

Volume IV of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

James R. Barber, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY HACKSHAW,

APPELLANT

Appellate Case No. 2010-177006

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE'S EXHIBIT #69 (RECORDED STATEMENT OF TORRIAN GLEATON)

closing argument on the law by Ms. Campbell

1521

1 possession of a firearm during the commission of a violent
2 offense. And very simply, ladies and gentlemen, all we have
3 to prove is that on the date in question Anthony Hackshaw had
4 a gun and while he was committing or attempting to commit
5 murder, and the judge will instruct you: Murder is
6 considered a violent offense.

7 Now, in every case in criminal cases there are two types
8 of evidence that you can consider: Direct evidence and
9 circumstantial evidence. And what is the difference between
10 the two? Direct evidence is typically thought of as
11 eyewitness testimony. Eyewitnesses come up here and testify
12 to what they saw, what they heard, smelled, tasted, touched,
13 that which is perceived through the senses, direct evidence.
14 In many cases there's also circumstantial evidence, and in
15 this case there's some of both.

16 Circumstantial evidence has been defined by our courts
17 simply in this manner. There are two types of evidence which
18 are generally presented during a trial: Direct evidence and
19 circumstantial evidence. Direct evidence is the testimony of
20 a person who asserts or claims to have actual knowledge of a
21 fact such as an eyewitness. In this case you also heard from
22 many witnesses who actually got information from the
23 defendant himself: Joseph Smith. Terran Hughey. Travis
24 Golston. Those are all direct testimony, eyewitness
25 testimony. In addition, there's Cleveland Joyner and Ellison

1 Hudson. That's all direct.

2 Circumstantial -- some of the different kinds of
3 evidence such as when he asked Joseph Smith, "Do you have any
4 nine millimeter bullets?" That's circumstantial evidence
5 that may point to an inference of: He had a nine millimeter
6 he wanted bullets for which happens to be the weapon that was
7 used in this case. That's the type of circumstantial
8 evidence. It's evidence that's proof of a chain of facts or
9 circumstances indicating the existence of a fact.

10 Now, in our courts the law makes no distinction between
11 the weight or value to be given to either direct or
12 circumstantial evidence nor is a greater degree of certainty
13 required of circumstantial evidence than of direct evidence.
14 You should weigh all the evidence in the case, and after
15 weighing all the evidence if you're not convinced of the
16 guilt of the defendant beyond a reasonable doubt, you must
17 find him not guilty. If, on the other hand, you are
18 convinced of the defendant's guilt beyond a reasonable doubt,
19 you must find him guilty, and that's it as far as...

20 Now, the judge will also instruct in this case there was
21 a statement given by the defendant, and he will instruct you
22 that you must determine that the statement was given
23 voluntarily. In this case no one is going to argue that he
24 didn't go there with his attorney who was there to protect
25 his rights, and you even have heard testimony about how the

closing argument on the law by Ms. Campbell

1523

1 statement itself was terminated at the proper time.

2 This was not a case where the defendant's rights as
3 guaranteed by the Constitution were in any way overcome or he
4 wasn't protected. He had his lawyer there. So, therefore,
5 any statements he gave that day you can consider and were
6 such admissible in this court. Any statements given by the
7 defendant to anyone other than law enforcement, too, if they
8 are statements against interest, are also admissible and
9 that's why you were able to hear them.

10 You also hear -- the judge will instruct you on
11 identification procedures, and when -- any time a person is
12 identified by another person, you are to give it such weight
13 as you determine. Were they able to see? Did they know what
14 they were talking about? And things of that nature. That
15 only applies to eyewitness testimony in this case, and in
16 this case the eyewitness identification is corroborated or
17 totally fleshed out by all the circumstances surrounding
18 that, by all the circumstantial evidence as well as the
19 direct evidence of the defendant himself telling different
20 people he was going to get E., what he wanted to do. How
21 were things in the neighborhood? I was spraying. Just
22 different statements to different people.

23 The final thing I want to talk to you about as far as
24 the law, ladies and gentlemen, is credibility, and this case
25 boils down to credibility because either this defendant is a

1 victim or he is guilty of murder. Every case boils down to
2 credibility. And in bringing before you witness after
3 witness -- you've heard about their prior record, what
4 they're facing, and these cases, ladies and gentlemen -- you
5 know, we've heard reference to keep it in the street. Keep
6 it in the street. And before you came to this court it's
7 hard to fathom how people live by this code, but as you have
8 painfully become aware over the last week, they do. Drug
9 dealers, gang members have their own way of handling things.

10 These cases -- this case wasn't a shootout in front of
11 doctors, lawyers, or whoever. It was in the streets and,
12 therefore, the witnesses that the State has brought before
13 you come from the street and that's what makes this case
14 actually credible because it's not going to happen in front
15 of other people. It happens in the neighborhood where they
16 deal.

17 So then you must determine whether or not they're
18 credible because, ladies and gentlemen, they will get up and
19 argue you can't believe any of those witnesses, and in that
20 case then a murder such as this could never be solved. He
21 was careful. There was no forensic evidence left at the
22 scene. The defendant didn't cut himself and leave blood at
23 the scene. It doesn't happen when it's an ambush shootout.
24 So you must rely on the testimony, and no one -- the State is
25 not going to ask you to get up here and say these witnesses

1 are credible just based on what they say. It's the content
2 of what they say. Is it corroborated by other witnesses? Is
3 there independent evidence that corroborates what they say?

4 You heard -- and whenever the State brings forth
5 witnesses, each and every one, we bring out everything
6 they're charged with, what their possible bias is, what their
7 reason for knowing it is, and I submit, ladies and gentlemen,
8 as distasteful as you may have found some of these witnesses,
9 we don't pick the witnesses. He does.

10 But at least in this case they came forward because this
11 case -- and the reason they came forward is because an
12 18-year-old innocent girl was maliciously gunned down: Six
13 gunshot wounds, four in the back, two in the front as she's
14 down on the ground. And even in this world of gangs and
15 drugs and retaliation, that just isn't right. Even in this
16 world, his world.

17 What makes it credible? Think about when he tells them
18 I sprayed. Even Torrian Gleaton, his own friend who didn't
19 want to come up here, said he wasn't comfortable testifying -
20 I wonder why - said he didn't even try to make an excuse for
21 him. Do you remember that? He didn't even think he hit
22 anybody. I don't think he knew he hit anybody because even
23 in their world this is a heinous crime, when the victim is
24 totally innocent.

25 Remember how -- remember, "I sprayed. I don't know if I

1 hit anyone"? Because even this defendant with all his
2 knowledge knows that killing innocent people isn't okay, even
3 in his world, in Ellison Hudson's world, in Cleveland
4 Joyner... That's what brings a truth.

5 So I ask you -- the judge will instruct you: You can
6 consider bias or prejudice, and Ms. Shurling is going to get
7 up here and she's going to talk about Ellison Hudson's
8 pending charge, prior record, Cleveland Joyner, Gleaton,
9 Sheldon McDowell, Terran Hughey, Travis Golston. That's his
10 world. And notice I skipped Joe Smith. He's friends with
11 the defendant, not on trial.

12 But what's most important in determining credibility, as
13 the judge will tell you: Is the testimony corroborated by
14 the physical evidence? Is the testimony corroborated by
15 other witnesses? Does the information stay with the
16 jailhouse snitches? All of it in the discovery or not? Was
17 there -- was there any way for them to gather this
18 information except from this defendant? And I'll go over
19 that more about all the points that only this man could have
20 provided.

21 Credibility. Believability. And I submit, ladies and
22 gentlemen, that when you consider this defendant's testimony
23 as he got up here and testified on Friday 16 months after
24 this happened, after listening to the entire case, after
25 reading all the material, was incredible, was not credible.

1 I'm going to talk about that more. Credibility.
2 Believability. And I submit when you look at the State's
3 case, taking all the circumstances surrounding it, the only
4 person that did commit this murder is Anthony Hackshaw.

5 **The Court:** All right. Ms. Shurling?

6 **Ms. Shurling:** Forgive me for bringing something to
7 drink close by. I have bad allergies and take way too many
8 antihistamines.

9 It's been a long trial, and you were all very careful to
10 pay attention last week and I'm grateful. I know my client
11 is. It's almost over. But this is the most important point
12 of the trial because now it's time for the 12 of you to
13 listen to the lawyers for both sides as we summarize to the
14 best of our recollection what the evidence is that's been put
15 on your plate and listen to the judge as he tells you what
16 the law is in the case and how you should apply it to the
17 facts. And then the miracle of our judicial system happens:
18 Twelve people who didn't know each other until you walked
19 into the courthouse last week sit down and decide my client's
20 fate.

21 I like to analogize jury service to what we see in this
22 country after a disaster, when all of a sudden the blue
23 collar worker and the doctor, the accountant, and the dry
24 wall guy are all of a sudden out on the street sawing the
25 widow lady's limbs that have fallen on her house. We put

1 together our common experiences, our common knowledge, and
2 review a case together and hopefully work together to reach a
3 just result. That's what juries do.

4 I'll share a secret with you. I've always wanted to be
5 on one, desperately wanted to be on one, but I graduated from
6 law school very young and ever since I got out of law school
7 nobody will let me be on a jury. So I'll probably never get
8 to have the experience that you've shared this week, and I do
9 envy you that because I truly believe that the miracle of 12
10 people like yourself coming together and listening to each
11 other hopefully, giving proper consideration to each others'
12 views and memories and opinions is what makes our judicial
13 system great. And I look forward to each of you doing your
14 very best to reach a just and fair decision in my client's
15 case.

16 Now, I told you in the beginning of this trial that
17 innocent people do get convicted. Innocent people do slip
18 through the cracks. What I really didn't go into with you in
19 the beginning because it wasn't appropriate until you heard
20 everything is that when innocent people are convicted of a
21 specific crime, it's not usually my Sunday school teacher or
22 the C.E.O. of the bank that lives down the street from here.
23 Okay? When someone themselves has been in trouble with the
24 law---

25 Ms. Campbell: Objection, Your Honor. We just ask she

1 -- her comments be as far as this case.

2 **The Court:** Look, we're not talking about innocent
3 people get convicted. That has nothing to do with this
4 trial. Let's stick to this trial.

5 **Ms. Shurling:** It's your job to see to it an innocent
6 person doesn't get convicted in this case. It's your job to
7 make sure that a man doesn't get convicted of this murder
8 because he's been in trouble with the law before or because
9 he's admitted to you that he's broken the law in the more
10 recent past in a way that's far less serious than murder.

11 Now, let's start out with the basics. We don't disagree
12 this was a terrible murder, a horrible murder. It's murder,
13 plain and simple. There's no question -- just like I
14 promised you in the beginning, there's no question of self-
15 defense or accident or anything of the sort. This is a
16 murder case, a terrible murder case.

17 The forensic evidence in this case is such that it is
18 fairly clear that regardless of who the perpetrators came
19 after, at some point one of these individuals made the
20 decision to shoot an 18-year-old girl repeatedly at close
21 range. I agree with Ms. Campbell: That's murder, plain and
22 simple. There's no way around it, and I'm not trying to
23 argue that it's anything other than murder.

24 But the State has not proven that my client was there at
25 [REDACTED] in May of 2009, and it's your job as

1 jurors to go through all the evidence and determine whether
2 they have proven to your satisfaction, each one of you,
3 beyond a reasonable doubt that he did this terrible thing.
4 The judge is going to tell you that your verdict has to be
5 unanimous. You all have to agree. Back to that wonderful
6 jury thing we were talking about a minute ago. I submit to
7 you that when you finish going over all of the evidence
8 together, you will see that they haven't proved beyond a
9 reasonable doubt that my client was guilty of any involvement
10 in the terrible events of May 20th, 2009.

11 Now, as His Honor will also tell you that mere suspicion
12 isn't enough. There may be things about the evidence that
13 the State has put forth during this trial that makes you have
14 some little suspicions in the back of your mind, but that's
15 not proof of guilty beyond a reasonable doubt.

16 Remember what I told you in the beginning? His Honor is
17 going to tell you that reasonable doubt is a doubt that would
18 make you hesitate to act in the everyday important decisions
19 of life. And I submit to you that when you go through the
20 evidence in this case you certainly should have such a doubt,
21 strong doubt, and when you feel that tug at your heart and
22 your conscience that you might not be doing the right thing
23 if you convict this young man of murder, recognize it for
24 what it is: Reasonable doubt.

25 Now, let's take a look at the evidence that the State

1 has put on your plate, the evidence that they're encouraging
2 you to use to find my client guilty of murder. The
3 cornerstone of their case is Mr. Ellison Hudson. That's a
4 frightening prospect, people. You heard that young man
5 testify. When the police first arrived with his girlfriend
6 not yet cold on the ground, he gives a vague general
7 description of two people, black clothes, black hat, another
8 guy with a hoodie, denies having a weapon. After they talk
9 to him for awhile, it's: Oh, okay. I know who it was. I
10 give. I admit it. It was Jonathan Bailey. And I not only
11 know Jonathan Bailey, I not only recognize Jonathan Bailey,
12 but I know why Jonathan Bailey wants to get me. He's after
13 me because I ratted on one of his associates, T.J. Johnson.
14 I told on him because he tried to kill me once before. Those
15 people tried to kill me a couple of times. That's who it
16 was.

17 Now, this may surprise you: I'm not here to argue to
18 you that Jonathan Bailey committed this crime. I frankly
19 don't know whether he did or not - I have no idea for sure -
20 and neither can you based on the evidence that's been put on
21 your plate. That's the problem.

22 Let's go back to Mr. Hudson. Mr. Hudson claims that at
23 the time he knew full well it was Anthony Hackshaw, Bump to
24 him. He knew it was Bump, but he wanted vengeance. They
25 wanted to take justice into his own hands, and so he lied and

1 said it was somebody else: Jonathan Bailey. Well, first
2 off, let's all pause and think of the magnitude of that
3 statement, if it were true, how cavalierly that means he
4 would name someone as a guilty party in a murder just to suit
5 his own end.

6 There's a reasonable doubt right there, ladies and
7 gentlemen. He's told you straight out of his mouth in that
8 box that he's got no problem naming somebody that he knows
9 isn't guilty of murder in a murder case if it suits his
10 purposes. But then examine the evidence you've heard and see
11 whether you even buy that. He claims now for the first time
12 after all these months: I knew it was Bump all along, but I
13 just wanted to take care of it myself. I wanted vengeance.
14 I wanted revenge, so I named Bailey.

15 This boy is good at what my daddy calls talking out of
16 both sides of his mouth. This young man tells you he was
17 scared to death for his family. Remember that? Scared to
18 death for his family. So scared to death for his mama and
19 his sweet daddy -- God bless them. I don't have anything bad
20 to say about them. They're apparently hard-working, nice
21 people. But he's so scared for his family that he would name
22 a known violent gang member that he didn't even really think
23 did it? Does that make any sense to you? Really? Not to
24 mention the fact that he doesn't want you to believe your own
25 ears.

closing argument by Ms. Shurling

1533

1 Now, some of y'all have children. I was never blessed
2 with them myself. But I have godchildren, and I know their
3 voices. I know their voices. I know when they're stressed.
4 I know when they're worried. I know when they're lying.
5 Y'all don't have the benefit of knowing Mr. Hudson that well,
6 but you got to hear a portion of his taped statement. You
7 heard when Investigator Reese jumped on him for not telling
8 them that it was Bump to begin with. Do you remember that?

9 Why did you not tell us it was Bump? Because I didn't
10 think it was no Bump. But y'all said it wasn't Bailey. So
11 come up with another name. You heard his voice. Decide for
12 yourself whether you believe him now when the latest version
13 is that I knew all along it was Bump and I was just wanting
14 to handle it myself. You heard his voice. Because I didn't
15 think it was no Bump. You may not know his voice as well as
16 I know my goddaughter's, but you could tell from his voice,
17 folks. Take that voice to heart.

18 I don't know whether Jonathan Bailey committed this
19 crime. I don't know that Ellison Hudson saw the people that
20 did it long enough to truthfully have any idea who did.
21 That's the scary part.

22 Remember this man that wants to lie -- wants you to
23 believe he lied about who he knew really did it so he could
24 take justice into his own hands, shoved his poor little sweet
25 girlfriend to the ground out of the way so he could run. And

1 now he wants you to believe that he was out to take justice
2 in his own hands.

3 You heard him say, "Y'all said it couldn't be Bailey."
4 Let's take a look at that. Again, I'm not saying Jonathan
5 Bailey did it, but let's take a look at what the police did
6 before they cleared Jonathan Bailey. Jonathan Bailey says he
7 had been on the phone with an officer from the Richland
8 County Sheriff's Department for over half an hour, close to
9 an hour, and that he made that call -- he made that call
10 while he was at Kevae Dolphin's house. Do you remember that?

11 Law enforcement goes to Kevae Dolphin's house. She
12 tells them he was there originally 11:58 to 3:02. Do you
13 remember that? She says she knows those -- knew those
14 precise times because she was in the habit of watching her
15 home security camera when anyone would arrive and when they
16 would leave. By the time she got to court, she had modified
17 that somewhat. She was saying generally around noon and
18 around 3 by then.

19 She said somebody named Stephanie is there. Law
20 enforcement didn't even find out what Stephanie's last name
21 was until right before this trial. Do you find that as
22 astounding as I do? They're told she's out of town. She
23 didn't go to the moon. I'm sorry. She's out of town. Find
24 out her full name. Find out her contact information. Get
25 around to interviewing her. And once you find out that

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1 important stuff about her, find out what her relationship is
2 with Bailey to determine whether she and Kevae Dolphin might
3 have a motive to lie.

4 Ask yourself if my client had said that he was anywhere
5 from 11 in the morning, let's say, 'til 3:30 in the afternoon
6 on May 20th whether law enforcement would have just taken the
7 word of alibi witnesses for the fact that, yeah, he was here
8 all day. Really? Are you sure he didn't have a chance to
9 leave for a little while? Are you sure he couldn't have
10 dipped out the back or been gone for half an hour or 45
11 minutes? What relationship did people have with him? What
12 motive might they have for lying?

13 You heard law enforcement admit they didn't even check
14 the back door, folks, to see if it could be opened. They
15 didn't check the windows to see if they could be opened.
16 They didn't examine the so-called security camera or
17 recording device to see if there might be material on there
18 that had been relevant to the events of May 20th. They just
19 took Kevae Dolphin's word for the fact: It wasn't recorded.
20 Didn't even ask her to show them how the recording part
21 worked or to see what was on the memory of the gadget.

22 Now, I'm terrible with stuff like that. I have a V.C.R.
23 from the eighties that still flashes 12, probably always
24 will. But they have people on their staff that understand
25 technology and understand how to work these things. They

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1 could have checked that out; they didn't. They didn't even
2 interview -- bet you hadn't thought of this one. Kevae
3 Dolphin says that Bailey was dropped off at her house by the
4 poor man's girlfriend. Imagine that. Poor thing is dropping
5 him off for a girlfriend call with another girl who doesn't
6 even know... But, anyway, but then they say that he was
7 picked back up by Q. Do you remember that? Any of y'all
8 ever remember hearing a word about law enforcement
9 interviewing Q.? Since Q. Is the one who supposedly didn't
10 pick him up until 3:00, it might be a good idea to see if Q.
11 Agrees that's when he picked him up. Don't you think? Not a
12 word. Not a word about interviewing Q.

13 Then they get Bailey's mama's cell phone records.
14 You'll have them back in the jury room with you because they
15 were introduced. What do they show? Number one, they show
16 that mama made that phone call. Mama made the three-way
17 call, and more importantly than that, it lasted 14 minutes.
18 No more than a half an hour or close to an hour, folks. You
19 know, it's easy -- I can see somebody getting confused
20 between 45 minutes and an hour or 50 minutes and an hour, but
21 if somebody tells you more than a half-hour, close to an
22 hour, when a phone call only lasted 14 minutes? Ended at
23 12:34 and shots rang out at 12:52. It's six point - I'm
24 sorry - something. You have a sheet that tells you in
25 evidence. 6.8, I believe, miles from Kevae Dolphin's house

closing argument by Ms. Shurling

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1 to the crime scene. And you've heard all kinds of testimony
2 about how long it takes to travel that. Going the speed
3 limit -- you honestly think somebody that was dipping out of
4 the back of a contrived alibi to go commit a murder would
5 necessarily be going the speed limit? I think not.

6 So did Jonathan Bailey commit this murder? I don't
7 know. I know that Ellison Hudson told you that Jonathan
8 Bailey had a motive to do it because he ratted on his
9 associate, T.J. Johnson, because T.J. Johnson shot up his
10 mama's car. The State introduced testimony that he shot up
11 his mama's car. They'd like you to forget the fact that he
12 was standing next to it at the moment. Remember hearing
13 anything about anybody interviewing T.J. Johnson? Any of
14 them? No, not a word.

15 So Ellison Hudson tells you, pardon me, tells the police
16 and now tells you -- admits to you that he originally said it
17 was Bailey and it was Bailey because Bailey had it in with
18 him. Why? Because when you mess with one of those guys, you
19 mess with all of them and he would have been mad at me
20 because I ratted on T.J. Johnson. Nobody interviews T.J.
21 Johnson. Are you as amazed by that as I am? Not a word
22 about T.J. Johnson even being interviewed by law enforcement.

23 So after he changes his story when he's been told it
24 could not be Bailey, Mr. Hudson changes his story and says
25 it's Bump. Ask yourself: Would he have ever changed that

1 story if law enforcement had not said it couldn't be Bump?
2 And ask yourself if law enforcement has satisfied you that it
3 couldn't be Bump. I submit to you that we never would have
4 been here because the law would still think Bailey did it if
5 they hadn't told Ellison Hudson it couldn't be Bailey. So
6 then he names Bump.

7 Now, he can give you all the reasons in the world in
8 court now - and I hope you don't buy them - for why he's said
9 it was Bump. But if you recall, he admitted in the written
10 statement he gave, after he finally names my client as one of
11 the two perpetrators, that it's Bump and I know it's Bump
12 because the guy had a tattoo on his left arm. And remember
13 we showed you that on the recording it was a small tattoo on
14 his left arm and he had on a hat and Bump wears a lot of hats
15 and he had on a black rock-star-kind-of tee shirt and I've
16 seen Bump wear tee shirts like that.

17 Oh, my gosh, that's scary, folks. That's frightening.
18 And he goes on to put in writing and sign it - he admitted it
19 from that stand - I know I said it was somebody else, but I
20 am now 90 to 95 percent sure it was Bump. Once again, that's
21 one of those simple moments, folks. If you believe
22 everything he says, are you going to convict somebody of
23 murder that's admitting there's a one-in-ten shot he's not
24 right? One in ten. Are you going to send a man to prison
25 for murder by a man that said 90, 95 percent sure? That's

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1 frightening.

2 Now, let's look at the other evidence because, to be
3 fair, the State's introduced a bunch of other stuff. A
4 silver Honda. How many times have we heard that in this
5 trial? And I don't think I knew just how many silver Hondas
6 there were in this world 'til I got this case, but you've
7 heard silver Honda. You've heard silver two-door Honda.
8 You've heard silver four-door Honda. You've heard hatchback
9 Honda.

10 I submit to you that even if it was a Honda, that
11 doesn't narrow it down much, folks. Silver Hondas are so
12 common that that simply isn't an adequate criterion for
13 finding somebody guilty of murder, especially when the main
14 guy, your star witness, Mr. Hudson, described it as a
15 hatchback. And I can promise you if the car my client and
16 his wife had for awhile, along with the sister, were a
17 hatchback you'd be seeing one of these great big boards the
18 State has so many of -- you'd be seeing a picture just this
19 big of that hatchback Honda, but you don't, do you? There's
20 a reason for that.

