice, and this claim is denied.

Conclusion

Based on the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek

appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and

2. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 1st day of November, 2023.

EUGENE C. GRIFFITH, JR.
Presiding Judge
Fourteenth Judicial Circuit

Hardeeville, South Carolina.

WITNESSES

J. E. Sullivan - Hampton Police Department

N A Ginn - Hampton Police Department

ARREST WARRANT NUMBER

2015a2520300134

DOCKET NO. 2015GS2500265

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Sidney Antoine Holmes

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

TRUE BILL

Foreperson of Grand Jury

Date: APR 2 9 2016

VERDICT

Guilty

Norman Bostic

Foreperson of Petit Jury

Date: 3-15 2017

INDICT

2017 MAR 15 PM 3:05

MYLINDA D. HETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

BY

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED

MAR 20 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT

2015GS2500265

At a Court of General Sessions, convened on April 29, 2016, the Grand Jurors of Hampton County present upon their oath:

Murder

That in Hampton County, South Carolina, on or about August 1, 2015, the Defendant, Sidney Antoine Holmes, did, with malice aforethought, kill Steven Douglas Cochran and Steven Douglas Cochran did die as a proximate result of Sidney Antoine Holmes's actions, to wit: shooting him, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

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

Solicitor

TRUE BILL

RECEIVED
MAR 2 0 2017
SC Court of Appeals

360

WITNESSES

J. E. Sullivan - Hampton Police Department

N A Ginn - Hampton Police Department

ARREST WARRANT NUMBER

2015a2520300136

DOCKET NO. 2015GS2500266

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Sidney Antoine Holmes

Indictment For

Unlawful Carrying of Pistol

SC Code: 16-23-20

CDR Code: 0044

TRUE BILL

Foreperson of Grand Jury

Date: APR 2 9 2016

VERDICT

Guilty

Norman Bostick

Foreperson of Petit Jury

Date: 3-15-17

INDICT

2017 MAR 15 PM 3:09

MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

BY

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT

2015GS2500266

At a Court of General Sessions, convened on April 29, 2016, the Grand Jurors of Hampton County present upon their oath:

Unlawful Carrying of Pistol

That in Hampton County, South Carolina, on or about August 1, 2015, the Defendant, Sidney Antoine Holmes, did carry about his person a handgun, whether concealed or not, while not authorized to do so under Section 16-23-20, all in violation of Section 16-23-20, et al. of the Codes of Law of South Carolina.

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

Solicitor

TRUE BILL

WITNESSES

J. E. Sullivan - Hampton Police Department

N A Ginn - Hampton Police Department

ARREST WARRANT NUMBER

2015a2520300136

DOCKET NO. 2015GS2500267

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Sidney Antoine Holmes

Indictment For

Discharge Firearm At or Into Dwelling or Occupied Vehicle

SC Code: 16-23-440(A)

CDR Code: 0052

TRUE BILL

Foreperson of Grand Jury

Date: APR 2 9 2016

VERDICT

Guilty

Norman Bostick

NORMAN Bostick

Foreperson of Petit Jury

Date: 3-25-2017

INDICT

FILED

2017 MAR 15 PM 3:05

RYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

BY: _____

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT

2015GS2500267

At a Court of General Sessions, convened on April 29, 2016, the Grand Jurors of Hampton County present upon their oath:

Discharge Firearm At or Into Dwelling or Occupied Vehicle

That in Hampton County, South Carolina, on or about August 1, 2015, the Defendant, Sidney Antoine Holmes, did discharge, or cause to be discharged, a firearm at or into a dwelling house, other building, structure, or enclosure regularly occupied by persons, to wit: office at Hampton Garden Apartments, all in violation of Section 16-23-440(A), et al. of the Codes of Law of South Carolina.

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

Solicitor

TRUE BILL

WITNESSES

J. E. Sullivan - Hampton Police Department

N A Ginn - Hampton Police Department

ARREST WARRANT NUMBER

2015a2520300137

DOCKET NO. 2015GS2500268

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Sidney Antoine Holmes

Indictment For

Possession of Weapon During Violent Crime

SC Code: 16-23-490

CDR Code: 0549

TRUE BILL

Foreperson of Grand Jury

Date: APR 2 9 2016

VERDICT

Guilty

Norma Basley

Foreperson of Petit Jury

Date: 3-15-2017

INDICT

FILED
2017 MAR 15 PM 3:09
MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.
BY

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2015GS2500268

At a Court of General Sessions, convened on April 29, 2016, the Grand Jurors of Hampton County present upon their oath:

Possession of Weapon During Violent Crime

That in Hampton County, South Carolina, on or about August 1, 2015, the Defendant, Sidney Antoine Holmes, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime as defined in Section 16-1-60, to wit: murder, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

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

Solicitor

TRUE BILL