21 Let's look at what else they've got. They've got cell
22 phone records. Now, I've got to admit to you: I'm one of
23 those people that just kind of barely figured out not too
24 long ago how to retrieve my messages, so some of this cell
25 phone tower stuff is a little bit above my pay grade. But I

1 am smart enough to figure out some of it and so are you. The
2 State was all discombobulated and upset because I want to
3 have my own map. They had a perfectly good map with cell
4 towers on it. Why did I need my own? I needed my own for a
5 very good reason. Their map left off two cell towers, two
6 important cell towers. Do you know why they're important?
7 Because they're the two the closest to the shooting scene.
8 And there are no calls on my client's cell phone record
9 during the time when this crime was being committed that hit
10 off those towers, but there are a couple from later in the
11 afternoon. I don't remember the times exactly and I
12 apologize, but it's like 2:30, 3:00, something like that.
13 There are a couple of calls that pinged supposedly off each
14 of those towers.

15 If that's accurate -- and I submit to you that after
16 listening to the cell phone guy, the one thing I'm pretty
17 convinced of is that that cell phone locator information is
18 not particularly reliable. I heard a lot of most of the
19 times and "usuallys" but can it this -- well, yeah, that can
20 happen but usually. Can it be an indicator of direction?
21 Yes, but sometimes it can jump to the other side of the
22 tower. Well, you know, when you get all that going, what the
23 bottom line is is it doesn't mean anything.

24 He told you the cell phone towers can pick up signals as
25 far as ten miles away. Then they tell you that in an urban

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1 area, if I understood that correctly, where there were more
2 towers that they were probably ones that were designed to not
3 cover as far; at least that's what I understood him to say.
4 Well, but nobody has told you they were all thrown down in
5 one day.

6 So if they're old and a couple of them went up first,
7 then in theory it would make sense that those were designed
8 to pick up signals from farther away, and as the area became
9 congested and where we're at -- in any event, the point,
10 folks, is that these cell phone calls -- really, the records
11 directionally are not reliable. They've told you they can
12 jump towers depending on the time of day, depending on
13 activity. The directional stuff is not reliable. Any time
14 somebody says usually but not always, then all of a sudden
15 you know you can't count on it.

16 But to the extent the State wants to rely on it a little
17 bit, I'm going to throw out there: Do pay attention to the
18 fact that there are those two towers that are the closest to
19 the crime scene, and during the operative time period there
20 aren't any calls on my client's cell phone that ping off
21 them. Why is that important? Remember Rosa Williams, our
22 dead witness? The law enforcement admitted that she -- at
23 least in one of two places in their records it was noted that
24 she said it was a four-door Honda, by the way, and that Black
25 Hat was walking down the street -- rather, black clothing, in

1 her description, walking down the street on a cell phone.
2 Okay. So pay attention that there aren't any calls on my
3 client's cell phone record pingging off those -- either of
4 those closest towers.

5 You've also got some employment records because they
6 showed you that Ellison Hudson, Sr., left work early after
7 getting a call about the tragic event that had happened at
8 his home. And, good Lord in heaven, I feel sorry for that
9 man. They've been through a lot. I don't dispute that he
10 left work early. I bet he flew home.

11 But you also heard jailhouse snitches in this case, two
12 of them whose stories sound suspiciously alike by the way,
13 that my client supposedly went either two days before or the
14 day before this with somebody to watch Ellison Hudson, Sr.,
15 arrive at work, and that was part of the whole thing about
16 finding out where Mr. Hudson lived. Remember that? Well, if
17 you look at those same employment records, they will show you
18 that my client's work hours on another exhibit that you have
19 back there for the 18th and 19th were almost identical to the
20 work hours of Ellison Hudson, Sr. Another important point.

21 Then you've got to look at what Ellison Hudson has to
22 gain. He's been given immunity for armed robbery. He's not
23 being charged with discharging a firearm into a dwelling or
24 occupied building. He hasn't been charged with counterfeit
25 money. He hasn't been charged with pot, even though he

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1 admitted that on the day in question they were smoking a
2 blunt and getting ready to roll another one. By the way,
3 where did that marijuana go? Why didn't the police even ask?
4 But he's also admitted that the marijuana he stole from my
5 client in April he sold. That's distribution, folks. He
6 isn't charged with that either. So he's had a lot to gain by
7 cooperating, and although he's already been given immunity on
8 the armed robbery, there's a lot to lose if the State decides
9 they're not happy with him at the end of this case because
10 there's still things out there they can charge him with, and
11 that's important.

12 Let's go back to other evidence again for a moment.
13 Pardon me. I'm so sorry. We've talked about the car. Let's
14 talk candidly about the car for a minute. Law enforcement
15 says that when my client turned himself in -- and, by the
16 way, don't forget for a minute that my client did turn
17 himself in because that's important, but we'll get back to
18 that in a minute.

19 They say that he continued to deny the events in April.
20 He's admitted that to you, and we'll talk about that again in
21 a minute. But they also try to claim on a statement that's
22 conveniently not available for you to hear on the recording
23 that he denied having access to a silver Honda.

24 Now, there are understandable lies and there are ones
25 that would just plain be stupid. Okay? Now, it was very

1 poor judgment for my client to lie to law enforcement about
2 what happened on April 23rd, 2009. And trust me: Having sat
3 in jail for some 15 months or more, 17 months, waiting for
4 his chance to have a trial for this murder, he knows how much
5 damage he did to himself by lying to the cops about
6 April 23rd, 2009. But please don't forget that by the time
7 he got back here, came back to answer to the charge of
8 murder, voluntarily turned himself in, it rapidly became
9 apparent that in the mind of law enforcement here's how it
10 stacked up: April 23rd, 2009, guilty, lying to police,
11 equals guilty of murder.

12 By then it wasn't just a question of owning up to the
13 fact that he was selling a little reefer. By then it had
14 turned into quite obviously with law enforcement that if he
15 was guilty of that event in April, then he was a murderer.

16 So he decided to wait until he had his chance to talk to
17 you, his jury. Whether that was smart or not, I don't know.
18 But that's a different kind of evasion than telling the cops
19 you don't have access to a car that you know they've got six
20 ways from Sunday, as my granddaddy would have said, to prove
21 you did have access to.

22 He drove it to work. He drove it to physical therapy.
23 He drove it around the neighborhood. His wife drove it and
24 dropped him off at places. There were just too many people
25 that would have seen him driving that car for it to make any

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1 rational sense for him to deny having had the car. So, you
2 know, I submit that law enforcement, for whatever reason,
3 didn't understand that part of his statement right. Let's
4 give them the benefit of the doubt. They didn't understand
5 -- somehow they misunderstood that, but they didn't get it
6 down right and we don't have a recording to listen to, do we?

7 So the car. You've got a car, a silver Honda, maybe, if
8 they're right about what kind of car it is. Toyota, Kia,
9 Volkswagon, small American model Ford, Probe. Think of all
10 the cars that could be readily mistaken for a Honda. So I
11 submit to you that the car just doesn't tell you very much.

12 You heard his wife. She sat in jail in the first
13 trimester of pregnancy. Now, hopefully none of y'all have
14 ever had reason to be at the jail. I have, all the time, and
15 I can promise you that a pod at the Alvin S. Glenn Detention
16 Center is the last place in the world a pregnant woman would
17 want to be. When she told them the truth, they wouldn't
18 believe her, so she sat in jail.

19 You heard her sister explain to you that she'd been
20 behind off and on on her car payments and had become fearful
21 it was going to get repossessed. You know, repossessed cars
22 are a fact of life. Probably all of us at one point in life
23 have been in a situation where that was a clear and present
24 danger. Was it the most honest thing in the world to get it
25 out of New Jersey into South Carolina and thought the repo

1 man couldn't get it? Probably not. But, again, it doesn't
2 mean that her husband or her sister's brother-in-law is
3 guilty of murder.

4 You know, the State's known for months and months and
5 months that that was going to be Rosa Grenald's position.
6 You saw her. She's a likable, nice young lady. She told you
7 the truth for it. I helped my sister hide her car. And the
8 sister told you that it was a cousin that had wanted to take
9 the payments over. Apparently only made one. It didn't work
10 out and they had to get the car back, and the cousin was mad.

11 So at some point the sister decides, you know, that mad
12 cousin -- they may contact her. They -- you know, she's made
13 a payment or two, and she's just mean enough and mad enough
14 that she'll tell them the car is probably in South Carolina.
15 So they decide to put it somewhere other than where Anthony
16 and Rosa live. That's not the most honest thing in the
17 world, but again it's not murder.

18 Let's go back to the cell tower issues again for just a
19 minute. Remember the big deal the State wants to make out of
20 that 46-minute gap on the day of the murder in my client's
21 cell phone records. And actually I think if you take a
22 couple of text messages on either end into consideration,
23 it's even less time than that, but they want to make a big
24 deal out of that.

25 Well, let's look at cell tower information. If we do

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1 what they want us to do, you look and at either end of that
2 gap, the beginning and the end, there are calls that ping -
3 I've learned a new word, ping - off Tower 2223. Look at your
4 map, folks. Do you know where 2223 is? The tower and the
5 side the closest to my client's apartment.

6 Now, you've got the record. You know he had all these
7 physical therapy appointments, and he's told you that he
8 doesn't remember what he did that day. I frankly am more
9 impressed with the fact that he is on trial for murder and
10 will tell you honestly: I don't know what I did that day.
11 Sometimes I'd leave work and go home and take a nap, but
12 sometimes I'd leave work, go to my brother's studio, hang out
13 for a little while, and then go to therapy. Sometimes I'd go
14 home, make myself a sandwich, eat some lunch, take a shower,
15 do all kind of things before it was time for me to go to
16 physical therapy.

17 I don't know what he was doing. He doesn't even try to
18 fake you out and tell you he does either. It was months
19 earlier, and May 20th, as tragic a day as it will always be
20 in the hearts and minds and memories of the lovely people
21 that loved Ebony Fogle, it was just another day to Anthony
22 Hackshaw. He has no reason for what he did that day to stick
23 out in his mind any differently from any other day he went to
24 therapy, and you'll see from the records he went to therapy
25 dozens of times.

1 I submit to you that once again cell tower information,
2 if it's one of those times when it was accurate, is going to
3 show you that Anthony was at home on the front end and the
4 back end of that mysterious gap. I don't know. Maybe his
5 battery died and he had to charge his phone. Who knows?

6 All right. Let's talk about physical therapy. You
7 heard his physical therapist come in here and testify. He
8 said appointments don't mean a lot. He works things out. He
9 lets clients come when they can come and that in his
10 experience with Anthony Hackshaw, he came at 1:00 the vast
11 majority of the time. He told you that his memory, to the
12 best of his recollection, was that Anthony Hackshaw showed up
13 at 1:00 that day or shortly thereafter, but again it was just
14 another day for him, too.

15 So he's honest and tells you that -- and he guesses it
16 could have been as late as 1:30, but he thinks it was around
17 1. But even so, even if it was closer to 1:30, the important
18 thing is what else he says about that day. He says Anthony
19 Hackshaw showed up what? Normal. Same old Anthony. Ready
20 to work out, work hard. Didn't act tired, didn't act
21 frustrated, didn't look furtively around to see if anybody
22 was watching him, didn't act peculiar in any way physically
23 or emotionally. Just plain old normal.

24 Even if it was 1:30, look at the map. Look at how far
25 it is. Remember what my investigator said. I think he said

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1 18 minutes one trip, 19 another. The State wants you to
2 believe that my client cold-bloodedly murdered somebody,
3 jumped in a car, sped like crazy, got to Progressive Therapy
4 and walked in and was so normal that nobody noticed the
5 slightest difference in him from any other day at therapy.

6 That physical therapist has absolutely no dog in this
7 fight. He's just a P.T., actually a P.T. assistant. He
8 doesn't have any unique loyalty to Anthony Hackshaw. He's
9 telling you the truth, and the truth is that Anthony Hackshaw
10 walked in that day, got to work, down to business, worked out
11 and didn't seem one bit different than he had any other day.

12 And if he's right about the time that Anthony got there,
13 closer to 1, then he also establishes that it wouldn't have
14 even been possible. But even if you say it could have been
15 closer to 1:30, his observations make it highly improbable.

16 Now, let's talk about snitches for a minute, one of my
17 least favorite subjects. My client's in jail, no bond, in a
18 pod with dozens and dozens of other inmates. He can't leave.
19 He's been told by investigators for both lawyers, the first
20 one on the case and then mine, that there are people sitting
21 around out there just fishing for somebody they can latch on
22 to and have an opportunity to testify against to make their
23 situation better.

24 What's he supposed to do? He can't leave. Absent
25 having his mouth wired shut, how is he supposed to prove that

1 he didn't talk to these people? It's your job to look at
2 what these people said.

3 Now, you know, the State keeps wanting to hammer home:
4 They knew stuff nobody could have known unless it came from
5 Hackshaw. Do you really buy that? Do you really buy that in
6 a neighborhood as small as the community that Greenview is
7 that everybody in that neighborhood doesn't know that
8 somebody as famous as Representative Clyburn lives there?
9 You don't think anybody that happened to be in jail during
10 those months that was talking to one of these fellows trying
11 to find out -- tell me what you know about Greenview. Tell
12 me what you know about the neighborhood. Well,
13 Representative Clyburn lives there.

14 I mean, if I had somebody that important living down the
15 street from me, I'd know it and so would they. You heard
16 them say Anthony - pardon me - Ellison Hudson's father worked
17 at Best Buy for what? Seven, eight years? You know how
18 obsessed with technology and iPods and stereos young people
19 are? And here is Ellison Hudson, Sr., right up front like
20 the greeter at Wal-Mart. He's a loss prevention guy. He's
21 right in the front door. You don't think that there are guys
22 from that neighborhood that would have noticed that E's old
23 man works at Best Buy and could have shared that information
24 with Hughey and Golston?

25 Folks, that's not some corporate chemical formula that

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1 was such a secret that nobody could know it unless they got
2 it from Bump. That's stuff anybody that talked to anybody
3 from the street that knew Greenview could have told them.
4 That's stuff that anybody that was in jail from the Greenview
5 area could have told them.

6 Now, look at them one at a time. You've got the one
7 gentleman who is facing life plus 15 years for first degree
8 burglary and second degree burglary. And he already had a
9 record, so he knew he was likely to get some serious prison
10 time this time. That's a terrible position to be in,
11 especially for somebody that's older like Mr. Golston.

12 Been sitting in jail a long time, too. Couldn't get out
13 on bond. You heard his lawyer say that he'd made repeated
14 efforts to get his bond reduced, couldn't do it until he gave
15 his jailhouse snitch statement against my client and put it
16 on the record in his plea. Then -- I'm sorry. I'm confusing
17 the two guys. I apologize.

18 Let's get it straight with Mr. Golston. What he did was
19 put his position in a proffer during his plea, and instead of
20 facing life plus 15, he got a suspended sentence with one
21 year participation in a drug program that God bless his heart
22 he's now failed out of and he's back in jail. So that's
23 quite a benefit for cooperating. Tells you just how
24 motivated he could be to find out just enough to sound
25 believable.

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1 And then you've got Mr. Hughey. Mr. Hughey had been
2 sitting in jail for months, couldn't get out on bond. His
3 lawyer couldn't get the bond reduced until he gave a
4 statement against my client, and then lo and behold he got a
5 P.R. bond. You heard his lawyer. His lawyer told you he
6 couldn't get him out on bond, even when he tried, until that
7 happened. And now he's still facing a 20-year sentence for
8 assault and battery with intent to kill and has great hopes
9 that he will be rewarded for cooperating in this case.

10 Now, they told you that these two snitches know things
11 about the case that they couldn't know unless they heard it
12 from my client. I want you to compare what they said with
13 the known facts. Ebony Fogle was shot repeatedly at close
14 range. One of them wants to tell you that Mr. Hackshaw said
15 the girl must have been in the shed because he didn't even
16 see a girl. He didn't know -- she must have gotten shot from
17 in the shed. Does that fit the evidence as we know it?

18 The other one says they shot up the house. This house
19 wasn't shot up. This all took place in the back yard. It
20 doesn't fit. The only thing it fits is the snitches wanting
21 to better their own situations when they were looking at
22 really serious hard time. I feel for them. I understand
23 what desperation must feel like, but that doesn't mean that
24 you should take their statements and use them to fill in the
25 holes in the State's case and find my client guilty.

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1 Now, Mr. Gleaton's another matter. Mr. Gleaton was
2 someone who knew both my client and Ellison Hudson on the
3 street. The police pick up his cell phone number, find out
4 who he is, go looking for him. He comes and says: I know
5 y'all are looking for me. And they interview him. You heard
6 Investigator Greene (sic). They'd already been going at him
7 for close to three hours when they got to the part that y'all
8 got to hear. Only I forgot: Y'all didn't get to hear it
9 from Mr. Gleaton, did you? You had a transcript read to
10 you---

11 Ms. Campbell: Objection, Your Honor. This is pursuant
12 to---

13 The Court: Sustained.

14 Ms. Campbell: ---her request.

15 Ms. Shurling: When you think about that colloquy that
16 was read to you back and forth, the final interview with Mr.
17 Gleaton, don't forget what he told you, what he told them
18 repeatedly: I can't keep straight what I heard from E. And
19 what I got from Bump. I don't want to say what's wrong. I
20 don't want to get it wrong. I won't want to tell something
21 that's not true. And they kept on and on and on pushing him,
22 threatening to put him in jail, threatening to charge him
23 with accessory to murder, until he finally gave them a
24 statement. But I submit to you that he did not come into
25 court and verify the truthfulness of that statement for you,

1 and I wasn't able to cross-examine him on it either. So I
2 implore you to give that statement exactly the weight it
3 deserves: Zero.

4 Now, there was one gentleman, Mr. Scott I believe was
5 his name, Joe, from the neighborhood, who said that my client
6 at one point asked him about getting some nine millimeter
7 bullets. Do you remember that guy? Well, he also tried to
8 come in court and say that my client had showed him a gun at
9 some point and he didn't know what caliber it was. But on
10 cross-examination we went through the fact that he had
11 earlier told law enforcement that the gun he saw was a .40
12 caliber.

13 I just submit to you that if he could get that confused
14 between what he told the cops originally and what he said in
15 court, he could also be confused about what kind of
16 ammunition my client was looking for. Doesn't make a whole
17 lot of sense to show somebody a .40 caliber pistol and, oh,
18 yeah, by the way, I need some nine millimeter bullets. Even
19 I know better than that. So I would encourage you not to
20 give that much weight either.

21 Now, let's take a look at some very specific points I
22 want you to remember when you're deciding whether or not
23 there's reasonable doubt in this case. My client turned
24 himself in when he found out the police were looking for him
25 for murder, not just the pot deal from April. Okay? Turned

closing argument by Ms. Shurling

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1 himself in, came back to South Carolina to answer to the
2 charges. Those are not the actions of a guilty man.

3 He kept on working right up until they searched his
4 apartment in June. As a matter of fact, he's one of the only
5 people in this case, other than Ellison Hudson, Sr., that had
6 a job. He had a good job; he was working regularly. Was he
7 wrong to be selling a little reefer on the side? Of course
8 he was. But he had a job. He had a wife, and he had a
9 child. He didn't have a child yet at the time, but he had a
10 wife.

11 He and his wife, Rosa, were about the only people in
12 this case other than cops and Ellison Hudson, Sr., that
13 actually had jobs. He was told that the search that took
14 place at his apartment in early June was about the incident
15 that happened in April. That's why he ran. He knew he'd
16 lied to them about April. He ran. He'd lied. He ran. Not
17 the wisest decision he's ever made but an understandable one.

18 He reported that he was the victim of multiple harassing
19 phone calls on May 28th, 2009. Reported, as you'll recall
20 and be able to tell from the exhibits, that he'd been getting
21 harassing phone calls from May 11th, I believe is the date -
22 you can confirm it for me - through when he reported it on
23 May 28th, 2009. Would someone who had taken part in a murder
24 just eight days earlier bring himself to the attention of law
25 enforcement and would he particularly bring himself to the

1 attention of law enforcement by reporting a crime that was
2 going to invite law enforcement, if they took it seriously,
3 to take a close look at his phone records? His phone records
4 that the State wants you to believe speak to his guilt. That
5 doesn't make sense.

6 The very afternoon of the shooting, he went back to the
7 area where the shooting happened late in the afternoon. How
8 do we know that? Cell phone tower records. But he goes back
9 to that general area in the little silver Honda. Does that
10 sound like something somebody would do if they committed a
11 murder in that car earlier? I don't think so.

12 And, again, I think probably most importantly there was
13 no physical evidence whatsoever placing my client at the
14 scene of this crime. None. No ballistics. No D.N.A. No
15 nothing. Now, you know, this isn't C.S.I. This is not like
16 T.V., and in T.V. has got juries thinking that there's always
17 some kind of forensic evidence, and I'll be the first to
18 admit that's not always true. But there's none here. There
19 are no tire track prints, no D.N.A., no ballistics, no
20 nothing.

21 You've got crime scene guys that admitted to you they
22 found a certain number of casings and then they just -- I
23 guess they put their camera up or something. They just quit
24 documenting. There's some shell casings they didn't even
25 document.

closing argument by Ms. Shurling

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1 You've got Ellison Hudson saying they jumped over fences
2 and ran through neighboring yards and claiming he was being
3 shot at. They didn't even go in the neighboring yards and
4 look for shell casings. You don't have any physical
5 evidence. None.

6 Again, my client continued to work until he found out
7 they searched his apartment and he ran. But he came home
8 like a man to stand up and face these charges, and he sat
9 right there in that box and told you the truth.

10 Remember how Jonathan Bailey -- well, let me back up.
11 Let me rephrase that. Look at how much significance the
12 State wants to put on all the different calls my client made
13 and when he made them and who he made them to. When you get
14 back there and rifle through those exhibits, I want you to
15 look for Bailey's cell phone records. Look real hard. They
16 didn't get them. They didn't even bother to get those cell
17 phone records.

18 Now, I don't want to make you tired and I don't want to
19 make you tired of hearing -- any tireder (sic) of hearing the
20 sound of my voice than you already are. I told you in the
21 beginning: I love criminal law. When I say my prayers, one
22 of the things I'm the most grateful for is the privilege of
23 earning a living doing something I love. I know how many
24 people get up and go to work doing things they hate to
25 provide for their families, and I'm grateful I'm not one of

1 them. I love what I do and, and I respect and honor our
2 judicial system.

3 But it can't work -- it can't go on to have the
4 reputation that it's always had of being the finest in the
5 world if juries are willing to convict somebody of a crime as
6 serious as murder based on the kind of evidence that's been
7 put on your plate in this case. I beg you not to do it.

8 You may have your suspicions. The judge is going to
9 tell you suspicion is not good enough. The State has not
10 proven my client guilty beyond a reasonable doubt. His Honor
11 is going to tell you beyond a reasonable doubt is one of
12 those words, phrases, kind of like the word love. What does
13 it mean? I love chocolate cake. I love my mama. They have
14 a lot of meanings.

15 Beyond a reasonable doubt is hard to define, but the
16 charge His Honor is going to give you is as good as I'm aware
17 of and that's that reasonable doubt is a doubt that would
18 cause you to hesitate to act, you as reasonable people to
19 hesitate to act, in the ordinary important affairs of your
20 daily life. If there is any doubt in your mind, my client is
21 entitled to that doubt. I'm confident that you will have
22 such a doubt, and I pray you will label it reasonable doubt
23 and find him not guilty and send him home to baby Layla so he
24 can hold her for the first time.

25 Now, the State gets to have the last argument, and if

closing argument by Ms. Shurling

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1 there's one thing you've learned throughout this trial it's
2 that Ms. Campbell is a very talented prosecutor.

3 **Ms. Campbell:** Objection, Your Honor.

4 **The Court:** Sustained. Let's stick to the record.

5 **Ms. Shurling:** Be careful. Listen to every word and do
6 not let the State distract you from the fact that this isn't
7 good enough. They haven't given you enough for you to go
8 home and sleep well tonight if you find this man guilty of
9 murder. It's just that simple.

10 It's a terrible burden that the State of South Carolina
11 has put on your shoulders, and you're all doing it:
12 Following your oath for all the right reasons. And I'm
13 grateful for that. But they shouldn't expect you to convict
14 someone and live with having made that decision if they
15 haven't given you the evidence to make a finding beyond a
16 reasonable doubt. I'm sorry I won't have the last word, but
17 I trust each of you to remember everything I've said and take
18 it to heart when she's through. Thank you.

19 **The Court:** All right. Ladies and gentlemen, before I
20 turn it over to Ms. Campbell -- we've been a little while.
21 I'm going to let you step back to the jury room for about
22 five minutes to take a break and relax for a minute. Don't
23 discuss the case, and we'll bring you back in five minutes if
24 you need to use the rest room.

25 (Whereupon, the jury was excused from open court at

1 12:04 p.m.)

2 **The Court:** Okay. We'll take about five minutes.

3 (Whereupon, a short break was taken.)

4 **The Court:** All right. Are we ready?

5 **Ms. Campbell:** The State's ready.

6 **The Court:** Bring the jury in.

7 (Whereupon, the jury was brought into open court at

8 12:12 p.m.)

9 **The Court:** Okay. Ms. Campbell?

10 **Ms. Campbell:** May it please the Court?

11 **The Court:** Yes, ma'am.

12 **Ms. Campbell:** In every case when you're getting ready
13 for trial, you try and anticipate what the defense will be.
14 In murder cases they're usually pretty standard. Either it's
15 an I.D. case which this one started out to be. It's just the
16 wrong person. The eyewitness -- maybe the only eyewitness is
17 just mistaken or perhaps it's self-defense. A person has the
18 right to act upon the appearances to defend themselves or
19 even just maybe a drug deal gone bad, but as this case has
20 progressed over the last week, it really boils down to the
21 oldest defense in the book when there is no defense: Just
22 get up there, attack each and every witness, cross-examine on
23 the same issue over and over and over. Even go so far as to
24 impute there may be some type of conspiracy between the
25 prosecutor, the police, these witnesses that for some reason

closing argument by Ms. Campbell

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1 want to be in on it.

2 As it develops, that's kind of what it looks like. In
3 other words, do whatever it takes to try and confuse the
4 jury, to try divert their attention from the facts, the hard
5 facts, the credible evidence that they don't want you to look
6 at. You know, there's an old joke in law school. It talks
7 about how a lawyer and a preacher are walking down the
8 sidewalk. It's concrete and on either side is mud. The
9 night before it's rained. There's a puddle. And the
10 preacher looks over and he says to the lawyer, "Look.
11 There's a silver dollar, because if you look in that puddle
12 at the bottom there's a silver dollar gleaming," and the
13 lawyer picks up a stick and he stirs up the water and the mud
14 and the silt. Obscure it. You can't see it. And he looks
15 at the preacher and he says, "What silver dollar?"

16 Ladies and gentlemen, I want to take the next little bit
17 of time to point out the facts in this case, the credible
18 testimony which points to the guilt of one person and one
19 person only: This man who by his own lawyer's admission just
20 a few minutes ago led a double life. When he reported to
21 work, he was Anthony Hackshaw. When he sold drugs and did
22 his gang stuff, he's Bump, and he wears that hat well because
23 he knows the system. He knows how to show up for work,
24 leave, come back. A double life.

25 Talk about talking out of both sides of your mouth.

1 You're supposed to totally ignore all the witnesses here,
2 especially Ellison Hudson, because he talks out of both sides
3 of his mouth because he lied to the police? She attacks him
4 for that while her client lied to the police over and over
5 and over? Lead a double life. Ignore?

6 I want to take this time to talk about the evidence, and
7 the first person that comes up is Ellison Hudson. And let us
8 be the first, as we were, to tell you: He lied to the police
9 there at the scene. That's the evidence we brought before
10 you. He lied about who shot at him and killed Ebony, and he
11 lied again about the robbery that actually took place.
12 That's evidence we brought before you because, ladies and
13 gentlemen, in cases such as this that are usually handled on
14 the street like he wanted it to be handled, it gets ugly
15 sometimes. And no one from the State is up here before you
16 to say that you should convict him only based on Ellison
17 Hudson. That would be unfair. That wouldn't be right to you
18 as jurors to make this oh so most important decision based on
19 that alone, but we brought it before you because we aren't in
20 here to play games to try to obscure the truth.

21 We want you to know just what these officers did to make
22 sure that an innocent man didn't go to prison for something
23 he didn't do, to make sure that the right person was brought
24 to justice and brought here before you for your decision, and
25 I'm sorry I got loud. That's the reality. We're here for

closing argument by Ms. Campbell

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1 the truth, not for some game, not to cast speculation. This
2 is about the facts.

3 I want to talk a little bit about how this investigation
4 developed and what those facts are. All of the credible
5 evidence in this case points to the guilt of just one person,
6 and as much as he wants you to ignore the phone records, to
7 ignore what the snitches say, that's the facts.

8 May the 20th. It starts actually before that actually
9 and, ladies and gentlemen, as the judge will instruct you,
10 you can only consider the prior robbery shooting incident
11 because it provides this case -- this case doesn't make sense
12 without it. Now, what do we know? That on April the 23rd of
13 2009 there's a robbery and a shooting at [REDACTED]
14 [REDACTED]. That's the apartment complex, a gated community,
15 where this defendant lived. And it is undisputed even by
16 this defendant now at this time -- who couldn't tell the
17 police the truth back then because he was facing some amount
18 of time on some probation violation, but then he later
19 changed that story which I don't understand. And obviously
20 that situation has rendered itself moot since he came in and
21 testified to it. That was under oath. So this alleged
22 reason he ran and couldn't tell them the truth...

23 The robbery involved Bump and an unknown person named
24 Slim, E., and Hot Boy. You heard from Sheldon McDowell. You
25 heard from Ellison Hudson. They went there that day and

closing argument by Ms. Campbell

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1 Ellison Hudson - we brought this evidence - is the first one
2 to pull the gun, and he pulls the gun to rob that man. He
3 gets the marijuana and he gets away from [REDACTED].
4 And we'll talk about some of the threats he made, some of the
5 efforts he went to to find E. Because he was going to get him
6 back. And you know what's significant about what one of
7 those snitches said that's not anywhere? Sheldon McDowell
8 lives in Chimney Ridge. Remember? Remember how he told one
9 of the snitches he wasn't worried about him? He could get
10 him later. He knew where he lived in Chimney Ridge which, by
11 the way, he just happens to live there. Then on May the 20th
12 -- he waits several weeks which makes this credible because
13 he's going to wait under the radar because that's what you do
14 when you lead a double life.

15 The murder of Ebony Fogle. Remember when he talked to
16 his one friend, Mr. Gleaton, who didn't want to be here, who
17 didn't want to get up in front of his friend and testify?
18 You were allowed to listen to that testimony only because
19 certain circumstances were met and the judge made that call,
20 but what did he tell him? That he sprayed.

21 Then he calls him up: What's going on in the
22 neighborhood, in E's neighborhood? Why is that significant?
23 Because, ladies and gentlemen, she just got up here, and her
24 main reason that you can't believe the snitches or anybody
25 else is because what he said happened when he was in jail

closing argument by Ms. Campbell

1565

1 bragging to his cohorts -- by the way, those cohorts with
2 those records she talked about... He's not going to get up
3 there and admit to them that they maliciously gunned down a
4 girl while she's down on the ground, an innocent person,
5 because by the time he's in jail he knows it's an innocent
6 person. It's not Cleveland Joyner. It's not Ellison Hudson.
7 Even in that world that even offends his sensibilities.

8 That day the police told you, evidence has shown, they
9 go to E. They say, "Who's got a beef with you?" He says,
10 "It's Jonathan Bailey." He's sure. But what's significant?
11 There's a car that's identified not just by Cleveland Joyner
12 and Ellison Hudson but by other neighbors. It's a silver
13 Honda. Say it's two-door or four-door and, ladies and
14 gentlemen, I submit that's what gives this case credibility.
15 If everybody came in here and said the exact same thing, then
16 it's a script and something is wrong.

17 It's like when two people see a car wreck. One is
18 standing on one corner. One is standing on this corner. One
19 says the light was yellow. One says the light was red.
20 Nobody is up there trying to lie. They're recalling to the
21 best of their ability. What's significant is the car was
22 going through the cross-section. One lady may describe the
23 car as brown. One may say it's tan.

24 In this case it's a silver Honda. It turns out to be a
25 two-door. That's what every witness says. That's what makes

1 it credible. If everyone came in and said it was a two-door
2 silver Honda with large headlights and a special vanity tag,
3 that's not credible. They told you what they saw and what
4 they recall.

5 That day they also get the .38 caliber revolver from
6 Hudson at his home, and that's significant because later when
7 they go back and get the bullets out of the ground, the
8 slugs, there's a total of four or five or six, something in
9 that nature, most of which, all but one of which, are nine
10 millimeters, but one is a .38. But what do we know about the
11 one .38 recovered from the ground beneath the body? It's not
12 from this gun. It's recovered from Ellison Hudson.

13 Also, the other thing she didn't even talk about in
14 closing is the gunshot residue that's taken that day, and
15 what does that show? It supports what Cleveland Joyner says
16 he did because he shot back. He's got gunshot residue.
17 Remember small amounts? And then at some point she was
18 trying to imply during the trial that the victim was
19 shooting, but the gunshot residue showed clearly she's the
20 recipient. She's getting shot over and over. The levels on
21 her hands are consistent with her having been shot. They're
22 too high if she had been shooting. I don't know where that
23 was going.

24 On May 21st -- and you heard from the Investigator
25 Reese. They went ahead and got the warrant because they had

closing argument by Ms. Campbell

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1 one of the witnesses I.D. him and if he was a murderer they
2 needed to get him off the street. And what happens then?
3 The next day Jonathan Bailey -- and, by the way, the reason
4 you're not supposed to convict her client is because he turns
5 himself in after there's a manhunt on the thing. Jonathan
6 Bailey turns himself in the next day, and against his own
7 lawyer's advice he gives a statement saying, listen, I know
8 where I was and, yeah, did he say that phone call lasted
9 about 30 minutes? Again, that's what makes him credible, if
10 that's what he thought. Guess what? The phone call existed.
11 It lasted 14 minutes. But the place where it's not in
12 dispute -- everyone says he was at the time of the phone call
13 at Kevae Dolphin's house.

14 She wanted to act like it didn't take that long to get
15 there. Once we cross-examined her own witness, we know it
16 takes between 18 and 20 minutes to get there. Do the math.
17 Also, if there had been any evidence about him having access
18 to a silver Honda, we would have heard it. Jonathan Bailey.

19 So at that point because he is doing his job,
20 Investigator Reese, he follows up. He interviews Kevae
21 Dolphin. He then gets a warrant for Hudson's arrest the very
22 next day on the 22nd. Obstruction of justice. Hudson is
23 lying to him. Hudson, you know, moved the gun.

24 She -- and then there's this big deal; we've heard about
25 it. Stephanie. They didn't even get a last name. Ladies

1 and gentlemen, you had the opportunity. Stephanie came
2 before you. She was with him. She alibied him. They made
3 the attempts. They got the name. They got the information
4 so that it could come before you months later. They did
5 their job.

6 They didn't take a written statement. The F.B.I. never
7 does. But they summarized it in the same way. Now, granted,
8 it's not on a separate form. They might do two on one page.
9 That's the difference. They go back based -- the next day,
10 May the 23rd, 2009. They arrest E., Ellison Hudson. They
11 interview him. He starts telling them about somebody else he
12 may have a problem with, and again don't get me wrong.
13 There's another blood: T.J. We didn't interview him.
14 Nobody implicated T.J. They interviewed the person that was
15 implicated. T.J. no one has alleged had anything to do with
16 this other than supposedly Ellison had some other gripe with
17 him.

18 They learned about the beef with Bump. Doesn't know --
19 don't know his name at that point. Know him as Bump. Sells
20 him weed.

21 What's significant here? He talks -- she talked about
22 how he couldn't be guilty because he made contact with the
23 police about this harassing phone call, and you'll have those
24 records back there which show that he made a harassing --
25 that he made a report to the police on the 28th which is

closing argument by Ms. Campbell

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1 going to be two days after he downloaded Ellison Hudson's
2 picture because -- but, wait, he didn't know anything about
3 this. We'll get back to that in a minute.

4 None of this makes sense, ladies and gentlemen, because
5 it's a lie. He downloads his picture on the 26th showing
6 where he's in jail. You'll have that back there. It's in
7 his top dresser drawer in his home. He downloaded it
8 quote/unquote at work.

9 Why is he interested in E. Being in jail? He doesn't
10 have a beef with him. He's not mad with him because, I mean,
11 he just took a couple hundred dollars. He didn't even care
12 that he tried to kill him, according to his testimony. Does
13 that make sense? Does that ring true? But he downloads this
14 picture on the 26th thinking he's in jail.

15 And let's think about it, ladies and gentlemen. From
16 May the 21st through the 1st of June, at the very least, he
17 thinks he's gotten away with it. Jonathan Bailey has been
18 arrested. The police have arrested an innocent man. He's
19 home free. Of course he can make contact with the police.
20 Jonathan Bailey's under arrest. He's gotten away literally
21 with murder, in his mind.

22 June the 1st, they go to the apartment where the
23 defendant lives right there on Brighton Hill Road. They
24 talked to management. They were able to identify Bump as
25 Anthony Hackshaw. They were also able to confirm that there

closing argument by Ms. Campbell

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1 was a shootout that took place at that apartment back in
2 April. They interview neighbors. They were able to
3 determine, lo and behold, that Rosa and Anthony have a silver
4 Honda. That's the information they get.

5 The next day they get briefed by the investigator from
6 the county because there are two different jurisdictions
7 here: Columbia Police Department and the county. They go to
8 Gonzalez. They get briefed about the actual shooting
9 incident. They find out at that point that the defendant has
10 been talked to.

11 He denied having any knowledge of that shooting, denied
12 knowing anything about it because, let's get it straight,
13 just like he testified on the stand, when he went back in
14 that house he's going to handle it himself. That's how it's
15 supposed to be done on the street.

16 They go back. They follow up. They're doing their job.
17 Talk to Cleveland Joyner. Cleveland says, yeah, I know about
18 a beef between the two of them. Cleveland tells them that,
19 and what's significant about Cleveland? Cleveland has even
20 heard from this defendant's own mouth about how he wants his
21 stuff back or he's going to get him. Don't let me put words
22 in Cleveland Joyner's mouth. You remember it. I may be
23 paraphrasing. That's what was going on. And Cleveland
24 Joyner told them -- doesn't change anything from his original
25 statement, just says I know about a beef between the two of

closing argument by Ms. Campbell

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1 them, and he gives that information to the police.

2 The next day, June the 4th, 2009, they interview E.,
3 Ellison Hudson. He I.D.'s Hackshaw. They start following up
4 where the credible evidence is leading them at this point,
5 and they aren't just going to rely on Ellison Hudson.

6 They interview a coworker at Home Depot. They find out,
7 yes, Rosa drives a silver Honda. They interview employees at
8 Bryan's. It's easy for employees to come and go without
9 signing in and out, and we know that for sure because you've
10 got his timesheet. He didn't sign in or out that day, but he
11 was gone all over the place, and we'll get back to those
12 phone records, which she doesn't want you to consider.

13 June the 8th, 2009, they interview Shaquenda Evans. She
14 kept the car from May the 22nd to June the 5th, and that's
15 the date they did the search warrant on the defendant's home.
16 And what's significant about that? They aren't even home at
17 the time, and there's some guy in their home even though,
18 according to Rosa, they never have visitors.

19 At that point they never even go back to the house.
20 They leave the state. They flee. And when I asked the
21 defendant why or when you ask Rosa why, she was scared that
22 it wasn't safe here because the police went in her home and
23 did a search warrant? Yet she had no problem after there's a
24 shootout on her front balcony where a bullet actually went in
25 her neighbor's window or somewhere where a car down below,

1 when he's recklessly shooting into the parking lot, is hit.

2 That's not a problem, but she's scared.

3 And then she's contradicted by her own husband who gets
4 up here and says: I'm facing this and I'm facing this. And
5 I never did understand what he thought he was facing, but for
6 some reason he has to flee because of some marijuana? Not
7 because of a murder but because of some marijuana.

8 June the 9th: The defendant and Rosa never show up for
9 work, never call work. They interview Shanelle Latimer that
10 day who's a friend of Rosa's, learn she starts keeping the
11 car on May the 21st through May the 22nd when it's then given
12 to Shaquenda. But think about it, ladies and gentlemen: It
13 just happens to be a coincidence that on the night after
14 police have put out reports on the news that they're looking
15 for a silver Honda, then suddenly it's the time to hide the
16 car, to keep it away from their apartment?

17 They never bring that car back to the apartment, by
18 their own testimony. It goes first to Shanelle, then to
19 Shaquenda, and as soon as she picks it up from Shaquenda she
20 drives it immediately back to New Jersey and it hasn't been
21 seen since.

22 Coincidence? Why are they hiding the car? Because
23 supposedly there's some interaction with some cousin who we
24 don't know who it is from North Carolina that's going to
25 suddenly report coincidentally the day after the murder that

closing argument by Ms. Campbell

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1 -- to the Honda people that they might be able to come to
2 South Carolina, even though there's no evidence from Rosa
3 that she had any contact with this cousin. Does this make
4 sense? No. And the reason is because it's not true.

5 They're trying to come up with a story - you can't blame
6 them - to explain -- this is pretty bad that you're trying to
7 hide a silver Honda the day after the murder occurs because
8 why are you doing that if you didn't even know anything
9 happened the day before? Talking out of both sides of your
10 mouth?

11 June the 10th they get projectiles from [REDACTED]
12 [REDACTED] from beneath the victim's body. That's significant.
13 A nine millimeter and a .38, neither one of which of the guns
14 they get from Ellison Hudson.

15 June the 14th -- and this is just yet another example.
16 Rosa: I never called the police. I never had any contact
17 with them. Look at her phone records, the ones we put in.
18 She didn't just call Investigator Reese at C.P.D. She called
19 Investigator Gonzalez over and over, leaving him messages.
20 She had no idea what was going on. Her lawyer described her
21 as clueless?

22 She wasn't making those calls to see how the police
23 officers were doing in a case she didn't have any interest
24 in. She made them to figure out what was going on, where the
25 charges were progressing, and what's happening. And this is

1 before arrest warrants. We'll get to those in a minute.

2 So then you get to June the 16th through the 17th. The
3 phone records come in, and I'll come back to those in a
4 minute because those are significant. And why are the phone
5 records significant? Because they trace -- as much as she
6 says don't rely on them, it shows and it -- the Sprint guy
7 got up here and testified, yeah, maybe one phone call it
8 could switch, but in this, ladies and gentlemen, we aren't
9 asking you to rely on that. You've got a series of phone
10 calls, and I'll get back to that 46-minute gap - it's
11 significant - showing his direction, showing where he goes,
12 and most importantly documenting the time periods which are
13 significant because in this case the judge is going to charge
14 you that the defendant's alleging an alibi. And he has no
15 duty to prove it, but, ladies and gentlemen, we have the duty
16 and have disproved it.

17 Why do you think he wrote the time wrong down on the
18 sign-in sheet, putting himself at 1:00 when we know at 1:00
19 he's still traveling down and is on the phone. He's not
20 making phone calls during his physical therapy session, I
21 submit, but he is sure making phone calls up to 13:22 when he
22 gets to his physical therapy place. Why would he switch the
23 time? He's trying to make an alibi that that covers. We'll
24 get back to that.

25 July the 6th, Nina Gordon is interviewed. She sees the

closing argument by Ms. Campbell

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1 defendant leave that morning. He's wearing dark clothing.
2 He's got the hat. Remember the hat? It's the hat he always
3 wears, the hat the neighbors saw, the hat that Ellison Hudson
4 told them about.

5 What's significant, too? The defendant calls Rosa at
6 that point telling her: Don't go back to the apartment. Ms.
7 Gordon told you about that. She's angry. Remember? Rosa
8 stayed for hours. Then they interviewed Karen Moore to
9 confirm her story.

10 July the 7th the investigation continues because the
11 police are doing their job. They interview Joseph Smith.
12 Joseph Smith is this defendant's friend, by his own
13 admission. Joseph Smith is not facing any kind of reward
14 here or anything else. He's not in any trouble because if he
15 had been, it would have come out. What does he tell you?
16 He's asking him for nine millimeter bullets. He sees him
17 with a gun, be it a .40 caliber whatever, with a gun.

18 He tells Joseph Smith -- this defendant, Bump, tells him
19 he's going to take care of the person who robbed him, going
20 to get his stuff. He tells the police - Joseph Smith does -
21 that he's seen the defendant before in a silver Honda. After
22 the search warrant, after all that happens, there's a phone
23 call in which Joseph Smith and Hackshaw talk at which point
24 he tells him he's wanted for a murder, and the defendant's
25 quote is about the police, "I'm laughing at those" excuse my

1 language, "boys," F. Boys, because that's part of what he
2 counts on. He laughs at them. They aren't going to be able
3 to prove anything on me.

4 July the 10th, they get arrest warrants. Both the
5 defendant and his wife are hiding the car. July the 27th,
6 they go and they do a search warrant at the physical therapy
7 place. They find out, because they want to, because just
8 like they did with Jonathan Bailey, if he's got an alibi,
9 they want to know about it.

10 So what does it do? It reinforces what they already
11 know. His appointment time, ladies and gentlemen -- and as
12 much as they want to try to make it to be 1:00, it was 1:30
13 that day, as it was 29 out of the 36 total times he'd been
14 visiting the therapist's office in the year or year and a
15 half before that.

16 **Ms. Shurling:** Your Honor, I'm reluctant to interrupt,
17 but she's testifying to matters not supported by the
18 evidence.

19 **The Court:** I thought the records were put in and
20 introduced.

21 **Ms. Campbell:** Yes, sir.

22 **The Court:** Overruled.

23 **Ms. Campbell:** The appointment sheet time is in there,
24 1:30, the patient sign-in sheet, where he deliberately puts
25 the time down as 1:00 even though the one below it is 1:09

closing argument by Ms. Campbell

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1 and the one after it is 1:24. Why would he try to skew that
2 if he's not worried about covering up anything?

3 From July the 9th to the 29th of 2009 the police are
4 looking for Hackshaw, Rosa, anyone. On July the 29th the
5 defendant and his attorney turn himself in to the police.
6 There's no interview. July the 31st Rosa turns herself in.
7 She says she has the silver Honda but knows nothing else.

8 And then what's significant? You go to November the
9 18th. There's an interview with the defendant initiated by
10 his own lawyer at the time, Charlie Johnson. He denied the
11 robbery, the shooting, again. This is the third or fourth
12 time. He denies having the silver Honda, and if that's not
13 -- why would the police make that up? He made a big deal out
14 of it on the stand because he's distancing himself. He's not
15 saying anything.

16 He denied -- he talks about physical therapy. He tells
17 them: You should know; you've been poking around. And he
18 talks about how he took a polygraph and that the results were
19 he manipulated the test and, by the way, that was the only
20 officer he liked that day even though he had only met Reese
21 and Thomas that day. But they're lying on him? Does this
22 make sense?

23 Finally, March 11th they interview Travis Golston.
24 April 26th of this year they interview Terran Hughey. June
25 the 3rd they interview Torrian Gleaton, his friend, who said

1 -- and he was very specific. And the reason they went over
2 and over it with Mr. Gleaton is not just to make it more
3 confusing. It's to make sure that they only attributed what
4 he actually told him, what Bump actually told his friend.
5 They limited it to that. They didn't -- they were trying to
6 clear it up to make sure it wasn't something E. Had told him.
7 And what it boiled down to was he said he sprayed. Then he
8 wants to know what's going on in the neighborhood and that
9 Hackshaw had wanted to find E. About the robbery.

10 And finally on July the 28th they interview Aaron
11 Johnston, and the only information he had for the police, as
12 he testified to here in court, was that Hackshaw called him
13 after the robbery. He was frantic. A couple hundred dollars
14 didn't mean anything to him? Wasn't embarrassing? Didn't
15 make him mad? His own brother says he was frantic; those
16 were his words.

17 He told him to call the police. I doubt he would have
18 told him that if he were in any trouble for it. He's the
19 victim and that he didn't ask any more questions, Mr. Johnson
20 didn't, because he didn't want...

21 Now, that's the timeline. Now I want to talk
22 specifically for a few minutes about some of what was said.
23 Ellison Hudson, he basically in the first statement tells the
24 police about the silver Honda, the two guys, and then he
25 names Jonathan Bailey. He admits in his second statement he

closing argument by Ms. Campbell

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1 had a beef with Bump, in a third statement that he'd robbed
2 him. He I.D.'s Hackshaw, but the State is not asking you to
3 convict this man based on that alone. Let's go a little
4 further.

5 Cleveland Joyner gives a statement to the police:
6 Silver two-door Honda. He sees two guys. The one he saw the
7 most of was the guy with the blue hoodie, that there was a
8 beef between E. And Bump from the robbery or shooting. He
9 doesn't tell them that at first because he doesn't think of
10 it at the first statement, but he never lies about it. But
11 in the second statement when he goes back, just like we did
12 on the timeline, he tells them definitely about that.

13 You also heard from Nina Gordon, and what's significant
14 about what she told you? Nina Gordon saw the defendant on
15 May the 20th, 2009, around 7 a.m. leaving the apartment
16 wearing black scrubs, a baseball cap, and a dark-colored
17 hoodie. Significant -- remember how she testified that he
18 always wore hats? Saw a two-door silver Honda leave shortly
19 after seeing the defendant. Had seen the defendant and his
20 wife, Rosa, driving that same Honda.

21 She observed the defendant being angry with Rosa for
22 being at Nina's home that afternoon. Remember when she came
23 over to take care of the kids when she went to Wendy's?
24 Around the time of this incident he ordered Rosa not to go
25 home until he called her and told her it was okay, which she

1 did.

2 You also heard from the two women, Shanelle and
3 Shaquenda, who hid the car for them coincidentally just in
4 the time period when the police would be looking for it in
5 connection with a murder that they had already put out over
6 the news. You heard from Monica Goodwin, and the defense got
7 up here and said that there was no beef with Monica Goodwin,
8 excuse me, that there was -- well, not only no beef with
9 Monica Goodwin but that nothing unusual happened with the
10 defendant that day.

11 But remember she testified: It was out of the ordinary
12 that he didn't come speak to her. He was getting out of
13 there. He didn't even come by and speak. It was his last
14 session, and he doesn't remember this day? Saw the defendant
15 leave physical therapy in guess what? A silver Honda. That
16 day. Hours after -- within a half-hour after the shooting
17 itself. The fact that the defendant did not speak or say
18 hello to her was out of the ordinary.

19 Now, let's talk about some of what the defendant told
20 other people. Torrian Gleaton, the defendant's friend. He
21 also knows E. He spoke to both of them. He was up front
22 about that. Bump told him about the robbery, said he was
23 looking for E., even tried to remember getting him to go and
24 find out where E. Lived or show him. Told him about the
25 shooting. He sprayed the yard.

closing argument by Ms. Campbell

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1 And this is what makes him credible. He's not -- he
2 says in the home statement, "I'm not even sure that he hit
3 anyone." That's Torrian Gleaton taking up for his friend,
4 trying to excuse Bump's actions and what he told him. That
5 rings of truth, ladies and gentlemen, because even Torrian
6 Gleaton in his statement to the police, after the police
7 track him down a year after this occurs, is trying to help
8 him out. But the main thing: Calls him up, smug. How are
9 things in your neighborhood? And remember Gleaton's mother
10 lived in that neighborhood -- grandmother lived in that
11 neighborhood? Those are things that he told his own friend.

12 Joseph Smith, his other good friend -- and I said -- and
13 you remember these, the testimony, because that's the
14 credible evidence, ladies and gentlemen, the testimony.
15 Asked Smith how did he get nine millimeter bullets or if he
16 could get them for him. Told Smith he was laughing at those
17 F. Boys when Smith told him the police were looking for him
18 for murder, acted like he didn't care, said, "They can't get
19 me on no murder," and he counted on that. Knew who robbed
20 him and had people to take care of it and he was going to
21 handle it. The last car he saw him driving was the silver
22 Honda. Not guilty? That's what he told his own friends.

23 And then Travis Golston. And make sure I don't mix up
24 the names as far as who said what or who was facing what.
25 They're both facing time, significant time. There is no

1 doubt -- the State is going to tell you they want something.
2 But, ladies and gentlemen, she made a big deal about how the
3 State didn't offer them anything when they, you know, came
4 forward. No. What person or what -- how would you offer
5 them something without knowing what you're getting? There
6 are no deals. Of course not. It would be stupid to make a
7 deal. It's like buying something without knowing what it is,
8 yet there's some implication there, as there have been many
9 implications in this trial. He told that he shot and killed
10 the girl, robbed by E. And Hot Boy and he does not play.

11 The girl showed him Best Buy, the truck, then showed him
12 the house, mentioned about James Clyburn, to be careful - he
13 lived there - how he got a security detail. He's not worried
14 about Hot Boy because he knew where he stayed on Chimney
15 Ridge off Clemson which coincidentally is there. Told him
16 about Quantum Beat Studio. That's where his brother runs a
17 studio. Shot in the back yard.

18 The police, ladies and gentlemen, when he's coming
19 forward in March haven't even heard of Aaron Johnson, have
20 not even been to interview him. Said Jonathan Bailey got
21 arrested though he thought he was okay. He didn't see how he
22 missed. And I submit, ladies and gentlemen, that's the
23 truest part of this. He didn't see how he could miss. Will
24 kill E. And Hot Boy when he gets out. He was mad because the
25 defendant had kept it in the streets about the robbery and E.

closing argument by Ms. Campbell

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1 Should have kept it in the streets, too. That double life.

2 Handle it on your own.

3 Terran Hughey got to know him, and by the way, there's

4 no doubt that the defense investigators got up here and

5 testified they told him not to talk, but as time passes, as

6 trust builds up or as just sheer bragging rights in the jail,

7 for whatever reason -- and this isn't about any discovery.

8 Got to know it's the same prosecutor. He had questions while

9 playing cards. Knew he was from New York. Quantum Studio.

10 Robbery was by E. The girl took him to Best Buy, the white

11 truck, then showed him the house, the truck in the driveway.

12 It was near Isaac Street. Be careful about James Clyburn.

13 Two dudes with dreads. He busted 20 rounds. Found out the

14 girl got shot and killed the next day. Knew Jonathan Bailey

15 was arrested. Said he was going to beat the charge because

16 there was no evidence.

17 And you can go through about the information that they

18 had that wasn't in the discovery because if it had been we

19 would have heard about it because once the defense -- they

20 have no duty to put up anything, but once they put up

21 evidence, you judge it and its credibility the same way you

22 do the State's case. It's not a different level because

23 believable and credible, those words work hand in hand and

24 they mean the same when it's the State's witness or when it's

25 the defense witness.

1 The State doesn't get up here and ask you to rely on
2 only one witness to prosecute this man, to hold him
3 responsible for what he did. The State asks you to look at
4 the case as a whole, and I submit, ladies and gentlemen, that
5 when you do in this case, in this courtroom, with this
6 evidence, it doesn't get any clearer who shot and killed
7 Ebony Fogle. Information not that his dad worked for Best
8 Buy -- and, oh, by the way, under their theory there are just
9 these people that come in and randomly tell him about Ellison
10 Hudson's dad working at Best Buy?

11 You know, it makes sense perhaps people coming and
12 telling him about Ellison Hudson but about his father working
13 at Best Buy, wearing a yellow shirt? That they had a black
14 Honda and a white truck that they just coincidentally have?
15 Not in discovery. That the defendant is from New York
16 originally? That the girl was taking him around and giving
17 him information, took him to the Best Buy and took him by the
18 house? That Congressman Clyburn has relatives who live in
19 the neighborhood? Quantum Beats, his brother's place.
20 Nowhere did that even come up in the investigation and that
21 his brother's name was Aaron Johnson. Those are just some of
22 the reasons that their testimony reams truthful.

23 She got up here and she argued that there were many
24 reasons - and she enumerated them - that you couldn't convict
25 this defendant, that he turned himself in, that that's not

closing argument by Ms. Campbell

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1 the action of a guilty man? I submit, ladies and gentlemen,
2 they checked it out. They knew they were being looked for.
3 They knew there was a manhunt going on for this murderer.
4 Yes, he turned himself in after he contacted his lawyer.

5 Then she said because you couldn't convict him because
6 he kept working after this occurred. Of course he kept
7 working. You can't lead a double life unless you keep the
8 cover going. He didn't want to deviate on anything, and of
9 course he kept working because all he had to do was show up
10 and then he's gone for half a day and it's not even
11 documented in his work records.

12 He would come and go as he pleased, but he made the
13 report about harassing phone calls. There's no physical
14 evidence. Under Ms. Shurling's theory, there is no physical
15 evidence tying him to the scene other than the bullets he
16 left and the body of the girl he killed. Then no one could
17 ever be convicted of murders, especially in gang-related
18 shootings such as hit and get out.

19 There are no tire tracks, ladies and gentlemen. No one
20 said the car drove into the grass. We can't just make it up.
21 She talked about how they didn't canvass the neighborhood.
22 The testimony was---

23 **Ms. Shurling:** Your Honor, I have to object. There's
24 been no evidence brought forth in this trial that my client
25 had any ties to gang activity. This is the second time---

1 **The Court:** Sustained.

2 **Ms. Shurling:** ---the solicitor said it.

3 **The Court:** Sustained. Don't go into it. It's not in
4 the record.

5 **Ms. Campbell:** This testimony from this case was that
6 they searched the nearby areas because they found a bullet at
7 [REDACTED]. So they did search the surrounding
8 yards, and those are the reasons.

9 This defendant's testimony was -- and I found it
10 interesting: In closing she didn't really talk about his
11 testimony because it is incredible. He testified he didn't
12 remember that day; it wasn't significant. It never became
13 significant, yet six days later he's looking up Ellison
14 Hudson in the Alvin S. Glenn web site.

15 Well, he wasn't there for the lockdown that took place
16 for a couple of hours or an hour or two hours that afternoon?
17 No. He was still at physical therapy. Nobody told him about
18 it when he got back. He didn't notice? Because he had to
19 drive right back by Juniper Street. The helicopters in the
20 air? Law enforcement's presence? They're canvassing the
21 neighborhood that afternoon, but he had to go back to work so
22 he could check out.

23 The police are wrong, that he told them about the Honda,
24 and the one thing that -- he didn't have a beef with E. He
25 had nothing against E. He'd only robbed him of a couple

closing argument by Ms. Campbell

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1 hundred dollars. And I guess as E. Was shooting at him he
2 didn't find that offensive either because that's when he said
3 he had to shoot back down into a parking lot where he hit a
4 random car because he was going to handle it himself, and
5 don't those words ring true?

6 Finally, the phone records. You'll have this map back
7 there, and admittedly there are two towers over here that
8 aren't on there that are on her map. That's true. The State
9 wants to talk about what these show as far as significance in
10 the time periods involving this case because they do become
11 significant. As much as she said you can't rely on them, you
12 can.

13 And what is shown is this time -- at 11:00 until 12:24
14 there are four phone calls outbound. They are hitting on
15 this Pisgah Church Road tower which is depicted up here, and
16 what's significant about that? That's near his place of
17 business where he works at that point. You get to 12:25.
18 Remember he was going -- supposed to leave around 12:30 that
19 day, according to their own witness, and when he left that
20 day you've got one phone call outbound that hits on Tower 223
21 which is down here on Parklane near his residence. Also,
22 here is the actual victim's.

23 From 12:25 to 13:11 -- and she's right. Those 46
24 minutes are... There are no outgoing calls on his phone.
25 There are no cell towers that are hit; that's in the records.

1 Forty-six minutes. And, ladies and gentlemen, I submit he's
2 smart enough to know not to make phone calls while he's
3 shooting up and canvassing the neighborhood.

4 The next phone call is at 1:11 to 1:18, an outbound. It
5 hits back. Did he go back to his residence on his way to
6 physical therapy? Did he have time? Plenty. And you heard
7 the distances and everything, and I'll get back to that.

8 From 1:19 to 1:22, four phone calls he tries to make. It's
9 hitting on North Trenholm Road. Would that be directly from
10 his residence the route to go to get to the physical therapy
11 place? He continues to -- 13:23 is the last phone call that
12 happens to hit on the tower at Forest Drive which is where
13 his physical therapy is. That's the first time it hits
14 there. So are these times significant? Do these times
15 corroborate the sign-in sheet? Do these times show where he
16 was?

17 Then from that time there's one more call. Then you'll
18 notice a gap while he's in physical therapy and then the
19 calls pick back up, and that's what is significant. The
20 single cell tower? Perhaps not. But this shows exactly what
21 is, and what is significant is the time period when the
22 shooting and the murder actually occurs. There are no calls.
23 There are no towers he hits on. And then it corroborates the
24 last one to when he gets to physical therapy. That's in the
25 records, and that's on this sheet, because from 13:23 is the

closing argument by Ms. Campbell

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1 last outbound call. Now, this does include inbound, because
2 he can't control those. But the next outbound call is at
3 2:17 that afternoon and I submit as he's leaving physical
4 therapy.

5 And there are a number of other calls that hit back up
6 here because he has to -- and that's true. Closer to this
7 victim's later that afternoon. Remember there was one like
8 at 2:30 and I think one at 3 something or something? You'll
9 remember. That's because he has to drive back by here in
10 order to get back to work. Remember, it's only two miles
11 from where he works to where the murder occurred.

12 You heard from his witnesses -- the sister, convoluted.
13 She and the sister don't agree with what happened to the
14 Honda. One says it was repo'd. One says it was totaled.
15 Why they had to hide it.

16 You heard from other witnesses for the defense, Ms.
17 Cleary, who said her client was clueless, had no idea what
18 was going on, had not had any contact with the police, and
19 then tried to even say it was the mother making the phone
20 calls. Regardless, the phone calls were made. But Mr. Lomas
21 and Ms. -- they testified to the best of their ability, but
22 even Mr. Lomas said it could have been as late as 1:30 before
23 the defendant showed up. From Ms. White we know he left at
24 12:30 that day. They put in records showing that how he left
25 work on the 9th and never reported again.

1 You heard from Investigator Jones who told him not to
2 talk, not to tell anybody about his case, and from Dave
3 MacDougall. Not once did either one of them say they gave
4 the defendant any discovery.

5 And finally you heard from the defendant. As far as his
6 testimony, ladies and gentlemen, I've gone over it. He got
7 up here and suddenly now he can come forward, and it's called
8 the art of confessing errors. Admit to the part that won't
9 hurt you in an attempt to try and make yourself look
10 truthful. So suddenly he can admit to this shooting which
11 is, according to him, the reason he had to flee in the first
12 place, that suddenly now he's not in such a bad predicament
13 as he was back then. I don't know what; I submit nothing.

14 The art of confessing error but denies... And remember
15 how she asked him: Look directly at that jury. When you
16 lead a double life, you can look directly at anybody and say
17 what you need to.

18 All the State asks, ladies and gentlemen, is that when
19 you look at this case, when you look at this evidence in this
20 case, in this courtroom, the credible evidence that's totally
21 corroborated, all we ask is that you follow your oath and you
22 reach a verdict that speaks the truth. Verdict comes from a
23 Latin phrase veredicto, and quite literally the
24 interpretation of that is to speak the truth.

25 On May the 20th of 2009 Ebony Fogle never had a chance.

Court's charge on the law to the jury

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1 She was brutally gunned down by people she didn't know, she
2 didn't even have an issue with, because she was in the wrong
3 place at the wrong time. Now we're here. Don't let her
4 murderer get away with it. All we ask is that you find him
5 guilty for what he did, for his choices, that you see through
6 the double life, and that you hold him accountable for what
7 he did, for his choices. Thank you.

8 **The Court:** All right, ladies and gentlemen. I need to
9 instruct you this. You heard about the offense of accessory
10 after murder. For your information, accessory after murder
11 carries a penalty of up to 15 years. Now it is time that I
12 charge you, and the charge will probably take about 20 to 25
13 minutes. Do you want me to charge you now and then let you
14 go back and have lunch and begin your deliberations or do you
15 want to eat lunch and then come back and do the charge?
16 Apparently everybody indicates they want the charge at this
17 time.

18 All right. Ladies and gentlemen, the indictments charge
19 the defendant with four offenses. He is charged with murder,
20 two offenses of assault with intent to kill, and one offense
21 of use of a firearm during the commission of a violent crime.
22 I remind you that the fact that the defendant was arrested,
23 charged, and indicted in this case is not evidence in the
24 case and cannot be considered by you as evidence of guilt nor
25 does it create any presumption or inference of guilt.

1 The indictments are simply the formal written
2 instruments which contain the charges made against the
3 defendant. It is the formal document by which the case is
4 brought into the court.

5 Now, as I told you, the indictment charges four separate
6 offenses. You must decide each indictment separately on the
7 evidence and the law applicable to it, uninfluenced by your
8 decision as to any other indictment. The defendant may be
9 convicted or acquitted on any or all of the offenses for
10 which he is charged. You will be asked to write a separate
11 verdict of guilty or not guilty for each indictment.

12 Now, ladies and gentlemen, as to the indictments I'm
13 going to tell you what they allege. The murder indictment
14 alleges the defendant did in Richland County on or about
15 May 20th, 2009, feloniously, willfully, and with malice
16 aforethought kill one Ebony Fogle by means of a gunshot wound
17 and that the said victim died as a proximate result thereof.

18 One of the assault with intent to kill indictments
19 alleges that the defendant did on May 20 -- on or about
20 May 20, 2009, with malice aforethought commit an assault with
21 intent to kill upon the victim, Ellison Hudson.

22 The other indictment for assault with intent to kill
23 alleges that Mr. Hackshaw did in Richland County on or about
24 May 20, 2009, with malice aforethought commit an assault with
25 intent to kill upon the victim, Cleveland Joyner.

1 The indictment for the use of a firearm during the
2 commission of a violent crime alleges that Mr. Hackshaw did
3 in Richland County on or about May 20, 2009, possess or
4 visibly display a firearm during the commission or attempted
5 commission of a violent crime, that crime being murder.

6 Now, to the indictments the defendant has entered pleas
7 of not guilty which places upon the State the burden of
8 proving the defendant guilty. A person charged with
9 committing a criminal offense in South Carolina is never
10 required to prove himself innocent.

11 I charge you that it is a vital, important rule of the
12 law of evidence that the defendant in a criminal trial, no
13 matter how great or serious may be the offenses for which he
14 is charged, must always be presumed innocent until his guilt
15 has been proven beyond a reasonable doubt. This presumption
16 of innocence remains with the defendant at all times, from
17 the moment of his appearance in the court, throughout the
18 trial, and until the jury has, upon the testimony and the
19 evidence presented, reached a verdict of guilty beyond a
20 reasonable doubt, for it is the solemn duty of the jury if
21 not clearly convinced of the defendant's guilt beyond a
22 reasonable doubt to acquit the defendant.

23 So the burden of proof is upon the State to establish by
24 evidence to your satisfaction the guilt beyond a reasonable
25 doubt of this defendant here on trial for the four offenses

1 for which he is charged. Now, what is a reasonable doubt? A
2 reasonable doubt is the kind of doubt that would cause a
3 reasonable person to hesitate to act. If you have such a
4 doubt as to the guilt of the defendant as to any of the
5 indictments, then he would be entitled to a verdict of not
6 guilty. Proof beyond a reasonable doubt is proof that leaves
7 you firmly convinced of the defendant's guilt. Reasonable
8 doubt may arise from the evidence which is in the case or
9 from the absence or lack of evidence in the case. To think
10 that a defendant is probably guilty or the circumstances are
11 suspicious is not enough. You alone must make the
12 determination of whether or not reasonable doubt exists as to
13 the guilt of the defendant.

14 Now, ladies and gentlemen, there are two types of
15 evidence which are generally presented during a trial:
16 Direct evidence and circumstantial evidence. Direct evidence
17 is the testimony of a person who claims to have actual
18 knowledge of a fact, such as an eyewitness. It is evidence
19 which immediately establishes the main fact to be proved.
20 Circumstantial evidence is proof of a chain of facts and
21 circumstances indicating the existence of a fact. It is
22 evidence which immediately establishes collateral facts from
23 which the main fact may be inferred.

24 Circumstantial evidence is based on inference and not on
25 personal knowledge or observation. The law makes absolutely

1 no distinction between the weight or value to be given either
2 direct or circumstantial evidence nor is a greater degree of
3 certainty required of circumstantial evidence than of direct
4 evidence. You should weigh all of the evidence in this case.
5 After weighing all of the evidence, if you are not convinced
6 of the guilt of the defendant beyond a reasonable doubt as to
7 any indictment or charge, you must find the defendant not
8 guilty.

9 Mr. Foreman and members of the jury, under our
10 Constitution and laws, you are the finders of facts in this
11 case. I do not have the right to pass upon the facts or even
12 to express an opinion that I might have as to them nor may I
13 intimate in any way what I think about the guilt or the
14 innocence of the defendant.

15 You are also the sole judges of the credibility and by
16 that I mean the believability of the witnesses who have
17 testified in this case. In passing upon their credibility,
18 you may take into consideration many things such as the
19 demeanor or the manner of testifying of the witness, whether
20 the witness had reason to be biased or prejudiced, whether a
21 witness's testimony was contradicted on the one hand or
22 supported and corroborated on the other hand.

23 You certainly do not determine credibility or
24 believability by counting the number of witnesses for either
25 side. You may believe a small portion of a witness's

1 testimony and disregard the larger or vice versa. You may
2 believe one witness against many or many against one.

3 You have heard the testimony of witnesses who have
4 special knowledge, skill, experience, training or education
5 in particular professions or occupations and who have given
6 their opinions as experts as to matters in which they are
7 skilled. In determining the weight to be given such
8 opinions, you should consider the qualifications and the
9 credibility of the experts and the reasons given for that
10 respective opinion. You are not bound by such opinion. Give
11 it the weight, if any, to which you deem it is entitled. All
12 these things you will consider, bearing in mind that you
13 should give the defendant the benefit of a reasonable doubt.

14 Now, the same Constitution and laws which make you the
15 finders of the facts and the evidence, as I have discussed
16 with you, make me the sole and only instructor of the law.
17 You must accept as correct the law which I charge and apply
18 it to the evidence as you find it and reach your verdict.
19 And finally I charge you in this regard: That you should not
20 be concerned about what you think the law ought to be or what
21 you wish the law were but, rather, what I charge you the law
22 to be.

23 Now, ladies and gentlemen, a statement alleged to have
24 been made by the defendant has been admitted into evidence in
25 this case. While the Court has determined that the statement

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1 is admissible, I instruct you that you make the ultimate
2 decision of whether or not the defendant made the statement.
3 If the defendant did not make the statement, you must
4 determine whether the statement was made by -- if the
5 defendant did make the statement, you must determine whether
6 the statement was made by the defendant voluntarily and of
7 his own free will. This means that the statement was not
8 caused by pressure, force, fear, threats, coercion or
9 intimidation or by hope or a promise of leniency or reward of
10 any kind.

11 In determining whether the defendant's statement was
12 voluntary, you should consider both the characteristics of
13 the defendant and the details of the question. Some of the
14 factors that you may consider are the age of the defendant,
15 the defendant's education or lack of education, the
16 defendant's mental ability or capacity, the defendant's
17 intelligence, the defendant's background and environment, the
18 place and length of the detention and the nature of the
19 questioning, and the advice or lack thereof that the
20 defendant had to his constitutional rights, including but not
21 limited to the right to remain silent, that any statement
22 could be used against him in a court of law, the right to
23 have a lawyer present, that if he could not afford a lawyer,
24 a lawyer would be appointed to represent him without any
25 cost, and that he could stop making a statement at any time.

1 You must carefully consider all the surrounding circumstances
2 before you give any weight to an alleged statement.

3 The State has the burden of proving beyond a reasonable
4 doubt that the alleged statement was voluntary. If you
5 determine it was, you may give the statement any further
6 consideration that you deem proper. You must decide that
7 weight, if any -- what weight, if any, should be given to the
8 alleged statement. If you determine the alleged statement
9 was not free and voluntary, you should not consider the
10 statement at all.

11 Now, an issue in this case is the identification of the
12 defendant as the person who committed the crime. The State
13 has the burden of proving identity beyond a reasonable doubt.
14 You must be satisfied beyond a reasonable doubt of the
15 accuracy of the identification of the defendant before you
16 may convict the defendant.

17 Identification testimony is an expression of belief or
18 impression by a witness. You must determine the accuracy of
19 the identification of the defendant. You must consider the
20 believability of each identification witness in the same way
21 as any other witness. You may consider whether the witness
22 had an adequate opportunity to observe the defendant at the
23 time of the offense. This will be affected by things like:
24 How long or how short a time was available? How far or how
25 close was the witness? What was the lighting conditions?

1 And whether the witness had the chance to see or know the
2 person in the past.

3 Once again, I instruct you that the burden of proof on
4 the state extends to every element of the crime charged, and
5 this specifically includes the burden of proving beyond a
6 reasonable doubt the identity of the defendant as the person
7 who committed the offenses. If after examining the testimony
8 you have a reasonable doubt as to the accuracy of the
9 identification, you must find the defendant not guilty.

10 Now, you've heard evidence that the defendant was
11 convicted of a crime other than the one for which the
12 defendant is now on trial. This evidence may be considered
13 by you, if you conclude it is true, only in deciding whether
14 the defendant's testimony is believable and for no other
15 purpose. You must not consider the defendant's prior record
16 as any evidence of the defendant's guilt of the charges for
17 which we're trying him today.

18 Now, you've also heard evidence that the defendant
19 committed a bad act not the subject of a conviction and one
20 other than the one for which the defendant is now on trial.
21 This testimony, if you conclude it is true, may be considered
22 by you on the question of motive and for no other reason and
23 no other purpose. You may give this evidence the weight and
24 value, if any, which you find it should have on the sole
25 issue of motive. You must not consider evidence of the

1 commission of another bad act as proof of the defendant's
2 guilt of the charge for which we are here today.

3 A person who has a past criminal record is competent to
4 testify during a trial. A past record does not affect the
5 ability of that witness to testify. The past record may only
6 be considered by you, if at all, in determining the witness's
7 believability. Remember, you are the sole judges of the
8 facts in this case and of the believability of any and all of
9 the witnesses.

10 Now, there's been evidence presented that witnesses have
11 made prior statements which are not consistent with the
12 witness's present testimony. You may use this evidence to
13 decide whether to believe the witness. You may also use
14 evidence of the earlier contradictory statements to determine
15 the truth of those statements. It is up to you to decide
16 whether to believe the earlier statements or the testimony
17 given at trial.

18 If a witness has shown to have knowingly testified
19 untruthfully concerning any material matter, you may consider
20 this in determining whether to trust the witness's testimony
21 as to other matters. You may reject all testimony of that
22 witness or give all or part of the testimony the weight you
23 think it deserves.

24 Mr. Foreman, ladies and gentlemen of the jury, in order
25 to establish criminal liability, criminal intent is required.

1 For example, the mental state required to be proven by the
2 State for a particular crime might be some purpose, some
3 specific intent, knowledge of certain facts or recklessness.
4 Criminal intent must be proven by the State beyond a
5 reasonable doubt. Criminal intent is always a matter that
6 must be determined by the jury from the circumstances
7 surrounding the situation.

8 ,There is no way to prove intent to a mathematical
9 certainty. There is no medical science that can dissect a
10 person's brain and determine what the person had in mind. So
11 the law says that criminal intent may be inferred from the
12 circumstances shown to have existed. This is how you make a
13 determination of whether or not the element requiring intent
14 was present. Criminal intent is a mental state, a conscious
15 wrongdoing. It is up to you to determine what the defendant
16 intended to do based on the circumstances shown to have
17 existed.

18 Now, as I told you, ladies and gentlemen, the defendant
19 is charged with murder. The State must prove beyond a
20 reasonable doubt that the defendant killed another person
21 with malice aforethought. Now, what is malice? Malice is
22 defined in the law of homicide as a term of art. It is a
23 technical term, importing wickedness and excluding just cause
24 or legal excuse. It is something which springs from
25 wickedness, from depravity, from a depraved spirit, from a

1 heart void of social duty and fatally bent on mischief.

2 Malice is hatred, ill will, or hostility towards another
3 person. It is the intentional doing of a wrongful act
4 without just cause or excuse and with an intent to inflict an
5 injury or under circumstances that the law will infer an evil
6 intent.

7 Malice aforethought does not require that malice exist
8 for any particular time before the act is committed, but
9 malice must exist in the mind of the defendant before and at
10 the time of the act. Therefore, there must be a combination
11 of previous evil intent and the act. Malice aforethought may
12 be express or inferred. The terms express and inferred do
13 not mean different kinds of malice but merely the manner in
14 which malice may be shown, that is, either by direct evidence
15 or by inference from the facts and circumstances which are
16 proved.

17 Express malice is shown when a person speaks words which
18 express hatred or ill will for another or when the person
19 prepared beforehand to do the act which was later
20 accomplished. For example, lying in wait for a person or any
21 other act of preparation going to show that the deed was
22 within the defendant's mind, that would be an express malice.

23 Malice may be inferred from conduct showing a total
24 disregard of human life. Malice may be inferred from the
25 willful, deliberate, and intentional doing of an unlawful act

1 without just cause or legal excuse. Malice may also arise
2 when the deed is done with a deadly weapon. A deadly weapon
3 is any article or instrument which is likely to cause death
4 or great bodily harm. Whether an instrument has been used as
5 a deadly weapon depends on the facts and circumstances of
6 each case. Even if the facts are proven that are sufficient
7 to raise an inference of malice, this inference could simply
8 be an evidentiary fact to be considered or taken into
9 consideration by you along with all other evidence in the
10 case, and you may give it such weight as you determine it
11 should receive as to whether or not malice has been proven
12 beyond a reasonable doubt.

13 Now, if the defendant with malice aforethought attempts
14 to kill another person but by mistake kills a different
15 person, the defendant still has the intent to kill. The
16 intent to kill is merely transferred from the original person
17 the defendant attempted to kill to the actual person killed.
18 The defendant would be guilty of murder just as if the
19 killing had resulted in the death of the person the defendant
20 attempted to kill.

21 Ladies and gentlemen, if a crime is committed by two or
22 more people who are acting together in committing a crime,
23 the act of one is the act of all. The person who joins with
24 another to accomplish an illegal purpose is criminally
25 responsible for everything done by the other person which

1 occurs as a natural consequence of the acts done in carrying
2 out the common plan and purpose. For example, two people can
3 be guilty of killing another person when only one of the two
4 had a gun. There was only one bullet and only one of the two
5 fired the shot that caused the death. When two or more
6 people are together, acting together, assisting each other in
7 committing the offense, the act of one is the act of all or,
8 as is sometimes said, the hand of one is the hand of all.

9 Prior knowledge that a crime is going to be committed
10 without more is not sufficient to make a person guilty of
11 that crime. Mere knowledge that another person is going to
12 commit a crime, even though the defendant is present when the
13 crime is committed, is not sufficient to convict the
14 defendant as a principal. Guilt of a principal is shown by
15 actual or constructive presence at the scene as a result of
16 prior arrangement. Therefore, a finding of prior arranged
17 plan or common scheme is necessary for a finding of guilt as
18 a principal. The State must prove beyond a reasonable doubt
19 by competent evidence the theory of the hand of one is the
20 hand of all.

21 A principal in a crime is one who either actually
22 commits the crime or who is present aiding, abetting, or
23 assisting in committing the crime. When a person does an act
24 in the presence of and with the assistance of another, the
25 act is done by both. Where two or more are acting with a

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1 common plan or intent, are present at the commission of a
2 crime, it does not matter who actually commits the crime..
3 All are guilty. The hand of one is the hand of all.

4 Mr. Foreman, ladies and gentlemen, the defendant has
5 also been charged with two charges of assault with intent to
6 kill. In order to prove assault with intent to kill, the
7 State must prove beyond a reasonable doubt that the defendant
8 attempted to commit an unlawful act of a violent nature to
9 the person of another with malice aforethought.

10 An assault occurs when a person unlawfully attempts or
11 offers to commit a violent injury upon another person and had
12 the present ability to complete the attempted injury. An
13 assault is the intentional creation of a reasonable fear of
14 immediate bodily harm. It is not necessary that the
15 attempted injury or harm actually took place. For example,
16 if I walk up to you and when we're within arm's length I draw
17 back to hit you, that is an assault.

18 Now, malice is hatred, ill will, or hostility towards
19 another person. It is the intentional doing of a wrongful
20 act without just cause or excuse with an intent to inflict an
21 injury or under circumstances that the law will infer an evil
22 intent. Malice aforethought does not require that malice
23 exist for any particular time before the act is committed,
24 but the malice must exist in the mind of the defendant just
25 before and at the time the act is committed. Therefore,

1 there must be a combination of previous evil intent and the
2 act.

3 Again, malice aforethought may be express or inferred.
4 These terms express or inferred do not mean different kinds
5 of malice but merely the manner in which malice may be shown
6 to exist, that is, either by direct evidence or by inference
7 from the facts and circumstances which are proved. Express
8 malice is shown when a person speaks words which express
9 hatred or ill will for another or when the person prepared
10 beforehand to do the act which was later accomplished.
11 Malice may be inferred from conduct showing a total disregard
12 for human life. Inferred malice may also arise when the deed
13 is done with a deadly weapon.

14 A deadly weapon is any article, instrument, or substance
15 which is likely to cause death or great bodily harm. Even if
16 the facts are proven that are sufficient to raise an
17 inference of malice, this inference could simply be an
18 evidentiary matter to be taken into consideration by you
19 along with other evidence in the case. You may give it the
20 weight that you determine it should receive as to whether or
21 not malice has been proven.

22 Now, the defendant is charged with possession of a
23 weapon during the commission of or attempt to commit a
24 violent crime. The State must prove beyond a reasonable
25 doubt that the defendant was in possession of a firearm or

1 visibly displayed what appeared to be a firearm during the
2 commission of a violent crime. Firearms means any machine
3 gun, automatic rifle, revolver, pistol, or any weapon which
4 will -- is designed to or may be readily converted to expel a
5 projectile.

6 In order to find the defendant guilty of possession of a
7 weapon during the commission of a violent crime, you must
8 first find the defendant guilty of either committing a
9 violent crime or attempting to commit a violent crime. I
10 charge you in this instance murder is a violent crime.

11 Now, the defendant has raised the defense of alibi. In
12 order to establish an alibi, it must be shown that the
13 defendant was at another specified time at the time the crime
14 was committed and that it was, therefore, impossible for the
15 defendant to have been at the scene of the crime. Mere
16 denial or presence at the scene of a crime does not
17 constitute an alibi. There's no burden on the defendant to
18 prove an alibi. The burden is on the State to prove beyond a
19 reasonable doubt that the defendant was actually present at
20 the scene of the crime and actually participated in it and
21 was not somewhere else. In other words, the State has the
22 burden of disproving the defendant's alibi defense.

23 Mr. Foreman and ladies and gentlemen of the jury, you
24 have been selected as fair and impartial jurors, sworn to
25 impartially try and determine the facts of this case, and

1 when you comply with your oath to do so, then no one will
2 have a right to criticize your verdict and you will have
3 fully discharged your duty as jurors. You are to decide this
4 case according to the testimony that you've heard from the
5 lips of the sworn witnesses along with other evidence
6 introduced.

7 I charge you that as jurors you must not decide the
8 issues in this proceeding without -- you must decide the
9 issues in this proceeding without bias and without prejudice
10 to any party. You cannot allow yourself to be governed by
11 sympathy, by prejudice, by passion, by public opinion or any
12 other arbitrary factor. Both the state and the defendant
13 have the right to expect that each of you will carefully and
14 impartially consider all of the evidence in this case and you
15 will follow the law as I have explained it to you.

16 Now, Mr. Foreman, ladies and gentlemen of the jury, I
17 have prepared verdict forms. I have a prepared verdict form
18 for each of the charges. There is one verdict form for the
19 murder, one verdict form for each of the assault with intent
20 to kill charge, and one verdict form for the use of a firearm
21 during the commission of the crime.

22 There are two possible verdicts for each verdict form.
23 Those possible verdicts are: We, the jury, unanimously find
24 the defendant guilty or we, the jury, unanimously find the
25 defendant not guilty. You should not infer anything by what

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1 goes first or what goes second on the verdict form because
2 something has to go first and something has to go second.

3 But as this verdict form says, it has to be the
4 unanimous verdict of all 12 jurors. It cannot be eleven/one
5 or seven/five or nine/three. It has to be the unanimous
6 verdict of all 12 jurors.

7 Now, Mr. Foreman, in just a few minutes I'm going to ask
8 that y'all step back to the jury room, all but the alternate,
9 but do not begin your deliberations. I need to review with
10 the attorneys to determine whether I either incorrectly
11 charged you in some manner in their mind or I failed to
12 charge you in some way. If I believe additional instructions
13 are necessary, I will bring you back and give you those
14 additional instructions. If not, I will have the bailiff
15 bring the verdict forms to the jury room. You can begin your
16 deliberations at that time. If you want to eat and not talk,
17 you can do that or you can eat and talk at the same time.

18 Now, what I'm going to ask you to do when you have
19 reached a verdict as to all of the charges, I'm going to ask
20 with respect to each charge that you circle that verdict. If
21 the verdict is we find the defendant guilty, circle that
22 whole verdict. If it's we find the defendant not guilty,
23 circle that whole verdict as to each of the charges. And I'm
24 going to ask, Mr. Foreman, if you will personally sign each
25 verdict form as foreperson of the jury and date each verdict

1 form.

2 Now, you then should have someone, or you can, knock on
3 the door. There will be a bailiff seated outside the jury
4 room. Advise the bailiff that y'all have reached a verdict
5 on all of the charges, and we will bring you back in so that
6 those verdicts can be published.

7 Now, as I -- as the verdict -- I mean the charge tells
8 you, as to the charge of use of a firearm during the
9 commission of a violent crime, if you do not find the
10 defendant guilty of murder, you cannot find the defendant
11 guilty of the use of a firearm during the commission of a
12 violent crime.

13 Now, let me get you to go back to the jury room. Madam
14 alternate, if you will stay with me. Do not begin your
15 deliberations. We will be with you momentarily. If you'll
16 step back to the jury room. Thank you.

17 (Whereupon, the jury was excused from open court at 1:35
18 p.m. The alternate juror was excused from the trial.)

19 **The Court:** All right. Anything from the State with
20 respect to the instructions?

21 **Ms. Campbell:** No, sir.

22 **The Court:** Anything from the defendant?

23 **Ms. Shurling:** Nothing from the defendant, Your Honor.

24 **The Court:** All right. If y'all want to come up here
25 and make sure we got all the exhibits, and here are the

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1 verdict forms.

2 (Whereupon, the jury began deliberating at 1:46 p.m. A
3 short break was taken.)

4 **The Court:** All right. We're now going to begin the
5 process of Ms. Shurling offering her proffer on the aspect of
6 the third-party guilt that I had previously denied with the
7 admission of certain evidence. So you got somebody you want
8 to call at this time?

9 **Ms. Shurling:** Your Honor, I would call Investigator
10 Gwyn, is it?

11 **Mr. Gwyn:** Yes, ma'am.

12 **Ms. Shurling:** Investigator Gwyn, please.

13 Brien Gwyn, after being duly sworn, testified as
14 follows in camera:

15 **The Clerk:** Please have a seat and state your full name
16 for the record.

17 **The Witness:** It's Brien Gwyn.

18 **The Court:** Do you want your client in here?

19 **Ms. Shurling:** Oh, yes, sir. I'm sorry.

20 **The Court:** Where would he be? Downstairs?

21 **Ms. Shurling:** I would be happy to waive it with his
22 permission, but I need to his permission to waive it. Do you
23 want Jeremy to run downstairs and---

24 **The Court:** Well, we either need to bring him back up
25 here or do something about, if you want him here, whether

1 it's waiving it or bringing him up here.

2 **Ms. Shurling:** Your Honor, once again, I'd be happy to
3 waive it, but I don't know that I can.

4 **The Court:** I'm not asking you to do anything, but we've
5 got to do one of the two things. We've got the officer under
6 oath and you got...

7 **Ms. Shurling:** Yes, sir, I do know---

8 **The Court:** Daphne, you don't have to take this down.
9 So we need to figure out whether we're going to waive or we
10 can come back. I hate to keep the officer around.

11 **Ms. Shurling:** Well, I can't waive it for him, Your
12 Honor.

13 **The Court:** Do you want to bring him up here?

14 **Officer:** They have gone to get him.

15 **The Court:** All right. They'll have him up here in just
16 a few minutes. When he gets here, let me know.

17 (Pause in proceedings.)

18 **The Court:** All right. Thank y'all. All right. Ms.
19 Shurling, if you will proceed.

20 **Ms. Shurling:** Thank you.

21 Direct Examination

22 By Ms. Shurling:

23 Q. Investigator Gwyn, would you put your full name on the
24 record, please?

25 A. Brien Gwyn.

Brien Gwyn - direct exam by Ms. Shurling in camera

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1 Q. And by whom are you employed?

2 A. Richland County Sheriff's Department.

3 Q. Okay. And did you have occasion on May 22nd, 2009, to
4 arrest an individual named Kenneth Andrew Goodwin?

5 A. I believe it was May the 20th, but, yes, ma'am.

6 Q. And upon interviewing this individual, did you receive a
7 lead relating to the homicide of a female in Greenview a
8 couple of days earlier?

9 A. I was told that he possibly had information, reference a
10 homicide, and when I found out it was for the City of
11 Columbia, I passed it off to them.

12 Q. Okay. And you then contacted or advised Mr. Goodwin to
13 contact Sergeant Babin with this information? Is that
14 correct?

15 A. I'm not sure who it was with the City of Columbia. I
16 just remember putting him in touch with somebody from the
17 city. I'm not sure who it was though.

18 Q. Okay. Can you tell us to the best of your recollection
19 the nature of the lead that you received concerning the
20 Greenview killing?

21 A. No, ma'am, I can't. I didn't get much information from
22 Mr. Goodwin.

23 Q. Do you recall advising Officer Babin that this
24 individual, Goodwin, had told you that his girlfriend had
25 received a text message concerning a Quantarious Ford, also

1 known as Q.?

2 A. I can honestly say I don't remember much detail. I just
3 remember he had information, and I put him in touch with the
4 City of Columbia.

5 Q. Okay. And do you remember conveying to Sergeant Babin
6 that this person, Quantarious Ford, also known as Q., was an
7 associate of Fred Cola Taylor, someone deeply involved in
8 gang activity? Does that ring any bells?

9 A. Those names ring a bell with me just by virtue of other
10 investigators with Richland County and them being involved in
11 criminal activity, but as far as this homicide, I did not get
12 into much detail with him about it because it wasn't our case
13 and I didn't know enough to actually talk to him about it.

14 Q. Okay. If I tell you that Sergeant Babin's case summary
15 indicates that you provided sufficient detail to lead him to
16 believe this information might be credible, does that help
17 you at all?

18 A. Honestly I don't remember. I don't remember, like I
19 said, much detail about it because, again, it wasn't our
20 case. I was interviewing Mr. Goodwin on a burglary, and a
21 lot of times they'll give us information or say they know
22 something about a case. If it's not our case, I just put
23 them in touch with that investigator.

24 Q. Sure. I understand. Now, indications are from Sergeant
25 Babin's case summary that you gave Goodwin the phone number

Brien Gwyn - direct exam by Ms. Shurling in camera

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1 for him to contact Babin directly? Does that sound---

2 A. I believe so.

3 Q. ---correct?

4 A. It was either one way or the other; I don't recall. I
5 just know I got them in touch with the City of Columbia. I
6 either gave Sergeant Babin the number for Mr. Goodwin or I
7 gave Mr. Goodwin Sergeant Babin's number. I really don't
8 recall.

9 Q. Do you have any present recollection of what Kenneth
10 Andrew Goodwin had been detained for? What was...

11 A. It was for the burglary I had a warrant -- or actually
12 it was a burglary I was investigating. I did not have a
13 warrant for him at the time. So when he was brought in, he
14 was interviewed with reference to the burglary.

15 Q. Okay. So the reason he would have been advised to
16 contact Babin directly would be because it was the city case,
17 not the sheriff's department, number one.

18 A. Yes, ma'am.

19 Q. And apparently this subject, Kenneth Andrew Goodwin, was
20 not being detained at the moment, so he was going to be at
21 liberty and able to place calls himself.

22 A. Once he confessed to the burglary, he was charged. And
23 once he was advised to -- once he got out to contact Sergeant
24 Babin or Sergeant Babin would be in contact with him -- I
25 don't remember if I gave him Sergeant Babin's number or vice

1 versa.

2 Q. Okay. And basically what you conveyed to us just now is
3 the limit of your present recollection of your dealings with
4 Kenneth Andrew Goodwin with regard to the tip concerning the
5 Greenview killing.

6 A. I'm sorry. Say that -- I didn't understand your
7 question.

8 Q. What you've conveyed to us today is the extent of your
9 knowledge in terms of your present-day recollection of the
10 tip you received from Kenneth Andrew Goodwin.

11 A. Yes, ma'am. I don't -- I don't recall much about it.
12 Like I said, I put him in touch with the City of Columbia. I
13 didn't question him about it.

14 Ms. Shurling: Okay. Thank you. Nothing further.

15 The Court: Anything?

16 Ms. Campbell: No, sir.

17 The Court: All right. Thank you, sir.

18 The Witness: Thank you.

19 The Court: You can step down and...

20 Ms. Shurling: Your Honor, I have been advised by
21 Investigator MacDougall that he has spoken with Sergeant
22 Babin who says he will be here in about an hour.

23 The Court: Well, we'll wait and see what happens. I
24 don't understand why it takes an hour to get somebody here.

25 Ms. Campbell: He's on his way.

colloquy

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1 **The Court:** Well, he's on his way. What does that mean?
2 Is he coming from---

3 **Ms. Campbell:** C.P.D. Is it C.P.D.?

4 **Woman in the courtroom:** I don't know.

5 **Ms. Campbell:** I guess he's coming from his house. I
6 don't think it's going to take him an hour to get here.

7 **The Court:** What's he going to do? Come up to y'all's
8 office, you think?

9 **Ms. Campbell:** I can call him back and tell him to do
10 whatever you tell him.

11 **The Court:** I don't care. Or do you want me to just sit
12 here and wait on him?

13 **Ms. Campbell:** No, sir.

14 **Ms. Shurling:** Your Honor, I believe Investigator
15 MacDougall just spoke with him directly.

16 **Mr. MacDougall:** Yes. He told me it would take him --
17 15 minutes ago it would take him 45 minutes. He was in the
18 city, but I don't know what he was doing.

19 **The Court:** Well, somebody come get me when you're ready
20 to... Don't go very far in case the jury has a question or a
21 verdict or whatever.

22 **Ms. Shurling:** Your Honor, are we excused for lunch at
23 the time?

24 **The Court:** You are.

25 **Ms. Shurling:** Thank you.

1 (Pause in proceedings while the jury deliberates.)

2 **The Court:** All right. Thank y'all. Please be seated
3 if you would. All right. I have received a note from the
4 jury and I have shared it with counsel. It says, "We need
5 Gleaton's written testimony," and apparently there's some
6 question as to what that is. So we'll find out what exactly
7 they want, and bring the jury in, please.

8 (Whereupon, the jury was brought into open court at 2:50
9 p.m.)

10 **The Court:** All right. Mr. Foreman, I assume this note
11 is from you?

12 **Foreman:** Yes.

13 **The Court:** All right. Where you request Gleaton's
14 written testimony.

15 **Foreman:** Yes.

16 **The Court:** I'm not exactly sure what you mean by that,
17 but there is no written testimony that -- of which an exhibit
18 was made. The testimony of Mr. Gleaton, or whatever his
19 participation, we'd have a record of it. We could play his
20 testimony back on the tape if that's what you're interested
21 in doing, but there is no written document of which there is
22 a -- was made an exhibit that I can send back to the jury
23 room. You've gotten all the exhibits.

24 **Foreman:** On one part, Your Honor---

25 **The Court:** Wait a minute. What I -- I don't want you

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1 to tell me what you want. If you want to hear something, if
2 you want me to play something, we'll be happy to try and find
3 it on the testimony and play it on the record, but what I'd
4 like you to do is write me a note or something and tell me
5 what it is exactly that you want. If y'all want to step back
6 to the jury room and chat with it -- chat a minute about it
7 and if you want to come back in here, just send me a note and
8 tell me what it is you need and we'll try and provide that
9 for you.

10 (Whereupon, the jury was excused from open court at 2:52
11 p.m.)

12 **The Court:** All right. We'll just have to wait and see
13 what it is, if anything, they follow up with. Anything with
14 respect to the response to the note or anything from the
15 State?

16 **Ms. Campbell:** No, sir.

17 **The Court:** Anything from the defendant?

18 **Ms. Shurling:** Nothing, Your Honor.

19 **The Court:** We'll make this Court exhibit number 4, and
20 y'all stay loose for a moment or so. We'll see whether we
21 get a response.

22 (Court's exhibit 4 was marked for identification only.)

23 **The Court:** Tell me your name, please.

24 **Mr. Babin:** Sergeant Babin, sir.

25 **The Court:** Spell your last name.

1 Mr. Babin: B-A-B-I-N.

2 The Court: Oh, Babin. Okay. Y'all ready to go with---

3 Ms. Shurling: Yes, sir, Your Honor.

4 The Court: ---Sergeant Babin real quick? All right.

5 If you'll come up here, please, sir.

6 Michael Babin, after being duly sworn, testified as
7 follows in camera:

8 The Court: All right. This is a continuation of the
9 proffer that Ms. Shurling had offered a little while ago.

10 Ms. Shurling: Thank you.

11 Direct Examination

12 By Ms. Shurling:

13 Q. Would you place your full name on the record, please?

14 A. Sergeant Michael Babin, B-A-B-I-N.

15 Q. Sergeant Babin, at my request have you had an
16 opportunity to review a case summary filed by you in this
17 homicide case?

18 A. Yes, I looked at my case notes.

19 Q. Thank you. And can you confirm that on May 22nd, 2009,
20 you received information from Investigator Gwyn concerning a
21 lead in the Greenvue homicide case?

22 A. Yes. I received information from Investigator Gwyn,
23 though I don't know him personally.

24 Q. Okay. And did you at that point request that the
25 subject, Kenneth Andrew Goodwin, get in touch directly with

Michael Babin - direct exam by Ms. Shurling in camera 1621

1 the lead investigating officer in this case, Investigator
2 Reese?

3 A. Yes, I did.

4 Q. And did you provide him a phone number with which to
5 contact Investigator Reese?

6 A. I did.

7 Q. And is that basically the beginning and end of your
8 knowledge regarding this information?

9 A. That's correct.

10 Q. Did you personally -- before advising Kenneth Goodwin to
11 get in touch with Investigator Reese, did you discuss the
12 information Kenneth Goodwin had with him at all personally?

13 A. No. He contacted me at my desk. I told him I'd have
14 Investigator Reese contact him, and I put the two in contact
15 with one another.

16 Q. Okay. So you have no personal knowledge, firsthand
17 knowledge, of the information that Kenneth Andrew Goodwin
18 would have then conveyed to Investigator Reese.

19 A. That's correct.

20 **Ms. Shurling:** Thank you. No further questions.

21 **The Court:** Anything?

22 **Ms. Campbell:** No, sir.

23 **The Court:** All right. Thank you, Sergeant. You're
24 free to leave.

25 **The Witness:** Thank you.

1 **The Court:** Let's wait and see what's going on with
2 these folks.

3 (Pause in proceedings while the jury continues to
4 deliberate.)

5 **The Court:** All right, folks. They want Gleaton's hold
6 testimony, H-O-L-D. "Did he admit that he signed a written
7 statement?" Now, I don't know what they want. I don't know
8 if they want the part -- the portion that y'all dealt with
9 before you got up and read from the transcript or do they
10 want the whole thing? I don't know what they want. We're
11 going to have to ask them when they come in, and they'll just
12 have to tell us. Bring the jury in if you could.

13 (Whereupon, the jury was brought into open court at 3:07
14 p.m.)

15 **The Court:** All right. Thank you. Mr. Foreman?

16 **Foreman:** Yes, Your Honor.

17 **The Court:** I got your note. I'm not sure I'm any more
18 clear now than I was when...

19 **Foreman:** Okay.

20 **The Court:** You want -- you want Mr. Gleaton's whole
21 testimony. Did he admit he signed a written statement is
22 what you put in here.

23 **Foreman:** Yeah.

24 **The Court:** Now, we can play from the moment he walked
25 into the courtroom that -- and when he was on the stand and

colloquy

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1 then when he left the -- and the statement was read. We can
2 play all that. We can play the portion when he came back on
3 Friday. You tell me what y'all want to hear, and we'll have
4 to -- we'll have to -- you'll have to give us a few minutes
5 to find it on the tape, but we'll find it and play whatever
6 y'all want to hear.

7 **Foreman:** That last part is the part we're concerned
8 with, Your Honor.

9 **The Court:** Well...

10 **Foreman:** Where he said that was his written -- he was
11 asked was that his written statement and he said yes.

12 **The Court:** I don't remember where that would be. Do
13 y'all know where we might -- we need to -- so we need to play
14 from the moment he came into the courtroom, I guess. Can you
15 find when he was brought into the courtroom?

16 **Court Reporter:** In a few minutes.

17 (An off-the-record discussion takes place between the
18 court reporter and the Court.)

19 **The Court:** All right. We'll have to send you back to
20 the jury room because she's got to find where it is and she
21 may play stuff that y'all are not supposed to hear.

22 (Whereupon, the jury was excused from open court at 3:09
23 p.m.)

24 **The Court:** Go ahead.

25 (Pause in proceedings.)

1 **The Court:** Ready to go?

2 **Court Reporter:** Yes, sir.

3 **The Court:** All right. Let's bring the jury in.

4 (Whereupon, the jury was brought into open court at 3:23
5 p.m.)

6 **The Court:** Okay. Ladies and gentlemen, I notice the
7 seating pattern has been broken. Now, I don't know what...
8 We have -- we have tried to find where it is that -- as you
9 remember, Mr. Gleaton testified on several occasions. He
10 came in. He was out. He came back and, in fact, came back
11 actually two days later and we've tried to find the places
12 where his testimony starts.

13 If y'all hear what you want -- what you're interested in
14 hearing and want me to stop, if you will let me know at that
15 time, we'll stop the tape and not have to go on with
16 everything. But we're prepared to let you listen to anything
17 you want to hear that's testimony that was offered in the
18 trial. So, madam court reporter, if you could. This is the
19 first time he appeared; correct?

20 **Court Reporter:** Yes, sir.

21 (The testimony of Mr. Torrian Gleaton when he first took
22 the witness stand is played for the jury.)

23 **The Court:** That's number one?

24 **Court Reporter:** That's number one.

25 (The testimony of Mr. Torrian Gleaton when he took the

colloquy

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1 witness stand for the second time is played for the jury.)

2 The Court: I guess we go to -- pardon me?

3 Foreman: Is there one more?

4 The Court: One more?

5 Court Reporter: Yes, sir.

6 The Court: There's actually two more because there's a
7 statement that's played and then there's when he came back on
8 Friday. Do you want the portion where the solicitor asked
9 questions as were asked at the time and the -- somebody --
10 who read the answers?

11 Ms. Campbell: Investigator Mahoney.

12 The Court: Investigator Mahoney gave responses? Do
13 y'all want to hear that portion? We're going to have to find
14 that, so...

15 Foreman: What we really want to hear, Your Honor, is a
16 part where she asked him was that his written statement where
17 he -- that it wasn't -- was that his handwriting?

18 The Court: All right. Well, if y'all will step back to
19 the jury room, we'll see if we can find whatever...

20 (Whereupon, the jury was excused from open court.)

21 The Court: All right. Y'all know what he's talking
22 about?

23 Mr. Thompson: They just listened to it.

24 Ms. Shurling: They just listened to it, Your Honor.

25 The Court: Well, the only thing -- I don't -- at some

1 point in time you asked about the written statement.

2 Ms. Campbell: Yes, sir.

3 The Court: And I don't know -- I can't remember how
4 exactly you led into that written statement.

5 Ms. Campbell: I think I asked about the written
6 statement and he said he didn't want to cooperate.

7 The Court: No.

8 Ms. Campbell: As far as with Investigator Mahoney?

9 The Court: You read the written statement. You had
10 somebody read it.

11 Ms. Campbell: Mahoney.

12 The Court: All right. Wasn't there some lead-up as to
13 that written statement?

14 Ms. Campbell: Yes, sir.

15 The Court: What was that?

16 Ms. Campbell: I don't recall. I mean...

17 The Court: Do you remember, Ms. Shurling?

18 Ms. Shurling: But, Your Honor, that Gleaton wasn't even
19 in the courtroom then.

20 The Court: I know that. I don't know what they want
21 other than---

22 Ms. Shurling: What they have asked for---

23 The Court: They're talking about some written
24 statement. I don't know whether that's the statement that
25 was -- the interview that was done---

colloquy

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1 **Ms. Shurling:** Your Honor---

2 **The Court:** ---because y'all read it or was it his one-
3 page statement that was given following the interview? I
4 assume he signed that following the interview; correct?

5 **Ms. Campbell:** Yes, sir.

6 **Ms. Shurling:** Your Honor, they have asked to hear the
7 portion of Gleaton's testimony where he admitted or denied
8 making the written statement. The portion they have just
9 listened to is where Ms. Campbell had his statement in her
10 hand and said do you deny making -- do you admit making this
11 statement? And he said no.

12 **The Court:** There are two statements. There was a
13 recorded statement of which y'all got a transcript, and I
14 assume that's what you handed him initially. Is that
15 correct?

16 **Ms. Campbell:** Yes, sir.

17 **The Court:** When you read his statement, the answers to
18 the responses that were asked at the interview, following
19 that you then presented another piece of paper which was a
20 handwritten statement from him.

21 **Ms. Campbell:** Yes, sir.

22 **The Court:** I think that's what they're interested in.

23 **Ms. Campbell:** Yes, sir. I agree.

24 **The Court:** Now, I don't remember how you led into that.

25 **Ms. Campbell:** I believe that we---

1 **The Court:** We'll have to, I guess, find it on the tape
2 and see what it says.

3 **Ms. Shurling:** Your Honor, it was my recollection that
4 the portion of the tape that we've already listened to that
5 Ms. Campbell had his written statement in her hand at the
6 time, not the transcript from the long audio but his actual
7 waiver of rights form and his statement in her hand that she
8 said---

9 **The Court:** I thought that was the transcript she
10 offered him initially.

11 **Ms. Campbell:** Yes, sir.

12 **The Court:** And he denied he made the statement. I
13 don't know. We'll find out what this is. You know, I
14 can't -- y'all are asking me to get into their minds; I can't
15 do that. We'll find it and bring them back, and if that's
16 what they want to hear... Can you find it?

17 (An off-the-record discussion takes place between the
18 Court and the court reporter.)

19 **The Court:** I don't know how it got introduced. That's
20 what we're going to have to find out, which would be at the
21 end of the trans---

22 **Ms. Campbell:** Yes, sir.

23 **The Court:** The question-and-answer period.

24 **Ms. Shurling:** Yes, sir, but my point being, Your Honor:
25 They've asked for where Gleaton---

colloquy

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1 **The Court:** Ms. Shurling, they could -- whatever is on
2 this thing, we're going to let them hear it. If this is not
3 what they want, then I'm afraid I can't answer their
4 question. I don't know how to tell them other than we let
5 them listen to everything.

6 (Pause in proceedings.)

7 **The Court:** Bring them in here and we'll...

8 (Whereupon, the jury was brought into open court at 3:47
9 p.m.)

10 **The Court:** All right. Ladies and gentlemen, we have
11 been having some discussions about what it is that y'all want
12 to hear, and I'm really not sure what it is that you want to
13 hear. Now, we have played you two -- testimony of Mr.
14 Gleaton when he appeared twice already. Now, Mr. Gleaton
15 appeared one other time in this courtroom and that was on
16 Friday, and he was questioned by Ms. Shurling.

17 Now, there was an Officer Mahoney who appeared and
18 testified, and when he appeared there was a colloquy of a
19 purported statement given by Mr. Gleaton and the questions at
20 the time of the statement were read by Ms. Campbell and the
21 responses of the -- of Mr. Gleaton were read by the police
22 officer. I don't know what y'all want to hear. If y'all
23 want to hear that portion, we'll probably have to play the
24 whole thing.

25 **Foreman:** We've been talking among ourselves. We don't

1 want to hear it. We just want to go back in the back and
2 discuss it amongst ourselves.

3 **The Court:** Okay. Y'all have saved me. Thank y'all.

4 (Whereupon, the jury was excused from open court at 3:48
5 p.m.)

6 **The Court:** Why didn't they send a note out saying they
7 didn't want to hear anything? All right. I don't --
8 anything from the State?

9 **Ms. Campbell:** No, sir.

10 **The Court:** Anything from the defendant?

11 **Ms. Shurling:** Nothing, Your Honor.

12 **The Court:** All right. Well, we'll continue to wait.

13 **Ms. Shurling:** Your Honor, shall we continue with the
14 proffer?

15 **The Court:** Oh, sure. Who we got here?

16 **Ms. Shurling:** Your Honor, at this point I would call
17 Investigator Reese.

18 **The Court:** All right. All right. Investigator, you're
19 already under oath in this case, so I just remind you.

20 Kevin Reese, having been previously sworn and
21 remaining under oath, testified as follows in camera:

22 Direct Examination

23 By Ms. Shurling:

24 Q. Investigator Reese, do you recall sometime on or shortly
25 after May 22nd, 2009, an individual by the name of Kenneth

1 Andrew Goodwin getting in touch with you at the direction of
2 Sergeant Babin?

3 A. Yes, I do.

4 Q. And in the discovery materials there was an audiotape of
5 a telephone conversation in which you set up a meeting with
6 Kenneth Goodwin and his girlfriend concerning a lead in the
7 Greenview homicide case. Do you recall that?

8 A. I do.

9 Q. Did that meeting take place?

10 A. No, it did not.

11 Q. Why not?

12 A. As I recall it, we -- I never made contact with the
13 gentleman's girlfriend. I told him that I would be at a
14 certain place - I think it was his aunt's house - at the end
15 of the conversation, I think a total of 15 minutes or so. As
16 I recall it, Thomas and I went there because we were going to
17 eventually get around to it. We had already planned on
18 speaking with Kevae Dolphin, and we wanted to at least see if
19 the gentleman you're referring to would at least get -- would
20 be able to get his girlfriend to the Monticello Road -- an
21 address off of Monticello Road. I think it was Winyah --
22 Winyah Street or somewhere. And so we wanted to go there
23 first to have any infor -- to garner any information we may
24 come up with to impeach any information that any of Bailey's
25 friends may have given us. As I recall it, Thomas and I did

1 go to that address, and we never made contact with him and
2 from there we went to Kevae's house at some point.

3 Q. So neither Kenneth Goodwin or his girlfriend showed up
4 for the meeting?

5 A. No, and if you listen -- if you had listened to the
6 tape, you would have at some point come to realize that we
7 never went -- I don't even know whether a girlfriend even
8 existed. She never talked with us, and according to him
9 during the conversation, she didn't want to get involved any
10 more than giving him information to contact the police. We
11 gathered from our conversation with this gentleman over the
12 phone that his interest was in the police department doing
13 something about a traffic citation that he had gotten
14 earlier.

15 We could never substantiate if there was a girlfriend,
16 and also he only had -- he didn't have firsthand information.
17 In short, he didn't really know nothing about nothing.
18 Everything depended on what his girlfriend had to say, not
19 what he had to say. I tried to get him to have his
20 girlfriend to come along with him at that appointed place,
21 but he made it plain over the phone that she didn't want to
22 talk to the police, didn't want to get involved anymore.

23 Q. Did you ascertain from Kenneth Goodwin the girlfriend's
24 name?

25 A. I don't -- I don't recall if I did. I think we did --

1 he did mention her name, but I'm just not sure.

2 Q. Does the name Simone Thomas ring any bells?

3 A. No, ma'am, it doesn't.

4 Q. Do you recognize this -- pardon me. I apologize. Do
5 you recognize this establishment?

6 A. I know the place, but I have never been there. I know
7 it's off Monticello Road somewhere.

8 Ms. Shurling: Your Honor, I would move to introduce
9 these as a Court's exhibit.

10 Ms. Campbell: Relevance?

11 By Ms. Shurling:

12 Q. I'll finish laying a foundation. I offer them again in
13 a moment. Officer Reese, isn't it a fact that you met with
14 Kenneth Goodwin at the Pull-A-Part on Monticello Road on the
15 designated day?

16 A. I don't -- I don't recall that. I don't -- I don't
17 know.

18 Q. You don't know?

19 A. I don't recall that, no.

20 Q. Okay. So if Kenneth Goodwin relays that he, in fact,
21 did have a meeting with him and his girlfriend and you at the
22 Pull-A-Part on Monticello Road, that would be accurate or
23 inaccurate?

24 A. I don't recall that if -- if he explained it to me. If
25 you make me remember it, I will, but I don't have anything

1 like that in my notes. I meet a lot of people a lot of
2 different places and have worked a lot of cases.

3 Q. You're familiar with this establishment being on
4 Monticello Road?

5 A. I've heard of the place, and I think it is on Monticello
6 Road.

7 Ms. Shurling: Your Honor, I would move to introduce
8 these photos as a Court's exhibit.

9 The Court: So admitted.

10 (Court's exhibit 5 was marked for identification only.)

11 By Ms. Shurling:

12 Q. You have no independent recollection of the name Simone
13 Thomas?

14 A. No, ma'am, I don't.

15 Q. Nothing in your personal notes, your case notes, about
16 obtaining Kenneth Goodwin's girlfriend's name, Simone Thomas?

17 A. I would have to look into the file, but right now that
18 name does not come back to me.

19 Ms. Shurling: Nothing further from this witness, Your
20 Honor.

21 The Court: All right. Thank you. You may step down.

22 The Witness: Yes, sir, Your Honor.

23 Ms. Shurling: Your Honor, Mr. Kenneth Goodwin is under
24 subpoena. His attorney is present. I'm told he is making an
25 effort to get here. He was here this morning.

colloquy

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1 **Mr. O'Neil:** Your Honor, if I may?

2 **The Court:** Sir?

3 **Mr. O'Neil:** For the record, my name is Deon O'Neil, and
4 I represent Kenneth Goodwin. Mr. Goodwin called me this
5 morning at 8:30, told me he was, I guess, supposed to be here
6 this morning at 9. He met me here at the courtroom at 9. He
7 met me downstairs -- him and his mother actually met me
8 downstairs at 9 in the morning. We met in the third floor
9 conference room from about 9 'til about 11:00 this morning.
10 I came in -- I think I came in the back hallway about 9 or---

11 **The Court:** Yeah, I saw you back there.

12 **Mr. O'Neil:** Yes, Your Honor, to speak with Ms. Shurling
13 to see if she intended on calling Mr. Goodwin as a witness.
14 Ms. Shurling indicated to me at that point she intended on
15 calling Mr. Goodwin, but me and Ms. Shurling didn't get a
16 chance -- didn't get an opportunity to talk to each other
17 because she had to come into the courtroom.

18 At that point I came in the courtroom. I think at that
19 point we had a discussion between the counsel about how they
20 were going to proceed in the trial. I think Ms. Shurling
21 rested on the record. At that point Mr. Goodwin went outside
22 to take a smoke, but I informed him that I didn't think Ms.
23 Shurling was calling him because they had all rested. But
24 Goodwin stayed here 'til about 11:00 today until I noticed
25 they had concluded closing arguments.

1 I told him -- at that time I told Mr. Goodwin I didn't
2 think he would be needed. I thought he could go home at that
3 point because they were doing closing arguments and I think
4 Ms. Shurling would have called me.

5 I guess about 1:30 I got a call from Ms. Shurling's
6 investigator, Mr. MacDougall, saying Mr. Goodwin needed to be
7 back here at 2:30. At that point I called Mr. Goodwin around
8 about 2:15. He indicated to me he was -- he didn't have a
9 ride. He was trying to get back to the courtroom, but he
10 would give me a call. I have not received a further call
11 from Mr. Goodwin at this point.

12 **The Court:** All right.

13 **Ms. Shurling:** Your Honor, I would just add that in my
14 very brief conversation with Mr. O'Neil this morning in the
15 hall I thought I made it clear that we were going to proffer
16 Mr. Goodwin's testimony. However, in the midst of our very
17 brief conversation the jury started coming back in and we
18 were interrupted. So that may not have been sufficiently
19 clear to Mr. O'Neil.

20 **The Court:** Okay.

21 **Ms. Shurling:** And I would at this point hope that he
22 shows up before we adjourn for the day. If not, then I would
23 readdress this matter then.

24 **The Court:** Okay. Do you need Mr. O'Neil to hang around
25 here?

colloquy

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1 **Ms. Shurling:** Your Honor, if he can be on telephone
2 stand-by. I mean, his client is under subpoena and... I'm
3 sorry for the confusion.

4 **The Court:** Aren't you right across the street?

5 **Mr. O'Neil:** Yes, Your Honor. Yes, Your Honor. I can
6 stay. I can stay. It's not a problem.

7 **Ms. Shurling:** If you want to give us your cell phone
8 number, we'll call you. I'm concerned that we won't know
9 when he shows up.

10 **The Court:** Well, I won't, so... If he comes. If he
11 doesn't, he doesn't. I won't know either way. So we'll
12 continue to wait for the jury, and this will be Court exhibit
13 number something.

14 (Court's exhibit 6 was marked for identification only.)

15 **The Court:** All right. Y'all be seated if you would,
16 please. Have you had your opportunity, Ms. Campbell?

17 **Ms. Campbell:** Yes, sir. Thank you.

18 **The Court:** All right. I got a note from the jury
19 saying they have reached a verdict. I will caution everybody
20 in the courtroom: I don't want any trouble, no outbursts, no
21 misbehavior of any kind. It will not be good if we have
22 that. So is the State ready to receive the verdict?

23 **Ms. Campbell:** The State's ready, Your Honor.

24 **The Court:** Y'all looking for somebody?

25 **Ms. Campbell:** We're missing Ms. Simpson, but she can

1 come in. Are they going to lock the door? Then she can just
2 come in.

3 **The Court:** Do you want to wait a minute? I mean, have
4 you got some way to call her?

5 **Ms. McDuffie:** They're calling her, and we have two
6 people searching.

7 **Ms. Shurling:** Here she comes.

8 **The Court:** All right. Is the defendant ready to
9 receive the verdict?

10 **Ms. Shurling:** We are, Your Honor.

11 **The Court:** All right. Let's bring us the jury in if we
12 could.

13 **Ms. Shurling:** Your Honor, could we finish the other
14 matter after the verdict is received?

15 **The Court:** Well, we aren't going to do it before.

16 **Ms. Shurling:** Sir?

17 **The Court:** We're not doing it before.

18 **Ms. Shurling:** I know that.

19 **The Court:** I don't know what else... Is that other
20 person here?

21 **Ms. Shurling:** I don't know.

22 (Whereupon, the jury returned to open court with a
23 verdict at 4:13 p.m.)

24 **The Court:** Mr. Foreman, it's been reported that the
25 jury has reached a verdict.

verdicts

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1 **Foreman:** Yes, Your Honor.

2 **The Court:** Is that correct? Is this a unanimous
3 verdict as to all four charges?

4 **Foreman:** Yes, Your Honor.

5 **The Court:** All right. If you would hand the verdict
6 forms to the bailiff here, please, sir.

7 **The Clerk:** Indictment number 2009-GS-40-6696, the State
8 of South Carolina versus Anthony Hackshaw. It's an
9 indictment for the use of a firearm during the commission of
10 a violent crime---

11 **The Court:** Jackie, that would be the last. I have them
12 in the order that...

13 **The Clerk:** Indictment number 2009-GS-40-6689, the State
14 of South Carolina versus Anthony Hackshaw. It's an
15 indictment for murder. We, the jury, unanimously find the
16 defendant guilty of murder. This is signed foreperson,
17 Roosevelt Diamond, November the 1st, 2010.

18 Indictment number 2009-GS-40-6690, the State of South
19 Carolina versus Anthony Hackshaw. It's an indictment for
20 assault with intent to kill. We, the jury, unanimously find
21 the defendant guilty of assault with intent to kill Ellison
22 Hudson. This is signed foreperson, Roosevelt Diamond,
23 November 1st, 2010.

24 Indictment number 2009-GS-40-6691, the State of South
25 Carolina versus Anthony Hackshaw. We, the jury, unanimously

1 find the defendant guilty of assault with intent to kill
2 Cleveland Joyner. This is signed foreperson, Roosevelt
3 Diamond, November 1st, 2010.

4 Indictment number 2009-GS-40-6696, the State of South
5 Carolina versus Anthony Hackshaw. We, the jury, unanimously
6 find the defendant guilty of use of a firearm during the
7 commission of a violent crime. Guilty. This is signed --
8 signed foreperson, Roosevelt Diamond, November 1st, 2010.

9 Mr. Foreman, are these your verdicts and the verdicts of the
10 entire jury?

11 Foreman: Yes.

12 The Court: All right. Anything from the State with
13 respect to the jury?

14 Ms. Campbell: No, sir.

15 The Court: Anything from the defendant?

16 Ms. Shurling: Request the jury be polled, Your Honor.

17 The Court: All right. Madam Clerk?

18 The Clerk: Ladies and gentlemen of the jury, I'm going
19 to ask you two questions regarding your verdicts, if you'll
20 just respond to the questions. Roosevelt Diamond, were these
21 your verdicts?

22 Juror Diamond: Yes.

23 The Clerk: Are these still your verdicts?

24 Juror Diamond: Yes.

25 The Clerk: Christopher Gaura, were these your verdicts?

polling of the jury

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1 Juror Gaura: Yes.

2 The Clerk: Are they still your verdicts?

3 Juror Gaura: Yes.

4 The Clerk: Myron Johnson, were these your verdicts?

5 Juror Johnson: Yes.

6 The Clerk: Are they still your verdicts?

7 Juror Johnson: Yes.

8 The Clerk: Floyd Wilson, were these your verdicts?

9 Juror Wilson: Yes.

10 The Clerk: Are they still your verdicts?

11 Juror Wilson: Yes.

12 The Clerk: Paul Deneal, were these your verdicts?

13 Juror Deneal: Yes.

14 The Clerk: Are they still your verdicts?

15 Juror Deneal: Yes.

16 The Clerk: Robert Rabuck, were these your verdicts?

17 Juror Rabuck: Yes.

18 The Clerk: Are they still your verdicts?

19 Juror Rabuck: Yes.

20 The Clerk: Earnestine McLamore, were these your
21 verdicts?

22 Juror McLamore: Yes.

23 The Clerk: Are they still your verdicts?

24 Juror McLamore: Yes.

25 The Clerk: James Kelly, were these your verdicts?

1 Juror Kelly: Yes.

2 The Clerk: Are they still your verdicts?

3 Juror Kelly: Yes.

4 The Clerk: Thomas Shannon, were these your verdicts?

5 Juror Shannon: Yes.

6 The Clerk: Are they still your verdicts?

7 Juror Shannon: Yes.

8 The Clerk: Thomas Bloomfield, were these your verdicts?

9 Juror Bloomfield: Yes.

10 The Clerk: Are they still your verdicts?

11 Juror Bloomfield: Yes.

12 The Clerk: Mark Murphy, were these your verdicts?

13 Juror Murphy: Yes.

14 The Clerk: Are these still your verdicts?

15 Juror Murphy: Yes.

16 The Clerk: Patricia Hardy, were these your verdicts?

17 Juror Hardy: Yes.

18 The Clerk: Are they still your verdicts?

19 Juror Hardy: Yes.

20 The Clerk: The jury has been polled, Your Honor.

21 The Court: All right. Ladies and gentlemen of the jury
22 panel, I thank you very much for your service on this case.
23 These are difficult cases. You have been, I can honestly
24 say, one of the more attentive juries that I've had in my
25 many years of doing this and I appreciate you doing so.

colloquy

1643

1 I'm going to ask that you step back to the jury room in
2 just a minute, and the clerk will come back there and has
3 some -- if you need work excuses, she'll have that. She's
4 going to collect your badges. I want to come back and speak
5 to you before you get out of here.

6 (Whereupon, the jury was excused from the trial at 4:19
7 p.m.)

8 The Court: All right. Is there anything from the
9 State? I tell you: I don't think I'm going to sentence
10 today.

11 Ms. Campbell: Yes, sir.

12 The Court: I might do it on Wednesday.

13 Ms. Campbell: Yes, sir.

14 The Court: I don't know what y'all have planned. I
15 hate for anybody that wants to participate in that process to
16 have to come back, but it's been a -- I just think that
17 waiting a day or so will allow---

18 Ms. Campbell: Yes, sir.

19 The Court: ---sort of everything to settle, and we'll
20 come back on Thursday morning but -- I mean Wednesday
21 morning. Is there anything further from the State?

22 Ms. Campbell: No, sir.

23 The Court: Anything from the defendant?

24 Ms. Shurling: Nothing, Your Honor. I would ask that I
25 be permitted to finish putting the proffer on the record

1 Wednesday morning as well, and that will give us a chance to
2 get Mr. Goodwin to work with his attorney, Mr. O'Neil, and
3 get him here.

4 **The Court:** All right. We can do that. If he's not
5 here, that ends it.

6 **Ms. Shurling:** Yes, sir, Your Honor, if he's not here.

7 **The Court:** I mean, I don't know how to do anything -- I
8 don't think he did anything unintentionally here today, but
9 we'll take a few minutes on Wednesday and see where we are
10 with respect to that.

11 **Ms. Campbell:** Yes, sir. Just what time so I can tell
12 the family...?

13 **The Court:** Let's do it about 10:00.

14 **Ms. Campbell:** Yes, sir.

15 **Ms. Shurling:** Thank you, Your Honor.

16 **The Court:** All right. Thank y'all.

17 (Whereupon, the trial concluded for the day. Court
18 reporter Deborah McCurdy was the reporter who completed the
19 trial. Court reporter's note: State's exhibits 46, 47 51,
20 and 55 were marked for identification only but were never
21 addressed on the record during any court proceedings had
22 during this trial.)

23

24

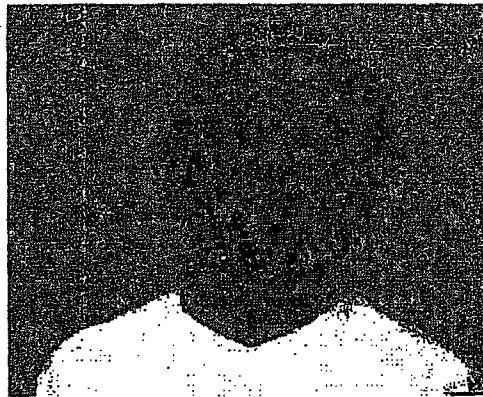
25

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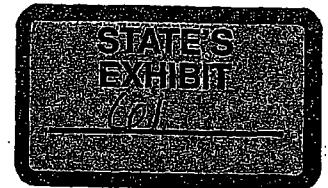
Inmate AccountsMission StatementReligious ServicesInmate VisitationSet as Home PageVisit Richland CountyOffender InformationPublic AccessSecure AccessLink Details**Offender is currently detained**[Return to List](#)Demographic

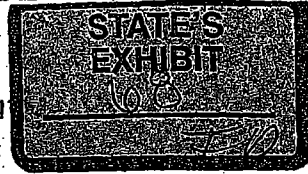
OffenderID: 104130
Last Name: HUDSON
First Name: ELLISON
Middle Name: DAVON
Sex: Male
Race: Black
DOB: [REDACTED]
Hair: Black
Eyes: Brown
Weight: 170
Height: 70

VisualCurrent Charges Image

Warrant Code	Bond	BondType	BondCourt	OffenseDescription
K612394	75000.00	SB	CITY	Obstructing / Obstructing justice

Bond Types: SB-Surety Bond • CB-Cash Bond • PR-Personal Recognizance • BD-Bond Denied





COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

of 2

Date: 6-3-10 Time: 1:50 Place: #1 Justice S.

I am TORRIAN A. GLEATON My birthday is [REDACTED]

My address and phone number are: [REDACTED] 754-1335, 754-2323, [REDACTED]

I am giving this statement concerning Anthony Hackshaw

to K. Reese + W. Mahoney who has identified himself as Det.

Q: Do you know a person named Bump?

A: Yes.

Q: What is your relationship with Bump?

A: I use to buy weed from him.

Q: Do you know of an incident that occurred on 5-20-09
in the Greenville area whereas a person was shot
and killed?

A: Yes.

Q: Did you ever have a conversation with Bump about
this incident?

A: Yes.

Q: Do you know the person who's yard this incident happened
in?

A: Now I do. "E"

Q: Did Bump tell you he had something to do with the
shooting in "E's" yard on 5-20-09?

A: Yeah.

Q: Did he tell you if anyone else was with him at the time

A: I'm not sure if it was "E" or Bump that told me about

Sworn and subscribed to me this
3rd day of June 2010

ISI x Torrian Gleaton

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 2014

ISI

received a copy of this statement consisting of _____ pages

from _____ ISI Torrian Gleaton

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

the dude with the dreads. I know both of them.

Q: Did Bump tell you he shot somebody that day?

A: He said they sprayed.

Q: What does that mean to you?

A: means they shot. I don't think dude knew he hit that girl.

Q: Why you say that?

A: He wasn't acting like it. He was just asking about 'E'.

Q: Did Bump even deny shooting the girl in the yard?

A: NO.

Q: What other indications Bump gave you that lead you to believe he did not know he shot the girl?

A: There were no others. He made me think he had something to do with it. The way he took off, no communications, I knew something was up.

Q: Did you have anything to do with the shooting at 'E's house on 5-20-09?

A: No.

Q: Has everything you told me the truth as you know it?

A: Yes Sir.

END Statement

Sworn and subscribed to me this
3rd day of June 2010

/s/ Jorrian Alston

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 2014

/s/

received a copy of this statement consisting of _____ pages
from _____, /s/ Jorrian Alston

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
3 09-GS-40-6690
4 09-GS-40-6691
5 09-GS-40-6696
6 09-GS-40-6689

5 State of South Carolina,)
6 Plaintiff,)
7 vs.) TRANSCRIPT OF RECORD
8 Anthony Hackshaw,) (SENTENCE)
9 Defendant.)

10 November 3, 2010
11 Columbia, South Carolina

12
13 B E F O R E:

14 THE HONORABLE JAMES R. BARBER, III, JUDGE.
15

16
17 A P P E A R A N C E S:

18 K. LUCK CAMPBELL, ASSISTANT SOLICITOR
19 JOANNA A. McDUFFIE, ASSISTANT SOLICITOR
Attorneys for the Plaintiff

20 TARA DAWN SHURLING, ESQ.
21 Attorney for the Defendant

22

23

24

25

DEBORAH M. McCURDY, RPR
Official Court Reporter

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NOVEMBER 3, 2010

THE COURT: All right, are you ready to go forward? If we can bring the Defendant up here, please.

(Defendant comes forward.)

THE COURT: All right, Ms. Campbell.

MS. CAMPBELL: May it please the Court, Your Honor?

THE COURT: Do you have anybody you want me to hear from?

MS. CAMPBELL: Yes, Your Honor. I believe the victim's mother as well as the victim's grandfather would like to address the Court at the appropriate time. And I'm sorry, Your Honor, the victim's cousin would also like to address the Court.

And I think Ms. McDuffie has his prior record for you.

THE COURT: All right. Yes, ma'am?

MS. McDUFFIE: Your Honor, in North Carolina in 1994, a second degree trespass, 30 days to one year.

In Maryland in '94 and '95, two counts of robbery.

In 1999 there was a parole violation on the robbery.

1 And in 2006 there was an assault with a
2 dangerous weapon.

3 And then in -- Your Honor, I can't tell from
4 his rap sheet if it is D.C. or Maryland, there was
5 a 1999 fugitive from justice warrant issued.

6 Your Honor, the victim's mother, Barbara
7 Taylor, his grandfather Robert -- her grandfather,
8 Robert Taylor, and cousin Tory Wilson would all
9 like to address Your Honor.

10 THE COURT: Would you like to do that now?

11 MS. McDUFFIE: Yes, sir.

12 THE COURT: I know y'all -- and I'm sure it is
13 for security reasons, but it is hard for me to see
14 these folks.

15 All right, tell me your name, please, ma'am.

16 MS. TAYLOR: Good morning, Your Honor. I'm
17 Barbara Taylor.

18 THE COURT: All right, Ms. Taylor, what do you
19 want to tell me?

20 MS. TAYLOR: Your Honor, this whole
21 devastation, this whole travesty that occurred from
22 the loss of my daughter, words can never describe
23 the pain my family and I have suffered at the hand
24 of Mr. Hackshaw. I no longer have my 18-year-old
25 daughter, my 7-year-old son no longer has a sister,

1 my father-in-law no longer has a grandchild.

2 Your Honor, I realize that God is our ultimate
3 judgment, but I ask that he receive the maximum
4 penalty for the heinous crime that he has caused on
5 me and my family.

6 My life will never be the same again. I'm not
7 the same person as I was.

8 Thank you for allowing me to address the
9 Court.

10 THE COURT: Yes, ma'am.

11 MR. McDUFFIE: This is Robert Taylor, the
12 victim's grandfather.

13 MR. TAYLOR: Good morning, Your Honor.

14 THE COURT: Good morning, Mr. Taylor.

15 MR. TAYLOR: My name is Robert Taylor. I'm
16 Emily's granddad and my daughter's father.

17 This man doesn't know the pain and suffering
18 that he has caused and brought upon me and my
19 family, this family. At nighttime we don't sleep
20 good. I take sleeping pills. This crime that he
21 committed, that he stated that the way they do
22 things in New York he thought he could bring it to
23 South Carolina and commit the same crime and
24 murder, violent crime and get away with it.

25 I am begging you, Your Honor, to please give

1 this man life without parole if possible.

2 Thank you, Your Honor.

3 THE COURT: Yes, sir.

4 MS. McDUFFIE: And, Your Honor, this is Tory
5 Wilson, the victim's cousin.

6 MS. WILSON: Good morning. My name is Tory
7 Wilson. Emily was my cousin. We grew up like
8 sisters. This is something we will never get over.
9 I would ask that he be punished to the fullest
10 extent of the law. I think he should -- he should
11 have the death penalty. He should never get out
12 and do this to anyone ever.

13 Thank you. That's all I have to say.

14 THE COURT: Yes, ma'am.

15 All right, anything further?

16 MS. CAMPBELL: No, sir.

17 THE COURT: Thank you. Ms. Shurling?

18 MS. SHURLING: Your Honor, as you know from
19 the trial, my client is 34 years old. Just by the
20 record that has been gone over by the State, I
21 would ask Your Honor to also note that from 2000
22 forward until the incident in April, of course, and
23 this set of charges, he had remained free of
24 trouble with the law.

25 He had gotten married. He married his wife

1 Rosa. The Court heard from her during the trial.
2 And they have a small child, 7-month-old Layla,
3 that he has never had the chance to see.

4 Your Honor, my client has expressed his deep
5 remorse for what -- remorse isn't the right word --
6 sympathy, empathy for what has happened to this
7 family at the loss of their child, their daughter,
8 their cousin. He shares their outrage at what
9 happened to her. But he has consistently from the
10 day I met him denied his involvement in the events
11 that led to her death. And while he is deeply
12 sorry for this family's suffering, he is adamant
13 that he is not responsible for it.

14 Your Honor, I know that the jury has spoken
15 and that Your Honor must act on their verdict. It
16 remains my position, Your Honor, that the evidence
17 in this case against my client was, other than the
18 testimony of persons whose testimony was
19 questionable, the evidence was entirely
20 circumstantial.

21 And I would ask that Your Honor show whatever
22 mercy you deem appropriate on my client.

23 I would note that we do have some post-trial
24 motions, which of course will still be timely after
25 sentencing. We would ask to be heard on those

1 after this proceeding.

2 Your Honor, I don't know whether Mr. Hackshaw
3 wishes to say anything. I can tell you that in my
4 representation of him he has been polite,
5 courteous. He has always been cooperative and a
6 gentleman. And in my experience with him, he has
7 been a kind and gentle person.

8 I would ask that my associate, Jeremy
9 Thompson, who has also been second seat in this
10 case, have the opportunity to say anything he would
11 like to say on behalf of Anthony.

12 MR. THOMPSON: I don't have too terribly much
13 to add. I agree with everything Tara said. All I
14 can say is to add to that is in my experience with
15 dealing with Anthony he has been -- you know, the
16 discussion had gotten heated at times, but that was
17 due primarily to his, I guess his continued and
18 absolute insistence that he didn't have anything to
19 do with this, and he was upset about that. But
20 other than that, every dealing I have ever had with
21 him has gone well. He's been a very polite and
22 kind client.

23 And I would just ask the Court as well to
24 sentence him and show him some leniency, but not to
25 give him the maximum punishment.

1 MS. SHURLING: Your Honor, there are several
2 people in Anthony's family that wish to be heard
3 from that don't have the opportunity to be here
4 today. One is his aunt, Angela Johnson. I have
5 already showed the State a letter that was faxed to
6 Eleanor Cleary's office yesterday. It is very
7 short. I would ask permission to publish it.

8 THE COURT: Sure.

9 MS. SHURLING: To whom it may concern:
10 My name is Angela Johnson. I would say
11 a few things about my nephew, Anthony
12 Hackshaw, whom I considered my son after
13 his mom died. Anthony has had a very
14 rough life emotionally. I just can't
15 imagine things happening to him. I'm
16 filled with sadness because of this
17 situation. What I love and admire about
18 him is his deep sympathy for people who
19 is being taken advantage of. He is
20 really a good-hearted person. In the
21 right situation with both parents, his
22 life would have turned out different for
23 him. Please have mercy on him and allow
24 him a chance to get proper help to be a
25 good and upright citizen.

1 Sincerely, his aunt, Angela Johnson.

2 Your Honor, Mr. Hackshaw's wife Rosa was here
3 during the trial. As I have said, she has a small
4 child and she had to leave to go back to New Jersey
5 where she has assistance with her child.

6 She has called this morning to say that she is
7 deeply sorry for what has happened in this case, to
8 her husband and to the family. She loves her
9 husband very much and wishes she could be here.

10 In addition, his brother -- Aaron Johnson?
11 Mr. Johnson, Your Honor, we were told moments ago
12 was on his way. I'm sorry, he appears to have had
13 difficulty either with parking or something and
14 isn't here, but I know from my conversations with
15 Mr. Johnson, he very much considers himself to be
16 Anthony's big brother, and he is deeply saddened by
17 this whole situation.

18 Standing behind is his little brother and
19 hopes that Your Honor will see your way clear to
20 give him mercy and give him as light a sentence as
21 you can see your way clear to give under the law to
22 enable him to have an opportunity.

23 He's going to miss his daughter's years of
24 growing up, he will miss her years as a young
25 woman, and probably miss her wedding, and all of

1 those landmark events, even if Your Honor gives him
2 the minimum sentence allowed by law, but if granted
3 the mercy of the minimum sentence of 30 years, he,
4 doing day-for-day, would be approximately 64 years
5 old when he was released. And if nothing else,
6 would hopefully have the opportunity to be a
7 grandfather to the children of the child he would
8 not have been able to help raise.

9 One point that I raise very reluctantly
10 because I would never want this family to think
11 that I am playing on their grief and their
12 struggles, I would never do that, but I do think it
13 is always important to recognize that under our law
14 an individual who has an appeal and successfully
15 wins a new trial and goes back to court is subject
16 to a harsher penalty than the one they originally
17 received if they did not get the maximum.

18 That, in effect, gives someone who receives
19 less than the maximum sentence sincere motive to
20 seriously consider at least not entering a direct
21 appeal and not attempting to appeal a conviction.

22 On the facts of this case, I make no
23 representation that my client would not appeal. I
24 don't know that. But I do know that if he chooses
25 to appeal, it will mean an appeal to the Court of

1 Appeals, the Supreme Court, probably eventually
2 habeas, and many years of an appellate process that
3 this family, as well as my client's family, would
4 have to endure; whereas, if my client were to be
5 motivated not to pursue a direct appeal, there
6 would be a degree of finality for everyone, and
7 that is a consideration that I respectfully ask
8 Your Honor to consider and ask his family to know
9 from the bottom of my heart that I say that only
10 because I have witnessed families live through the
11 long and tedious appellate process in my 31-year
12 career and believe that it is at least one serious
13 consideration that ought to be at least taken into
14 account.

15 Thank you, Your Honor.

16 THE COURT: All right. Mr. Hackshaw, anything
17 you want to say?

18 THE DEFENDANT: Yes, sir. I did not murder
19 your daughter's family. I did not do that. I did
20 not have nothing to do with her dying. I want to
21 address that to you guys. I had nothing to do with
22 it. I had a problem with Ellison and I never came
23 and I never done anything to your daughter.

24 THE COURT: All right. Well, you know, as I
25 say often when I sentence people, there is no magic

1 to trying to figure out what is right and what is
2 wrong. Life, 50 years, 40 years, 30 years, you
3 know, I don't know what the magic is in sentencing.
4 This is the hardest part of this job that I have,
5 but a couple of things stand out to me in this
6 case.

7 One is the -- you know, apparently your client
8 had a job where he was providing care and help to
9 people who had some problems when he was working at
10 the Department of Mental Health, but he has a life
11 outside of that Department of Mental Health where
12 he is selling marijuana and getting in shootouts in
13 parking lots in total disregard for anybody that
14 might be in the neighborhood or the community or
15 the streets when he is engaging in that kind of
16 activity. It is just how people live those two
17 different lives, as Ms. Campbell addressed in her
18 closing argument.

19 Regardless of this situation, your client was
20 engaging in dangerous behavior to the people of
21 Richland County and the State of South Carolina and
22 he was living that lifestyle. It could have been
23 somebody else that day that we're here on a murder
24 trial because of the shooting between your client
25 and his adversary, Mr. E on that day.

1 The other thing that stands out is that people
2 come into the courtroom and they seemed to have
3 fear of participating in the trial because -- and
4 I'm not sure who that fear comes from, but even
5 the -- we had one witness who declined to cooperate
6 because he claims he was in fear for his safety or
7 the safety of his family.

8 I know we have a continued hearing here today
9 on the proffer. It was asked by the lawyers at the
10 close of the hearing because of concerns for
11 whoever the guy is, the witness is that you want to
12 put on the stand, because of the safety of his.
13 You know, so this just has to be something
14 underlying here that I don't understand or realize.

15 I have not been a big believer in life
16 imprisonment just to put people in jail for life
17 because I think there might be some motive for
18 people to be better inmates if they have an
19 opportunity to get out at some point in time.
20 So --

21 MS. SHURLING: Your Honor, if I might?

22 THE COURT: Your client went to jail in August
23 of 2009, right?

24 MS. SHURLING: That's correct.

25 MS. McDUFFIE: He was booked in July 29th of

1 2009.

2 MS. SHURLING: Your Honor --

3 THE COURT: He's got 15 months of credit.

4 MS. SHURLING: Your Honor, I sincerely
5 apologize for interrupting, but I thought of one
6 point that I would be very remiss in not
7 mentioning.

8 While my client adamantly denies being present
9 at the scene of this crime and participating in it,
10 I think that it would be reasonable for me to point
11 out to Your Honor that when the evidence as a whole
12 is taken into consideration, my client was
13 identified by Ellison Hudson as the one of the two
14 perpetrators I refer to as Black Hat, the gentleman
15 in the black clothing.

16 And I would suggest that under a reasonable
17 examination of the evidence, of the two
18 perpetrators who came to Juniper Street on that
19 day, it is fair to infer that Ms. Fogle was in fact
20 killed by the gentleman in the blue hoodie, which
21 would mean that even if my client was present, even
22 if they are correct that he was one of the two
23 people that was there and participated, he would
24 not have been the individual who put the five shots
25 in the body of this innocent girl.

1 THE COURT: Well, I don't know that. I mean,
2 this was a gruesome -- if this gal had been shot
3 one time you might say that she was just in a line
4 of a bullet that went to somebody else. But I
5 think somebody clearly intended to shoot and kill
6 whoever -- I mean, this person. I don't know that
7 they knew it was a female. I think the testimony
8 was that they came around and her back was to the
9 car that was being washed and, you know, I may have
10 some questions in my mind whether they
11 understand -- understood who it is that was sitting
12 there, but I don't think there is any doubt that
13 they intended to kill that person when you have got
14 six bullets in that person, one of which is maybe
15 less than 18 inches or 12 inches from the gun
16 when --

17 MS. SHURLING: And I don't dispute that, Your
18 Honor, at all.

19 THE COURT: The other thing is, I realize in
20 this type of case that you have bad guys telling
21 stories about bad guys, but in this type of case
22 you generally are not going to have, as pointed
23 out, model citizens walk up and say, oh, yeah, I
24 was buying a little marijuana and this happened.

25 MS. SHURLING: Yes, sir.

1 THE COURT: Clearly, in my opinion, there
2 was -- the jury wanted to believe what it believed,
3 there was plenty of evidence to believe that your
4 client committed the offense.

5 MS. SHURLING: Your Honor, I wasn't disputing
6 the fact that the victim was shot deliberately by
7 someone. I was merely pointing out that under the
8 evidence as presented, it was fair to --

9 THE COURT: I don't know --

10 MS. SHURLING: -- infer that the actual
11 shooting of Ms. Fogle was done by the second --

12 THE COURT: I don't know that.

13 MS. SHURLING: -- shooter.

14 THE COURT: I don't know that. He said they
15 came around with guns ablazing. I know one of them
16 with a blue hoodie took off after one guy and your
17 client apparently was back there, if you believe
18 what was some of the testimony.

19 MS. SHURLING: Yes, sir. I would also urge
20 the Court not to take into consideration the
21 element of fear expressed by some witnesses. As
22 Your Honor has noted, there has been no evidence of
23 who that person was afraid of.

24 THE COURT: The only thing I remark that I
25 find is your client ain't no model citizen who is

1 out there being Mr. Nice Guy. I mean, there is
2 something going on in this whole process that I'm
3 not familiar with, but -- the weapon is a ten year?

4 MS. McDUFFIE: Your Honor, it is five years.

5 THE COURT: Five years.

6 MS. SHURLING: As Your Honor knows, for a long
7 time there was a misconception that the five years
8 had to be consecutive to the primary sentence.
9 That misunderstanding of that statute has now been
10 dispelled, that it is not required to be
11 consecutive. And, in fact, we would urge Your
12 Honor to please give consideration to making all
13 the other sentences on all the other counts
14 concurrent to the murder.

15 THE COURT: All right. I don't know.

16 On the murder charge, the sentence of the
17 Court is that you be committed to the Department of
18 Corrections for a term of 42 years, plus costs and
19 assessments as applicable.

20 On the Indictment 2009-GS-40-6691, the assault
21 with intent to kill as to Cleveland Joyner, the
22 sentence of the Court is that you be committed to
23 the Department of Corrections for a term of 15
24 years, plus costs and assessments as applicable.

25 On the assault with intent to kill as to

1 Ellison Hudson, the sentence of the Court is that
2 the Defendant be committed to the Department of
3 Corrections for a term of 15 years, plus costs and
4 assessments as applicable.

5 On the use of a weapon during a -- possession
6 of a weapon during a violent crime, the sentence of
7 this Court is the Defendant be committed to the
8 Department of Corrections for a term of five years,
9 plus costs and assessments as applicable.

10 Those sentences will run concurrent.

11 MS. McDUFFIE: Your Honor, may we approach?

12 THE COURT: Ma'am?

13 MS. McDUFFIE: May we approach?

14 THE COURT: You may.

15 (WHEREUPON, a bench conference was
16 held.)

17 THE COURT: Ten years on the two AWIKS.

18 MS. McDUFFIE: Thank you, Your Honor.

19 THE COURT: All right. We need to do the rest
20 of this hearing.

21 Do you want to talk to these folks for a
22 second before we start?

23 MS. CAMPELL: If you will give me just a
24 second, Your Honor.

25 MS. SHURLING: I'm sorry, sir?

1 THE COURT: We have the rest of the hearing to
2 do.

3 MS. SHURLING: Yes, Your Honor.

4 THE COURT: Proffer. I am asking did they
5 want to talk to the people before we start. I
6 don't know whether they are sticking around for the
7 proffer.

8 I know Mr. O'Neil, he's in Lexington County.

9 MR. THOMPSON: Yes, Your Honor.

10 THE COURT: And I thought he told me he would
11 be here by 10:30.

12 MS. SHURLING: Eleven, Your Honor.

13 THE COURT: I thought he told me 10:30.

14 MS. SHURLING: He told us 11:00 and said he
15 cleared it with your office.

16 THE COURT: He did. He came by and asked me
17 about -- well, I told him we would wait on him.

18 MS. SHURLING: Yes, sir.

19 THE COURT: I'm not going to put him in an
20 awkward position. I don't know where his client
21 is.

22 All right, well, we will just stand in recess
23 until he gets here.

24 (Break.)

25 THE COURT: Yesterday when counsel came by my

1 office to tell me he had to be in Lexington County
2 and asked the Court to indulge him a little bit in
3 case he ran a little late, I thought he said 10:30.
4 Apparently 11:00 o'clock is what he said to you,
5 but I told him whatever time it took we were going
6 to wait on him, because he is my source of
7 information on a lot of football matters, so I
8 don't want him to cut me off.

9 But, anyway, one of the things that he had
10 indicated to me -- do you still want to go into
11 that, or are you satisfied --

12 MR. O'NEIL: I'm satisfied at this point, Your
13 Honor.

14 THE COURT: Okay. We are here to resume our
15 proffer in the matter that we started I guess
16 Monday?

17 MS. SHURLING: Yes, sir, Your Honor.

18 THE COURT: We didn't do anything yesterday.
19 Ms. Shurling, do you want to proceed, please?

20 MS. SHURLING: Yes, sir, Your Honor. I would
21 call Mr. Kenneth Goodwin to the stand.

22 THE BAILIFF: Place your left hand on the
23 Bible, raise your right hand, and face the clerk.

24 (Witness complies.)

25 THE CLERK: Do you solemnly swear or affirm

24 Q Mr. Goodwin, can you recall being picked up by
25 Investigator Gwyn on May 22nd, 2009?

1 A You talking about the Pull-A-Part thing, right?

2 Q Well --

3 A I remember meeting with him.

4 Q Okay. Let's back up to before you met with
5 Investigator Reese. When you were originally
6 picked up, you were picked up by Investigator Gwyn,
7 is that correct?

8 A This right here has nothing to do with this in
9 particular situation, right, it has got something
10 to do with myself?

11 Q What I'm asking you is, do you remember being
12 picked up for questioning on May 22nd, 2009? I'm
13 not going to ask you about what you were questioned
14 about.

15 A That is the only way I am going to know what you
16 are talking about is if you tell me what situation
17 I had been in. Did I get arrested?

18 Q Mr. Goodwin, there is a police case summary that
19 indicates that Investigator Gwyn had occasion to
20 pick you up and have a conversation with you on
21 May 22nd, 2009. Do you recall that?

22 A I can't really say. I mean, I remember when I did
23 speak with you you did tell me that I got -- you
24 stated to me about something about I got arrested
25 two days before this situation happened or

1 something like that you said to me about it, but --

2 Q Okay.

3 A -- I don't remember Investigator Gwyn.

4 Q Well, let me rephrase the question. Do you recall
5 at some point getting in touch with Investigator
6 Reese, according to Investigator Reese, from the
7 Columbia City Police Department about information
8 that had been conveyed to you by your girlfriend?

9 A Yeah, I do.

10 Q And who told you to call Investigator Reese about
11 the case?

12 A I think the investigator. I do believe I did speak
13 with Investigator Gwyn because I think he told me
14 to call.

15 Q And do you remember at some point talking to a
16 Sergeant Babin as well?

17 A Yes, ma'am.

18 Q Okay. So between the two of them you were told to
19 get directly in touch with Investigator Reese,
20 correct?

21 A Yes, ma'am.

22 Q And did there come a time when Investigator Reese
23 called you back?

24 A Yes, ma'am.

25 Q And during that conversation, did you and

1 Investigator Reese arrange a meeting between
2 yourself, your girlfriend and Investigator Reese?

3 A Yes, ma'am.

4 Q Who was your girlfriend at the time?

5 A Simone Thomas.

6 Q Okay. And prior to that, had you given law
7 enforcement information concerning a possible lead
8 in the homicide that had taken place in the
9 Greenvview Community a couple of days earlier?

10 A The only thing that I -- you know, I can't say I
11 know distinctly about it, but the only thing I know
12 showing about that was the text message, and the
13 text message had read that a dude named Bailey was
14 involved in the murder. That was the only name I
15 was told. I wasn't told no other names.

16 Q That who was involved in the murder?

17 A Bailey.

18 Q And do you remember telling them anything about an
19 individual named Corterious Ford?

20 A Corterious Ford? Yeah, yeah, I do.

21 Q All right. When you arranged a meeting with
22 Investigator Reese, where did he set it up for you
23 to meet him?

24 A Pull-A-Part on Monticello Road.

25 Q And tell me again, who was your girlfriend back

1 then?

2 A Simone Thomas.

3 Q And did you and Simone Thomas meet with
4 Investigator Reese at the Pull-A-Part on Monticello
5 Road?

6 A Yes, ma'am.

7 Q Okay. Now, I have already told you that you can't
8 say what other people said. Do you understand
9 that?

10 A Yes, ma'am.

11 Q But as a result of that meeting, did you and your
12 girlfriend convey to Investigator Reese the source
13 of that text message?

14 A Will you explain to me what convey means?

15 Q Pardon?

16 A Can you explain to me what convey means?

17 Q Okay. Did you -- between the two of you, did you
18 let Investigator Reese know who had sent the text
19 message to your girlfriend?

20 A No, because I don't really remember who sent the
21 text. It wasn't my phone that the text got sent
22 to.

23 Q I'm not asking you whether you remember today. I'm
24 asking you back at that meeting on Monticello
25 Road --

1 A I can't remember.

2 Q I understand you don't remember today who sent the
3 text message, but isn't it a fact that back then in
4 2009 when you and your girlfriend met with
5 Investigator Reese that your girlfriend was able to
6 give him the source of the text message?

7 MS. CAMPBELL: Objection, Your Honor. Asked
8 and answered. He doesn't remember.

9 A I --

10 THE COURT: Well, if he remembers he will say
11 it, and if he doesn't he will say he doesn't
12 remember again.

13 A I ain't -- I don't think I want to say. Man, I
14 don't want to see somebody go to jail for something
15 they didn't do, you know what I'm saying, but --
16 excuse how I'm talking -- you know, I just -- I
17 really can't recall who sent the text message.
18 Back then -- I mean, that has been almost over a
19 year ago. I don't have nothing to do with the
20 murder case, it is not like I really been thinking
21 about it, but at the same time I don't -- really
22 can't recall who sent the text. It wasn't my
23 phone.

24 MS. SHURLING: And, Your Honor, that is what I
25 was trying to clarify.

1 THE COURT: Well, I understand that. Do you
2 remember anything about telling them who sent the
3 text?

4 THE WITNESS: I can't recall.

5 THE COURT: He doesn't remember.

6 A I cannot recall. But I can state that the text --
7 I can say that the text said Bailey was involved in
8 it. That is Anthony Hackshaw?

9 Q Yes.

10 A I never heard -- I never heard his name coming up
11 in nothing, nothing at all. I mean, I don't -- I'm
12 not going to sit up here and say I know he didn't
13 have anything to do with it because I don't know
14 the fellow.

15 THE COURT: All right, well, look, just answer
16 the question.

17 Q I remind you you are under oath.

18 THE COURT: Well, he knows he is under oath.

19 Q Are you denying that on a previous occasion you
20 have told me specifically --

21 THE COURT: Don't --

22 Q -- you were present when your girlfriend told law
23 enforcement who had sent that text message?

24 A I never -- I never said who sent the text message.

25 Q I didn't say you said who sent it. And I am asking

1 you if --

2 A Did she say who sent the text?

3 Q Did she tell Investigator Reese who sent the text
4 message?

5 A I cannot remember. I don't remember.

6 Q Again, just to be perfectly clear, I'm not asking
7 you to tell us who she said--

8 THE COURT: Ms. Shurling, he has answered. He
9 doesn't remember what she said.

10 MS. SHURLING: And, once again, I'm not asking
11 him what she said, I'm asking him to remember that
12 she conveyed the information at the time.

13 THE COURT: He said he doesn't remember.

14 A You are asking me did I hear her say this person
15 did it, is that what you are asking me?

16 Q I'm asking you -- I don't want to know who she
17 said, I don't want to know who she said sent it, I
18 want to know if you remember her telling

19 Investigator Reese back then, whether she told
20 Investigator Reese who sent her that text message?

21 A You just stated that you did not want me to tell
22 you who sent it, but it sounds like you want me to
23 tell you who sent the text.

24 Q No, sir.

25 THE COURT: No. Don't mention a name. Do you

1 remember whether she gave a name? Either you do or
2 you don't.

3 A I don't remember if she gave a name. Now I
4 understand what you are trying to say, but I don't
5 remember if she gave a name or not.

6 THE COURT: All right.

7 Q When you had the telephone conversation with
8 Investigator Reese setting up this appointment with
9 you and your girlfriend --

10 A Uh-huh.

11 Q -- were you aware that you were being tape
12 recorded?

13 A I wasn't. No, no one has ever told me I was being
14 recorded. They asked me questions. Then when I
15 spoke with you you told me that you got a CD
16 documented with my voice on it stating that we was
17 going to meet up at a certain time and place, but I
18 never was told I was being recorded, and I do
19 believe I -- I think that is against the law,
20 right?

21 Q I'm not going to address that. But you had not
22 given permission to be recorded?

23 A No.

24 Q When you met with Investigator Reese at the
25 Pull-A-Part, did he ask to tape record his

1 conversation with you and your girlfriend at the
2 time?

3 A No, ma'am.

4 Q But he tape recorded the conversation setting up
5 the appointment?

6 A Yes, ma'am.

7 MS. SHURLING: Moment's indulgence.

8 (Pause.)

9 MS. SHURLING: No further questions.

10 THE COURT: Anything?

11 MS. CAMBPELL: No, sir.

12 THE COURT: Thank you. All right, you may
13 step down.

14 (Witness steps down.)

15 THE COURT: All right, that's it.

16 MS. SHURLING: Your Honor, I would just note
17 that in -- make a proffer pursuant to Cabbagestalk
18 that I as an officer of the court would state
19 affirmatively that in previous conversations with
20 me this witness has specifically informed me that
21 he did meet with Investigator Reese and his
22 girlfriend was with him and that that information
23 was conveyed to the officer during that
24 conversation.

25 THE COURT: All right.

1 MS. SHURLING: Thank you.

2 THE COURT: All right. Thank you. Well,
3 that's it.

4 MS. SHURLING: Your Honor, at this time we
5 would renew motions of course for -- we make a
6 motion for a new trial based on all of the previous
7 objections and errors argued during the course of
8 the trial.

9 Specifically I would note the decision to
10 allow Mr. Gleaton's statement into the record
11 despite the fact that pursuant to Rule 804 he was
12 clearly unavailable for cross-examination by me
13 and --

14 THE COURT: Didn't we address all this at the
15 end of the evidence in the case?

16 MS. SHURLING: Sir?

17 THE COURT: Didn't you make all these motions
18 at the end of the evidence in the case?

19 MS. SHURLING: I renewed them at that time.
20 At this point I am making a motion for a new trial
21 based on those same issues.

22 And of course noting Your Honor's ruling with
23 regard to admitting evidence concerning the nature
24 of the property stolen from my client during the
25 April 23rd incident and also Your Honor's decision

1 to deny our motion for a mistrial when a witness
2 responded to a question from me in a manner that
3 was non-responsive to my specific question and
4 interjected a claim in the presence of the jury
5 that he had taken a polygraph, we believe that
6 despite the fact that he claimed not to know the
7 results of said polygraph, the fact that he was
8 testifying before the jury, having made them aware
9 that he took a polygraph, clearly created the
10 inference in the eyes of the jury that the State,
11 as ethical and honorable prosecutors, would not put
12 someone up who had failed a polygraph.

13 In point of fact, the jury would not as lay
14 people consider the possibility that it was in the
15 middle, that it was an inconclusive polygraph just
16 like that of my own client.

17 So we would renew all those previous motions
18 and at this time ask for a new trial based on those
19 issues, Your Honor.

20 THE COURT: All right. Anything else?

21 MS. CAMPBELL: No, Your Honor. You addressed
22 all those issues on previous occasions.

23 THE COURT: For reasons given previously, I am
24 going to deny the motion.

25 MS. SHURLING: Your Honor, I would note that I

1 have already advised my client of all of his rights
2 concerning a direct appeal. We have had extensive
3 discussions concerning that matter. He's aware of
4 the time restrictions and has already given me
5 instructions concerning filing a direct appeal.

6 THE COURT: All right. I thank y'all.

7 (WHEREUPON, the proceedings were concluded.)
8

9 (END OF TRANSCRIPT)
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CERTIFICATE OF REPORTER

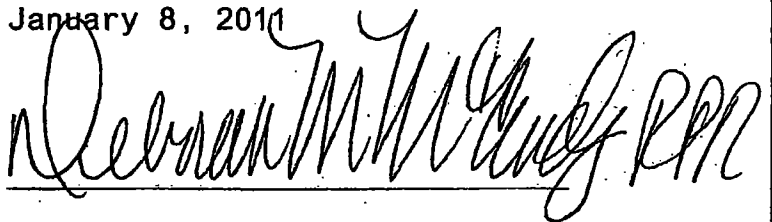
STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 3rd day of November, 2010.

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

January 8, 2011



Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

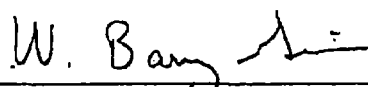
INDICTMENT

At a Court of General Sessions, convened on September 16, 2009, the Grand Jurors of Richland County present upon their oath:

MURDER

That Anthony Hackshaw did in Richland County on or about May 20, 2009, feloniously, willfully and with malice aforethought, kill one Ebony Fogle by means of a gunshot wound and that the said victim died as a proximate result thereof. All in violation of SC Code of Laws § 16-3-10.

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


Warren B. Giese, SOLICITOR

WITNESSES

✓ (S) Reese - CPD

ARREST WARRANT NUMBER

K612719

ACTION OF GRAND JURY

TRUE BILL

BLW SEP 17 2009
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-40-6689

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

September TERM 2009
154

THE STATE

vs.

Anthony Hackshaw

Indictment for

MURDER

SC Code: 16-3-10
CDR Code: 0116
Class FEL/EXM(V)

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)

INDICTMENT

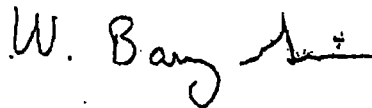
COUNTY OF RICHLAND)

At a Court of General Sessions, convened on September 16, 2009, the Grand Jurors of Richland County present upon their oath:

ASSAULT WITH INTENT TO KILL

That Anthony Hackshaw did in Richland County on or about May 20, 2009, with malice aforethought commit an assault with intent to kill upon the victim, Ellison Hudson, in violation of Section 17-25-30 C/L, Code of Laws of South Carolina, (1976, as amended).

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



WARREN B. GIESE, SOLICITOR

WITNESSES

✓(S) Reese - CPD

ARREST WARRANT NUMBER

K612720

ACTION OF GRAND JURY

TRUE BILL

KBL SEP 17 2009

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-40-6690

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

September TERM 2009

154

THE STATE
vs.

Anthony Hackshaw

Indictment for

**ASSAULT WITH
INTENT TO KILL**

SC Code: 16-3-620; 17-25-30

CDR Code: 768

Class MIS-EXM

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 RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on September 16, 2009, the Grand Jurors of Richland County present upon their oath:

ASSAULT WITH INTENT TO KILL

That Anthony Hackshaw did in Richland County on or about May 20, 2009, with malice aforethought commit an assault with intent to kill upon the victim, Cleveland Joyner, in violation of Section 17-25-30 C/L, Code of Laws of South Carolina, (1976, as amended).

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

W. B. Giese

WARREN B. GIESE, SOLICITOR

WITNESSES

✓(S) Reese - CPD

ARREST WARRANT NUMBER

K612721

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-40-6691

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

September TERM 2009

154

THE STATE
vs.

Anthony Hackshaw

Indictment for

ASSAULT WITH
INTENT TO KILL

SC Code: 16-3-620; 17-25-30

CDR Code: 768

Class MIS-EXM

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 RICHLAND)

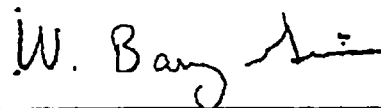
INDICTMENT

At a Court of General Sessions, convened on September 16, 2009, the Grand Jurors of Richland County present upon their oath:

USE OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME

That Anthony Hackshaw did in Richland County on or about May 20, 2009, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: Murder, in violation of Code Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

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



WARREN B. GIESE, SOLICITOR

WITNESSES

✓(S) K Reese - CPD

ARREST WARRANT NUMBER

K612723

ACTION OF GRAND JURY

TRUE BILL

K612723 SEP 17 2009
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-40-6696

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

September TERM 2009

154

THE STATE

vs.

Anthony Hackshaw

Indictment for

USE OF A FIREARM DURING
COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-0490

CDR Code: 0549

Class FEL/F

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.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 16th, 2012

Susan B. Hackett
Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT