

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

DOUGLAS L. YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001622

APPENDIX

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VOLUME I

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STATE OF SOUTH CAROLINA IN THE GENERAL COURT OF JUSTICE
CHARLESTON COUNTY CIRCUIT COURT DIVISION
2018-GS-10-00558,
-00559

-----X
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 :
 Plaintiff, :
 :
 vs. : TRANSCRIPT OF JURY TRIAL
 : VOLUME I - PAGES 1 - 136
DOUGLAS LAVANCE YOUNG, :
 :
 Defendant. :
-----X

December 2, 2019
Charleston, South Carolina

B E F O R E

The Honorable R. Edgar W. Dickson, Judge Presiding.

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1 P R O C E E D I N G S

2 * * *

3 MONDAY, DECEMBER 2, 2019

4 CHARLESTON, SOUTH CAROLINA

5 * * *

6 (Whereupon, the following proceedings were
7 held in open court. The defendant was
8 present with his attorney, along with
9 counsel for the State.)

10 THE COURT: All right. Mr. D'Angelo, have you
11 handed up your voir dire?

12 MR. D'ANGELO: I have not. I was showing Mr.
13 Osborne. I have a second copy to provide to the State.

14 THE COURT: You have a witness list. Have you looked
15 over Mr. Osborne's voir dire?

16 MR. D'ANGELO: I have. There are no objections that
17 I have.

18 THE COURT: Elizabeth told me you have a new witness
19 list.

20 MR. OSBORNE: I added two names on it, Judge.

21 MR. LEWIS: Your Honor, do you normally do a formal
22 arraignment?

23 THE COURT: And your name is?

24 MR. LEWIS: Ben Lewis, Judge. This is probably the
25 only time you will hear from me. The only thing I

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1 wanted to inquire as to the State of practice that you
2 have.

3 THE COURT: The only thing I have is a copy of the
4 indictments. I don't really read them to the jury or
5 anything like that. I just say in my opening that that
6 is what he is charged with.

7 Is there anything else you-all want me to do?

8 MR. LEWIS: Not in the opening charge, no.

9 THE COURT: I have got the State's exhibit list.
10 Is there anything on that that you-all are going to have
11 a problem with?

12 MR. OSBORNE: We just have the one issue, Your
13 Honor. It's the body-worn camera footage. We started
14 out with showing about two minutes of it, then I met
15 with Mr. D'Angelo and Mr. Lewis. I cut it back some,
16 but I think they would like me to cut it back more.

17 I think we have that one little issue on the
18 body-worn camera footage. I think the issue they are
19 taking exception with is the responding officer walks
20 by, and you can see the deceased individual lying on the
21 ground. They asked me to do a screen shot, so I have an
22 either/or, but I would like to show the body-camera. If
23 you find that to be too prejudicial, I will do a screen
24 shot. We can go with that, too.

25 THE COURT: All right. Is that correct,

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1 Mr. D'Angelo?

2 MR. D'ANGELO: That is. Ultimately, I think the
3 State was wanting to have the body camera footage.
4 Through testimony there will be a witness that was
5 driving in the vehicle. On that body-worn camera, you
6 can see the vehicle drive and turn past the crime scene.

7 Ultimately, that is what the State is wanting to
8 show, which we understand. We would then say to clip
9 that body cam until -- that is all that is in there. We
10 don't need that movement of the officer walking by and
11 scanning the scene and we see the deceased on the
12 ground.

13 We had suggested a photo and we had agreed on a
14 number. I think that would be more appropriate.

15 THE COURT: Let me ask you a question.

16 One of the reasons we got body-worn cameras is to
17 show what the scene is, right?

18 MR. D'ANGELO: I understand.

19 THE COURT: I mean --

20 MR. D'ANGELO: I would agree.

21 THE COURT: Is there something about that that
22 is -- does it linger on the body? Tell me --

23 MR. D'ANGELO: So the camera scans over the body.
24 I believe if that is going back to the jury, they
25 certainly would be able to look at that and they could

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1 pause it. They could do it however they want. It's
2 showing, as it scans over, you see blood and all of
3 that.

4 It will be inflammatory to the jury, I think, where
5 the picture that we had agreed on kind of removes some
6 of that. It allows the State to at least be able to
7 show what the scene looked like, where the decedent was
8 lying on the ground. I understand the State is needing
9 to be able to set that scene, but the picture removes
10 kind of the gore that the jury would be able to pause
11 that video and see.

12 THE COURT: This is the still shot?

13 MR. OSBORNE: This is the still shot. The
14 body-worn camera is going to show about three seconds of
15 something like that. Our whole point is, like you said,
16 Your Honor, he is wearing the body-worn camera. Not
17 only does the body-worn camera show that image, but it
18 also shows him approaching, and it shows the crime scene
19 as it was before the police did anything with the scene.

20 It will show beer cans that are there, beer cans that
21 are going to come back with the defendant's DNA. It
22 will show where he is, which is really important to our
23 case. Our point is that one is no more prejudicial than
24 the other. To us, the body-worn camera is the best
25 evidence.

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1 MR. D'ANGELO: The other things that Mr. Osborne
2 mentioned, the beer cans, how the scene is. There are
3 plenty of other pictures that actually show how all of
4 that is, but we are not objecting to it. What we are
5 objecting to is simply just removing the body in the
6 graphic detail that is portrayed in that body-worn
7 camera.

8 THE COURT: Let me look at it, and I will make the
9 call on that.

10 MR. OSBORNE: It will be the first witness.

11 THE COURT: Okay. All right.

12 I am assuming if we pick the jury, we will take a
13 break for lunch. Then when we come back, I can get a
14 chance to look at it.

15 MR. OSBORNE: Yes, sir.

16 The only other matter that I have is we have a
17 witness under subpoena. Her name is Kim Rivers.

18 THE COURT: I have seen how well you do. Do you
19 want me to keep her out? What is her name?

20 MR. OSBORNE: Her name is Kim Rivers.

21 I have a motion to issue a bench warrant. I
22 inadvertently left out the Judge's signature. I am
23 getting another copy made right now.

24 THE COURT: I can draw a line.

25 She has refused to come?

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1 MR. OSBORNE: She was pretty unequivocal on the
2 phone that she would not be here today. I did inform
3 her that I was going to request a bench warrant be
4 issued. I think we got disconnected.

5 THE COURT: Okay. I just put "So
6 ordered."

7 Mr. D'Angelo, anything else on the State's exhibit
8 list that I need to look at?

9 MR. D'ANGELO: I don't believe there is any other
10 issues that we have with any of the other State's
11 exhibits.

12 MR. D'ANGELO: Only one other thing, Your Honor.
13 There is a hat that belongs to the defendant.
14 Ultimately, the hat was tested by SLED and had GSR
15 particles on the hat. Mr. Osborne and I have agreed
16 just because of the late timing that SLED took to get
17 that to Mr. Osborne, we have agreed that no conversation
18 will be had from the State, or obviously from me,
19 indicating that GSR testing wasn't done. No
20 conversation will be done about GSR testing.

21 MR. OSBORNE: State's 58 is the hat. It was
22 tested, but we didn't get the results back until two
23 weeks ago. It came back positive for GSR. To avoid a
24 continuance, we have agreed that we won't mention GSR,
25 that State won't, unless Mr. D'Angelo says anything

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1 about the hat not being tested. As long as that is not
2 mentioned, we are fine.

3 THE COURT: As long as nobody mentions it, nobody
4 cares.

5 Mr. Lewis, any time you need to stop me, you can do
6 that.

7 MR. D'ANGELO: State's Exhibit 58 and 59. 58 is
8 the hat, 59 is the actual sticky tabs.

9 THE COURT: Mr. D'Angelo, anything else?

10 MR. D'ANGELO: That is it with regard to the
11 State's evidence.

12 As far as motions, I believe we indicated we would
13 do a vigorous hearing. I do not believe we need to do
14 that today then, Your Honor. Save a little bit of time
15 for the Court.

16 We mentioned the GSR.

17 A motion to sequester witnesses. Obviously, I
18 understand the State's investigator asked to remain in.
19 I would ask the same for my investigator, Mr. Harry
20 Long. He is not currently in the courtroom, but he is
21 on the way over. Other than that, I would ask that
22 witnesses be sequestered, Your Honor.

23 MR. OSBORNE: The only other thing we have, in
24 reference to the victim -- I have been looking at
25 Mr. D'Angelo's witness list. I would just ask the Court

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1 to instruct Mr. D'Angelo to not mention any 404(b)
2 evidence regarding our victim.

3 What we have going on basically is that there is a
4 person on his witness list who investigated this victim
5 in Beaufort. He was a suspect in a number of shootings.
6 He is an alleged member of the Crip gang. He was the
7 subject of a Federal investigation involving cocaine and
8 other drugs, I suppose. The State's position on this --
9 and we are relying on the Day case, State v. Day, 341
10 SC 410.

11 Putting the cart in front of the horse, a little
12 bit, because we are not dealing with a self-defense
13 case. At least not at this point. I will ask that
14 there be no mention of this in the opening.

15 If we do get to that point, Day is of some guidance
16 on how to handle it that says: The murder prosecution
17 of one pleading self-defense against an attack by the
18 deceased, evidence of other specific instances of
19 violence on the part of the deceased are not admissible,
20 unless they were directed against the defendant or if
21 directed against others that were so closely connected
22 at point of time or occasion by hindsight, as reasonably
23 expected to indicate the state of mind that the deceased
24 possessed at the time of the homicide, or to produce
25 reasonable apprehension of great bodily harm.

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1 The gist of it, in this case, I think, we are going
2 to have testimony that will say that the victim just got
3 into Charleston five days before this murder.

4 I just don't want an objection during opening or
5 anything like that talking about the victims being a
6 Crip member, propensity for violence or anything like
7 that. I guess it could become relevant at some point,
8 but during our case, I don't see how it would be.

9 THE COURT: Mr. D'Angelo.

10 MR. D'ANGELO: Your Honor, I can only say -- one of
11 the witnesses that I have on my list there, Detective
12 Sergeant Calendine, from Beaufort.

13 THE COURT: Okay. Detective Sergeant.

14 MR. D'ANGELO: Again, as Mr. Osborne had stated, he
15 had investigated Mr. Mullen in shooting instances down
16 in Beaufort.

17 I can say in my opening, I will not be mentioning
18 anything in my opening about anything Sergeant Kelden
19 has told me or anything that might ultimately come out
20 in the trial.

21 THE COURT: Of course, I would have to ask you
22 after the State's case, but we are expecting that right
23 now your intention is to put up witnesses?

24 MR. D'ANGELO: Yes, sir. I believe so.

25 THE COURT: All right. Have you-all had any

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1 discussions in this case where it might be resolved?

2 MR. D'ANGELO: There has been no offer made from
3 the State.

4 MR. OSBORNE: We haven't heard anything from the
5 defense indicating that he was interested in pleading
6 guilty.

7 THE COURT: Okay. You are waiting for an offer;
8 he is waiting to find out whether he is interested?

9 MR. D'ANGELO: I think that is where we are at. I
10 had requested that one would be made, and I have spoken
11 to him about any plea offer that could be made.

12 THE COURT: Okay.

13 MR. D'ANGELO: As far as our motions, that is it
14 from the defense, Your Honor.

15 THE COURT: He is charged with murder?

16 MR. D'ANGELO: Yes, Your Honor.

17 THE COURT: Possession of a weapon during the
18 commission of a violent crime? Those are the two things?

19 MR. OSBORNE: That's correct, Your Honor.

20 THE COURT: Do you want me to go into burglary in
21 your list of questions?

22 MR. OSBORNE: That may have been an inadvertent
23 typo.

24 THE COURT: Did you want me to go into attempted
25 murder?

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1 MR. OSBORNE: No, Judge.

2 THE COURT: Anything else that you can think of
3 that we need to go over?

4 Mr. Lewis is doing his best coaching.

5 Just so you know, normally when we are getting
6 ready to start, introduce yourself and Mr. Young.
7 Mr. Lewis, if you will do that. Mr. Osborne put it up
8 for a week. I will try not to get off the chain too
9 far.

10 Yes, sir.

11 MR. D'ANGELO: Last question I have is that
12 different Judges have different preferences. I do have
13 a list of attorneys in the Public Defender's office. Do
14 you want me to read those off to the jury?

15 THE COURT: It's fine with me not to. I will not
16 ask him to read out any of the Solicitors.

17 If there are any other questions you want me to
18 ask, you need to tell me if you think that is going to
19 be a problem.

20 MR. D'ANGELO: Yes, sir. Thank you, Judge.

21 THE COURT: Is 11 going to play into your issue
22 about the issue with the police officer from Beaufort?

23 I don't mind asking, but I am assuming at some
24 point --

25 MR. D'ANGELO: At some point it might become

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1 relevant.

2 THE COURT: All right.

3 (Whereupon, the prospective jury venire entered the
4 courtroom.)

5 * * *

6 JURY SELECTION

7 * * *

8 THE COURT: Good morning, ladies and gentlemen.
9 How are you-all? All excited to be here? I see those
10 happy smiling faces. Thank you for coming. My name is
11 Ed Dixon. I am the Resident Circuit Court Judge for the
12 First Judicial Circuit. It's made up of Orangeburg,
13 Calhoun, and Dorchester Counties. Every now and then,
14 they let me out of those counties, and I get to come to
15 Charleston.

16 I am excited to be here. I know most of you-all
17 are pretending not to be excited about the chance to be
18 on a jury, but I hope you-all will enjoy your jury
19 service if you get lucky enough to be picked for this
20 jury. I know you have already gone through a number of
21 questions, but we have another bunch of questions to ask
22 you. Before we ask you those questions, you will get
23 sworn in so that we know you are telling me the truth
24 when you are answering these questions.

25 (Whereupon, the prospective jury venire was sworn.)

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1 THE COURT: Mr. Osborne, if you will call this
2 case.

3 MR. OSBORNE: Yes, Your Honor. This is the State
4 v. Douglas Young. There are two indictment numbers.
5 The first one is 2018-GS-10-00558. The second is
6 -00559.

7 THE COURT: The charges are for?

8 MR. OSBORNE: Murder and possession of a weapon
9 during the commission of a violent crime.

10 THE COURT: Thank you, sir.

11 Mr. Osborne, if you don't mind introducing yourself
12 to the jury and Ms. Elliot, if you don't mind, and
13 anybody else who is in your office in the
14 courtroom.

15 MR. OSBORNE: My name is David Osborn. I am an
16 Assistant Solicitor with the Ninth Circuit. This is
17 Shannon Elliot. She is also a prosecutor or Assistant
18 Solicitor. This is our investigator, Chuck Jolliff.

19 Like I said, we work for the Ninth Circuit. Our
20 boss is Scarlet Wilson. She is in charge of the
21 Charleston County and Berkeley County Solicitor's
22 Office.

23 THE COURT: Is any member of the jury panel
24 related by blood or marriage or a close personal friend
25 of Mr. Osborne, Ms. Elliott, or anyone who works in the

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1 Charleston Solicitor's Office of the Ninth Circuit?

2 If so, please stand at this time.

3 (No indication)

4 THE COURT: Mr. D'Angelo, would you mind
5 introducing yourself, your co-counsel and the defendant,
6 please, sir, and anybody else who is present in the
7 courtroom that you need to name.

8 MR. D'ANGELO: Good morning. My name is Nicholas
9 D'Angelo. I am an Assistant Public Defender in the
10 Public Defender's Office. Here beside me is my client,
11 Douglas Young. Assisting me is Assistant Public
12 Defender Ben Lewis.

13 Again, we work in the Public Defender's Office here
14 in Charleston. The Chief Circuit Defender is Ashley
15 Pennington. She is in charge of Charleston and
16 Berkeley. The Chief Public Defender is Megan Irwin here
17 in Charleston.

18 Also assisting me is my investigator, Harry Long.

19 THE COURT: Thank you, sir.

20 Is any member of the jury panel related by blood or
21 marriage or a close personal friend of Mr. D'Angelo, Mr.
22 Lewis, or anyone who works for the Ninth Circuit Public
23 Defender's Office?

24 If so, please stand at this time.

25 (No indication)

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1 THE COURT: No one is standing.

2 Is any member of the jury panel related by blood or
3 marriage or a close personal friend of the defendant,
4 Mr. Douglas Young?

5 If so, please stand at this time.

6 (No indication)

7 THE COURT: No one is standing.

8 Ladies and gentlemen, there are a number of
9 witnesses who may be called in this case. I will just
10 go through and read all of their names. Then I will ask
11 you if you are related by blood or marriage or close
12 personal friends of any of these possible witnesses.

13 From the Charleston Police Department, the possible
14 witnesses are Officer Jacob Bradshaw; Lieutenant Dustin
15 Thompson; Crime Scene Technician, Holly Saunders;
16 Forensic Examiner Nova Grilli; Detective Joe Owens;
17 Detective Sergeant Eric Tuttle; Forensic Examiner, Jerry
18 Roberts; Officer Matthew Tulla; Crime Scene
19 Investigator, Randy Unterbrink.

20 Is any member of the jury panel related by blood or
21 marriage or close personal friends of any of these
22 possible witnesses or anyone who works with the
23 Charleston Police Department?

24 If so, please stand at this time.

25 (No indication)

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1 THE COURT: No one standing.

2 From the Charleston County Consolidated Dispatch
3 Office, there are two possible witnesses. Tonya
4 Mallette; Angela Casey.

5 Is any member of the jury panel related by blood or
6 marriage or close personal friends with anyone who works
7 with the Charleston Police Department?

8 If so, please stand at this time.

9 Yes, sir. Your name.

10 THE PROSPECTIVE JUROR: Patrick Wells.

11 THE COURT: Mr. Wells, do you know these two
12 ladies or someone who works in the Consolidated Dispatch
13 Office?

14 THE PROSPECTIVE JUROR: I know people who work at
15 the dispatch center. I don't know them.

16 THE COURT: The fact that you may know some people
17 who work Charleston County Consolidated Dispatch, would
18 that affect your ability to listen to the evidence in
19 this case and render a fair and impartial verdict?

20 THE PROSPECTIVE JUROR: No Your Honor.

21 THE COURT: Please stay with us, then. Thank you,
22 sir. No one else is standing.

23 From the Charleston County Sheriff's Office,
24 possible witnesses: Lisa Bloodworth. Any person
25 related by blood or marriage or a close personal friend

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1 of Lisa Bloodworth or anyone who works for Charleston
2 County Sheriff's Office?

3 If so, please stand at this time.

4 (No indication)

5 THE COURT: No one is standing.

6 THE COURT: From the Ninth Circuit Investigator
7 Chuck Jolliff may testify in this case. Any member of
8 the jury panel related by blood or marriage or a close
9 personal friend of Mr. Jolliff? If so, please stand at
10 this time.

11 (No indication)

12 THE COURT: No one is standing.

13 There are a number of crime scene people who may
14 testify. One is Technician Sarah Gladwell. Another is
15 Technician Luke Spratt. Another is Emily Waffel. Any
16 member of the jury panel know any of these people?

17 If so, please stand at this time.

18 Yes, ma'am. Your name?

19 THE PROSPECTIVE JUROR: Tonya Ellmers.

20 THE COURT: You are Number 55.

21 Ms. Ellmers, you know any or all of these
22 witnesses?

23 THE PROSPECTIVE JUROR: Sarah Gladwell.

24 THE COURT: The fact that Ms. Gladwell could be a
25 possible witness in this case, would that affect your

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1 ability to listen to the evidence in this case and
2 render a fair and impartial verdict?

3 THE PROSPECTIVE JUROR: No, Your Honor.

4 THE COURT: Please stay with us, then. Thank you.
5 No one else is standing.

6 There are two people from South Carolina Law
7 Enforcement Division, which we know as SLED. DNA
8 Analyst Sarah Zapata and Firearms Examiner Michelle
9 Eichenmiller.

10 Any member of the jury panel related by blood or
11 marriage or close personal friends of either one of
12 these two possible witnesses, or anyone who works for
13 SLED? If so, please stand at this time.

14 (No indication)

15 THE COURT: No one is standing.

16 MUSC Forensic Pathologist Dr. Cynthia Schandl may
17 be called as a possible witness.

18 Any member of the jury panel related by blood or
19 marriage or a close personal friend of Dr. Schandl?

20 If so, please stand at this time.

21 (No indication)

22 THE COURT: No one is standing.

23 There are a number of lay witnesses that could be
24 called. Zoe Whittaker; Richard Worley; Kathy Brisbane;
25 Kim Rivers; Ashley Frazier; Katherine Young; Gerald

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1 Young; Clay Simmons; Eric Flaile.

2 Any member of the jury panel related by blood or
3 marriage or a close personal friend of any of these
4 possible witnesses?

5 If so, please stand at this time.

6 Yes, ma'am. Your name.

7 THE PROSPECTIVE JUROR: Kathryn Keith.

8 THE COURT: The name of the witness that you know
9 or might be related to?

10 THE PROSPECTIVE JUROR: Family friend growing up
11 was Clay Simmons.

12 THE COURT: The fact that you know Mr. Simmons,
13 would that affect your ability to listen to the
14 evidence in this case and render a fair and impartial
15 verdict? THE PROSPECTIVE JUROR: No.

16 THE COURT: Please stay with us.

17 Another potential witness would be, Beaufort
18 Sheriff's Office, Detective Sergeant Calendine.

19 THE COURT: Any member of the jury panel related by
20 blood or marriage or a close personal friend of
21 Detective Sergeant Calendine?

22 If so, please stand at this time.

23 (No indication)

24 THE COURT: No one is standing.

25 The final possible witness is Investigator Harry

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1 Long of the Public Defender's Office.

2 Any member of the jury panel related by blood or
3 marriage or a close personal friend of Investigator
4 Harry Long?

5 If so, please stand at this time.

6 (No indication)

7 THE COURT: No one is standing.

8 Is any member of the jury panel or a member of
9 your immediate family a former law enforcement employee
10 or presently employed by any law enforcement agency?

11 If so, please stand at this time.

12 Your name, please, sir.

13 THE PROSPECTIVE JUROR: Brad Dillon.

14 THE COURT: Mr. Dillon, you have family members or
15 were you involved in law enforcement?

16 THE PROSPECTIVE JUROR: No, sir. My brother-in-law
17 is a deputy sheriff assigned to the U.S. Marshall
18 Service.

19 THE COURT: The fact that your brother-in-law is in
20 law enforcement, would that affect your ability to
21 listen to the evidence in this case and render a fair
22 and impartial verdict?

23 THE PROSPECTIVE JUROR: No, Your Honor.

24 THE COURT: Please stay with us then. Thank you.

25 THE PROSPECTIVE JUROR: Andrew Stritch, 261. My

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1 brother-in-law. Maryland State Trooper.

2 THE COURT: The fact that you have a brother-in-law
3 who is a Maryland State Trooper, would that affect your
4 ability to listen to the evidence in this case and
5 render a fair and impartial verdict?

6 THE PROSPECTIVE JUROR: No, Your Honor.

7 THE COURT: Please stay with us, then. Thank you.
8 No one else is standing.

9 Has any member of the jury panel or any member of
10 your immediate family been the victim of a violent
11 crime?

12 If so, please stand at this time.

13 (No indication)

14 THE COURT: No one standing.

15 Does any member of the jury panel have any
16 particular opinions about the crimes of murder and
17 possession of a weapon during the commission of a
18 violent crime, which would make it difficult for you to
19 serve on a jury where the defendant is charged with
20 these crimes?

21 If so, please stand at this time.

22 (No indication)

23 THE COURT: No one is standing.

24 Before I ask this next question.

25 I believe this incident occurred on August 12,

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1 2017. The victim in this case was a man by the name of
2 Christopher Mullen.

3 Has any member of the jury panel read, heard, or
4 know anything about this case?

5 If so, please stand at this time?

6 (No indication)

7 THE COURT: No one is standing.

8 Has any member of the jury panel formed an opinion
9 concerning the guilt or innocence of the Defendant,
10 Douglas Young.

11 If so, please stand at this time.

12 (No indication)

13 THE COURT: No one is standing.

14 Has any member of the jury panel ever served on a
15 jury before?

16 If so, please stand at this time.

17 THE COURT: I will just pick the jury again. I
18 have several of you already. Let me just get your names.

19 THE PROSPECTIVE JUROR: Gerald Edwards, 54.

20 THE COURT: Did you serve on a criminal jury or a
21 civil jury?

22 THE PROSPECTIVE JUROR: Civil.

23 THE COURT: How long ago was it that you served on
24 a jury?

25 THE PROSPECTIVE JUROR: 2014.

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1 THE COURT: Mr. D'Angelo, you are just asking fact
2 questions?

3 MR. D'ANGELO: Correct, Your Honor.

4 THE COURT: Thank you, sir.

5 Your name?

6 THE PROSPECTIVE JUROR: Chris Walker. 276.

7 THE COURT: Mr. Walker, you served on a jury

8 before?

9 THE PROSPECTIVE JUROR: Civil.

10 THE COURT: Thank you, sir.

11 Your name?

12 THE PROSPECTIVE JUROR: Beth Geiss, 68.

13 THE COURT: Ms. Geiss, did you serve on a criminal
14 or civil jury?

15 THE PROSPECTIVE JUROR: Both.

16 THE COURT: Third time is a charm.

17 Your name, sir?

18 THE PROSPECTIVE JUROR: Paul Evangelist, 59, civil.

19 THE COURT: Thank you, sir.

20 Your name, please, sir?

21 THE PROSPECTIVE JUROR: David Underkofler, 270.

22 THE COURT: Civil or criminal jury?

23 THE PROSPECTIVE JUROR: Civil.

24 THE COURT: Thank you, sir.

25 Your name, please, sir.

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1 THE PROSPECTIVE JUROR: Dennis Brady, 13.

2 THE COURT: Civil or criminal?

3 THE PROSPECTIVE JUROR: Criminal.

4 Thank you, sir.

5 Your name, please, sir.

6 THE PROSPECTIVE JUROR: John Baatz, Number 4.

7 Civil.

8 THE COURT: Thank you, sir.

9 Is any member of the jury panel or a member of your
10 immediate family members of a victim's rights or law
11 enforcement organization, such as Citizens Against
12 Violent Crime; People Against Rape, PAR; Mothers Against
13 Drunk Driving, MADD; Persons Empowered to Save Teens;
14 PEST; or any community watch program or other similar
15 organizations?

16 If you are a member of these organizations or a
17 member of your immediate family is, please stand at this
18 time.

19 (No indication)

20 THE COURT: No one is standing. I was not aware
21 of Persons Empowered to Save Teens with the acronym of
22 PEST, but I have to admit because I had two teenaged
23 boys, I can understand the acronym.

24 Does any member of the jury panel believe that if a
25 person flees and does not remain at the scene of an

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1 incident, that that fact alone proves guilt?

2 If so, please stand at this time.

3 (No indication)

4 THE COURT: No one is standing.

5 Does any member of the jury panel believe that a
6 person does not have the right to defend themselves
7 against force or threats of force?

8 If so, please stand at this time.

9 (No indication)

10 THE COURT: No one standing.

11 Does any member of the jury panel hold themselves
12 out as a pacifist believing it is more wrong to do harm
13 to any person, even in a moment of self-defense?

14 If so, please stand at this time.

15 (No indication)

16 THE COURT: No one is standing.

17 Does any member of the jury panel live near or have
18 any personal connection to property located near [REDACTED]
19 Line Street in Charleston?

20 If so, please stand at this time.

21 (No indication)

22 THE COURT: No one is standing.

23 Does any member of the jury panel have any
24 personal, political, or religious beliefs that would
25 prevent him or her from sitting in judgment of another

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1 person and finding that person guilty of a criminal
2 offense?

3 If so, please stand at this time.

4 (No indication)

5 THE COURT: No one is standing.

6 Has any member of the jury panel had a particularly
7 bad experience with a law enforcement officer, such that
8 it would taint your view of a law enforcement officer's
9 testimony or his or her capacity to tell the truth?

10 If so, please stand at this time.

11 (No indication)

12 THE COURT: No one is standing.

13 I don't want to get into what you think of your
14 brother-in-law.

15 Would any member of the jury panel have any problem
16 following the law as the Judge cites it to you, even if
17 you may personally believe that the law is inappropriate
18 or unfair?

19 If so, please stand at this time.

20 (No indication)

21 THE COURT: No one is standing.

22 Is any member of the jury panel aware of any reason
23 whatsoever why you could not be a fair and impartial
24 juror in this case to both the defendant and to the
25 State?

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1 If so, please stand at this time.

2 (No indication)

3 THE COURT: No one is standing.

4 Anything from the State regarding any other
5 questions they may have?

6 MR. OSBORNE: No, Your Honor.

7 THE COURT: Thank you, sir.

8 Anything from the defense?

9 MR. D'ANGELO: No, Your Honor.

10 THE COURT: Ladies and gentlemen, I believe I have
11 asked you all the questions that I am going to ask. Now
12 we are going to get ready to pick a jury in this case.
13 -What they are going to do since all of you-all have
14 qualified, the computer is going to re-randomize your
15 names. After the computer does that, we will then call
16 your names in the random order chosen by the computer.
17 You will be asked to come up, bring everything with
18 you, turn and face the attorneys, and they will decide
19 whether or not they are going to strike you or you will
20 have the honor and privilege of serving on this
21 jury.

22 Is the State ready to proceed?

23 MR. OSBORNE: Yes, Your Honor.

24 THE COURT: Is the defense ready to proceed?

25 MR. D'ANGELO: Yes, Your Honor.

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1 THE COURT: Strikes are five and ten.

2 Madam Clerk.

3 THE CLERK: Ladies and gentlemen, if your name is
4 called, please come forward and stand in front of the
5 podium, turn, and face the parties. Please bring any
6 and all of your belongings with you.

7 Juror Number 277, Amey Warder.

8 What say you for the State?

9 MR. OSBORNE: Please present this juror.

10 THE CLERK: What say you to the defendant?

11 MR. D'ANGELO: Please seat this juror.

12 THE COURT: Congratulations. You are Number 1.

13 You-all see how she did that? That is exactly how
14 you are supposed to do it, but you can leave out the
15 hesitation.

16 Thank you, Ms. Warder.

17 THE CLERK: Juror Number 4, John Baatz.

18 What say you for the State?

19 MR. OSBORNE: Please present this juror.

20 THE CLERK: What say you to the defendant?

21 MR. D'ANGELO: Please seat this juror.

22 THE CLERK: Juror Number 282, Patrick Wells.

23 What say you for the State?

24 MR. OSBORNE: Please present this juror.

25 THE CLERK: What say you to the defendant?

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1 MR. D'ANGELO: Please seat this juror.
2 THE CLERK: Juror Number 187, Tyler Neal.
3 What say you for the State?
4 MR. OSBORNE: Please present this juror.
5 THE CLERK: What say you to the defendant?
6 MR. D'ANGELO: Please seat this juror.
7 THE CLERK: Juror Number 37, Heather Curlin.
8 What say you for the State?
9 MR. OSBORNE: Please excuse this juror.
10 THE CLERK: Juror Number 54, Gerald Edwards.
11 What say you for the State?
12 MR. OSBORNE: Please present this juror.
13 THE CLERK: What say you to the defendant?
14 MR. D'ANGELO: Please seat this juror.
15 THE CLERK: Juror Number 233, Bridget
16 Scheidler.
17 What say you for the State?
18 MR. OSBORNE: Please present this juror.
19 THE CLERK: What say you to the defendant?
20 MR. D'ANGELO: Please seat this juror.
21 THE CLERK: Juror Number 68, Beth Geiss.
22 What say you for the State?
23 MR. OSBORNE: Please present this juror.
24 THE CLERK: What say you to the defendant?
25 MR. D'ANGELO: Please excuse this juror.

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1 THE CLERK: Juror Number 276, Christopher
2 Walker.
3 What say you for the State?
4 MR. OSBORNE: Please present this juror.
5 THE CLERK: What say you to the defendant?
6 MR. D'ANGELO: Please seat this juror.
7 THE CLERK: Juror Number 286, Aaron Wilkerson.
8 What say you for the State?
9 MR. OSBORNE: Please present this juror.
10 THE CLERK: What say you to the defendant?
11 MR. D'ANGELO: Please excuse this juror.
12 THE CLERK: Juror Number 202, Catherine Perkins.
13 What say you for the State?
14 MR. OSBORNE: Please present this juror.
15 THE CLERK: What say you to the defendant?
16 MR. D'ANGELO: Please excuse this juror.
17 THE CLERK: Juror Number 261, Andrew Stritch, Jr.
18 What say you for the State?
19 MR. OSBORNE: Please present this juror.
20 THE CLERK: What say you to the defendant?
21 MR. D'ANGELO: Please seat this juror.
22 THE CLERK: Juror Number 270, David Underkofler.
23 What say you for the State?
24 MR. OSBORNE: Please present this juror.
25 THE CLERK: What say you to the defendant?

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1 MR. D'ANGELO: Please seat this juror.
2 THE CLERK: Juror Number 53, Jennifer Eaddy.
3 What say you for the State?
4 MR. OSBORNE: Please present this juror.
5 THE CLERK: What say you to the defendant?
6 MR. D'ANGELO: Please excuse this juror.
7 THE CLERK: Juror Number 162, Brian Masterson.
8 What say you for the State?
9 MR. OSBORNE: Please present this juror.
10 THE CLERK: What say you to the defendant?
11 MR. D'ANGELO: Please seat this juror.
12 THE CLERK: Juror Number 182, Jordan Mixon.
13 What say you for the State?
14 MR. OSBORNE: Please present this juror.
15 THE CLERK: What say you to the defendant?
16 MR. D'ANGELO: Please excuse this juror.
17 THE CLERK: Juror 34, Timothy Cox.
18 What say you for the State?
19 MR. OSBORNE: Please present this juror.
20 THE CLERK: What say you to the defendant?
21 MR. D'ANGELO: Please seat this juror.
22 THE CLERK: Juror Number 59, Paul Evangelist.
23 What say you for the State?
24 MR. OSBORNE: Please present this juror.
25 THE CLERK: What say you to the defendant?

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1 MR. D'ANGELO: Please excuse this juror.
2 THE CLERK: Juror Number 44, Bradley Dillon.
3 What say you for the State?
4 MR. OSBORNE: Please present this juror.
5 THE CLERK: What say you to the defendant?
6 MR. D'ANGELO: Please seat this juror.
7 THE CLERK: Alternate jurors.
8 Juror Number 283, Kimberley Wertan.
9 What say you for the State?
10 MR. OSBORNE: Please present this juror.
11 THE CLERK: What say you to the defendant?
12 MR. D'ANGELO: Please seat this juror.
13 THE CLERK: Juror Number 55, Tonya Ellmers.
14 What say you for the State?
15 MR. OSBORNE: Please present this juror.
16 THE CLERK: What say you to the defendant?
17 MR. D'ANGELO: Please excuse this juror.
18 THE CLERK: Juror Number 242, Francis Shealy.
19 What say you for the State?
20 MR. OSBORNE: Please present this juror.
21 THE CLERK: What say you to the defendant?
22 MR. D'ANGELO: Please seat this juror.
23 THE COURT: Thank you.
24 Any issue regarding jury selection? From the State?
25 MR. OSBORNE: No, Your Honor.

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1 THE COURT: Any issues regarding jury selection?
2 From the defendant?

3 MR. D'ANGELO: None, Your Honor.

4 THE COURT: Ladies and gentlemen, those of you who
5 are unable to serve on this jury, the clerk is reminding
6 me that you are excused for the day. You will need to
7 call back after 6:00 in the evening on that phone number
8 that they gave you.

9 I am sorry you are disappointed in this. You are
10 going to have to live with this a little bit.
11 Hopefully, we can get you in a trial later on this
12 week.

13 You are all excused. Thank you.

14 (Whereupon, the unselected jury members exited the
15 courtroom.)

16 THE COURT: All right. Congratulations. Thank you
17 all for being willing to serve. You-all are on the
18 jury. I know some of you have been on a jury before.
19 Let me tell you what we are going to do today, so you
20 will all kind of understand.

21 We are going to take a break and let you-all go eat
22 lunch. I will have you all come back and be in the jury
23 room at 2:00. The first 12 of you are on the jury, the
24 last two of you are the alternates.

25 So 12 of you-all who are jurors, when we come back,

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1 the first thing I want you to do when you get back is
2 pick a foreperson for the jury. The foreperson for the
3 jury is a person who is going to be responsible for
4 controlling the conversation in the jury room when you
5 begin your deliberations.

6 Let me tell you, you cannot begin your
7 deliberations in this case, talk about anything you have
8 heard, any testimony you have heard, or anything about
9 this case until I tell you at the end of the case after
10 you have heard all the evidence, after the attorneys
11 have done their closing arguments, after I have charged
12 on the law. Only then can you begin talking about this
13 case, even among yourselves.

14 Obviously, you cannot talk about this case with
15 anybody else. So nobody else in the courtroom should be
16 talking to you about this. When you go home, you can't
17 talk about it. You just say, "I am in a trial. I will
18 tell you about it later."

19 The other thing is, the foreperson that you will
20 elect, if you have questions -- which I hope you won't
21 have any questions after you have heard all the
22 testimony and all of that, but sometimes you do.

23 The foreperson is the one that writes the questions
24 out and sends them out here for me and the attorneys to
25 discuss how they can be answered.

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1 The final thing that the foreperson does is they
2 sign off on the verdict form. The verdict, after you
3 have completed your deliberations, if you reach a
4 unanimous verdict, you will write that verdict out and
5 the foreperson will sign the verdict form.

6 Now, you know a little bit about the case. You
7 know where it happened. You know who the victim was.
8 You know who the defendant is in this case. I need to
9 remind you that the defendant is not guilty. He is
10 innocent until the State proves him guilty beyond a
11 reasonable doubt.

12 I am going to excuse you-all to go to lunch. You
13 cannot do any investigation in this matter. You cannot
14 go to your smart phones or computer and say, I want to
15 check out something that happened two years ago, and
16 things like that.

17 Everything you will need to know in this case, you
18 will find out in this courtroom and nowhere else. You
19 are not to do any investigation. You are not to have
20 any contact with anyone about this case. Everything you
21 need to know, you are going to hear, see, find out about
22 in court here.

23 I think that is all I have to worry about at this
24 stage of the game.

25 If you-all will go and have a good lunch and be

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1 back here at 2:00. Pick the foreperson, and then we
2 will get ready to start the case.

3 Thank you-all for being willing to serve. If you
4 have never served on a jury, it's a good experience. If
5 you have served on a jury before, I am glad you got it.
6 You can tell everyone, this is what always happens.

7 Thank you, all.

8 (Whereupon, the jury exited the courtroom.)

9 THE COURT: I know you all have discussions that
10 you have to have. As soon as you have had your
11 discussions, you can talk to Mr. Osborne.

12 Be back here at 2:00. I will look over the video
13 and see how much we may need to edit.

14 MR. D'ANGELO: One quick question.

15 Would you like us to stand when the jury comes in?

16 THE COURT: I don't think it makes any difference.

17 Either way you want to do it, that is fine. You
18 have to stand when you talk. That's it.

19 Thank you all. If there anything I can help
20 you-all with, let me know.

21 (Whereupon, at 12:17 a luncheon recess was held.)

22 (Whereupon, the following proceedings were
23 held in open court. The defendant was
24 present with his attorney, along with
25 counsel for the State.)

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1 THE COURT: Is this the one you wanted me to look
2 at?

3 MR. OSBORNE: Yes, Your Honor. This is State's
4 Exhibit 2. Just to bring this into full context, on
5 Officer Brown's body-worn camera, you can see Kathy
6 Brisbane's SUV circle back through the crime scene. She
7 has an explanation for that during her testimony.

8 It is important to us, because that is what leads
9 to the cascade that develops the evidence that
10 eventually leads to the defendant.

11 Officer Brown is out of the country. We don't have
12 him, but we do have Officer Bradish. Officer Bradish's
13 body-worn camera -- Officer Bradish gets there just
14 around the same time as Officer Brown. It's Bradish's
15 camera that is in dispute.

16 What you will see, the part I have already
17 shortened, he has already walked up and passed the body.
18 You will see him circle back around. This is State's 2.

19 Obviously, when we play that in front of the
20 jury, we would like for there to be sound. I don't
21 think there is anything objectionable about the sound.
22 I think it's just the image that you see of Mr. Mullen
23 lying on the ground for about three to four seconds.

24 THE COURT: Is that it, Mr. D'Angelo?

25 MR. D'ANGELO: That's correct. That's it. It's

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1 his perspective of needing to show that so that the jury
2 can see what the scene looked like. You can accomplish
3 that through all the pictures that were taken by crime
4 scene that shows exactly how it looked.

5 To simply go across and show the body like that --
6 the purpose of the jury -- I know when I sent that to
7 Mr. Osborne earlier, he said they were not planning to
8 pause it or anything. Obviously, if it goes back to the
9 jury, they certainly can. I think the picture that I
10 presented to Mr. Osborne from the State's exhibits -- I
11 think that better portrays what the scene looks like
12 without allowing the ability for the jury to be able to
13 freeze frame on that shot.

14 Again, it's showing more of the gore and the dead
15 body right there. It will only inflame the passion of
16 the jury.

17 MR. OSBORNE: I do appreciate -- I guess he is
18 stipulating to that; that there is a body there. That
19 is the only image that we have of the body.
20 Furthermore, like you said earlier, Judge, this is
21 exactly why we are asking officers to wear body-worn
22 camera footage.

23 If we are simply looking at it from the 403
24 analysis, this 3 to 4 seconds cannot be any more
25 prejudicial than the actual image itself. The footage

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1 shows much more that we do need to show. It shows the
2 crime scene. It shows the beer cans. It shows all of
3 that. I appreciate he is saying that the pictures are
4 taken later, but this is when the officers first got
5 there, before all the tape went up or anything like
6 that.

7 THE COURT: Mr. D'Angelo, what else?

8 MR. D'ANGELO: Just that there is no testimony
9 that officers went up and starting rearranging beer cans
10 or started touching anything on the scene. They didn't.
11 They immediately put up the crime tape and the
12 investigators and crime scene came and photographed the
13 area. Again, ultimately showing that video is not going
14 to do anything that that picture can't do to help them
15 with their case.

16 THE COURT: All right.

17 I think, as I mentioned earlier, the reason they
18 have body-worn cameras is to show exactly what the scene
19 looked like at the time and what was going on at the
20 time.

21 I will let it in. I will preserve your objection.
22 I think that it accurately reflects what was happening
23 then. It shows the scene. I don't believe that it is
24 unduly prejudicial. I will, if the jury wants to view
25 it, I will remind them that they cannot slow it down.

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1 They will just get to see -- actually, I think it will
2 be less for you to worry about than if you had just the
3 still picture.

4 So that's my take on it.

5 MR. D'ANGELO: Yes, Your Honor.

6 THE COURT: I am preserving your objection to my
7 ruling on the record.

8 MR. D'ANGELO: Thank you.

9 THE COURT: All right.

10 Anything else we need to take up?

11 MR. OSBORNE: No, Your Honor.

12 MR. D'ANGELO: Nothing from the defense.

13 THE COURT: State ready to proceed?

14 MR. OSBORNE: We are, Your Honor. Ms. Elliott is
15 going to do opening.

16 THE COURT: Please call the jury in. Thank you,
17 sir.

18 (Whereupon, the jury entered the courtroom.)

19 THE BAILIFF: Judge, the jury is all here and all
20 seated.

21 THE COURT: Thank you, sir.

22 Did the jury pick a foreperson?

23 Congratulations.

24 Ladies and gentlemen, we are getting ready to
25 begin the trial of this case.

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1 Madam Clerk, please swear in the jury.

2 (Whereupon, the jury was duly sworn and impaneled.)

3 THE COURT: All right. Again, thank you, ladies
4 and gentlemen, for your service. We are about to begin
5 the trial of the case of The State of South Carolina v.
6 Douglas Young. This trial, like all trials, may be
7 different from what you might expect. Many people do
8 not have the chance to attend actual court sessions as
9 you-all are doing.

10 They think from watching television, movies, or
11 reading books that trials are always full of high drama
12 and intense action and riveting circumstances.

13 While all of these things are true at times, this
14 trial is not for entertainment. It is a fundamental
15 part of our democracy. It is a search for truth in an
16 effort to make sure that justice is done between the
17 parties before the Court.

18 Searching for the truth and making sure that
19 justice is done is often slow, deliberate, and
20 repetitive. It's the opposite of what you may have seen
21 on television or movies or read in books. This
22 courtroom is a place of honor dedicated to the
23 protection and preserving of citizens' rights through
24 what many have called the greatest justice system ever
25 created.

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1 The attorneys appearing before you are advocates
2 for the parties they represent. First and
3 foremost they are officers of this Court, sworn to
4 uphold the integrity and fairness of our judicial system
5 and to help you in the search for the truth. You will
6 find them to be professional, competent, and ethical in
7 their representation of their client's interest.

8 Remember, you have just taken an oath to try this
9 case and reach a true verdict. You are also expected to
10 be professional, reasonable, and ethical. Again, I
11 thank you for accepting this important responsibility of
12 jury service and for your contribution to our justice
13 system.

14 My instructions are intended as an introduction to
15 this trial. These remarks are not a charge on the law.
16 I will instruct you on the law applicable at the end of
17 the trial before retiring to consider your verdict.

18 This is merely an explanation of the procedure that
19 we will follow during the trial to help you better
20 understand what is happening. The defendant is charged
21 by indictments filed with this Court for the crimes of
22 murder and possession of a weapon during the commission
23 of a violent crime, the elements of which will be
24 explained to you later.

25 The indictments are simply the charge by which this

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1 case is brought into court. It is not in any sense
2 evidence of any of the allegations it contains. The
3 defendant has pled not guilty to these indictments;
4 Therefore, the State has the burden of proving all of
5 the elements of each indictment beyond a reasonable
6 doubt.

7 It is your duty, ladies and gentlemen, to decide
8 whether the State has met that burden. Your duty, your
9 purpose as jurors, is to find and determine the facts.
10 You are the sole judges of the facts. If at any time
11 during this trial I make any comment regarding the
12 facts, you must disregard it.

13 You are to determine the facts from the testimony
14 you hear and other evidence introduced in court. It is
15 up to you to determine the inferences which you feel may
16 properly be drawn from the evidence. It is especially
17 important that you perform your duty of determining the
18 facts diligently and consciously, because ordinarily,
19 there is no way to correct an erroneous determination of
20 facts by the jury.

21 The same law that makes you the judges of the facts
22 makes me the Judge of the law. The law as given by this
23 Court is the only law that you may consider. You must
24 accept and follow it, even though you may disagree with
25 it.

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1 I cannot tell you what the facts are, and you
2 cannot disagree with me about what the law is or should
3 be. Your job is to take the law as I give it to you and
4 apply it to the facts as you find them from the
5 testimony of the witnesses and other evidence that is
6 introduced. After doing so, you will render your
7 verdict, a true verdict under the solemn oath that you
8 have taken as jurors.

9 Until I advise you to begin your deliberations, you
10 must not discuss this case with anyone, including your
11 fellow jurors, friends, family members, and particularly
12 anyone involved in this case.

13 You must decide this case based solely on the
14 evidence presented here in the courtroom. This means
15 that during the trial you must not conduct any
16 independent research about the case. The facts of the
17 case, the evidence presented in the case, or the people
18 or organizations involved in any way in this case.

19 Please do not try to find information from any
20 source outside of this courtroom. In other words, you
21 must not look at dictionaries or other reference
22 materials, search the internet, website, or blogs or use
23 any other electronic tools to get information about this
24 case to help you decide this case.

25 You may not use computers, telephones, cell phones,

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1 smart phones, tablets, the internet, or other tools of
2 technology with communication capabilities at any time
3 while you are in the courtroom or during your
4 deliberations.

5 During your breaks for meals or overnight, if
6 necessary, you may use these devices; however, you must
7 not use these devices to communicate with anyone about
8 the case until the case is over.

9 This means you must not use phone calls, emails,
10 text messages, instant messages, Twitter, or any blog,
11 chatroom or website, including Facebook, Google Plus, My
12 Space, LinkedIn, YouTube or any social media websites to
13 send or receive information about this case. This
14 includes any information about a party, a witness, an
15 attorney, or a court officer. It includes news accounts
16 about the case, research on any topics raised, anything
17 that you think would be helpful in deciding this case or
18 any testimony presented by any witness.

19 During the trial, do not read, listen to, or watch
20 any news reports about the case. This includes anything
21 that might be in the newspapers or on the internet,
22 radio, or television.

23 You must not consider anything you may have read or
24 heard about the case outside of the courtroom, whether
25 before or during the trial. Information on television,

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1 radio, internet, or other sources might be wrong or
2 incomplete. In our judicial system, it is important
3 that you are not influenced by anything or anyone
4 outside of the courtroom.

5 If you become aware of another juror's violation of
6 these instructions, please inform me immediately. After
7 the case is submitted to you, you must discuss it only
8 in the jury room with your fellow jurors. The attorneys
9 and parties in this case have been advised that they are
10 not to talk to you at all.

11 If you see anyone involved in the case and they do not
12 say even say hello, they are not being unfriendly. They
13 are just following my instructions.

14 It is important that you keep an open mind and not
15 decide any issue in this case until all of the evidence
16 has been presented, the parties have made their closing
17 arguments, and I have instructed you in the law.

18 It is your solemn responsibility to determine the
19 guilt or innocence of the defendant. Your verdict must
20 be based solely on the evidence as it is presented to
21 you in this courtroom during this trial and on the law
22 as I instruct you.

23 In just a moment, the Solicitor will make what is
24 called an opening statement, in which the Solicitor will
25 explain to you the issues in this case or at least what

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1 the Solicitor believes are the issues in this case.
2 The attorney for the defendant may also make an
3 opening statement, although he is not required to do so.
4 What the attorneys tell you during their opening
5 statements is not evidence. It is only their
6 contentions as to what the issues are. The evidence in
7 this case will be presented to you by testimony of sworn
8 witnesses from this witness stand right there, the one
9 closest to you-all, and by any exhibits that may be
10 introduced into evidence.

11 From time to time during the trial, the attorneys
12 may have a question of law to discuss with me, or you
13 may see them approach the bench. Sometimes I myself may
14 find it necessary to excuse you from the courtroom for a
15 short while, so that the attorneys and I can discuss a
16 matter of law.

17 You are excused because you are the judges of the
18 facts in this case. Sometimes when I am discussing
19 matters of law with the attorneys, it may be necessary
20 for me to make some comment as to the facts in
21 connection with ruling on whether or not a particular
22 law applies.

23 In these instances, I will excuse you from the
24 courtroom while these discussions take place, so that
25 you will not be influenced in any way by anything that I

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1 might say or do in connection with the facts.

2 In determining what the true facts are, you must
3 decide whether or not the testimony of a witness is
4 believable. It is my responsibility to rule as a matter
5 of law as to whether certain testimony is admissible or
6 not. Once the testimony is admitted, whether or not you
7 believe it is solely for each of you to determine.

8 In deciding whether to believe a witness, you have
9 the right to consider the interest of any witness, the
10 bias of any witness, the prejudice of any witness, the
11 opportunity for the witness to have seen the matters and
12 things about which the witness may testify and the way
13 the witness acts on the witness stand.

14 You have a right to consider anything that is in
15 the record that will help you evaluate the testimony of
16 the witnesses. That means that you must pay close
17 attention to these witnesses, observe them, listen to
18 them, and pay close attention to the attorneys and to
19 the Court.

20 Please do not let your thoughts wander. Give
21 complete attention to the testimony, so that at the end
22 of all the testimony, after the arguments of counsel and
23 my charge on the law, you will then be in a position to
24 determine what the true facts are and to apply the law
25 to those facts and thus render your verdict.

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1 All right, ladies and gentlemen. We are ready to
2 go.

3 Ms. Elliot.

4 MS. ELLIOTT: Thank you, Judge.

5 * * *

6 OPENING STATEMENT BY MS. ELLIOTT

7 * * *

8 MS. ELLIOTT: August 12, 2017, should have been a
9 regular Saturday for Kathy Brisbane. She is a hair
10 dresser, and Saturday is one of her busiest days.

11 On this particular Saturday, she was running a
12 little late. As she is winding through the narrow
13 streets of downtown Charleston in her burgundy GMC
14 Envoy, it's about 8:30 in the morning. She is just
15 going on her merry way. She comes to the intersection
16 of Lyle and Nassau on Scotchman. Her attention is drawn
17 to the little blue house on the corner.

18 It's at that time that she witnesses what no one
19 expects to see on a quiet Saturday morning. She sees
20 what no one should ever have to see. Kathy Brisbane
21 witnesses a murder. She sees a man pull a gun on
22 another man. She doesn't know what to do. She wants to
23 try to help. The only thing she can think to do is
24 start blowing her horn. Honking her horn.

25 It doesn't interrupt this tragic scene. She sees

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1 the man raise the gun and fire again and again and
2 again. The gunman doesn't seem to notice her at first,
3 and starts to pull through the intersection. Then he
4 sees her. He turns, and he points his gun at her.

5 Then there is a moment of recognition. It's
6 Auntie. This was a man that she had known since he was
7 a child. She used to date his uncle. The gunman lowers
8 his gun, walks to her car and gets there. He starts
9 telling her where to take him. They are winding through
10 the streets of the east side of Charleston. The whole
11 time, the gun that he just used to shoot another man,
12 sat right on top of the car.

13 When they get to the area of Reid and Drake Street,
14 he tells her to stop. He gets out of her car, but not
15 without a warning. "Don't you tell nothing. You don't
16 tell on me; I won't tell on you."

17 Kathy Brisbane is scared. She is confused. She
18 had intended on keeping the secret, that was until the
19 police found her and her car.

20 With that car, they found evidence of the presence
21 of the killer, fingerprints and DNA. Kathy Brisbane
22 wasn't the only person to witness this murder. Zoe
23 Whittaker had just moved to Line Street. The soundtrack
24 of her morning on August 12th is Kathy Brisbane's
25 furious honking and gunshots.

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1 She went to the window of the second-story
2 apartment and looked down and watched a man shoot
3 another man and leave him to die in the street. It was
4 then that she went to grab her phone and call 911.
5 Police responded quickly, but the victim, Christopher
6 Mullen, he couldn't be saved. The police were able to
7 find evidence that pointed to a suspect in this case.
8 There was DNA from beer cans found at the scene that
9 connected the victim and the killer. They were able to
10 track down -- Kathy Brisbane gave a detailed statement
11 and also talked to Zoe Whittaker.

12 During the trial you will hear from Kathy Brisbane
13 and Zoe Whittaker. You will learn about all the
14 physical evidence that was found on scene and how it
15 linked back to the killer. You will see surveillance
16 video corroborating Kathy's account of how the killer
17 had her go through the streets of downtown.

18 Most importantly, ladies and gentlemen, you will
19 learn on August 12, 2017, at ■ Line Street, Christopher
20 Mullen was standing unarmed, hands at his side when that
21 defendant, Douglas Young, shot him. He shot him again
22 and again and again.

23 After you have heard all the testimony and you have
24 seen all the evidence in this case, I am confident that
25 you will return the only just verdict in this case.

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1 That will be a verdict of guilty of possession of a
2 weapon during the commission of a violent crime and as
3 to murder. That is quite simply what this was, a murder
4 without justification and without just cause.

5 THE COURT: Thank you, Ms. Elliott.

6 Is the defendant ready to proceed?

7 MR. D'ANGELO: Yes, Your Honor.

8 * * *

9 OPENING STATEMENT BY MR. D'ANGELO

10 * * *

11 MR. D'ANGELO: A show of hands. How many of
12 you-all have ever heard the name Aaron Ralstin? It
13 doesn't surprise me. I am sure most of you have
14 probably heard and are very familiar with his story.
15 Aaron Ralstin is an American outdoorsman who backpacked,
16 and in 2004 he was climbing down a mountain in Utah. He
17 had just gotten across a huge boulder. And as he got
18 under, the boulder dislodged and 800 pounds of rock
19 descended, landed trapping his arm and his hand. Aaron
20 ultimately had to use a pocket knife that he had on him
21 to cut off his own arm to save himself.

22 I'm sure most of you are probably familiar with
23 this story. Aaron wrote a book, Between a Rock and a
24 Hard Place and a movie starring James Franklin, 127
25 Hours, was made depicting this. It's an amazing story

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1 of the human instinct for survival.

2 For five days ultimately, Aaron was trapped out
3 there in the deserts of Utah. He was trapped under an
4 800-pound boulder. He rationed his food and water,
5 until ultimately he made that decision to remove his own
6 arm. That is a decision that is incomprehensible to
7 someone until you are stuck in that situation.

8 The story of human instinct for survival. I feel
9 that if you look at it, at the heart of the story, I
10 think it's a story of how the fear of danger is
11 powerful. The fear of death is motivating. Ultimately,
12 when faced with all of that, the human instinct to
13 survive like that, against that, is even greater.

14 On August 12, 2017, Doug had that same fear. As
15 the testimony is going to show throughout this trial,
16 Doug had that fear of Chris Mullen. Fear of what Doug
17 believed Chris Mullen had done and fear of what he
18 believed Chris Mullen was about to do to him.

19 You are going to hear testimony at this trial of
20 who Chris Mullen was. Chris Mullen, a man that wanted
21 everyone around him to think of how gangster he was. He
22 wouldn't back down from any confrontation. On that
23 morning of August 12, 2017, when Chris confronted Doug,
24 pulled off his shirt, removed his gun, pointed at Doug,
25 and threatened to rob him, Doug responded with the only

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1 thing possible, the only thing reasonable and defended
2 his life.

3 On that morning, Doug shot and killed Chris Mullen
4 to protect his life. In the laws of South Carolina, I
5 would say the laws of nature, is that human instinct to
6 fight for survival. The type of killing that when
7 someone has no other option is compelled to do the type
8 of killing that is justified.

9 Throughout this trial, you are going to hear a lot
10 of evidence from the State. Ms. Elliot talked about
11 witnesses that observed the shooting. You will hear a
12 lot of conversation about the moments immediately
13 following.

14 You will notice as we go through this trial that I
15 am not objecting to a lot of things. I am not
16 challenging a lot of what they are saying. Quite
17 frankly, none of it matters. You are here today and all
18 through this week to determine why did Doug have to
19 shoot Chris Mullen.

20 Ultimately, what a witness saw and the events that
21 followed after don't matter to answer that question.
22 That is going to be the question you-all will be
23 determining. You-all are going to need to listen and
24 pay attention to the actions that Chris Mullen took the
25 night prior and the morning of the shooting.

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1 Through this jury selection you have seen the
2 lawyers. We have asked questions. The Judge has asked
3 questions. As each and every one of your numbers was
4 called, you saw Mr. Lewis, Doug, and I took our time.
5 We were going over the information that we had on each
6 and every one of you.

7 I stated, please seat that juror. I believe each
8 and every one of you will be able to pay attention; to
9 be able to truly look at the facts and testimony; and
10 that each of you will be able to understand the reason
11 for why you are here. It's to ask and answer, why.

12 Why did it happen; why was Douglas in fear of his
13 life? The story of human instinct for survival. How
14 danger is powerful. Our instinct of survival is just as
15 strong. That, ladies and gentlemen, is why Douglas is
16 not guilty.

17 Thank you.

18 THE COURT: Thank you, Mr. D'Angelo.

19 Is the State ready to call its first witness?

20 MR. OSBORNE: Yes, Your Honor.

21 The State calls Officer Bradshaw.

22 * * *

23 JACOB BRADSHAW,

24 called as a witness by and on behalf of
25 the State to testify, being first duly

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1 sworn was examined and testified as follows:

2 * * *

3 DIRECT EXAMINATION

4 BY MR. OSBORNE:

5 Q State your name for the record, spelling your last
6 name.

7 A Jacob Bradshaw, B-r-a-d-s-h-a-w.

8 Q Good afternoon, Officer.

9 A Good afternoon.

10 Q Where do you work?

11 A City of Charleston Police Department.

12 Q How long have you been with the City of Charleston?

13 A Four years in January.

14 Q What have been some of your various assignments
15 with CPD?

16 A I started with patrol and then went to a flex
17 unit. Then I went to the camera room and back down to
18 patrol and PTO -- patrol training officer.

19 Q You mentioned the flex unit. What did you do in
20 that unit?

21 A A permanent evening shift unit that more or less
22 stays more proactive. Searching for felony arrests.
23 High-level warrants.

24 Q Please speak a little louder into the microphone.

25 We all need to be able to hear you.

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1 All right. Okay. So then you said you went to
2 camera for a while, and then you came back to patrol?

3 A Yes, sir.

4 Q On August 12, 2018, were you working that day?

5 A Yes, sir.

6 Q What was your assignment then?

7 A Regular patrol.

8 Q In the City of Charleston, areas are broken down
9 into teams?

10 A Yes, sir.

11 Q What team did you work with then.

12 A Team 1.

13 Q What are the general boundaries of Team 1?

14 A The general boundaries of Team 1 are Calhoun
15 Street, from water to water, all the way up north until
16 you hit North Charleston, which is around Pittsburgh
17 Avenue.

18 Q Are you familiar with the east side of downtown
19 Charleston?

20 A Very much so.

21 Q Generally speaking, what is the east side of
22 downtown?

23 A The east side is Meeting Street east to Morrison
24 Drive/East Bay. Then Calhoun to about Huger Street.

25 Q You said you were working patrol that day?

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1 A Yes, sir.

2 Q How did you become involved in this investigation?

3 A Dispatch reported a call of possible shots fired in
4 the area of, I think, ■ Line Street.

5 Q Did you find out that the actual shooting occurred
6 at ■ Line?

7 A Yes, sir.

8 Q Is that in the City and County of Charleston?

9 A Yes, sir.

10 Q Walk the jury through -- were you one of the first
11 officers to arrive on scene?

12 A Yes, sir.

13 Q Walk the jury through what you did when you arrived
14 on scene.

15 A When the call came out, I would say I was in the
16 area of Hanover Street and Aiken -- Columbus Street and
17 Aiken. I went down Hanover and stopped at Hanover and
18 Line Street, which is approximately 100 yards from where
19 the location was. I started on foot up towards it.

20 Because I was so early on scene, I was more focused
21 on clearing the scene than anything to make sure there
22 wasn't still an active shooter in the area.

23 I approached and observed a white male laying on
24 the sidewalk in front of ■ Line Street. At that time I
25 advised dispatch of that. Then other units began

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1 arriving on scene. I requested EMS to the location.

2 Q Were you wearing a body-worn camera?

3 A Yes, sir.

4 Q Just explain to the jury a little bit. How does
5 that work? Does that camera run continuously? Can you
6 control it?

7 A I control it.

8 Q Are there CPD policies and protocols on when you
9 are supposed to activate the camera and when you are
10 not?

11 A Yes, sir.

12 Q I would assume when you respond to a scene like
13 this, you are supposed to activate it?

14 A Yes, sir.

15 Q Did you do that in this case?

16 A Yes, sir.

17 Q Was there an Officer Bonzell (phonetic) Brown there
18 as well?

19 A Yes, sir. He was.

20 Q Is he still with the department, do you know?

21 A He is currently deployed. I think he left about
22 two months prior to his deployment. It was fairly
23 recently.

24 Q I am showing you what has been marked as State's
25 Exhibit 1 and State's Exhibit 2.

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1 Do you recognize those two items?

2 A Yes, sir, I recognize them.

3 Q What is State's Exhibit 1?

4 A A map of the east side.

5 Q State's Exhibit 2 is the body-worn camera footage?

6 A Yes, sir.

7 MR. OSBORNE: Your Honor, at this time we would
8 seek to admit 1 and 2 into evidence.

9 MR. D'ANGELO: As to 1, no objection.

10 THE COURT: As to 2, there is an objection?

11 MR. D'ANGELO: As to 2, I would raise my previous
12 objection.

13 THE COURT: I will note your objection on the
14 record. I am allowing it in over the objection.

15 (The aforementioned items were marked as
16 State's Exhibits 1 and 2 for identification and were
17 admitted into evidence.)

18 BY MR. OSBORNE:

19 Q Let's start off by showing you this.

20 You had mentioned earlier State's Exhibit 1
21 basically shows the east side of downtown Charleston?

22 A Yes, sir.

23 Q Just for the jury's edification, that is a touch
24 screen in front of you.

25 Can you draw the boundaries a little bit, so we can

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1 all see it clearly.

2 A About in this general area (indicating.)

3 Q You have drawn East Bay and Meeting?

4 A Yes. East Bay and Meeting Street.

5 Q If you could -- you said that where you were

6 responding from when the call first came out.

7 Can you put big X on where you were responding

8 from?

9 A In this general area right here.

10 Q Where was the location you ended up driving to and

11 parking your car?

12 A I parked my vehicle at this location right here. I

13 approached on foot. The location looks about right,

14 right there.

15 Q You were a block away?

16 A About.

17 Q Not trying to put words in your mouth.

18 Is it fair to say that it didn't take you long to

19 get there?

20 A No. Not at all.

21 Q What we are looking at on this image? We are

22 walking from here to this general direction, correct?

23 A Yes, sir.

24 Q Was that the deceased on the ground?

25 A Yes.

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1 Q Other than him, was there anyone else on the scene
2 that wasn't wearing a police uniform?

3 A At the time I arrived, no.

4 Q We left off where you were going to go speak to a
5 person?

6 A Yes, sir.

7 Q I don't want you to get into what was said during
8 that conversation, but after that, were you searching
9 for something?

10 A Yes, sir, I was.

11 Q What were you searching for?

12 A A red/maroon-colored SUV. I believe they said it
13 looked like a Chevy or a GMC style SUV.

14 Q At some point, did you see a vehicle on scene that
15 generally seemed to match that description?

16 A Yes, sir.

17 Q Is that the vehicle you are referring to?

18 A Yes, sir. It is.

19 Q Let me just -- if you look on the map, show us
20 where that vehicle is turning from and where it is
21 headed to.

22 A That vehicle is turning from Line Street right
23 here. It's turning South on Nassau Street towards
24 Columbus.

25 Q All right, what did you do then?

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1 A At that point, I was speaking with that individual
2 and trying to locate witnesses.

3 Q Did you ever attempt to go locate the vehicle?

4 A Yes. Shortly after I spoke with an individual, I
5 observed that vehicle traveling in this direction on
6 Hanover Street towards Shepard Street direction. Nassau
7 and Hanover Street, right here, Line Street towards
8 Shepard Street.

9 Q Did you ever locate the vehicle?

10 A Yes, I did. I returned to my patrol car and
11 relocated that vehicle in the area of 36 and Blake
12 Street.

13 Q I know it's a little busy, but can you indicate
14 where you located the vehicle, and can you put another
15 X again where the crime scene was?

16 A The crime scene was here on Nassau.

17 Q I am showing you what has been marked as State's
18 Exhibit Number 47.

19 Take a look at that and tell me if you recognize
20 that.

21 A Yes. It's a picture of the vehicle from my body
22 cam.

23 MR. OSBORNE: Your Honor, at this time we would
24 seek to admit State's 47 into evidence.

25 THE COURT: Any objection?

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1 MR. D'ANGELO: None from the defense, Your
2 Honor.

3 THE COURT: State's 47 is in evidence without
4 objection.

5 (The aforementioned item was marked as
6 State's Exhibit 47 for identification and was
7 admitted into evidence.)

8 BY MR. OSBORNE:

9 Q I am showing you 47 now. Again, I am not asking
10 you to say -- is this the driver right here, first of
11 all?

12 A Yes, sir.

13 Q Was that Kathy Brisbane?

14 A Yes, sir.

15 Q I am not asking you to say what Ms. Brisbane told
16 you. How would you describe her demeanor when you spoke
17 to her? Was she happy? Upset? Shocked? Distraught?

18 A She was distraught, erratic, and scared. That
19 would be the best way to describe it. Very frantic.

20 Q After speaking to her, was there an individual that
21 had been detained as a potential suspect?

22 A Yes, there was.

23 Q What was his name?

24 A Odell Young.

25 Q Is it fair to say you were looking for a person

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1 with the last name of Young?

2 A Yes, sir.

3 Q Whatever happened to Odell?

4 A I had an investigator, Mr. Kegan, who came by --

5 MR. D'ANGELO: Objection, Your Honor; relevance.

6 THE COURT: What was the question again?

7 MR. OSBORNE: Whatever happened to Odell.

8 THE COURT: There was an objection?

9 MR. D'ANGELO: Objection to relevance as well as
10 hearsay.

11 THE COURT: If he is just going to tell what
12 happened, not what -- he is not going to say anything
13 that Mr. Young said, is he?

14 BY MR. OSBORNE:

15 Q I will ask it like this.

16 Was Odell Young arrested?

17 A Negative. He was not.

18 Q Was he released?

19 A Yes. He was released.

20 MR. OSBORNE: No further questions?

21 THE COURT: Mr. D'Angelo, your witness.

22 MR. D'ANGELO: Thank you, Your Honor.

23 * * *

24 CROSS-EXAMINATION

25 BY MR. D'ANGELO:

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1 Q Good afternoon, Officer Bradshaw. You were
2 responding because of a shots-fired call, right?

3 A Yes.

4 Q You arrived on the scene after the shots had been
5 fired?

6 A Yes, sir.

7 Q So you don't know what happened to cause the shots
8 to be fired?

9 A I do not.

10 Q You arrived after to try to secure the scene;
11 correct?

12 A Yes, sir.

13 Q Ultimately, you ended up leaving the scene, because
14 you were trying to track down Ms. Kathy Brisbane?

15 A We didn't know her name at the time, but, yes, we
16 were trying to locate that vehicle.

17 Q You ultimately don't know what happened to cause
18 the shooting?

19 A No, sir.

20 MR. D'ANGELO: Nothing further, Your Honor.

21 THE COURT: Anything on redirect?

22 MR. OSBORNE: No, Your Honor.

23 THE COURT: You may step down. Thank you, sir.

24 (Whereupon, the witness exited the witness stand.)

25 THE COURT: Is the State ready to call its next

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1 witness?

2 MR. OSBORNE: The State calls Tonya Mallette.

3 * * *

4 TONYA MALLETTTE,

5 called as a witness by and on behalf of

6 the State to testify, being first duly

7 sworn was examined and testified as follows:

8 * * *

9 DIRECT EXAMINATION

10 BY MR. OSBORNE:

11 Q Please state your name, spelling your last

12 name.

13 A I am Tonya Mallette, M-a-l-l-e-t-t-e.

14 Q Ms. Mallette, where are you employed?

15 A Charleston County Consolidated 911 Center.

16 Q How long have you been employed there?

17 A Twenty-nine-and-a-half years.

18 Q What is your position there?

19 A Currently, I am a service analyst.

20 Q What are some of your duties and responsibilities
21 in that position?

22 A Some of my duties and responsibilities include -- I
23 am the Quality Assurance Compliance Officer. I also
24 handle the agency's complaints, internal and external
25 complaints. I serve as the records custodian, where I

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1 answer subpoenas, internal requests from agencies that
2 we service, as well as other duties that I have
3 assigned.

4 Q Do sometimes you receive subpoenas for -- let's
5 talk about 911 calls first.

6 Do you sometimes receive subpoenas for 911 calls?

7 A Yes, sir, I do.

8 Q Is it fair to say that when you call 911, those
9 calls are recorded and maintained at the Consolidated
10 Dispatch Center?

11 A Yes, they are.

12 Q Are those calls kept in the ordinary course of
13 business?

14 A Yes, they are.

15 Q When I or when someone in my office submits to you
16 a subpoena requesting a specific 911 call from a
17 specific incident, how do you go about retrieving that
18 911 call?

19 A We have -- what we have is a system called an
20 Eventide Recorder. I would consult and inquire with the
21 recorder and I would listen to the call. I would save
22 the call, and usually it's sent electronically.

23 Q Showing you State's Exhibits 46 and then 35 and 36.

24 Take a look at 46 first and tell me if you
25 recognize that.

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- 1 A Sure. State's 46, 911 call.
- 2 Q How about 35 and 36?
- 3 A 35 and 36 is an incident detail report. We also
- 4 refer to this as a CAD report.
- 5 Q So 35 and 36 are both CAD reports. 46 is the 911
- 6 call?
- 7 A Correct.
- 8 Q What is a CAD report?
- 9 A Computer Aided Dispatch. It is an incident report.
- 10 When someone calls 911, it's a synopsis, basically, of
- 11 the activity that goes on between the caller and the
- 12 call taker of what is occurring on the scene. It also
- 13 has information between the dispatcher and the
- 14 responding officer.
- 15 Q All of that is compiled in a report?
- 16 A Yes, it is.
- 17 Q That is the CAD report?
- 18 A Yes.
- 19 Q That is for every call that is placed?
- 20 A Yes.
- 21 Q Let me direct your attention to one thing here. I
- 22 want to ask you a question about a phone number that is
- 23 on 36. That's from where the caller called from, is
- 24 that correct?
- 25 A Yes.

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1 Q That phone number, is that something that is
2 relayed by the caller, or is that something that you-all
3 automatically generate through a Caller ID?

4 A It's automatically filled in coming from the
5 server. It is actually compiled into the computer.

6 Q So it's automatically done?

7 A Correct.

8 MR. OSBORNE: I will leave 35 and 36 for ID only.
9 It should become relevant, we will try to move it in
10 later.

11 Exhibit 46 we will move in through a separate
12 witness.

13 THE COURT: Mr. D'Angelo, any questions of this
14 witness?

15 MR. D'ANGELO: No questions, Your Honor.

16 THE COURT: Thank you, Ms. Mallette. You may
17 step down.

18 (Whereupon, the witness exited the witness stand.)

19 THE COURT: Is the State ready to call its next
20 witness?

21 MS. ELLIOTT: We are, Your Honor. The State calls
22 Zoe Whittaker.

23 * * *

24 ZOE WHITTAKER,

25 called as a witness by and on behalf of

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1 the State to testify, being first duly
2 sworn was examined and testified as follows:

3 * * *

4 DIRECT EXAMINATION

5 BY MS. ELLIOTT:

6 Q Please state your name for the record, spelling
7 your last name.

8 A Zoe Whittaker, W-h-i-t-t-a-k-e-r.

9 Q Good afternoon, Ms. Whittaker.

10 How long have you lived in Charleston?

11 A Going on two years.

12 Q Had you ever lived in Charleston before two years
13 ago?

14 A Yes, ma'am. I did my undergrad here. Then I went
15 to Arizona for grad school and then came back in
16 September of 2017.

17 Q September or August?

18 A August.

19 Q What type of work do you do?

20 A I am a freelance violinist and violin
21 teacher.

22 Q In August of 2017, where were you living?

23 A I was living on Line Street.

24 Q As of August of, 2017. Do you know how long you
25 had been living there?

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1 A About a week, a week-and-a-half.

2 Q And what were you doing on that morning of August
3 12, 2017?

4 A I was getting ready to go to work. I worked at the
5 time at the Gaillard Center. We have a lot of morning
6 shows. So I was just getting ready to head out there.

7 Q Did anything out of the ordinary happen that
8 morning?

9 A Yes, ma'am. When I was in the bathroom getting
10 ready, I heard a gunshot. It took me a second, because
11 it was very early in the morning. It took me a second,
12 but I went to go check. I went out to my front window
13 and peered out and saw a man holding a gun. I couldn't
14 see where he was shooting or where the gun was actually
15 pointing to at that glance.

16 It looked like he was pointing to the house next to
17 me. I think the man at the time was in my blind spot.
18 I just looked very quickly and ducked.

19 Q When you say the man was in your blind spot.

20 Do you mean the man holding the gun, or the person
21 that the gun was being pointed at?

22 A The person that the gun was being pointed at.

23 Q What happened then?

24 A I ran back to my bedroom to get my phone. In that
25 time, I heard a few more gunshots. I went back up to

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1 the window and peered out again. I saw a man's feet and
2 a man laying down. I could finally see the man who had
3 been shot. I still saw the guy with the gun standing
4 there. It was just a very quick glance. I was scared.
5 Then I ducked back down and I called 911.

6 Q Did you hear anything out of the ordinary, other
7 than gunshots?

8 A No, ma'am. I didn't hear any fighting or anything.

9 Q Did you notice any vehicles in the area?

10 A I noticed one. It was a maroon four-door,
11 sedan-type vehicle to the left. It was sitting at the
12 stop sign of Line and Nassau, like coming away from Main
13 Street. That car was blowing the horn a couple of
14 times. Also, I just quickly glanced. I noticed that,
15 and that is the only other thing that was going on.

16 Q Now, let's go back to when you first looked out the
17 window and you saw the man with the gun.

18 Can you give us, as best as you can remember now,
19 what that person looked like?

20 A African-American male. He was wearing dark
21 clothes. Dark shirt and dark pants. He had a hat on,
22 which was also dark. I don't remember specific details
23 of his clothing, just that they were very dark colored.

24 He had a short beard, short facial hair, from what
25 I remember.

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- 1 Q Do you remember anything about the gun?
- 2 A I don't know much about guns, but it looked like a
- 3 handgun or a small gun.
- 4 Q Do you know the difference between a revolver or a
- 5 semi-automatic?
- 6 A I know it wasn't a revolver. I know what they look
- 7 like.
- 8 Q Do you remember what color the gun was?
- 9 A Black.
- 10 Q Did you see where the man who had the gun went?
- 11 A No, ma'am.
- 12 Q Did you see anybody else out on the street at that
- 13 time?
- 14 A No, ma'am.
- 15 Q You said you called 911.
- 16 A Yes.
- 17 Q Ms. Whittaker, I am going to show you what has been
- 18 marked as State's Exhibit 46. Do you recognize that?
- 19 A Yes.
- 20 Q What is that?
- 21 A It's a CD.
- 22 Q Have you reviewed this CD?
- 23 A Yes, ma'am.
- 24 Q Does it contain your 911 call?
- 25 A Yes.

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1 Q When you reviewed it, did you put any markings on
2 it to remember that this was the CD that you listened
3 to?

4 A Yes, I initialed it.

5 Q This is a fair and accurate copy of the 911 call
6 that you made?

7 A Yes.

8 MR. OSBORNE: Your Honor, at this time I move
9 into evidence State's 46.

10 THE COURT: Any objection?

11 MR. D'ANGELO: Yes, Your Honor.

12 THE COURT: Do you want the jury to be excused?

13 MR. D'ANGELO: Yes. I think this is a matter of
14 law that we need to take up.

15 THE COURT: All right.

16 Ladies and gentlemen, this is one of those
17 instances where I said we might be talking. I will let
18 you go back in there. Remember, you cannot talk about
19 any of the testimony you have heard so far.

20 (Whereupon, the jury exited the courtroom.)

21 THE COURT: Is the door closed?

22 THE BAILIFF: Yes, sir.

23 THE COURT: Mr. D'Angelo.

24 MR. D'ANGELO: Thank you, Judge. In regard to
25 my objection, first is relevance. Then ultimately

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1 403.

2 In regards to a relevance objection, she is here
3 on the stand. She is testifying. She can certainly
4 testify to what she said in the 911 call. She goes then
5 into cumulative evidence. What is the purpose of having
6 to play this call when we have her on the stand, and she
7 can testify to it?

8 Lastly, I would say with 403, the prejudice that I
9 feel about you have the realtime call that is made. You
10 will hear the fluctuation of her voice as she is
11 observing these things. That is going to be heard to
12 the jury. I don't understand how that is going to aid
13 the jury in hearing that when, again, she is on the
14 stand. She can testify exactly to what she saw and what
15 she said in that phone call.

16 THE COURT: Thank you.

17 Ms. Elliot, do you want to respond?

18 MS. ELLIOTT: Your Honor, I think his argument
19 actually pointed to exactly why it's relevant and why
20 the courts have again and again said, even when 911
21 caller is present for testimony, these are still
22 relevant. They are not cumulative. In this case, it's
23 an excited utterance. The present sense impression.
24 They can understand in that moment better what she was
25 feeling in that moment far better than she can explain,

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1 because they can hear it for themselves.

2 MR. D'ANGELO: That is going to hearsay, which
3 is not the argument that I am making. Her feelings and
4 that emotion isn't relevant.

5 Again, she can testify to how she felt, or she
6 can testify to what she saw in that call. The emotion
7 that is going to come through is unfairly prejudicial to
8 have the jury hear that, and she is here and she can
9 testify.

10 THE COURT: She just testified that it fairly
11 and accurately represents the 911 call; is that correct?

12 MR. D'ANGELO: Yes.

13 THE COURT: What you want her to do is to try
14 to remember what she said, rather than listen to a
15 recording of what she said?

16 MR. D'ANGELO: She would have time to meet with
17 the Solicitor's Office. They could have gone over what
18 she said. She could have listened to the phone call if
19 she was needing to have her memory refreshed. That
20 doesn't need to be done in front of the presence of the
21 jury.

22 THE COURT: I will note your objection again. To
23 me, the only reason we have recordings of these things
24 is so the jury will know exactly what was happening at
25 the time. I will let it in under your objection. I

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1 will note your objection. Again, that is preserved for
2 the record, too.

3 Everything that I am aware of with 911 calls and
4 like that, is that they do come in. Sometimes they get
5 to be edited if there is something particularly
6 offensive in there or something. I will note your
7 objection, so that will be preserved as well.

8 MR. D'ANGELO: Thank you.

9 THE COURT: Thank you, sir.

10 All right. Bring the jury on back. So we are
11 clear and you will be protected, make sure once again --
12 when the jury comes in, I will note that again on the
13 record, okay, Mr. D'Angelo?

14 MR. D'ANGELO: Yes, Your Honor.

15 (Whereupon, the jury entered the courtroom.)

16 THE BAILIFF: All jurors are present, Your
17 Honor.

18 THE COURT: Thank you, ma'am.

19 All right, ladies and gentlemen. We will
20 continue with the examination of Ms. Whittaker.

21 State's 46 is in evidence over the objection of
22 the defense.

23 Continue, Ms. Elliott.

24 MS. ELLIOTT: Thank you, Your Honor.

25 At this time we would publish State's 46.

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1

* * *

2

DIRECT EXAMINATION CONTINUES

3

BY MS. ELLIOTT:

4

Q Zoe, before the gunshots, did you hear any

5

arguing?

6

A No.

7

Q After the shooting, did you see anyone walk up

8

to the body?

9

A No.

10

Q I know you said the victim was in your blind

11

spot.

12

Can you estimate how far these two people would

13

have been apart?

14

A Maybe like 5 to 7 feet.

15

Q Zoe, I want to lay that out. Were they as

16

close as you and I are now, or were they closer?

17

A Probably about from where we are, maybe a little

18

closer.

19

Q What about this?

20

A Yes.

21

Q Ms. Whittaker, those are all the questions I

22

have for you now. Please answer any questions that

23

Mr, D'Angelo may have.

24

THE COURT: Mr. D'Angelo.

25

MR. D'ANGELO: Thank you, Your Honor.

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1 * * *

2 CROSS-EXAMINATION

3 * * *

4 BY MR. D'ANGELO:

5 Q Good afternoon, Zoe. I know this has all been
6 very hard for you to go through, right?

7 A Yes.

8 Q I had reached out and tried to speak with you a
9 few weeks back, correct?

10 A Correct.

11 O You didn't want to talk to me?

12 A Correct.

13 Q I will go over some of the questions that I
14 wanted to talk to you about at that time, okay?

15 A Okay.

16 Q You were living at that time at [REDACTED], is that
17 right?

18 A Yes.

19 Q [REDACTED] was right next door to [REDACTED] Line
20 Street, is that correct?

21 A Yes.

22 Q The very next house?

23 A Right.

24 Q From your house -- you lived on the second floor
25 of [REDACTED], correct?

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1 A Correct.

2 Q The steps that would kind of lead up to your
3 house came right up off the street?

4 A Yes.

5 Q Your house is bucking up right there on
6 [REDACTED] Line Street?

7 A Yes.

8 Q There was a group of men that would constantly
9 hang out at that house on the corner, correct?

10 A Correct.

11 Q They would be out there drinking, a lot of times
12 at night out there drinking?

13 A Yes.

14 Q They have would say, hi, to you as you walked
15 by?

16 A Yes.

17 Q You would say, hi, and you told the police that
18 you tried to be friendly with them?

19 A Yes.

20 Q You would get along with them when you would see
21 them?

22 A Yes.

23 Q That night prior, there was a group of men
24 outside drinking, right?

25 A Yes.

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1 Q You had told the police you saw they were out
2 there, and you thought they were having a good time?

3 A Yes.

4 Q Just a few of the details that the Solicitor was
5 just asking you.

6 When you heard that gunshot, you were in your
7 bathroom; right?

8 A Yes.

9 Q You were getting ready for the day?

10 A Yes.

11 Q You were paying attention to what you are doing,
12 right?

13 A Yes.

14 Q When you heard that gunshot, that had to have
15 been terrifying for you.

16 A Yes.

17 Q You were scared.

18 A Yes.

19 Q You told the police that you weren't really
20 trying to look out the window, right?

21 A Yes.

22 Q You were worried about being seen?

23 A Yes.

24 Q There are details that you don't remember from
25 that day?

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1 A Right.

2 Q For example, were you were shown a six-pack,
3 right? You were shown a picture of Doug that you crossed
4 out?

5 A Yes.

6 Q There are things that you didn't remember, even
7 having looked out that window?

8 A Yes.

9 THE COURT: Mr. D'Angelo, when she is shaking
10 her head, I would like to get a record of this.

11 Ms. Whittaker, I hate to ask, but you need to
12 respond by either saying, Yes or No.

13 THE WITNESS: Yes, sir.

14 THE COURT: That's okay. I just need you to
15 respond so the court reporter can take it down.

16 THE WITNESS: Okay.

17 THE COURT: Okay. Go on, Mr. D'Angelo.

18 BY MR. D'ANGELO:

19 Q Again, there are details that you can't
20 remember?

21 A That's correct.

22 Q Again, you were very quickly peering out that
23 window?

24 A Yes.

25 Q You said you could see a man, an

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1 African-American man, outside with a gun?

2 A Yes.

3 Q The person that he was holding and pointing the
4 gun out at, you couldn't see?

5 A That's correct.

6 Q You don't know where that man was standing,
7 correct?

8 A I could not see him when my first glance was,
9 but I saw him when he was on the ground.

10 Q I understand.

11 When the man was holding that gun, you could
12 not see where the other man was standing, right?

13 A That's correct.

14 MR. D'ANGELO: Brief moment, Your Honor?

15 THE COURT: Sure.

16 MR. D'ANGELO: Nothing further, Your Honor.

17 Thank you.

18 THE COURT: Anything on redirect?

19 MS. ELLIOTT: Yes, Your Honor.

20 * * *

21 REDIRECT EXAMINATION

22 BY MS. ELLIOTT:

23 Q The person who was shot, had they been standing
24 closer than what you just demonstrated? If I had stepped
25 in, would you have been able to see them?

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1 A I would think I would. Yes.

2 Q The only other option is they could have been
3 further away?

4 A Correct.

5 Q When you were looking at that photo lineup, did
6 the police tell you who to pick out?

7 A No.

8 Q Did they make any suggestions as to who it would
9 be?

10 A No.

11 Q Did they advise you to do your best?

12 A Yes.

13 Q Did they tell you that various things about
14 appearance can change?

15 A Yes.

16 Q Hair styles?

17 A Yes.

18 Q Facial hair?

19 A Yes.

20 MS. ELLIOTT: Nothing further.

21 THE COURT: Anything on re-cross?

22 MR. D'ANGELO: Very briefly, Your Honor.

23 * * *

24 RE-CROSS-EXAMINATION

25 BY MR. D'ANGELO:

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1 Q Zoe, this is August 12, 2017, about
2 two-and-a-half years ago, right?

3 A Yes.

4 Q At that time the police asked you questions
5 about what happened?

6 A Yes.

7 Q You were speaking with the detective?

8 A Yes.

9 Q He was asking you to be as detailed as
10 possible?

11 A Yes.

12 Q You never gave any statements about where people
13 were standing?

14 A I don't think he asked me exactly where I was
15 standing. I told him where I saw the guy fell.

16 Q You never gave any type of distance between the
17 person with the gun and the other person, did you?

18 A No.

19 MR. D'ANGELO: Nothing further, Your Honor.

20 THE COURT: You may step down. Thank you,
21 ma'am.

22 (Whereupon, the witness exited the witness
23 stand.)

24 THE COURT: State ready to call your next
25 witness?

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1 MR. OSBORNE: Yes, Your Honor. The State calls
2 Lieutenant Dustin Thompson.

3 * * *

4 DUSTIN THOMPSON,
5 called as a witness by and on behalf of
6 the State to testify, being first duly
7 sworn was examined and testified as follows:

8 * * *

9 DIRECT EXAMINATION

10 BY MR. D'ANGELO:

11 Q State your name for the record, spelling your
12 last name.

13 A Dustin Thompson, T-h-o-m-p-s-o-n.

14 Q Lieutenant, where are you working?

15 A I am a Commander of the Charleston Police
16 Department.

17 Q How long have you been with CPD?

18 A Eighteen years.

19 Q What have been some of your other positions
20 that you have held while you have been with CPD?

21 A The last seven years I was a Sergeant;
22 detective officer for four years. Followed by that,
23 during this incident, I was a Lieutenant in the detective
24 office. I have since transferred out of that unit.

25 Q On August 12th, you were the Lieutenant in

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1 charge of the violent crimes unit?

2 A I was.

3 Q What was your involvement in this case?

4 A This happened on a weekend. I was at home. I was
5 notified about 9:00 the morning of the incident on Line
6 and Nassau Street. I came out from my residence -- I
7 probably got there like an hour later.

8 When I got there, the scene was being held by
9 another commander. I took over for him. In the process
10 of that, I saw that there was additional evidence on scene
11 that needed to be processed. I relayed that to crime
12 scene. Also, I was notified that a red GMC Envoy located
13 on America and Blake Street.

14 I responded there, and I observed the vehicle
15 that was secured by an officer. I had crime scene come
16 down there and process that vehicle and have it towed to
17 the crime scene office.

18 Q You were the lieutenant in charge of the
19 violent crimes unit. Let me ask you some general things
20 about officers responding to violent crimes.

21 You said secure the scene or held the scene?

22 A Yes.

23 Q When a responding officer arrives on scene, is
24 it fair to say that their first duty is to render aid to
25 the victim?

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1 A Absolutely.

2 Q After, if you have a suspect, see if they are
3 still on scene?

4 A Yes.

5 Q Now we are getting into the securing the scene
6 portion of it. Is it fair to say that happens in that
7 order?

8 A Yes.

9 Q When you used that term, you said, "Secured the
10 scene." What does that mean, physically speaking? What
11 does that mean to secure the scene?

12 A When an officer -- the safety of the person
13 involved, whatever crime it is, is dealt with. The
14 suspect is either in custody or out of the way. We then
15 secure the scene. Secure the scene means putting up crime
16 scene tape; not letting anyone else in the scene;
17 controlling access; who is coming into the scene;
18 documenting who is coming in and out of the scene.

19 We notice any other evidence in any other areas.

20 The same thing happens at that crime scene.

21 Q When you are listening or if you were to hear on
22 body-worn footage saying, it's 04 for EMS to come into the
23 scene.

24 What do they mean by that?

25 A That means that the scene has been secured, and

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1 there is no active threat that would harm a civilian
2 person coming into a scene.

3 Q It's okay for EMS to come in now?

4 A Yes.

5 Q Being in the violent crimes unit, a weapon --
6 would that be something that would be of interest to
7 officers if that were located on the scene?

8 A Yes.

9 Q You said once you ended up leaving here, you
10 left the crime scene once you heard that a suspect vehicle
11 had been stopped?

12 A So when I arrived on scene, the vehicle had
13 already been located by officers on scene. I was just
14 relayed the information by a commander that was on scene.
15 There were two different scenes. One was where the
16 actual shooting was. A block or two over is where the
17 vehicle was located.

18 I went over to that scene just to put eyes on
19 the vehicle and see what needed to be done there.

20 Q I think you mentioned that the vehicle was
21 processed. After that, what were you interested in doing?

22 A After the vehicle was processed on scene, we had
23 it towed to our crime scene office. I went back to the
24 original scene and spoke with detectives. I got some
25 additional information that -- they provided me with a

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1 possible route that the red GMC Envoy took, which would be
2 down Line Street to Aiken. Left on Aiken, and then from
3 there.

4 I started going door-to-door looking for videos.
5 We do it at all crime scenes. We walk the blocks trying
6 to find videos or witnesses.

7 I did find a camera over at ■ Aiken Street,
8 which is at the corner of Aiken and Blake Street. The
9 camera points down Blake Street to America Street, where
10 the GMC Envoy was located.

11 Q Did you secure that video in some way? A

12 Yes.

13 Q Showing you State's 37. Take a look at that and
14 tell me how that is local.

15 A Video from ■ Aiken Street.

16 Q ■ Aiken, was that the residence in which the
17 camera was at?

18 A Yes.

19 MR. OSBORNE: Your Honor, at this time we would
20 seek to admit State's Exhibit 37 into evidence.

21 MR. D'ANGELO: No objection.

22 THE COURT: State's 37 is in evidence without
23 objection.

24 (The aforementioned item was marked as

25 State's Exhibit 37 for identification and was

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1 admitted into evidence.)

2 BY MR. OSBORNE:

3 Q Is that the vehicle there?

4 A Yes.

5 Q All right. Do you remember the time -- I know

6 we can't see it on here. Do you remember what the time

7 was on that?

8 A It was 8:47 a.m. That is what was on the time

9 stamp of the telephone video that I was looking at.

10 Q This is a couple minutes after the murder?

11 A Yes.

12 Q I will go back and show you State's Exhibit 1.

13 Can you orient yourself on that and tell us

14 where that video would have been?

15 A It points down to Blake Street.

16 Q So the vehicle would have been headed in that

17 direction?

18 A Yes.

19 Q Is that the same street as Blake Street? Is

20 that the same street you-all ended up finding the vehicle?

21 A Yes. The vehicle was one block down at Blake

22 and America Street.

23 Q I think it was parked at a beauty salon, is that

24 correct?

25 A Yes.

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1 MR. OSBORNE: No further questions.

2 THE COURT: Mr. D'Angelo?

3 MR. D'ANGELO: No questions, Your Honor.

4 THE COURT: Thank you, Lieutenant Thompson. You
5 may step down.

6 (Whereupon, the witness exited the witness
7 stand.)

8 THE COURT: Is the State ready to proceed with
9 its next witness?

10 MS. ELLIOTT: Yes, Your Honor. The State calls
11 Holly Saunders.

12 * * *

13 HOLLY SAUNDERS,
14 called as a witness by and on behalf of the
15 State to testify, being first duly sworn was
16 examined and testified as follows:

17 * * *

18 DIRECT EXAMINATION

19 BY MS. ELLIOTT:

20 Q Please state your name for the record, spelling
21 your last name.

22 A Holly Saunders, S-a-u-n-d-e-r-s.

23 Q Good afternoon, Ms. Saunders. Where do you work?

24 A Charleston Police Department.

25 Q How long have you been with the Charleston

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1 Police Department?

2 A About three years.

3 Q What is your position with the Charleston Police
4 Department?

5 A Crime scene investigator.

6 Q How long have you been a crime scene investigator?

7 A About three years.

8 Q Has this been the first job with law enforcement
9 you have had?

10 A Yes.

11 Q Tell us a little bit about your educational
12 background.

13 A Yes. I have a Bachelor's degree in cellular
14 molecular biology and a Master's degree in forensic
15 science.

16 Q In addition to your school degrees, do you have
17 any additional training?

18 A Yes. We have about 400 hours of on-the-job
19 training. We have other training sponsored by the police
20 department, such as crime scene and evidence photography
21 and bloodstain analysis.

22 Q In your capacity of a crime scene investigator,
23 did you have occasion to respond to a murder call for
24 service at ■ Line Street?

25 A Yes.

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1 Q Just generally speaking, when you respond to a
2 crime scene, what are the typical steps you take in
3 processing that scene?

4 A We first speak to the officer on scene to
5 establish what happened, what they were told, and they
6 point out any items of interest to us.

7 Then we take overall photographs, mid-range
8 photographs, and close-up photographs of any evidence.
9 Then we put evidence markers down. We deal with the
10 photographs all over again and then collect the items of
11 evidence.

12 Q Did you do that in this case?

13 A Yes.

14 Q I am showing you what has been marked for
15 identification as State's 3 through 21.

16 Do you recognize those?

17 A Yes. These are the pictures I took that day.

18 Q At what location?

19 A ■ Line Street.

20 Q Have you had a chance to review those
21 photographs prior to your testimony?

22 A Yes.

23 Q Do those fairly and accurately represent the
24 scene as you perceived it?

25 A Yes.

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1 MS. ELLIOTT: Your Honor, at this time I would
2 move into evidence State's 3 through 21.

3 THE COURT: Any objection?

4 MR. D'ANGELO: None from the defense, Your
5 Honor.

6 THE COURT: All right. State's 3 to 21 are in
7 evidence without objection.

8 (The aforementioned items were marked as
9 State's Exhibits 3 to 21 for identification and
10 were admitted into evidence.)

11 BY MS. ELLIOTT:

12 Q Let's walk through these. Showing you first
13 what is State's 3.

14 What are we looking at here?

15 A We are looking down ■ Line Street. It's the
16 blue house on the corner. The street running
17 perpendicular is Nassau Street.

18 Q What is this?

19 A That is crime scene tape blocking people from
20 entering the scene.

21 Q That is to establish a perimeter?

22 A Yes.

23 Q And that would run the entire --

24 A There was an inner perimeter and outer
25 perimeter.

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1 Q What is the purpose of that?

2 A To keep people from entering the scene and
3 disturbing anything.

4 Q Was that in place the entire time that you were
5 there?

6 A Yes.

7 Q Looking at State's 5. What are we seeing there?

8

9 A This is ■ Line Street. Line Street is running
10 in that direction. You are looking down Nassau Street.

11 Q State's Exhibit 6.

12 A These are the steps of ■ Line Street in the
13 corner of the sidewalk.

14 Q What is this right here?

15 A That is a CPD business card. Sometimes officers
16 on scene will mark casings for us so we will visually know
17 where they are before we mark them ourselves.

18 Q State's 7?

19 A ■ Line Street at the corner of Line and Nassau.

20 Q Have those business cards been replaced with
21 these numbers?

22 A Yes.

23 Q What do you call those?

24 A We call them evidence markers.

25 Q What is the purpose of the evidence markers?

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1 A To establish in the photograph where the
2 evidence is on the scene. The markers also correlate to
3 when we package the item, what number it is given.

4 Q Where 1 is, that would be Item Number 1?

5 A Yes.

6 Q Showing you State's Exhibit 8. What are we
7 seeing there?

8 A That is a fired shell casing, and a .9 millimeter
9 Luger.

10 Q Now, so that would be a zoom-in from what we
11 saw in State's 7?

12 A Yes.

13 Q Looking at State's 9.

14 A This is looking at ■ Line Street. Line Street
15 is going down in front of Nassau.

16 Q State's 10.

17 A This is a fired shell casing, also a .9
18 millimeter Luger.

19 Q State's 11.

20 A On the sidewalk in front of ■ Line Street.

21 Q You used the word earlier about a mid-range
22 photo. Is this mid-ranged photo?

23 A This would be considered overall. A mid-range
24 is more -- you can see the actual evidence, but it's not
25 an up-close picture of it.

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1 Q State's Exhibit 12.

2 A A fired shell casing, also from a .9 millimeter
3 Luger.

4 Q State's 13.

5 A Also, a fired shell casing, also a .9 millimeter
6 Luger.

7 Q These are both representative of State's 11 at
8 a further distance?

9 A Yes.

10 Q State's Exhibit 14.

11 A This is the corner of Line and Nassau. A shot
12 at ■ Line Street.

13 Q State's Exhibit 15.

14 A These are the steps when you got to ■ Line
15 Street.

16 Q State's Exhibit 16.

17 A There is an Ice House beer can on the steps.

18 Q 17.

19 A A crushed Ice House beer can, also on the
20 steps.

21 Q State's Exhibit 18.

22 A An Ice House beer can on top of a parked car on
23 the street.

24 Q Where was that in relation to those steps?

25 A Directly across.

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1 Q State's Exhibit 19.

2 A A close-up of the Ice House can on top of the
3 vehicle.

4 Q State's 20.

5 A This is on Line Street at the back end of ■
6 Line Street showing some evidence.

7 Q Was the victim on scene when you arrived on
8 scene?

9 A No.

10 Q Do you know where the victim had been
11 transported to?

12 A Yes. He had been transported to MUSC.

13 Q Looking from State's Exhibit 20 to State's 21,
14 what is that a picture of?

15 A A Samsung cell phone.

16 Q I want to talk a little bit about some of the
17 things that you recovered from the scene that are depicted
18 in these pictures.

19 How many shell casings did you collect in total?

20 A Four.

21 Q What type of shell casings did they represent?

22 A .9 Luger.

23 Q Showing you what has been marked for
24 identification purposes as State's 22, 23, 24, 25.

25 Do you recognize those?

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1 A Yes.

2 Q What do you recognize those to be?

3 A These are the shell casings that I collected at
4 the scene.

5 Q Tell us a little bit about that collection
6 process and that packaging process.

7 A Each shell casing is placed into a small box.
8 It's then labeled with the case number, my number, and my
9 initials. That box is then placed into a larger envelope.
10 That is with the case information and is sealed with my
11 initials.

12 Q Is all of that information indicated on those?

13

14 A Yes.

15 Q What do you do with it once you package it up?

16 A It's submitted into evidence.

17 Q Do you remember when you submitted it into
18 evidence?

19 A August 12.

20 Q Explain for us the process of submitting
21 evidence.

22 A We have a secure room at our police
23 headquarters. It is secured with a padlock that only
24 crime scene has the code to. Inside that room we have
25 individual lockers that are key locked. So I would place

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1 evidence into a key locker, locked it, and walked out of
2 a door of the room and then dropped that key into a
3 mailbox for evidence custodians to pick up later.

4 Q Once you drop that key to that locker into that
5 box, can you get it out?

6 A No.

7 Q Can you walk back into the room and take back
8 the evidence that you put in the locker?

9 A No.

10 Q So it's a secure process?

11 A Yes.

12 Q I want to go back to State's Exhibit 15 for a
13 quick second.

14 State's 10 and 11, did you collect those items?

15 A Yes.

16 Q Ms. Saunders, showing you what has been marked
17 for identification as State's 26, 27, 28.

18 Do you recognize those items?

19 A Yes.

20 Q What do you recognize them to be?

21 A The beer cans found at the crime scene.

22 Q Which one of those items are represented in this
23 picture?

24 A State's 26, 27.

25 Q The item number for CPD would be 110 and 111?

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1 A Yes.

2 Q I think you said earlier that the placard
3 becomes the item number. There is another number attached
4 to that. Can you explain that.

5 A Yes. As crime scene, we do scene numbers, so
6 our initial scene is 100. The items go up to 110.

7 Q State's 28. Does that coordinate with State's
8 18?

9 A Yes.

10 Q Item 12?

11 A Yes.

12 Q How did you package up these items when you took
13 them into your custody?

14 A First, I processed them all for DNA and
15 fingerprints.

16 Q Tell us a little bit about that process.

17 A For DNA, you have two sterile swabs that are
18 packaged. One is wet; one is dry. In this case, I
19 swabbed the lip of the beer cans. Then I placed the swabs
20 into a cardboard container, which was then initialed with
21 my initials, item number, case number, and placed into an
22 envelope with case information and then seal it with my
23 initials.

24 For fingerprinting, we use black powder, which
25 would adhere to any evidence left behind from your hands

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1 when handling the can. If a fingerprint is visible after
2 using the powder, it would be lifted, placed onto a card,
3 case number, call information filled out, and that is
4 packaged into a plastic sleeve which is then sealed with
5 my initials.

6 Q Now showing you what has been marked for
7 identification as 31 and 32 and 33.

8 Do you recognize those?

9 A Yes.

10 Q What are those?

11 A These are the swabs from the beer can.

12 Q How do you know that those are the swabs?

13 A They are labeled swabs of each item that I took
14 it from.

15 Q I think you mentioned your initials. Do you see
16 your initials on there?

17 A Yes.

18 Q On the seal?

19 A Yes.

20 Q Do you recognize State's Exhibit 29?

21 A Yes.

22 Q What is that?

23 A Fingerprint lists.

24 Q Those are the ones that you took from what
25 items?

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- 1 A The beer can.
- 2 Q Those are your initials and your documentation?
- 3
- 4 A Yes.
- 5 Q I will show you for identification purposes,
- 6 State's 34.
- 7 Tell us what State's 34 is.
- 8 A The Samsung cell phone collected from the scene.
- 9 Q It has the same markings and characteristics
- 10 that you placed on it to be able to identify it?
- 11 A Yes.
- 12 Q Once you processed the beer cans and collected
- 13 them as well as the cell phone, what did you do with them?
- 14 A They are submitted into evidence.
- 15 Q Was that the same secure process that you
- 16 described with the prior shell casings?
- 17 A Yes.
- 18 Q That is also true for the DNA swabs?
- 19 A Yes.
- 20 Q And the fingerprints?
- 21 A Yes.
- 22 Q Let's go back to one more photograph.
- 23 State's Exhibit 15, Placard Number 9. What is
- 24 that?
- 25 A A pack of Newport cigarettes.

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1 Q Did you attempt to do any processing of that?

2 A Yes. I attempted to process it for
3 fingerprints, but there were no liftable prints.

4 Q Aside from going to the scene at ■ Line Street,
5 did you respond anywhere else?

6 A Yes. I responded to MUSC.

7 Q What did you collect at MUSC?

8 A I collected underwear, a pair of socks, black
9 tennis shoes, a gold watch, a \$10 bill, another pack of
10 Newport cigarettes and a keychain.

11 Q Did you ever have to respond to MUSC again?

12 A Yes. On August 13, I responded to autopsy to
13 collect the items from the victim.

14 Q Showing you what has been marked for
15 identification as State's Exhibit 53.

16 What is that?

17 A This is a blood spot.

18 Q Where did you get that from?

19 A MUSC autopsy.

20 Q Is anything different about the packaging in
21 this case versus other evidence that you had collected?

22 A When we receive stuff from MUSC autopsy, they
23 have already packaged it. So we don't alter their
24 packaging. We just package it ourselves in new
25 packaging. The packaging I have put it in is the same.

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1 Q It has the identifiers for the case and your
2 initials on it as well?

3 A Yes.

4 Q That was also submitted to evidence at CPD.
5 Do you remember what date that was?

6 A That was submitted on August 23.

7 Q Now, is that submitted in the same way that you
8 described from what you did on August 12?

9 A That was submitted directly to an evidence
10 custodian.

11 Q Do you remember which evidence custodian?

12 A Sherri Lutz.

13 Q She would then go in and put it into secured
14 evidence?

15 A Yes.

16 Q Going back to August 12, did you go to any other
17 location or do any other processing?

18 A Yes. I went to Blake and America Street to
19 process a GMC Envoy.

20 Q Investigator Saunders, showing you what has
21 been marked for identification purposes as State's 38 to
22 45.

23 Do you recognize those?

24 A Yes.

25 Q What are these pictures of?

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1 A These are pictures of the GMC parked at Blake
2 and America Street.

3 Q Who took those pictures?

4 A I did.

5 Q Do they fairly and accurately depict the scene
6 as you perceived it that day?

7 A Yes.

8 MS. ELLIOTT: Your Honor, at this time I would
9 move into evidence State's 38 to 45 and publish them for
10 the jury.

11 THE COURT: Any objection?

12 MR. D'ANGELO: No objection, Your Honor.

13 THE COURT: State's 38 through 45 are in
14 evidence without objection.

15 (The aforementioned items were marked as
16 State's Exhibits 38 to 45 for identification and
17 were admitted into evidence.)

18 BY MS. ELLIOTT:

19 Q Let's walk through these pictures as well.

20 Looking at State's 38.

21 A This is an overall of the car parked on Blake
22 and America Street.

23 Q 39.

24 A This would be the mid-range photo of the car.

25 Q 40?

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1 A Up-close of the front of the car.

2 Q 41?

3 A The driver's side of the vehicle.

4 Q 42?

5 A This is showing damage to the driver's side of
6 the vehicle.

7 Q 43?

8 A The rear of the vehicle.

9 Q Why did you take all these photographs?

10 A We take it to document any damage or how it
11 appears. If something were to happen while it was being
12 towed, we would know that that is new damage.

13 Q I will show you State's Exhibit 44.

14 What are you trying to capture there?

15 A There is a fingerprint on the front passenger
16 door.

17 Q Were you trying to process this vehicle?

18 A Yes.

19 Q Were you focused on the inside or the outside?

20 A On the outside.

21 Q Tell us a little bit about what you did to try
22 to process it for fingerprints.

23 A I used black powder on the front passenger's
24 exterior door. I saw a lift at that location. That is
25 why it is marked with the ridge detail.

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1 Q Is 45 a close-up of that fingerprint?

2 A Yes.

3 Q Can you make out the ridge detail that you saw
4 with your eye that day?

5 A Yes.

6 Q Once you have that visualized, what do you do
7 with it?

8 A I use tape and lift it, and then I place it on a
9 card which I then pull out with all the case information
10 and package it the same way as all the other evidence.

11 Q The same as you did with the beer cans?

12 A Yes.

13 Q Taking us back to State's 29.

14 Was the lift that is depicted in State's 45 --
15 is that also contained within State's 29?

16 A Yes.

17 Q You got that from which side of the vehicle?

18 A The passenger's side.

19 MS. ELLIOTT: Your Honor, at this time we would
20 move into evidence State's Exhibits 22 through 29, 31
21 through 34 and 53.

22 THE COURT: Any objection?

23 MR. D'ANGELO: No objection, Your Honor.

24 THE COURT: State's 22 through 29 are in
25 evidence without objection, and State's 31 through 34.

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1 Any objections?

2 MR. D'ANGELO: No, Your Honor.

3 THE COURT: 31 through 34 in evidence without
4 objection.

5 MS. ELLIOTT: State's 54.

6 THE COURT: Any objection?

7 MR. D'ANGELO: Again, no objection.

8 THE COURT: State's 54 is in evidence without
9 objection.

10 MS. ELLIOTT: And State's 53.

11 THE COURT: Any objection?

12 MR. D'ANGELO: Again, no objection.

13 THE COURT: State's 53 is in evidence without
14 objection as well.

15 (The aforementioned items were marked as
16 State's Exhibits 22 to 29 and 31 to 34 and 53
17 to 54 for identification and were admitted
18 into evidence.)

19 BY MS. ELLIOTT:

20 Q Investigator Saunders, did you recover a
21 firearm from the scene?

22 A No.

23 Q Was one pointed out to you by anyone?

24 A No.

25 Q Did you recover a firearm from MUSC?

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1 A No.

2 Q Did you have any further involvement in this
3 case?

4 A No.

5 MS. ELLIOTT: Thank you, Investigator Saunders.
6 Those are all the questions I have for you.

7 THE COURT: Mr. D'Angelo.

8 MR. D'ANGELO: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 * * *

11 CROSS-EXAMINATION

12 BY MR. D'ANGELO:

13 Q Fairly easy question. You don't know anything
14 about Chris Mullen, do you?

15 A No.

16 Q You don't know anything about why Chris Mullen
17 was shot?

18 A No.

19 Q Your job is to process the scene, right?

20 A Yes.

21 Q As we have just seen, you try to collect what
22 you can collect, any evidence that is out there and then
23 document it via photographs?

24 A Yes.

25 Q One of the things that we saw that you had

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1 documented is where the shell casings were that were
2 scattered around.

3 Shell casings can bounce. If they are
4 discharged from the gun, we don't quite know which way
5 they are going to go, right?

6 A Yes. I guess.

7 Q Shell casings are going to get kicked around on
8 the ground?

9 A Possibly.

10 Q It's fairly obvious. It's concrete out there,
11 correct?

12 A Yes.

13 Q By the time that you processed the scene, the
14 police had been coming and going, right?

15 A Yes. The scene was secured. They were walking
16 through the crime scene.

17 Q Cops are walking through the secured scene?

18 A They are not walking through the secured scene.
19 Prior to me getting there, probably, yes.

20 Q EMS had arrived and come through?

21 A Yes.

22 Q A gurney had been wheeled in and out?

23 A Yes.

24 Q Shell casings are going to be getting kicked
25 around?

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1 A It's possible.

2 Q We had seen -- State's Exhibit 4. This is
3 [REDACTED] Line Street, right?

4 A Yes.

5 Q State Exhibit's 15, that is the steps of
6 [REDACTED] Line Street?

7 A Yes.

8 Q Ms. Elliot asked you about Marker 9. There was
9 a pack of cigarettes that were there?

10 A Yes.

11 Q She asked you about 10, an Ice House beer can.
12 Marker 11 was a crushed-up Ice House beer can, and then
13 there was another Ice House beer can on the top of the car
14 that was right there, right?

15 A Yes.

16 Q Obviously, someone is out there drinking, right?

17 A Right.

18 Q Marker 8 is a men's T-shirt, right?

19 A Yes.

20 Q You documented in your report it was a Polo
21 Ralph Lauren slim fit men's T-shirt?

22 A Yes.

23 Q That was collected as well?

24 A Yes.

25 Q That T-shirt was never processed, was it?

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1 A Not that I know of.

2 Q Just placed into evidence?

3 A Yes.

4 MR. D'ANGELO: Nothing further, Your Honor.

5 THE COURT: Anything on redirect?

6 MS. ELLIOTT: Just briefly.

7 * * *

8 REDIRECT EXAMINATION

9 BY MS. ELLIOTT:

10 Q Did you look at the T-shirt?

11 A Yes.

12 Q Any evidence of blood?

13 A No.

14 Q Bullet holes?

15 A No.

16 Q Tears?

17 A No.

18 MS. ELLIOTT: Nothing further, Your Honor.

19 THE COURT: Anything on re-cross?

20 MR. D'ANGELO: No, Your Honor.

21 THE COURT: You may step down. Thank you,
22 ma'am.

23 (Whereupon, the witness exited the witness
24 stand.)

25 THE COURT: We are going to take about a

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1 10-minute break right now. You can go back into the jury
2 room and get a coke, coffee. You cannot talk about this
3 case. You cannot talk about anything you have heard so
4 far.

5 We will see you back in about 10 minutes.

6 (Whereupon, the jury exited the courtroom.)

7 THE COURT: About how many more can we get in
8 today?

9 MR. OSBORNE: We have two that are pretty quick.

10 THE COURT: Okay.

11 MR. OSBORNE: We have looked at them. Everyone
12 else is coming in from Columbia or witnesses that we
13 have lined up for tomorrow.

14 We are moving really fast. There are really not
15 very many more.

16 THE COURT: We will take those two and then take
17 a break.

18 MR. OSBORNE: Yes, sir.

19 THE COURT: All right. You all take about 10
20 minutes.

21 (Whereupon, a recess was held.)

22 (Whereupon, the following proceedings were

23 held in open court. The defendant was

24 present with his attorney, along with

25 counsel for the State.)

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1 THE COURT: We got our first question from the
2 jury.

3 "Can we take notes?"

4 The answer is, no. I will try to explain that
5 to them as to why.

6 THE COURT: Is the State ready to proceed?

7 MR. D'ANGELO: Yes, Your Honor.

8 MR. OSBORNE: Yes, Your Honor.

9 (Whereupon, the jury entered the courtroom.)

10 THE BAILIFF: All the jurors are present, Your
11 Honor.

12 THE COURT: Congratulations. This is the
13 earliest question I have gotten from any jury. I am so
14 proud of you-all for doing that.

15 This is a good question. Let me give you the
16 really short answer. It's, no. Let me explain that to
17 you, just for a reason.

18 Do you remember when you-all were in high school
19 and you were taking notes. Some of you were taking notes;
20 others of you were not taking notes. That is the first
21 problem. Everyone is not taking notes at the same time.
22 Or, if you are taking notes, you are looking at your notes
23 and doing this, and I think you might recall when I said,
24 I want you to watch the witnesses; observe them; look at
25 them. That is why we don't take notes.

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1 Now, if this was a two-week trial, we would take
2 notes. The good news is it's not a two-week trial. I
3 will get them to drag that out and let you take notes if
4 you want me to.

5 Seriously, the reason I don't let you take notes
6 is, I want you to pay attention to the witnesses. You-all
7 really will remember what is going on in this. You will
8 be surprised how well you remember.

9 I don't want anyone to say, This is what I
10 wrote down, and that kind of stuff. I don't want you
11 arguing about your notes when you are back there. You can
12 argue about what you remember, but not about the notes.

13 That is a question, and I didn't explain it
14 early on. Thank you for asking me that. Now, class, I
15 want you to pay attention.

16 Is the State ready to call its next witness?

17 MR. OSBORNE: Yes, Your Honor. The State calls
18 Randy Unterbrink.

19 RANDY UNTERBRINK,
20 called as a witness by and on behalf of
21 the State to testify, being first duly
22 sworn was examined and testified as follows:

23 * * *

24 DIRECT EXAMINATION

25 BY MR. OSBORNE:

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1 Q Please state your name, spelling your last
2 name.
3 A Randall Unterbrink, U-n-t-e-r-b-r-i-n-k.
4 Q Good afternoon, Mr. Unterbrink.
5 A Good afternoon.
6 Q Where do you work?
7 A The Charleston Police Department.
8 Q What is your position at CPD?
9 A I currently work in the crime scene unit.
10 Q How long have you been with CPD?
11 A I have been with the Charleston Police
12 Department now for -- I just passed my 29th year. I have
13 been through patrol, foot patrol, ID, crime scene.
14 Q There are some crime scene technicians who are
15 civilians and some who are sworn officers?
16 A That's correct. Almost everyone now is
17 civilian. I am the last sworn.
18 Q You the holdover?
19 A I am the holdover.
20 Q In that capacity working as a crime scene
21 investigator, did you have the occasion to become involved
22 in this murder investigation on August 12, 2017?
23 A I did.
24 Q What role did you play? What did you do?
25 A My role in this particular case was to process

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1 a particular vehicle, to observe it, to document
2 it by photography, and to take evidence and paint it so
3 , that it can be referenced later on in time.

4 Q This vehicle, was it a GMC Envoy?

5 A It was.

6 Q When you processed the vehicle, were you on
7 scene, or was the vehicle brought you to at the crime
8 scene office?

9 A It was brought to me.

10 Q Just -- when you say, process the vehicle, what
11 in particular did you do with this vehicle to process it
12 for evidence?

13 A What I do when I look at a vehicle to process it
14 is -- I need to understand the condition of the car and
15 what is in it. What I do is I take a walk around the
16 vehicle first to observe what might be of interest,
17 anything that might be leaking, scratches, broken windows
18 or not. As I become acquainted with it, I will then begin
19 to photograph that vehicle for documentation purposes.

20 I will do the same thing with the interior. I
21 will take it by sections, whether it's the front driver's
22 section, the front passenger's, the rear, the trunk. I
23 will photograph it. After that is photographed, I will go
24 through to the things that pertain to the case, to the
25 warrant. Then I press on from there.

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 Q I am showing you State's 48 and 49. Do you
2 recognize these items?

3 A I do.

4 Q What are they?

5 A These are cotton swabs.

6 Q 48. When you say, cotton swabs, just elaborate
7 on that a little bit.

8 Is this an attempt to recover DNA?

9 A It is. When a person gets into a car, they
10 touch it. They will oftentimes leave behind DNA. So I
11 try to collect it. I take a cotton swab. I will rub over
12 those particular areas. Principally, the door handles,
13 interior, exterior, that kind of thing, to try to obtain
14 DNA, if possible.

15 Q State's 48. You said that was a swab. Where
16 did you swab to recover State's 48?

17 A This would have been the front passenger's door,
18 exterior side.

19 Q Front passenger's door on the exterior side.

20 How about 49?

21 A 49 is the front passenger's door handle,
22 interior.

23 Q On the interior, the passenger's side door?

24 A Yes.

25 Q You did other swabs, too, but these are the two

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1 that we are talking about here?

2 A That's correct. I did others.

3 Q Once you swabbed it, how did you go about
4 packaging the swab to ensure it hasn't been tampered with?

5

6 A As soon as I take the swab, I will take that
7 cotton swab and insert it into a small box. I will
8 identify it. I will seal it with tape. Then I will put
9 it into a larger envelope, which will be exactly like
10 this.

11 Then I will seal it on the back as well and then
12 initial it so it can be helpful to identify me as the
13 person involved.

14 MR. OSBORNE: Your Honor, at this time I would seek
15 to admit State's 48 and 49 into evidence.

16 THE COURT: Any objection?

17 MR. D'ANGELO: No objection.

18 THE COURT: Without objection, State's 48 and 49
19 are in evidence without objection.

20 (The aforementioned items were marked as

21 State's Exhibits 48 to 49 for identification and
22 were admitted into evidence.)

23 MR. OSBORNE: No further questions.

24 THE COURT: Any questions for this witness?

25 MR. D'ANGELO: No questions, Your Honor.

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1 THE COURT: Thank you, sir. You may step down.

2 (Whereupon, the witness exited the witness
3 stand.)

4 THE COURT: Is the State ready to call its next
5 witness?

6 MS. ELLIOTT: We are, Your Honor.

7 The State calls Matthew Tulla.

8 * * *

9 MATTHEW TULLA,
10 called as a witness by and on behalf of
11 the State to testify, being first duly
12 sworn was examined and testified as follows:

13 * * *

14 DIRECT EXAMINATION

15 BY MS. ELLIOTT:

16 Q State your name for the record, spelling your
17 last name.

18 A Matthew Tulla, T-u-l-l-a.

19 Q Good afternoon, Officer Tulla. Where are you
20 employed?

21 A I work for the City of Charleston Police
22 Department.

23 Q How long have you been with the City of
24 Charleston Police Department?

25 A A little over six years.

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 Q What are some of the various positions you have
2 held while with CPD?

3 A I started in T4 patrol about three-and-a-half
4 years ago. I moved over to the SWAT squad. That is where
5 I am currently still at.

6 Q Back on August 12, 2017, where were you working
7 that day?

8 A I was with the same unit, the SWAT squad. We
9 were in the downtown area, specifically, on the east side.

10 Q What are some of your duties and
11 responsibilities in that role?

12 A So our general responsibilities are rapid
13 response to critical incidents. Getting there as fast as
14 possible and coordinating with the patrol units. We are
15 also assisting the various units within the department,
16 whether it's investigations, narcotics, or warrants with
17 high-risk individuals.

18 Q On this particular date, August 12, how did you
19 become involved in this investigation?

20 A We were informed by central investigations of a
21 murder that had occurred earlier that day; that they had
22 an active warrant for an individual. They asked us to be
23 specifically on the east side patrolling the area for any
24 intel information that could be gathered. Specifically,
25 we were looking for this particular individual that had

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 warrants.

2 Q We have heard a little bit about this. You
3 said you were specifically patrolling the east side.

4 What are the parameters of the east side of
5 Charleston?

6 A The east side of Charleston constitutes
7 approximately Huger Street South to Chapel Street, between
8 East Bay and Eden Street.

9 Q This location was at ■ Line Street.
10 How far is that from where you were patrolling?

11 A We were patrolling that immediate area, so it
12 falls within those parameters.

13 Q Did you see anyone matching the description of
14 the person that you were looking for?

15 A Yes.

16 Q What was he wearing?

17 A Blue shorts with white stars on it; white
18 T-shirt with a white hat.

19 Q Was anyone with you at that time?

20 A Yes. My partner, Officer Bruce.

21 Q When you saw someone who met the description,
22 what did you do?

23 A At that time we had a picture of this individual
24 that we were looking for. We were able to positively
25 identify him when we found the vehicle. When we saw him

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1 exiting the vehicle, we immediately detained him for
2 further investigation.

3 Q Officer Tulla, I will show you State's 61.

4 Do you recognize that?

5 A Yes.

6 Q What is that?

7 A Still-shot from my body cam video.

8 Q So does that fairly and accurately depict --
9 what is depicted in that picture?

10 A This is when we were immediately approaching the
11 individual. The officer there is Michael Bruce, my
12 partner, as well as the subjects in the process of being
13 detained.

14 Q Does that fairly and accurately depict his
15 appearance at that time?

16 A Yes, it does.

17 MS. ELLIOTT: At this time we would move in
18 State's 61, Your Honor.

19 THE COURT: Any objection?

20 MR. D'ANGELO: No objection, Your Honor.

21 THE COURT: State's 61 is in evidence without
22 objection.

23 (The aforementioned item was marked as
24 Plaintiff's Exhibit 61 for identification
25 and was admitted into evidence.)

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1 BY MS. ELLIOTT:

2 Q Can you tell us who is in this picture?

3 A Yes. The officer is Michael Bruce, my partner.
4 The subject is the person who we identified as having
5 active warrants at that time.

6 Q After taking him into custody, what did you do
7 with his possessions?

8 A His hat and sunglasses were removed, as well as
9 removing the cell phone and some cash. They were set on
10 top of the hood of our vehicle while we processed and
11 searched him.

12 We had a caged unit come to transport him, and
13 those possessions were passed on.

14 Q State's 58. Do you recognize this?

15 A Yes.

16 Q Is that hat what is depicted in this picture?

17 A Yes, it is.

18 MS. ELLIOTT: Your Honor, at this time we would
19 move in State's Exhibit 58.

20 THE COURT: Any objection?

21 MR. D'ANGELO: No objection.

22 THE COURT: State's 58 is in without objection.

23 (The aforementioned item was marked as

24 Plaintiff's Exhibit 58 for identification and was
25 admitted into evidence.)

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 BY MS. ELLIOTT:

2 Q Officer Tulla, did you have any other further
3 involvement in this case, other than detaining the
4 suspect?

5 A I did not.

6 MS. ELLIOTT: No further questions, Your
7 Honor.

8 THE COURT: Mr. D'Angelo, any questions for this
9 witness?

10 MR. D'ANGELO: Yes, Your Honor, briefly.

11 * * *

12 CROSS-EXAMINATION

13 BY MR. D'ANGELO:

14 Q Good afternoon.

15 A Good afternoon.

16 Q You-all had received information that the
17 individual you were looking for was on Line Street,
18 correct?

19 A Correct.

20 Q Officers were wearing uniforms?

21 A Yes.

22 Q Clearly identified as police?

23 A Yes.

24 Q Were you in marked patrol cars?

25 A We were not. We were in an unmarked Tahoe.

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1 Q When you exited and came up to the individual
2 you were looking for, you were clearly in police uniform?
3 A Correct. Our standard procedure when we get out
4 of an unmarked patrol car is to activate our blue lights
5 so they know that we are police.
6 Q The individual that you arrested that day was
7 Douglas Young, correct?
8 A Correct.
9 Q When you went up to Douglas, Douglas didn't take
10 off running from you-all?
11 A No, sir.
12 Q He stood there while you-all placed him under
13 arrest?
14 A Yes, sir.
15 Q He stood there while you-all placed him in
16 handcuffs?
17 A Yes, sir.
18 Q He didn't try to fight back?
19 A No, sir.
20 Q He didn't give you any trouble while he was
21 transported to the Charleston Police Department?
22 A I do not know. I was not involved with the
23 transportation.
24 Q You didn't drive him?
25 A No, sir.

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 Q While you were interacting with Douglas, he
2 didn't give you any issues while you-all were out there?

3 A No, sir.

4 MR. D'ANGELO: That's it, Your Honor. No
5 further questions.

6 THE COURT: Anything on redirect?

7 * * *

8 REDIRECT EXAMINATION

9 BY MS. ELLIOTT:

10 Q Do you know whether he acted up when he was
11 being transported to the jail?

12 A I do not know.

13 MR. D'ANGELO: Objection.

14 THE COURT: Do you want her to play back the
15 response?

16 MR. D'ANGELO: No, Your Honor.

17 THE COURT: Thank you.

18 MS. ELLIOTT: Nothing further, Your Honor.

19 THE COURT: Anything on re-cross?

20 MR. D'ANGELO: No, Your Honor.

21 THE COURT: You may step down. Thank you.

22 (Whereupon, the witness exited the witness
23 stand.)

24 THE COURT: Is the State prepared to call its
25 next witness?

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 MR. OSBORNE: Your Honor, everyone else we have
2 lined up for tomorrow morning. Many of them are coming
3 in from Columbia.

4 THE COURT: Approximately what time -- you call
5 it. What time do you-all want to start?

6 MR. OSBORNE: 9:30.

7 THE COURT: All right.

8 Ladies and gentlemen, so you won't have as much
9 problems in traffic, I will ask you to meet in the jury
10 room at 9:30. We will start with the case at that time.

11 Now, what am I going to remind you-all of?

12 No talking about the trial. Do not talk about
13 the trial with anyone or among yourselves or do any extra
14 -- don't do an investigation or anything like that.

15 Have a good evening, and I will see you-all at
16 9:30 in the morning. Thank you very much.

17 (Whereupon, the jury exited the courtroom.)

18 THE COURT: Anything from the State before we
19 break?

20 MR. OSBORNE: If we want to address it now, we can.
21 It might save an officer a trip tomorrow. We have
22 Officer Saunders who was not on our witness list, but
23 based on the questions that Mr, D'Angelo asked, "The
24 defendant never caused you any problems whenever he was
25 arrested or anything like that," he actually tried to get

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 2018GS1000558, -559

1 out of his handcuffs and flee from the officer who was
2 transporting him from the station to the jail.

3 I certainly never intended on bringing that up
4 until he started eliciting those questions.

5 If you are not inclined to allow us to call this
6 officer, then I won't ask him to come here. He is not on
7 our witness list. We would like to at least ask that
8 question. He wasn't completely cooperative the entire
9 time he was arrest.

10 THE COURT: I am assuming you are going to go
11 forward with that line of questioning?

12 MR. D'ANGELO: It was not a question I was
13 intending to ask. The question I was intending to ask was
14 simply that when he was with Officer Tulla on the
15 sidewalk, he wasn't trying to run away. I didn't mean to
16 ask that question, because I knew he wasn't the officer
17 who transported him.

18 THE COURT: As far as I can tell, if he gets
19 up, you are not going to get into an issue of whether or
20 not he was cooperative or anything like that?

21 MR. D'ANGELO: No, Your Honor.

22 THE COURT: As it stands now, I don't know that
23 they paid a whole lot of attention to that. If when he
24 takes the stand they get into that issue, then I will let
25 you call a witness to get into that.

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1 MR. OSBORNE: I hadn't considered that. I can
2 handle that in cross.

3 THE COURT: Okay. Anything else you-all think
4 we need to discuss?

5 MR. D'ANGELO: Nothing from the defense, Your
6 Honor.

7 MR. OSBORNE: No, Your Honor.

8 THE COURT: Okay. I will see you-all tomorrow
9 morning at 9:30, and we can start then. Thank you.

10 (Whereupon, at 5:16 p.m., the proceedings were
11 continued until the following day without interruption.)

12 * * *

13 END OF VOLUME I

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STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

IN THE GENERAL COURT OF JUSTICE
CIRCUIT COURT DIVISION
2018-GS-10-00558,
-00559

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STATE OF SOUTH CAROLINA,      :
                                :
      Plaintiff,              :
                                :
      vs.                      :  TRANSCRIPT OF JURY TRIAL
                                :  VOLUME II - PAGES 137 - 356
                                :
DOUGLAS LAVANCE YOUNG,       :
                                :
      Defendant.              :
-----X

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December 3, 2019
Charleston, South Carolina

B E F O R E

The Honorable R. Edgar W. Dickson, Judge Presiding.

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STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 20181000558, -559

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2

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3 Number

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STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 20181000558, -559

1 P R O C E E D I N G S

2 * * *

3 TUESDAY, DECEMBER 3, 2019

4 CHARLESTON, SOUTH CAROLINA

5 * * *

6 (Whereupon, the following proceedings were
7 held in open court. The defendant was
8 present with his attorney, along with
9 counsel for the State.)

10 THE COURT: Do we have any issues to take up?

11 MR. OSBORNE: No. Just on the record, Your Honor,
12 the witness, Kim Rivers, who needed an invitation to be
13 here is here. We will call her first.

14 I asked Mr. D'Angelo, if he would stipulate to
15 State's 55 being moved in so I don't need to try to
16 authenticate it through her. He said he was fine with
17 that.

18 THE COURT: Thank you, Mr. D'Angelo.

19 Is the State ready?

20 MR. OSBORNE: Yes, Your Honor.

21 THE COURT: So State's 55 is in evidence without
22 objection?

23 MR. D'ANGELO: That's correct, Your Honor.

24 TH COURT: Bring the jury in.

25 (Whereupon, the jury entered the courtroom.)

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1 THE BAILIFF: All the jurors are present, Your
2 Honor.

3 THE COURT: Thank you, sir.

4 Good morning, ladies and gentlemen. I hope you-all
5 had a good evening. You will notice that in addition to
6 the magnificent checks you get every day for your
7 service, the County is buying you-all lunch today.

8 We will continue with the State's case now.

9 MR. OSBORNE: The State calls Kim Rivers.

10 * * *

11 KIM RIVERS,
12 called as a witness by and on behalf of
13 the State to testify, being first duly
14 sworn was examined and testified as follows:

15 * * *

16 DIRECT EXAMINATION

17 BY MR. OSBORNE:

18 Q Please state your name, spelling your last
19 name.

20 A Kim Rivers, R-i-v-e-r-s.

21 Q Good morning, Ms. Rivers.

22 A Good morning.

23 Q I think it's fair to say that you do not want to be
24 here today?

25 A Uh-huh.

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1 Q She needs to take down everything you are
2 saying, so you have to verbalize your responses.

3 You are in custody now, correct?

4 A Yes.

5 Q You are in custody because you were subpoenaed
6 yesterday to be here, and you weren't here. Some
7 deputies brought you up here to the courthouse.

8 Is that fair to say?

9 A Yes, sir.

10 Q Do you know the defendant?

11 A Yes, sir.

12 Q How do you know him?

13 A We was raised up on the same street.

14 Q Do you know his full name?

15 A Douglas.

16 Q I want to get into the morning of the
17 murder.

18 Did he have the occasion to come up to you and
19 approach you?

20 A We see each other, but not as often as we used to.

21 He doesn't have a car.

22 Q What do you mean by not as often?

23 A Not like when we were growing up.

24 Q Where you do see him?

25 A At the house.

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1 Q On the morning of the murder, do you remember
2 specifically what, if anything, he said to you when he
3 came up to you?

4 A No.

5 Q I will show you this clip right here.

6 I am showing you now State's 55.

7 Is that you right there?

8 A I am not sure. I am not sure.

9 Q Do you recognize that person right there?

10 A Pause it.

11 Q (Complies). Who is the person in the white hat?

12 A Douglas.

13 Q Do you recognize you now?

14 A I think that is me.

15 Q Okay. Do you remember what he was saying to you
16 then?

17 A I can't recall what he told me. He was drunk. I
18 ain't got time for that. I was going to work.

19 That is exactly what I said to him.

20 Q Do you remember talking to Detective Joe Owens
21 and another detective, Detective Mallette, on August 15,
22 2017, at about 8:40 in the morning at your house?

23 A Yes.

24 Q Do you remember that?

25 A Yes, sir.

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 20181000558, -559

1 Q On that day, do you remember telling them that when
2 the defendant, Douglas Young, came up to you, he had
3 said something like, I just did something?

4 A I didn't pay him no attention, because I thought he
5 was drunk. He always be drunk. That's what I told him.

6 Q I want to ask you one other thing that you had
7 said. Do you remember talking to Kathy? You know Kathy
8 Brisbane, right?

9 A Uh-huh.

10 Q I'm not trying to be difficult. She has to type
11 it all down.

12 A Yes, sir.

13 Q And do you remember talking to her about a week
14 after the murder and telling her what the defendant told
15 you?

16 A I can't remember what we was talking about.

17 Q So you don't remember telling Kathy that the
18 defendant approached you after the murder and said --

19 MR. D'ANGELO: Objection, hearsay.

20 THE COURT: She has already testified that she
21 doesn't remember.

22 You can go back into it if you want.

23 BY MR. OSBORNE:

24 Q You don't remember having a conversation with her
25 at all?

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 20181000558, -559

1 A I don't remember the conversation. If we had one,
2 I don't remember it.

3 Q If I were to tell you what that conversation was,
4 would that help refresh your recollection in any way?

5 A No.

6 Q Do you remember telling Kathy --

7 MR. D'ANGELO: Objection, hearsay.

8 MR. OSBORNE: I am laying down the foundation,
9 Judge. I have to confront her with what she said in
10 order for her to not admit it.

11 THE COURT: Ms. Brisbane hasn't testified yet, has
12 she?

13 MR. OSBORNE: No. We plan on calling her next.

14 THE COURT: He is going to have to ask the
15 question so Ms. Brisbane can talk about it.

16 MR D'ANGELO: Can we approach, Your Honor?

17 THE COURT: Sure.

18 (Whereupon, a bench conference was held off the
19 record.)

20 THE COURT: What we are going to do is, I will
21 overrule the objection. I will let Mr. Osborne ask a
22 question of Ms. Rivers, then the objection is preserved.
23 We will go back on the record and talk about what we did
24 later.

25 MR. D'ANGELO: Yes, sir.

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 20181000558, -559

1 BY MR. OSBORNE:

2 Q Within a week after the murder, is it fair to say
3 that you do not remember telling Kathy Brisbane that the
4 defendant approached you after the murder and asked you
5 to hold the weapon for him?

6 A I don't remember that. I don't remember that.

7 Q You don't remember telling her that?

8 A No, I don't. I don't remember that. I don't be
9 around guns.

10 MR. OSBORNE: No further questions.

11 THE COURT: Mr. D'Angelo, you can question her and
12 your objection will still be preserved, if you wish to.

13 MR. D'ANGELO: I understand that, Your Honor. We
14 don't have any questions, Your Honor.

15 THE COURT: Thank you, sir. You may step down.

16 (Whereupon, the witness exited the witness stand.)

17 Is the State ready to call its next witness?

18 MR. OSBORNE: The State calls Nova Grilli.

19 * * *

20 NOVA GRILLI,

21 called as a witness by and on behalf of

22 the State to testify, being first duly

23 sworn was examined and testified as follows:

24 * * *

25 DIRECT EXAMINATION

STATE OF SOUTH CAROLINA v. DOUGLAS YOUNG – 20181000558, -559

1 BY MS. OSBORNE:

2 Q For the record, please state your name, spelling
3 your last name.

4 A Nova Grilli, G-r-i-l-l-i.

5 Q Ms. Grilli, where do you work?

6 A Charleston Police Department.

7 Q What is your position there?

8 A I am the latent fingerprint supervisor.

9 Q How long have you been doing that?

10 A Currently with the Charleston Police Department,
11 almost four years.

12 Q We will get into -- I guess we can do it now.

13 What are some of your duties and responsibilities
14 as a latent print supervisor?

15 A As a latent print supervisor, most all of my duties
16 are casework. I analyze and compare latent prints
17 recovered from a crime scene.

18 I am also responsible for writing our policies and
19 procedures and keeping them up to date for our
20 accreditation.

21 Q Do you have any formal education or specialized
22 training in latent print?

23 A Yes. I have two Bachelor's degrees. I have one in
24 sociology with emphasis in criminology. I have a
25 Bachelor's Degree in anthropology with emphasis on

1 forensic science. These are all through the University
2 of Montana.

3 I also hold a Master's degree in forensic science
4 through National University.

5 Past employers, I went through the latent print
6 training. I have also attended multiple workshops and
7 classes in latent prints through my almost 14 years in
8 my career.

9 Q Do you prefer latent print or friction ridge
10 analysis?

11 A It depends on the context. It's basically the
12 same.

13 Q Are you a member of any professional organizations
14 related to that field of study?

15 A I am. I am a member of the International
16 Association for Identification, as well as the South
17 Carolina Division of the International Association for
18 Identification.

19 Q How do you stay abreast of current developments in
20 that field?

21 A The International Association for Identification
22 publishes weekly a Journal of Forensic Identification.
23 We do read those. I will also attend conferences and
24 training classes when I am able to. I also keep abreast
25 of the current news and changes within the field.

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1 Q Have you ever had the occasion to be qualified as
2 an expert in the field of latent print examinations?

3 A Yes.

4 Q How many times?

5 A There is my fourth time. So three, four.

6 Q In what courts?

7 A All of them here.

8 Q Just estimate. How many latent prints, or prints
9 in general, do you estimate you have examined throughout
10 your career?

11 A Between my training, casework, yearly proficiency
12 testing, comparison sets through training classes, I
13 would say hundreds of thousands.

14 MR. OSBORNE: At this time, we with would offer
15 Nova Grilli as an expert in the field of latent print
16 examination.

17 THE COURT: Any objection?

18 MR. D'ANGELO: No objection, Your Honor.

19 THE COURT: Ladies and gentlemen, Ms. Grilli has
20 been qualified by the Court as an expert in latent print
21 examination. I need to tell you that ordinarily the
22 rules of evidence do not permit a witness to testify as
23 to opinions or conclusions.

24 An exception to this rule exists for witnesses we
25 call expert witnesses. That is a person who by

1 education and experience has become expert in some art,
2 science, profession, or calling may state an opinion as
3 to a relevant and material matter in which the witness
4 claims to be an expert. They may also state the reasons
5 for the opinion.

6 You should consider any expert's opinion like any
7 other evidence and give it the weight you think it
8 deserves. An expert witness' testimony is to be given
9 no greater weight than that of other witnesses simply
10 because the witness is an expert.

11 You are not required to accept an expert's opinion,
12 even though it is uncontradicted. The testimony of
13 experts is to aid and assist you as jurors, not to
14 dominate or control you in the decision of questions of
15 fact. Their opinions and deductions from the evidence
16 before you and their judgments and opinions do not
17 preclude yours.

18 BY MR. OSBORNE:

19 Q I have thrown out some terms loosely without
20 providing much context to it. Let's go ahead and define
21 what some of these terms actually mean.

22 When I ask you what is a known fingerprint, what do
23 I mean by that?

24 A On the plantar side of your feet and the palmer
25 side of your hand, you have raised skin, called

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1 friction-ridge skin. A known print is a intentional
2 recording of that skin, usually done with black ink onto
3 a ten-print card. That is a permanent record of one's
4 fingerprints.

5 Q Known just mean you know who that print belongs
6 to?

7 A Correct.

8 Q When you use the term latent print, what does that
9 mean?

10 A A latent print is hidden. A latent print is an
11 unintentional recording of one's print left on an
12 object. In order for this to happen, you have to have
13 either sweat or oils or a combination of the two. On
14 this raised skin you have pores that exude sweat. If
15 somebody touches their face with oils, that will leave
16 your friction ridge detail behind.

17 Q In the area of police work, is it typical that
18 crime scene techs go out with black powder, and they
19 will try lift invisible prints or latent prints?

20 A Yes. You have to use some type of processing to
21 enhance those ridge details to come through.

22 Q Then those prints are sent to you, and then you do
23 an analysis for comparisons?

24 A Correct.

25 Q How do you go about comparing known prints to

1 latent prints?

2 A We use the ACEV analysis. It stands for Analysis,
3 Compare, Evaluate and Verification. In the first step,
4 analysis, we are basically determining the quality of
5 the latent that we are looking at.

6 We look at everything that is provided to us. We
7 are looking at what surface the print was lifted off of,
8 how it was processed. We use three levels of detail.
9 The first level of detail is looking at the pattern type
10 of ridge flow. This will tell us if it's finger, palm,
11 and the orientation of it.

12 The second level is looking at the ridge
13 characteristics. These are going to be the small
14 details that make our prints different from one
15 another. We are looking to see how much of that is
16 available for us.

17 The third level is not always available. We are
18 looking at the pores and the ridge detail, looking at
19 the location and shape. Those will be unique.
20 Edgeoscopy is looking at the edges of the friction
21 ridge. You will have bumps and dips along those.

22 Also, we are looking at distortion. You will have
23 some level of distortion in these prints.

24 You are looking at every possible detail and
25 information within these fingerprints. Once we have

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1 determined that it is a quality that we know we can
2 compare it, we will have the latent and known side by
3 side.

4 The ridge characteristics that I talked about, we
5 use what is called target groups. We will find a
6 cluster of those details. We will memorize them, and we
7 will look at where they are on the latent print and look
8 at the known and see if we can identify that.

9 Once we have done our comparisons, we will then
10 come to the evaluation stage. This our decision. We
11 can identify, exclude, or inconclusive. Inconclusive is
12 basically that we don't know. There is just not enough
13 information for us to determine identify for exclusion.

14 After we have come to our conclusion, the verifier
15 will go through the eight steps, and they are also
16 competently trained in latent prints. Our policy is all
17 of our identifications are verified.

18 Q Breaking it down into layman's terms, when you are
19 looking at it, are you saying there is a certain number
20 of points that have to come back matching?

21 A We don't use a standard set of points. There is no
22 minimum standard in the United States. It will depend
23 on the quality of the latent print. Quality and the
24 quantity of the information is going to change depending
25 on a latent filing basis.

1 Q Did you have the occasion to examine some known
2 prints in this case to some latent prints?

3 A Yes.

4 Q State's Exhibit 29. Are those some of the print
5 cards that you examined?

6 A Yes.

7 Q So let's start talking about Item 30-4.

8 Can you tell me on the card where it says where
9 that latent print was recovered from?

10 A It is lifted from a beer can.

11 Q Does it have a CPI number attached to that?

12 A On the report, beer can, 111.

13 Q We have heard testimony that 111 came back to a
14 crushed beer.

15 Did you analyze the print to see if you could make
16 any comparisons to it?

17 A Yes.

18 Q What results, if any, did you find?

19 A The result was an inconclusive decision to the
20 right thumb of a ten-print card belonging to Douglas
21 Young.

22 Q Just taking the jury back to three potential
23 results that you get when you analyze it: Inconclusive,
24 identified, or not identified, is that correct?

25 A We use the term exclusion. It's the same meaning.

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1 Q So a comparison to a known print of Douglas Young's
2 came back inconclusive for the crushed beer can?

3 A Correct.

4 Q Let's look at 30-5. Tell us what CP number that
5 corresponds to.

6 A Beer can, 112.

7 Q That is the can that came from the top of the car?
8 Did you do any comparison to that lift?

9 A I did not. When I analyzed it, there was nothing
10 of quality for me to use.

11 Q This one goes back to the, there is nothing there?

12 A Correct.

13 Q Let's do Lift Card 30-1. We have already heard
14 testimony that this is going to be the passenger
15 exterior door to the GMC.

16 What, if any, conclusions did you come to when you
17 analyzed that lift?

18 A 30-1 identified to the left palm to the left palm
19 card bearing the name Douglas Young.

20 MR. OSBORNE: No further questions.

21 THE COURT: Any questions of this witness?

22 MR. D'ANGELO: Briefly, Your Honor.

23 THE COURT: Yes, sir.

24 * * *

25 CROSS-EXAMINATION

1 BY MR. D'ANGELO:

2 Q Good morning, Ms. Grilli.

3 A Good morning.

4 Q It's fair to say that you are a scientist in the
5 job that you do; is that fair to say?

6 A Some would call me, yeah.

7 Q You use science. Your job is using science to try
8 to determine these fingerprints?

9 A Correct.

10 Q That is what you did in this case?

11 A Correct.

12 Q You looked at evidence that was taken from the
13 scene?

14 A Yes.

15 Q You analyzed that evidence, and you were able to
16 determine there was some fingerprints?

17 A Correct.

18 Q None of that tells you what happened?

19 A Correct.

20 Q None of that tells you anything about these people?

21 A Correct.

22 Q You don't know what happened?

23 A Correct.

24 MR. D'ANGELO: Nothing further, Your Honor.

25 THE COURT: Anything on redirect?

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1 MR. OSBORNE: No, Your Honor.

2 THE COURT: Thank you ma'am. You may step down.

3 (Whereupon, the witness exited the witness stand.)

4 THE COURT: Is the State prepared to call its next
5 witness?

6 MR. OSBORNE: We are, Your Honor. The State calls
7 Kathy Brisbane.

8 * * *

9 KATHY BRISBANE,
10 called as a witness by and on behalf of
11 the State to testify, being first duly
12 sworn was examined and testified as follows:

13 * * *

14 DIRECT EXAMINATION

15 BY MR. OSBORNE:

16 Q State your name for the record, spelling your last
17 name.

18 A Kathy Brisbane, B-r-i-s-b-a-n-e.

19 Q Good morning, Ms. Brisbane.

20 A Good morning.

21 Q We will start by talking a little bit about your
22 background, okay?

23 A Yes.

24 Q So this young lady right here is taking down
25 everything you are saying, so when you are talking, just

1 give a yes or no answer.

2 A Yes.

3 Q So where are you from?

4 A Charleston.

5 Q Born and raised?

6 A Yes, sir.

7 Q You went to high school?

8 A Yes.

9 Q Did you graduate?

10 A CA Brown High School.

11 Q Did you go to Trident Tech?

12 A I went to Palmer College.

13 Q Do you have children?

14 A Yes, sir.

15 Q Couple of kids?

16 A Two, a boy and a girl.

17 Q What kind of work do you do?

18 A A beautician.

19 Q How long have you been a beautician?

20 A Thirty-five years.

21 Q Long time?

22 A Yes.

23 Q Are you from the east side of downtown Charleston?

24 A I am originally from the burrow off of Calhoun

25 Street. After the burrow closed down, I went to the

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1 east side.

2 Q You moved from the east side?

3 A Right now I live on James Island.

4 Q All right. Let's talk about the defendant in this

5 case. Do you know him?

6 A Yes, sir.

7 Q How long would you say that you have known him?

8 A Over 30 years.

9 Q Thirty years?

10 A Uh-huh.

11 Q Let's talk a little bit about how it is that you

12 know him. Over 30 years. You have known him since he

13 was a baby?

14 A Well --

15 Q Or a young --

16 A Little boy. Not a baby.

17 Q Are you familiar with any of his family?

18 A Yes, sir.

19 Q Let's talk about Gerald Young. What is Gerald's

20 relationship to the defendant?

21 A His uncle.

22 Q Uncle?

23 A Uh-huh.

24 Q Are you familiar with Gerald?

25 A Yes, sir.

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1 Q Did you used to date him?

2 A Yes.

3 Q You are also familiar with many other family

4 members of his?

5 A Yes.

6 Q Does he have a large family?

7 A Yes.

8 Q Are you friends with him? Do you talk to him on

9 the phone or anything like that?

10 A No, sir. With Gerald?

11 Q No. With Douglas.

12 A No.

13 Q Other than this incident, do you give him rides or

14 anything like that?

15 A No, sir.

16 Q So let's go ahead and get into this.

17 The morning of the incident, where were you headed

18 to when this happened?

19 A I was headed to work.

20 Q Where did you work?

21 A On Blake Street.

22 Q As a beautician?

23 A Right.

24 Q When you took -- and you were coming from James

25 Island?

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1 A Yes, sir.

2 Q When you took that path to get into work, was it an

3 unusual path for you, or was this the path that you took

4 every day?

5 A Every day.

6 Q Still do it today?

7 A Yes, sir.

8 Q Right on Blake. Is that near Blake and America?

9 A Yes. Right on Blake and America.

10 Q What time do you normally have to be at work? This

11 would have been a Saturday morning?

12 A Right. We open up at 8:30.

13 Q Saturday is a busy day for you?

14 A Yes.

15 Q I will tell you what I am going to do. I will show

16 you State's Exhibit 1. This is a map.

17 Can you orient yourself at all on this map?

18 A Yes.

19 Q Do you see Line Street?

20 A Yes.

21 Q You can draw it on this screen in front of you.

22 A Yes.

23 Q Where were you headed up Line Street?

24 A (Indicating)

25 Q I know we are going to talk a lot about what you

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1 saw.

2 What intersection were you at when you saw the
3 defendant?

4 A The corner of Nassau and Line.

5 Q Can you put an X where that is?

6 A (Indicating)

7 Q About where is your place of employment?

8 A On Blake Street.

9 Q Would that be about right here?

10 A Right here, right on the corner of America and
11 Blake.

12 Q Put an X on that. I want to see where Blake is.

13 A Here.

14 Q Let's get into what it is that you saw.

15 Were you driving when you saw what you are about to
16 tell the jury, or were you stopped at a stop sign?

17 Do you remember?

18 A I was stopped at a stop sign.

19 Q Tell the jury what it is that you saw while you
20 were stopped at the stop sign of Line and Nassau.

21 A I was coming down Line. I saw people coming
22 across. As soon as I stopped, I looked right in front
23 of me. I just saw Douglas and a young man. Before he
24 shoot, I tried to blow the horn so he wouldn't shoot. I
25 tried to distract him, but he still shoots.

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1 Q All right. So let's -- I am going to ask you a
2 lot of questions. We will try to slow that down a
3 little bit.

4 A Yes.

5 Q When you first looked over and you first saw the
6 defendant -- and you said that you saw him shoot.

7 Was there another individual there with him?

8 A The young man.

9 Q Let's call them the defendant and the young man.
10 What was he doing when you first looked at him?

11 A Standing.

12 Q When you first looked over there, they were
13 standing?

14 A Standing.

15 Q He was standing up?

16 A Yes.

17 Q What about Doug? Was he standing up?

18 A Standing up.

19 Q When you first looked over there, he was standing?

20 A Yes.

21 Q Step over here. As best you can remember, tell
22 the jury what it was that you saw.

23 THE COURT: Ms. Brisbane, speak up very loudly.
24 The court reporter has to take down what you are saying,
25 and the microphone is not there. I need to make sure

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1 the jury can hear you. I would like to hear you too.

2 BY MR. OSBORNE:

3 Q Let's do this. Let's pretend that Ms. Elliot is
4 you stopped at the stop sign.

5 A Yes.

6 Q When you first saw them, was Doug's back to you?

7 A Right.

8 Q I am Doug and you are the young man. How far away
9 from each other were they when you first saw them?

10 A Like this.

11 Q Just about like this?

12 A Yes.

13 Q Probably about 7 feet; something like that?

14 A Yes.

15 Q When you first saw them, what was the young man
16 doing? What was the position of his body? What was he
17 doing?

18 A Like this.

19 Q He had his hands out like this?

20 A Yes and down.

21 Q Down like this? Palms up?

22 A Just hanging out like this.

23 Q He just had his hands up like this?

24 A Yes.

25 Q Did he have a gun in his hands?

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1 A No.

2 Q Just had his hands up?

3 A Yes.

4 Q What about Doug? What was Doug doing?

5 A Pointing the gun.

6 Q Pointing the gun?

7 A Yes.

8 q The young man is like this?

9 A Uh-huh.

10 Q You said that you saw him point the gun, and then

11 you started honking.

12 Did he shoot first and then you honk, or did you --

13 A I honked first.

14 Q So you saw this, and then you started honking?

15 A Yes.

16 Q How long after you started honking did the first

17 gunshot go off?

18 A I don't know. Not too long.

19 Q Would you say it was like seconds?

20 A Yeah. About two seconds.

21 Q So about two seconds?

22 A A few seconds.

23 Q He is pointing the gun at him.

24 You are honking, and then the first gunshot?

25 A Uh-huh.

1 Q Is that a yes?

2 A Yes.

3 Q What does the young man do then after the first

4 gunshot?

5 A He laid down.

6 Q Going and swinging like that? He turned like this

7 and swung his body?

8 A Uh-huh.

9 Q Are you still honking?

10 A Yes.

11 Q Then what happened?

12 A Swinging like this.

13 Q He was swinging both ways while he is getting

14 shot?

15 A Yes.

16 Q And he fired a second time?

17 A Yes.

18 Q You are still honking your horn?

19 A Uh-huh.

20 Q Then what happens then?

21 A Turn around.

22 Q Shot him again?

23 A Yes.

24 Q Shot him three times in total?

25 A Yes.

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1 Q Okay. How long -- was there any pause in between
2 the shots, or was it bam, bam, bam?

3 A Yes.

4 Q You are trying to get him to stop the whole time.

5 A Yeah.

6 Q Is that why you are honking your horn, to try to
7 get him to stop?

8 A Yes.

9 THE COURT: Can we take a short break?

10 MR. OSBORNE: Yes, sir.

11 THE COURT: We will take about a ten-minute break,
12 then we will come back. Remember, you cannot talk about
13 anything you heard from the testimony yesterday or
14 today.

15 I will let you take a break, and then we will get
16 you-all back in here.

17 (Whereupon, the jury exited the courtroom.)

18 THE COURT: I was told that they need a break.

19 Ms. Brisbane, we are going to take a break. You
20 can get up. You don't have to sit there. You cannot
21 talk with anybody.

22 So however you feel most comfortable, but we will
23 take about a ten-minute break. You can't talk with your
24 attorneys or anybody about your testimony.

25 When we get back, you will still be under oath, and

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1 we will continue with your testimony.

2 We have to take a comfort break, as they like to
3 say.

4 MR. D'ANGELO: Your Honor, briefly, can we take
5 this opportunity to put my earlier objection on the
6 record?

7 THE COURT: Yes.

8 We were talking about the prior statements, you
9 had objected to Ms. Rivers' testimony.

10 MR. D'ANGELO: The only thing I might mention is
11 Ms. Brisbane would be able to leave the courtroom while
12 placing this on the record.

13 THE COURT: Yes. Ms. Brisbane, I will ask you to
14 step out, because we need to discuss something, and you
15 don't need to hear it.

16 If you don't mind waiting out in the hall, we will
17 get you back in here in just a second.

18 (Whereupon, the witness exited the witness stand.)

19 THE COURT: All right. Go ahead.

20 MR. D'ANGELO: So, Your Honor, again, just in
21 context, Ms. Rivers -- Kim Rivers had been testifying
22 and Mr. Osborne was seeking to ask her if she remembered
23 a conversation that she had had with Kathy Brisbane
24 where she told Ms. Brisbane that Doug had asked her to
25 take the gun.

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1 She stated she did not. She remembered the
2 conversation, but she did not remember saying that to
3 Ms. Brisbane. I had objected, ultimately, to relevance.

4 Mr. Osborne stated that he was trying to refresh
5 her recollection. Ultimately, I had stated because we
6 don't know what Ms. Brisbane is ultimately going to
7 testify, I had suggested that that statement could be
8 written on a piece of paper, given to her, and they
9 could have gone about refreshing her recollection that
10 way.

11 That was my suggestion in how to handle that.

12 MR. OSBORNE: If I may, just for the record, just
13 for a point of clarification, I was not trying to
14 refresh her recollection. I was straight-up impeaching
15 her under 613(b).

16 THE COURT: Does that change your argument any?

17 MR. D'ANGELO: Ultimately, it wouldn't. Again,
18 it's not impeaching her at that point. She is saying
19 that she doesn't remember it. Furthermore, we don't
20 know what Ms. Brisbane is going to say. If we wanted to
21 show her that statement, I felt that could have been
22 accomplished that way.

23 THE COURT: My ruling is based on the fact that
24 under 613(b), it says that the witness must be advised
25 of the substance of the statement, the time and place it

1 was alleged to have been made, and to whom it was made.

2 When I was checking back over the case law, one of
3 the cases, State v. McCloud indicates, State rule
4 differs from the Federal rule in that the proper
5 foundation must be laid before admitting a prior
6 inconsistent statement.

7 Another case, State v. Blaylock makes the example
8 of a prior statement to a detective when the defendant
9 wife -- it says that extrinsic evidence of a wife's
10 prior inconsistent statement to detective was properly
11 admitted when she denied making it. Also, extrinsic
12 impeachment evidence of a prior inconsistent statement
13 by a State's witness is admissible as the witness denied
14 making that statement, stating State v. Fossick.

15 For those reasons, I let it in. I did think -- and
16 I want it on the record -- I thought your idea was a
17 good idea, but I just didn't think it would carry what
18 the law is presently right now, but it may later.

19 Your objection is preserved.

20 Let's take a break.

21 (Whereupon, a recess was held.)

22 (Whereupon, the following proceedings were
23 held in open court. The defendant was
24 present with his attorney, along with
25 counsel for the State.)

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1 THE COURT: Is the State ready?

2 MR. OSBORNE: Yes, Your Honor.

3 THE COURT: Bring the jury back in, please, sir.

4 Ms. Brisbane, remember to speak loudly, please,
5 ma'am.

6 (Whereupon, the jury entered the courtroom.)

7 THE BAILIFF: All jurors are present, Your
8 Honor.

9 THE COURT: All right, ladies and gentlemen. We
10 will continue with the testimony of Ms. Brisbane.

11 Mr. Osborne.

12 MR. OSBORNE: Thank you, Your Honor.

13 * * *

14 DIRECT EXAMINATION CONTINUES

15 BY MR. OSBORNE:

16 Q All right, Ms. Brisbane. When you were honking
17 your horn, the person who was shooting, the person you
18 referred to as Doug, do you see him in the courtroom
19 today?

20 A Yes.

21 Q Can you point him out?

22 A Wearing a suit.

23 MR. OSBORNE: Let the record reflect that the
24 witness has pointed out the defendant.

25 THE COURT: So noted.

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1 BY MR. OSBORNE:

2 Q Ms. Brisbane, when you were honking your horn
3 trying to get the defendant -- well, you testified that
4 you were trying to get the defendant to stop shooting or
5 not to it shoot at all?

6 A Right. Not to shoot at all.

7 Q You were trying stop him?

8 A Uh-huh.

9 Q I'm sorry. The court reporter keeps looking at
10 me. For that reason, you have to say yes or no.

11 A Yes.

12 Q You were trying to stop the defendant. You were
13 not trying to stop the victim?

14 A No.

15 Q He wasn't doing anything?

16 A No.

17 Q For you to try stop him?

18 A Right.

19 Q He was standing there with his hands up?

20 A Uh-huh.

21 Q Yes?

22 A Yes.

23 Q Let me show you State's Exhibit 3.

24 Do you recognize State's 3?

25 A Yes.

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1 Q What is this again?

2 Is this is the intersection.

3 A That is on Line.

4 Q Is this picture taken about where you would have

5 been stopped at the stop sign?

6 A Yeah. Right here.

7 Q When you looked across the street, can you put an X

8 where the defendant and the victim would have been

9 standing?

10 A Right here.

11 Q Here?

12 A Yes, sir.

13 Q Thank you, ma'am.

14 When the shooting stopped, what did you do then?

15 A I pulled over and looked out.

16 Q So you said you pulled over to where he was at?

17 A Yes.

18 Q Is it fair to say -- did you cross the intersection

19 here?

20 A Yes.

21 Q You pulled over right next to him?

22 A Right.

23 Q Where was the car?

24 A The car was right here.

25 Q Once you pulled over, what happened?

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1 A I yelled at him.

2 Q What did you say?

3 A I said, what are you doing?

4 Q Then what did he say or do?

5 A He turned around, and he looked at me. He didn't

6 recognize me at first. Then he said, That is Auntie. I

7 asked him -- I tried to ask him what he was doing. He

8 asked me to take him around the corner.

9 Q He asked you to take him around the corner?

10 A Yes.

11 Q When you say you guess at first he didn't recognize

12 you, why do you say that?

13 A At first -- it looked like he was pointing the gun

14 at me, at first.

15 Q When you first stopped, he turned and pointed the

16 gun at you?

17 A Yes.

18 Q Then he made the comment, That is Auntie?

19 A Uh-huh.

20 Q Yes?

21 A Yes.

22 Q It's a weird way we communicate in here.

23 All right. So you said he said -- what did he say?

24 To take him somewhere?

25 A Take him around the corner.

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1 Q Then what happened?

2 A He just directed me where to go.

3 Q We will go back to 1. As best you can remember --

4 I know -- as best you remember, you were driving on

5 Nassau and you were facing this way?

6 A Yes.

7 Q Where did you go from there?

8 A Going down turned on Aiken. I turned on Aiken and

9 turned back on Columbus. We turned right on America.

10 We turned left on Reid or Amherst.

11 Q The street where I am right now?

12 A Yes.

13 Q Left on Amherst?

14 A Uh-huh.

15 Q Then which way?

16 A Turned on Drake.

17 Q Right or left on Drake?

18 A Right on Drake.

19 Q While on Drake between Amherst and Reid, what

20 happened? Did he get out of the car?

21 A Yes. He got out of the car.

22 Q Now, I want you to ask you something. While

23 you-all were driving in the car, did the defendant ever

24 say anything to you like, I had to kill him, because he

25 had a gun?

1 A No.

2 Q Did he say to you, you will never believe what just
3 happened, Kathy? This guy try tried to rob me?

4 A No.

5 Q Did he say to you, I was so afraid of what this guy
6 was about to do to me that I had to kill him?

7 A No.

8 Q What did he say?

9 A You didn't see nothing.

10 Q He told you, you didn't see nothing?

11 A Uh-huh.

12 Q But you did see something?

13 A Uh-huh.

14 Q I'm sorry. You have to say yes or no.

15 A Yes.

16 Q While he was directing you -- did you make this
17 decision to go this route, or were you directed to take
18 that route?

19 A He tell me where to go.

20 Q Where was the gun -- did he still have the gun in
21 his possession in the car?

22 A Yes.

23 Q Where was the gun?

24 A In his lap.

25 Q Was it pointing outside the car, straight ahead, or

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1 pointing at you?

2 A Sitting on his lap.

3 Q In his right hand, if you remember?

4 A He had it sitting right on his lap.

5 Q So we left off with that he got out of the car on
6 Drake in between Reid and Amherst?

7 A Yes.

8 Q State's 54. Tell me if you recognize that person.

9 A Yes.

10 Q Who is this person?

11 A That is his girlfriend.

12 Q Do you know about where she lives?

13 A No. I don't know exactly.

14 Q You don't know exactly, but do you know whereabouts
15 she did live?

16 A On the projects.

17 Q On the projects?

18 A Uh-huh.

19 Q On Drake?

20 A Uh-huh.

21 Q Yes?

22 A Yes.

23 Q In reference to the defendant, did you have any
24 sort of problems with him or any sort of arguments or
25 disagreements with him in any way prior to this?

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1 A No.

2 Q Had he ever been in your Yukon prior to this or

3 your GMC car prior to this?

4 A No.

5 Q Once you dropped him off, which way did you go

6 then?

7 A I turned on Reid. I turned right on America.

8 Q Right or a left on Reid?

9 A A right on Reid and a right on America.

10 Q Right on America?

11 A Uh-huh.

12 Q Did anyone else get into your car after that?

13 A Yes.

14 Q Who was that?

15 A Gerald.

16 Q Is Gerald the defendant's uncle?

17 A Yes.

18 Q Do you remember about where he got into the car?

19 A On America and Columbus.

20 Q Just a couple of blocks up from where I left off?

21 A Uh-huh.

22 Q How did that come about? How did he come about

23 getting into the car?

24 A When I had taken Doug and he opened the door, he

25 seen Doug in my car. I knew him. He was walking

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1 towards America Street to see what was going on. He
2 went after me.

3 I stopped. I had spoken to him about what
4 happened. He got in the car, and he said, show me what
5 happened. That is what we did.

6 Q Once he got into the car at America and Columbus, I
7 assume that you were headed back to work?

8 A Yes.

9 Q When Gerald got in the car -- he flagged you down,
10 I suppose?

11 A Yes.

12 Q Once he got in the car, you told him what
13 happened. He wanted to go where?

14 A He wanted to go to the scene.

15 Q Did you take him back over there?

16 A Yes.

17 Q What was the conversation in the car over there?

18 MR. D'ANGELO: Objection. I believe he is about to
19 elicit hearsay, Your Honor.

20 THE COURT: Are you asking her what Gerald said, or
21 are you asking her to summarize the conversation?

22 MR. OSBORNE: I will withdraw the question.

23 THE COURT: Thank you, sir.

24 BY MR. OSBORNE:

25 Q You ended up going back to the scene?

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1 A Yes, sir.

2 Q He got out of the car at some point, I suppose?

3 A Yes.

4 Q Where did he get out of the car?

5 A I put him out by Duke's Court.

6 Q By Duke's Court?

7 A Yes.

8 Q I will play you a clip, State's 55.

9 Are you familiar with that area?

10 A Yes.

11 Q Is that Reid and Drake?

12 A Yes.

13 Q Do you see your car here? Yes or no. It's a

14 quick glimpse.

15 A Now I do.

16 Q You are on Reid now, headed up toward Meeting. I

17 know you ended up turning off, right?

18 A On Reid?

19 Q Yes.

20 A On Reid going toward America.

21 Q This would have been after you dropped the

22 defendant off?

23 A Uh-huh.

24 Q Play one more clip.

25 Are you familiar with this intersection?

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1 A Yes.

2 Q You tell me if you see a car.

3 A Yes. I see my car.

4 Q Do you remember when this would have been taken?

5 Would this have been after you dropped off the Defendant
6 or before?

7 A After I had taken Gerald back around the area, to
8 Duke's Court.

9 Q So that is Gerald in the car with you there?

10 A Yes.

11 Q I am just going to ask you a couple more
12 questions.

13 You are friends with Kim Rivers, right?

14 A Yes.

15 Q You have known her for a long time?

16 A Uh-huh.

17 Q Going back to 55 and playing the video clip. Do
18 you recognize that person?

19 A Yeah.

20 Q Who is that?

21 A Kim.

22 Q Did you have a conversation with Kim about a week
23 after this incident?

24 MR. D'ANGELO: Your Honor, at this time I think I
25 just need for purposes of the record to renew my

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1 objection.

2 THE COURT: Your objection is noted.

3 BY MR. OSBORNE:

4 Q Did you have a conversation with her about a week
5 after?

6 A Yes.

7 Q Did she indicate to you what the defendant told her
8 after the murder?

9 A I don't know -- she can tell you. I don't know.

10 Q You don't want to say?

11 A No.

12 Q Do you remember telling us that she said that Doug
13 went up to her and said, here, can you hold the gun for
14 me?

15 Ms. Brisbane, I have asked a lot. Don't worry
16 about it.

17 Do you recognize the man in the image?

18 A Yes, sir.

19 Q Who is that?

20 A Doug.

21 Q Is he wearing the same thing there that he was
22 wearing when he shot the victim?

23 A Yes, sir.

24 Q So now I want to get into -- so the police came by
25 and they talked to you.

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1 Do you remember that?

2 A Yes.

3 Q So I will show you State's 38. Is this your salon?

4 A I work there.

5 Q Is this your car?

6 A Yes.

7 Q Is this when the police first came up to you?

8 A Yes.

9 Q You parked. You went into the salon. Then the

10 police arrived shortly after?

11 A Yes.

12 Q Did you talk to the officer right there?

13 A Yes.

14 Q Did you tell him who -- what did you tell them?

15 A They is like, where is he? I said, I took him

16 around the corner.

17 Q You told them you took him around the corner?

18 A Yes.

19 Q You didn't know Doug's first name then, did you?

20 A No.

21 Q You were familiar with his last name?

22 A Yes.

23 Q Did you relay that last name to the police?

24 A I said, he is a Young.

25 Q Did they take you to look at a person, a suspect?

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1 A Yes.

2 Q Who did they take you to go look at? Do you

3 remember?

4 A Odell.

5 Q Odell Young?

6 A Yes.

7 Q Do you know Odell Young's relationship to the

8 defendant?

9 A Cousin.

10 Q When you looked at Odell, you told them it wasn't

11 him?

12 A Yeah.

13 Q After that, they ended up taking you to the

14 station.

15 Do you remember that?

16 A Yes.

17 Q You spoke to them?

18 A Yes.

19 Q They were asking -- this man right here, right?

20 Detective Owens?

21 A Yes.

22 Q He ended up asking you some questions?

23 A Yes.

24 Q You told him the same thing you told us?

25 A Yes.

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1 Q You didn't know his first name?

2 A No. I couldn't remember his first name.

3 Q Do you remember making some phone calls to try to
4 figure out who it was?

5 A Yes.

6 Q At first -- I will show you State's 56 and 57.
7 Take a look at this.

8 A Yes.

9 Q What are these two documents that I am showing you?

10 A My statement.

11 MR. OSBORNE: I will seek to admit 56 and 57 into
12 evidence.

13 THE COURT: Any objection?

14 MR. D'ANGELO: No objection, Your Honor.

15 THE COURT: State's 56 and 57 are in evidence
16 without objection.

17 (The aforementioned items were marked as
18 State's Exhibits 56 to 57 for identification and were
19 admitted into evidence.)

20 BY MR. OSBORNE:

21 Q I will start off by showing you 56. Is that your
22 name?

23 A Yes.

24 Q And that is your signature?

25 A Yes.

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1 Q This first line, it says you were not able to make
2 an identification, is that correct?

3 A Yes.

4 Q Do you remember looking at these individuals in the
5 lineup?

6 A Yes.

7 Q Do you know some of these people? You don't have
8 to say who.

9 A One.

10 Q But you didn't see the shooter in there?

11 A Right.

12 Q Then they showed you another lineup. I'm showing
13 you 57. Is that your signature?

14 A Yes.

15 Q I see on here, it says you were able to identify
16 Photo Number 5?

17 A Yes.

18 Q Is that your signature again by Photo Number 5?

19 A Yes.

20 Q Is that the defendant?

21 A Yes.

22 Q Did Detective Owens or any detectives with the
23 police department at all suggest to you that you should
24 pick out Number 5 or tell you to pick him out in any
25 way?

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1 A No.

2 Q After the shooting, do you remember if the
3 defendant went to the victim and removed anything from
4 him, took anything from his body?

5 A I can't recall.

6 Q Do you remember what the gun looked like?

7 A Uh-huh.

8 Q What did the gun look like?

9 A A big, black gun.

10 MR. OSBORNE: No further questions.

11 THE COURT: Mr. D'Angelo, any questions of this
12 witness?

13 MR. D'ANGELO: Yes, Your Honor.

14 THE COURT: Yes, sir.

15 MR. D'ANGELO: Thank you, Your Honor.

16 * * *

17 CROSS-EXAMINATION

18 BY MR. D'ANGELO:

19 Q Good morning, Ms. Brisbane.

20 A Good morning.

21 Q I know this is unfortunate circumstances, but it is
22 good to see you again. I know we have met on a few
23 occasions.

24 A Yes.

25 Q You have been kind enough to speak with me when I

1 have asked to speak with you.

2 A Yes.

3 Q We talked once outside the salon where you work,
4 and we spoke another time in the salon. My investigator
5 was there when we spoke?

6 A Yes.

7 Q I will ask some of the questions from the
8 conversations that you and me have had already.

9 A Yes.

10 Q Start off first with talking about what we have
11 discussed, as far as how the shooting happened.

12 You told me you were driving down Line Street to
13 work, right?

14 A Uh-huh.

15 Q The same street you go every time when you are
16 driving. It was Saturday. You were excited because you
17 had a bunch of clients lined up. Hopefully, it was
18 going to be a good money day for you.

19 A Yes.

20 Q Listening to Steve Harvey on the radio?

21 A Yes.

22 Q You stopped at the stop sign at Line and Nassau?

23 A Yes.

24 Q Looked at the stop sign. You looked up, and you
25 saw two men.

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1 A Right.

2 Q You said as you looked up -- you testified on
3 direct that you saw Doug holding a gun, and you saw
4 another individual, a white young man.

5 A Uh-huh.

6 THE COURT: I hate to interrupt, ma'am. If you
7 would just say yes or no rather than uh-huh or huh-uh.

8 The court reporter has a hard time taking it down,
9 and we have to make it clear on the record.

10 THE WITNESS: Yes.

11 THE COURT: Thank you, ma'am. I appreciate it.
12 Go ahead.

13 MR. OSBORNE: May we approach real quick, super
14 quick?

15 THE COURT: Yes.

16 (Whereupon, a bench conference was held off the
17 record and out of the presence of the court reporter.)

18 THE COURT: Go ahead.

19 BY MR. D'ANGELO:

20 Q You stopped at the stop sign on Line and Nassau?

21 A Uh-huh.

22 Q You looked up, and you saw Doug holding a gun?

23 A Yes.

24 Q And you saw a young white man?

25 A Uh-huh.

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1 Q Just as quick as you looked up, Doug fired his
2 gun?
3 A Yes.
4 Q It was rapid?
5 A Yes.
6 Q It was fast?
7 A Yes.
8 Q It was almost as if you were watching TV, a
9 rapid-fire gun was going off?
10 A Yes.
11 Q On direct -- I wrote it down, because it was
12 important -- Mr. Osborne asked you, was there a pause or
13 was it like bam, bam, bam.
14 You said it was bam, bam, bam.
15 A Yes.
16 Q You honked your horn?
17 A Yes.
18 Q Tried to stop?
19 A Yes.
20 Q You didn't know why he was shooting?
21 A No.
22 Q As you were honking the horn, Doug is firing the
23 gun?
24 A Yes.
25 Q It's rapid. It's all happening at the same time?

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1 A Yes.

2 Q After you watched this, you drove your car through

3 the intersection?

4 A Yes.

5 Q You got past the house?

6 A Uh-huh.

7 Q The house I am talking about, [REDACTED] Line

8 Street?

9 A Yes.

10 Q That is the house on the corner, you drove your car

11 past that house?

12 A Yes.

13 Q You rolled down your window?

14 A Yes.

15 Q You said to Doug, why did you do that?

16 A Something like that.

17 Q You stopped your car?

18 A Yes.

19 Q Doug turned and didn't immediately recognize who it

20 was?

21 A Right.

22 Q He recognized the car and got into your car?

23 A Right.

24 Q Doug wasn't pointing the gun at you. Doug gets in

25 your car?

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1 A Yes.

2 Q Mr. Osborne asked, where was the gun? You said it

3 was on his lap.

4 A Uh-huh. Yes.

5 Q Doug wasn't holding you at gunpoint while you were

6 driving?

7 A No.

8 Q He asked you where to drive him?

9 A Yes.

10 Q And you drove him there?

11 A Yes.

12 Q And you let him off?

13 A Yes.

14 Q You didn't call 911 at that point?

15 A No.

16 Q You drove back and you picked up Gerald Young?

17 A Yes.

18 Q You went to drop Gerald Young off at Duke's Court?

19 A Yes.

20 Q That is at the corner of Line and Nassau?

21 A Yes.

22 Q You back through the intersection of Line and

23 Nassau, and the police were already there at that time?

24 A Yes.

25 Q You didn't stop to speak with them?

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- 1 A No.
- 2 Q You drove back to your work?
- 3 A Yes.
- 4 Q Once you were at work, the officers came and
- 5 located you there?
- 6 A Yes.
- 7 Q After that you ultimately went -- as Mr. Osborne
- 8 said, you spoke to Detective Owens?
- 9 A Yes.
- 10 Q They brought you to police headquarters?
- 11 A Yes.
- 12 Q You were there for hours?
- 13 A Eight.
- 14 Q Eight hours they had you in a tiny little room?
- 15 A Yes.
- 16 Q You were scared?
- 17 A Yes.
- 18 Q Talking with the police?
- 19 A Uh-huh, yes.
- 20 Q Nerve racking for you?
- 21 A Yes.
- 22 Q You had just seen something that made you nervous?
- 23 A Yes.
- 24 Q You spoke with Detective Owens?
- 25 A Yes.

1 Q Over eight hours they went through all kinds of the
2 questions with you?

3 A Yes.

4 Q Mr. Owens took great steps to go through slowly
5 through the details with you?

6 A Yes.

7 Q Mr. Owens was trying to get out every little
8 detail from you?

9 A Yes.

10 Q You went through your statement with him multiple
11 times, didn't you?

12 A Yes.

13 Q You never once told anything to Detective Owens
14 about seeing the white young man standing there with his
15 hands out, did you?

16 A They never asked me that.

17 Q You never told him that you saw the young white man
18 standing there with his hands out, did you?

19 A I said he had his hands down.

20 Q You never told Detective Owens that he was
21 standing there with his hands down, did you?

22 A I had to.

23 Q You had to have told him that?

24 A Yes. That is what I seen.

25 Q Your testimony is that you did tell Detective Owens

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1 the young white man was standing there with his hands
2 down when it happened?

3 A I had to tell him that. He asked me what I seen,
4 and I tell him what I seen.

5 Q As you just said, you told Detective Owens what you
6 saw?

7 A Uh-huh.

8 Q As you were standing and looked up, you saw Doug
9 with the gun. Doug fired that gun?

10 The second you looked up, it was immediate. Doug
11 fired that gun rapid, yes?

12 A Yes.

13 Q You don't know why Doug fired that gun, do you, Ms.
14 Brisbane?

15 A No.

16 Q You don't know what words were being said between
17 those two men?

18 A No.

19 Q You don't know even if as you were looking at those
20 two men they were saying something to each other?

21 A No.

22 Q Ms. Brisbane, you don't know what happened the five
23 hours before you Doug pulled that trigger?

24 A No.

25 Q You don't know what happened five minutes before

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1 Doug pulled that trigger?

2 A No.

3 Q You don't know what happened five seconds before

4 Doug pulled that trigger?

5 A All I know is what I seen.

6 Q Five seconds before you what you saw, you don't

7 know what happened?

8 A No. I just saw the actual shooting. I don't know

9 what happened between them.

10 MR. D'ANGELO: Brief moment, Your Honor?

11 THE COURT: Sure.

12 MR. D'ANGELO: Nothing further, Your Honor.

13 THE COURT: Anything on redirect?

14 MR. OSBORNE: Very briefly.

15 * * *

16 REDIRECT EXAMINATION

17 BY MR. OSBORNE:

18 Q I want to make sure that I understood this

19 correctly now. Mr. D'Angelo was asking you about that

20 everything was happening quickly?

21 A Yes.

22 Q Is that correct?

23 A Yes.

24 Q You are referring to the gunshots?

25 A Yes.

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1 Q Is it fair to say that when you looked up at that
2 stop sign, you had enough time to see this defendant
3 pointing a gun?

4 A Uh-huh.

5 Q And you had enough time to digest that information
6 in your mind, and you had enough time to react to what
7 you were seeing?

8 A Right.

9 Q You had enough time to honk your horn several times
10 trying to get him to stop?

11 A Right.

12 Q You did all of that?

13 A Uh-huh? Yes.

14 Q So snap, snap, snap, the gunshots were quick?

15 A Yes.

16 Q But what you saw actually took time. It took time
17 from when he is holding the gun to when he made the
18 decision to fire.

19 A It happened just that quick.

20 Q Just honking your horn all of those times?

21 A Yes.

22 Q How many times do you think you were able to honk
23 your horn before he fired?

24 A I laid on the horn.

25 Q How many seconds do you think went by before he

1 fired?

2 A I don't know. I just kept honking. He wouldn't
3 stop. Once he saw me, I started honking my horn, and --

4 Q Did you see anyone else outside, other than those
5 two people?

6 A Only them.

7 Q Just those two?

8 A Yes. Other people might have been out there, but I
9 didn't see them.

10 Q Mr. D'Angelo said he never pointed the gun at
11 you. Right after the shooting when you stopped, he did
12 for a second point the gun at you?

13 A A second, yes.

14 Q Thank God he knew who you were?

15 A Yes.

16 Q Mr. D'Angelo said you were in a police station for
17 several hours. You were not -- it's not like he was
18 talking to you that whole time, right?

19 A No.

20 Q In fact, you were in there for a long time by
21 yourself?

22 A Yes.

23 Q I think they even brought, for what it's worth, a
24 sandwich, some Jersey Mikes?

25 A Yes.

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1 Q Was he mean to you in any way?

2 A No.

3 Q Lastly, Mr. D'Angelo asked you that you don't know
4 why the defendant decided to take the victim's life.

5 You don't know why, do you?

6 A No.

7 Q In fact, you asked him, why did you do that, didn't
8 you?

9 A Yeah.

10 MR. OSBORNE: No further questions.

11 THE COURT: Anything object on recross?

12 MR. D'ANGELO: Brief moment, Your Honor.

13 Nothing further, Your Honor.

14 THE COURT: You may step down. Thank you, ma'am.

15 (Whereupon, the witness exited the witness stand.)

16 MR. OSBORNE: We are fine with Ms. Brisbane being
17 leased.

18 MR. D'ANGELO: No objection.

19 THE COURT: Ms. Brisbane, you are excused from your
20 subpoena.

21 Is the State ready to call its next witness?

22 MS. ELLIOTT: The State calls Sarah Gladwell.

23 * * *

24 SARAH GLADWELL,

25 called as a witness by and on behalf of

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1 the State to testify, being first duly
2 sworn was examined and testified as follows:

3 * * *

4 DIRECT EXAMINATION

5 BY MR. OSBORNE.

6 Q Please be seated. For the record, please state
7 your name, spelling your last name.

8 A Sarah Gladwell, G-l-a-d-w-e-l-l.

9 Q Good morning. Where are you employed?

10 A With the City of Charleston Police Department,
11 Crime Scene Unit.

12 Q How long have you been with CPD?

13 A Almost ten years.

14 Q What is your specific job with them?

15 A I am a crime scene investigator. We respond to
16 various crime scenes, collect evidence, take
17 photographs, that kind of stuff.

18 Q Was that your position in August 2017?

19 A Yes, ma'am.

20 Q As part of your duties, does that include handling
21 evidence for transfer?

22 A Yes, ma'am.

23 Q When you come into possession of evidence, do you
24 check it to make sure it was properly sealed in the
25 package?

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1 A Yes. It has already been packaged and sealed. If
2 we take evidence from anybody else, we make sure it's
3 properly sealed and has the correct initials on it and
4 marked how it should be.

5 Q I will show you six pieces of evidence.

6 State's 31, 32, and 33.

7 Next is 48, 49.

8 Lastly, I am showing you what has been marked for
9 identification as State's 52. Do you recognize these
10 items?

11 A Yes, I do.

12 Q Did you come into possession of them on September
13 15, 2017?

14 A Yes, ma'am, I did.

15 Q Who gave you State's 31, 32, 33?

16 A I received these from Brandon Hinton (phonetic) in
17 our evidence unit.

18 A Yes.

19 Q Did you receive all six items from Brandon?

20 A Yes, ma'am.

21 Q What did you do with the evidence once it came
22 into your possession?

23 A Once it came into my possession, I transported the
24 items to our state lab in Columbia, SLED.

25 Q When did you do that?

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1 A September 15, 2017.

2 Q When you came into possession of those items, did
3 they appear to be tampered with or damaged in any way?

4 A No, ma'am.

5 Q If they had been tampered with or it appeared that
6 the seals had been broken, would you have taken
7 possession of that?

8 A No, ma'am. I wouldn't have accepted them.

9 Q While in possession of those items, did you alter,
10 tamper, or damage those items in any way?

11 A No, ma'am.

12 Q Do they appear to be, for the most part, in the
13 same condition as when you received them?

14 A Yes, ma'am.

15 MS. ELLIOTT: Thank you, Ms. Gladwell. Those are
16 all the questions I have for you.

17 THE COURT: Anything on cross-examination?

18 MR. D'ANGELO: No, Your Honor.

19 THE COURT: You may step down. Thank you, ma'am.
20 State ready to call its next witness?

21 MS. ELLIOTT: Yes, Your Honor. We would call Luke
22 Spratt.

23 * * *

24 LUKE SPRATT,

25 called as a witness by and on behalf of

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1 the State to testify, being first duly
2 sworn was examined and testified as follows:

3 * * *

4 DIRECT EXAMINATION

5 BY MS. ELLIOTT:

6 Q Please be seated. For the record, state your name,
7 spelling your last name.

8 A Luke Spratt, S-p-r-a-t-t.

9 Q Mr. Spratt, where do you work?

10 A I work for the Charleston Police Department.

11 Q How long have you been with the Charleston Police
12 Department?

13 A I have been there four-and-a-half years.

14 Q What is your job with them?

15 A I am a crime scene investigator.

16 Q What are some of the duties of being a crime scene
17 investigator?

18 A We respond to various scene throughout the city.
19 We process and take photographs, we collect and handle
20 the evidence that we find.

21 Q Does part of your job also include handling
22 evidence and transferring evidence?

23 A Yes.

24 Q And when you come into possession of evidence, do
25 you check it to make sure that it has been sealed

1 properly and packaged and you take it into your
2 possession?

3 A Yes.

4 Q I will show you what has been previously admitted
5 as State's 53. Do you recognize that?

6 A Yes.

7 Q On November 13, 2018 did you come into possession
8 of that, State's Exhibit 53?

9 A I did.

10 Q Who gave you that evidence.

11 A Brandon Hinton, an evidence custodian with the
12 police department.

13 Q What did you do with that piece of evidence once
14 you received it?

15 A I transported it to SLED, our state lab in
16 Columbia.

17 Q When did you do that?

18 A That morning. I took it at 8:27. It was submitted
19 at 10:57.

20 Q That was on November 13?

21 A Yes.

22 Q When you came into possession of this item, did it
23 appear to be tampered with or damaged in any way?

24 A No.

25 Q If it had been, what would you have done?

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1 A I wouldn't have taken it into my custody.

2 Q While you had possession of this, did you alter,
3 tamper with, or damage it in any way?

4 A No.

5 Q Does it substantially appear in the same condition
6 as when you last saw it?

7 A Yes.

8 MS. ELLIOTT: No further questions, Your Honor.

9 THE COURT: Anything on cross?

10 MR. D'ANGELO: Nothing on cross, Your Honor.

11 THE COURT: You may step down. Thank you, sir.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: Is the State prepared to call its next
14 witness?

15 MR. OSBORNE: Yes, Your Honor. The State calls
16 Investigator Chuck Jolliff.

17 * * *

18 CHARLES JOLLIFF,

19 called as a witness by and on behalf of

20 the State to testify, being first duly

21 sworn was examined and testified as follows:

22 * * *

23 DIRECT EXAMINATION

24 BY MR. OSBORNE:

25 Q Please have a seat. For the record please, state

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1 your name and spell your last name.

2 A My name is Charles Jolliff, spelled J-o-l-l-i-f-f.

3 Q Investigator Jolliff, just briefly, what is your
4 law enforcement background?

5 A I have been a police officer with the Mt. Pleasant
6 Police Department from '93 to '96. I joined the
7 Charleston Police Department in '97 to 2017. Now I am
8 here as an investigator with the Solicitor's Office.

9 Q Are you my investigator?

10 A Yes, sir.

11 Q We work together?

12 A Yes.

13 Q A lot of times do you see the need to take evidence
14 up to SLED?

15 A Yes.

16 Q Did you do that in this case?

17 A I did.

18 Q I will show you 22, 23, 24, 25, and 50 and 51.
19 Do you recognize those items?

20 A I do.

21 Q On November 20 of this year, did you take those
22 items up to SLED to be analyzed?

23 A Yes, from the Charleston Police Department to
24 SLED.

25 Q Did it appear as though it has been tampered,

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1 altered in any sort of way?

2 A No.

3 MR. OSBORNE: No further questions.

4 THE COURT: Any questions of this witness?

5 MR. D'ANGELO: No, Your Honor.

6 THE COURT: You may step down. Thank you, sir.

7 (Whereupon, the witness exited the witness stand.)

8 THE COURT: Is the State prepared to call its next
9 witness?

10 MR. OSBORNE: Yes, Your Honor. The State calls
11 Michelle Eichenmiller.

12 * * *

13 MICHELLE EICHENMILLER,

14 called as a witness by and on behalf of

15 the State to testify, being first duly

16 sworn was examined and testified as follows:

17 * * *

18 DIRECT EXAMINATION

19 BY MR. OSBORNE:

20 Q Please be seated. For the record, please state
21 your name, spelling your last name.

22 A Michelle Eichenmiller, E-i-c-h-e-n-m-i-l-l-e-r.

23 Q Thank you for coming down, Ms. Eichenmiller. Tell
24 the jury, where do you work?

25 A South Carolina Law Enforcement Division, commonly

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1 known as SLED. I work in the forensic lab in the
2 firearms department.

3 Q How long have you been with SLED?

4 A Approximately 13 years.

5 Q What type of work do you do in the Firearms
6 Identification Division?

7 A The Firearms Department is responsible for any
8 evidence from crime scenes that is brought to the lab
9 from any agency in South Carolina. We compare fired
10 bullets to fired cartridge cases to firearms if we
11 receive them.

12 If we receive them in the lab, it can possibly
13 tell us how many weapons were used at the scene and
14 possibly what kind of firearm fired a bullet.

15 We also do other examinations, tool marks and
16 serial number restorations.

17 Q You are kind of giving it away. That is why we
18 asked you to come here, to tell us how many guns were
19 used in this incident.

20 Before we get to that, what is your educational
21 background?

22 A I have a Bachelor's degree in Biology. I have a
23 Master's of Science in forensic science.

24 Q Have you received any specialized training in the
25 area of firearms identification?

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1 A I have. In order to be a firearms examiner, you
2 can't really go to school for it. You have to get hired
3 somewhere, and then learn from the hiring agency.

4 I did the SLED inhouse training program.

5 THE COURT: I need to ask you to please slow down.
6 The court reporter is looking at me. So if you don't
7 mind, please just speak a little slower. I appreciate
8 it, and I do appreciate your talking loudly. You are
9 doing a good job today. Keep that up. Thank you,
10 ma'am.

11 THE WITNESS: The SLED inhouse training program is
12 about three to four years. We study with the examiners
13 that were There. I also did a lot of reading and
14 testing on my own.

15 I also did a lot of microscopic comparisons on my
16 own. At the end of the three- to four-year program, I
17 took a test. I passed it. Then they said I could do
18 casework on my own.

19 Q I will just ask you. Have you ever been qualified
20 as an expert in the field of firearms identification?

21 A I have.

22 Q How many times?

23 A Approximately 85.

24 Q In what courts?

25 A General Sessions Court of South Carolina.

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1 MR. OSBORNE: Your Honor, at this time we would
2 offer Ms. Eichenmiller as an expert in the field of
3 firearms identification.

4 THE COURT: Any objection?

5 MR. D'ANGELO: No objection, Your Honor.

6 THE COURT: Ladies and gentlemen of the jury, Ms.
7 Eichenmiller has been qualified as an expert in firearms
8 identification. You remember I read to you the things
9 about experts.

10 Do you want me to read that again? Let the record
11 reflect the jury does not want me to read that again.
12 Let me just remind you, as a qualified expert, she can
13 give an opinion, but you are to consider her testimony
14 like any other witness' testimony and give it the weight
15 that you believe it deserves. Thank you-all.

16 Go ahead.

17 MR. OSBORNE: Thank you, Judge.

18 BY MR. OSBORNE:

19 Q So how do you go about matching a shell casing or a
20 fired bullet from to one another to see if it was fired
21 from the same gun?

22 A The basic tool that I use in my examination is a
23 comparison microscope. It's basically two separate
24 microscopes connected by an optical bridge, which looks
25 like binoculars. So I can put a cartridge case or a

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1 bullet on one side and a cartridge case or bullet on the
2 other side. The magnification can go up and down,
3 lighting can be changed.

4 Then I evaluate the marks that I see to determine
5 if they were fired by the same firearm.

6 Q Did you have the occasion in this case under your
7 lab number, L17-13997, to be provided some evidence for
8 this case?

9 A I did.

10 Q Because we have planned this so well, I think you
11 have all of the evidence right there in front of you.
12 Take a look at State's Exhibits 22 to 25, 50 and 51.

13 Tell me if you recognize these items.

14 A Whenever I receive evidence in a case, I will mark
15 it with the lab number, the item number, and my
16 initials. When I am finished, I will heat seal with it
17 with my initials.

18 This is the evidence I examined in this case.

19 MR. OSBORNE: Your Honor, at this time I would
20 seek to move 50 and 51 into evidence. There if there an
21 objection, we would like to do it under Rule 106.

22 THE COURT: Any objection?

23 MR. D'ANGELO: No objection, Your Honor.

24 THE COURT: Exhibits 50 and 51 are in evidence
25 without objection.

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1 (The aforementioned items were marked as
2 State's Exhibits 50 to 51 for identification and
3 were admitted into evidence.)

4 BY MR. OSBORNE:

5 Q When you came into possession of these items and
6 you began your analyzing them, how did you go about
7 doing that? What was your process?

8 A When I first receive evidence, I will take pictures
9 of it. We have worksheets we fill out. It has the
10 basic information, such as what the head stamp is, which
11 is who made it; the caliber. Then I will look at it
12 under the microscope to try to determine how many
13 firearms are involved.

14 Q Let's talk about 22 through 25, the cartridge
15 casings. Can you tell me what the caliber was for each
16 one of those?

17 A They were all .9 Luger cartridge cases.

18 Q Did they all have the same head stamp, or were
19 they different?

20 A Item 22, State's Exhibit 22, had a Winchester head
21 stamp. 23 and 24 had a Precision Ammunition, Reduced
22 Hazard head stamp. Then 25 has a PPU head stamp, which
23 is a servant company.

24 Q So three different bullets?

25 A Three different manufacturers.

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1 Q Okay. When you went through your process of
2 microscopically analyzing those fired cartridge cases,
3 what conclusions, if any, were you able to draw?

4 A My conclusions after examining them was that they
5 had matching individualized identifying characteristics.
6 In my opinion, they were fired by one firearm.

7 Q All four?

8 A Yes.

9 Q Let's talk about 50 and 51. These are bullets or
10 fragments which were recovered from the autopsy.

11 Did you examine those in any way?

12 A I did. Whenever we receive bullets, we do the same
13 thing. We take pictures. I have a worksheet that I
14 fill out. Basic information, how many lands and grooves
15 it has, what direction of twist, what kind of rifling it
16 was, and caliber, if I can determine it.

17 Q What conclusions, if any, were you able to draw
18 from your analysis?

19 A State's Exhibit 50, my Item 13, was consistent with
20 being a nominal .38 bullet, which includes .9 among
21 other calibers. It was also fired through a
22 conventionally rifled barrel with six grooves, right
23 twist.

24 Q That was 50?

25 A Yes.

1 Q What about 51? Anything?

2 A 51 was too small to do anything with. I just
3 weighed it. It didn't have any marks on it that I could
4 use for identification.

5 Q So 50 is consistent with a 9. Is there any way to
6 compare that bullet to a shell casing?

7 A No. There is no test for that.

8 MR. OSBORNE: No further questions.

9 THE COURT: Any questions of this witness?

10 MR. D'ANGELO: No questions.

11 THE COURT: Thank you, ma'am. You may step down.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: Is the State prepared to call its next
14 witness?

15 MS. ELLIOTT: Yes, Your Honor. The State calls
16 Sarah Zapata.

17 * * *

18 SARAH ZAPATA,
19 called as a witness by and on behalf of
20 the State to testify, being first duly
21 sworn was examined and testified as follows:

22 * * *

23 DIRECT EXAMINATION

24 BY MS. ELLIOTT:

25 Q Be seated. For the record, state your name and

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1 spelling your last name.

2 A Sarah Zapata, Z-a-p-a-t-a.

3 Q Good morning, Ms. Zapata. Tell us where you are
4 employed.

5 A At the South Carolina Law Enforcement Division,
6 commonly known as SLED.

7 Q I will ask you to speak up a little bit for us.
8 How long have you been employed with SLED?

9 A I have been at SLED for about four-and-a-half
10 years.

11 Q What is your job with SLED?

12 A I am a forensic scientist in the DNA Casework
13 Department.

14 Q What are the duties of that job?

15 A The DNA Casework Department receives evidence from
16 different police agencies in South Carolina. We take
17 that DNA evidence through our standard laboratory
18 procedures to develop a DNA profile and perform the same
19 laboratory procedures on any known standards submitted
20 to make comparisons between the evidence profiles and
21 the standards and then calculate statistics and issue a
22 report.

23 Q Will you tell us a little bit about your
24 educational background.

25 A I have a Bachelor's of Science in forensic science

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1 from Pennsylvania State University.

2 Q Have you had any additional training beyond
3 college than enables you to do your job?

4 A Yes. Once we are employed at SLED, we go through a
5 training process for approximately year and a half.
6 That is under another court-qualified DNA analyst. We
7 are trained in all of the different laboratory
8 procedures that we need to use to perform our job
9 duties.

10 We take several written exams, an oral exam, and we
11 do several mock cases and have a mock trial. Once we
12 have successfully completed all of that, we take a
13 competency test that encompasses all of those things.
14 Once we have passed all of that, we are able to do
15 casework.

16 Q Do you have to do any continuing education in the
17 area of DNA analysis?

18 A Yes. We are required to have eight year hours of
19 continuing education a year.

20 Q As an estimate, how many times would you say you
21 you have tested DNA samples in your career?

22 A I don't have a number for an exact sample number,
23 but I have completed about 300 hundred cases, and there
24 were several items per case.

25 Q If there were four items per case, that would be

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1 over 1,000 in your career so far?

2 A Yes.

3 Q Have you ever been qualified as an expert in the
4 area of DNA analysis before?

5 A I have.

6 Q How many times and in what courts?

7 A About ten times. Two were in hearings, and once
8 was Family Court. The others were General Sessions.

9 MR. OSBORNE: Your Honor, at this time the State
10 would offer Ms. Zapata as an expert in DNA analysis.

11 THE COURT: Any objection?

12 MR. D'ANGELO: No objection, Your Honor.

13 THE COURT: All right. Ms. Zapata is qualified as
14 an expert in DNA analysis. I will not repeat that all
15 again unless somebody raises their hand and the jury
16 wants me to repeat it.

17 Let the record reflect no hands were raised.

18 Go ahead.

19 BY MS. ELLIOTT:

20 Q Ms. Zapata, can you explain for us the basic,
21 everyday terms of what DNA is?

22 A DNA is the chemical that is found in all cells in
23 our bodies except for red blood cells. We receive half
24 of our DNA from our mom and half from our dad. That
25 combination of our parents' DNA is unique to us, with

1 the exception of identical twins.

2 Q In reference to this case, did you or somebody at
3 SLED receive items to be tested for DNA?

4 A Yes. Items were received by different evidence
5 control technicians and logged into our system. Then I
6 received the evidence bags from the evidence
7 technician.

8 Q The items from your left are State's 52, 53, 31,
9 32, 33, 49 and 48.

10 Let's start with State's 52 and 53. SLED Items 1
11 and 8.

12 A Okay.

13 Q Do you recognize those?

14 A I do.

15 Q What are they?

16 A Both are known standards in this case. Item 1 or
17 State's 52 is a buccal swab from Douglas Young.

18 Item 8 or State's 53 is a blood standard from
19 Christopher Mullen.

20 Q What is a known standard?

21 A A known standard is a sample that is taken from a
22 known person so that we can use it to compare to the
23 unknown evidence profiles.

24 Q When you came into possession of State's 52 and 53,
25 how did you come into possession of it?

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1 A I requested the evidence from our evidence control
2 technicians. They will retrieve the evidence from the
3 controlled evidence room and transfer that evidence to
4 me.

5 Q When you received it, was it packaged and sealed?

6 A Yes.

7 Q When you received it, did the seals on this appear
8 to be damaged, tampered with, or altered in any way?

9 A No. They did not.

10 Q If it had, would you have accepted it?

11 A No.

12 MS. ELLIOTT: Your Honor, at this time I would move
13 into evidence State's 52.

14 THE COURT: Any objection?

15 MR. D'ANGELO: No objection, Your Honor.

16 THE COURT: State's 52 is in evidence without
17 objection.

18 (The aforementioned item was marked as
19 State's Exhibit 52 for identification and was
20 admitted into evidence.)

21 BY MS. ELLIOTT:

22 Q I would like to draw your attention now to State's
23 31, 32, and 33. What are those?

24 A These are swabs from the beer cans.

25 Q How did you come into possession of those?

1 A The same as with the standards, I requested the
2 items of evidence from the evidence technicians and
3 retrieved the items from them.

4 Q When you received them, did they appear to have
5 been damaged, tampered with, or opened? Were the seals
6 broken?

7 A No.

8 Q If they had been, what would you have done?

9 A I wouldn't have accepted them.

10 Q Now that we have gotten through that, what type of
11 testing did you do on -- first of all, let's talk about
12 this. What do you do with the known standards?

13 A Typically, we will work the evidence items first.
14 We will take the evidence items through our laboratory
15 procedures. In this case, they were swabs from the beer
16 can, these ones that we are talking about.

17 So basically just a sterile Q-Tip, and we will,
18 through our procedures, isolate the DNA from the Q-Tips
19 so we are just working with the DNA. Then we develop a
20 DNA profile from that, and then make our interpretation
21 to determine if it's suitable for comparison.

22 If it is, we will run the standards to the same
23 laboratory procedures, developing a profile from that
24 and then make any comparisons.

25 Q That is what you did with both the known standards

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1 and the swabs from the beer cans?

2 A Yes.

3 Q What conclusions were you able to draw when
4 analyzing State's Exhibits 31, 32, 33?

5 A Are we just looking at the first report?

6 Q Yes.

7 A In the initial report, State's 31, Item 2, the DNA
8 profile is an unidentified male individual. At that
9 time, I only had one standard.

10 Q That was which standard?

11 A From Douglas Young.

12 Item 3, is State's 32.

13 The results of that DNA profile is a mixture of at
14 least two individuals. The major DNA profile of the
15 major contributor matches the DNA profile of Douglas
16 Young. The probability of randomly selecting an
17 unrelated individual having a DNA profile matching the
18 major contributor to this mixture is approximately, 1.1
19 octillion. The personal DNA profile of the minor
20 contributor is insufficient for interpretation.

21 State 33's is SLED's 4?

22 Q Yes.

23 A The result for that is the DNA profile matches the
24 DNA profile of Douglas Young. The probability of
25 randomly selecting unrelated individuals having a DNA

1 profile matching this item is approximately is 1 in 14
2 octillion.

3 Q Give us a context of what an octillion is.

4 A In the population of the world in 2017, it was
5 about 6.6 billion. So all the way up to octillion.

6 Q Do you know how many zeros are in octillion?

7 A I think it's 27.

8 Q A lot?

9 A Yes.

10 Q Those came back as showing Douglas Young's DNA
11 profile?

12 A The DNA profile from Douglas Young matched the DNA
13 profiles from the major contributor from Item 3 and from
14 my report.

15 Q Let's move on to State's Exhibit 49 and 48.

16 Those would have been SLED's Numbers 6 and 5.

17 Do you recognize those?

18 A I do.

19 Q How did you receive them?

20 A The same as the other items of evidence. I
21 requested them from our evidence control technicians,
22 and they bring it to me from the evidence control room
23 and transfer them to me.

24 Q Same with the other items? Did the packaging
25 attached appear to be tampered with in any way or the

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1 seal broken?

2 A Everything was intact or I would not have worked on
3 them.

4 Q What type of testing did you do on these items?

5 A For those items, I carried them through the same
6 exact laboratory procedures as all the other items to
7 attempt to develop a DNA profile.

8 Q At the time of your first report that you talked
9 about, when Douglas Young was identified as the major
10 contributor to two of the beer cans -- by the time that
11 you did the second batch, had you-all changed any of
12 your procedures?

13 A I worked all the items of evidence at the same
14 time. Because in the initial report I had an
15 unidentified person, I requested a standard from Mr.
16 Mullen. When I received that standard, we had begun
17 using a different kind of statistic to get to known
18 comparisons. So the actual lab work all happened at the
19 same time for the evidence items.

20 Q You had already generated all of these profiles
21 before?

22 A Right. I had already developed all of those DNA
23 profiles.

24 Q The statistics -- that processed had changed?

25 A Right. For the first report, for Item 6, which is

1 State's 49, the DNA profile was not enough for
2 interpretation. There was not enough information there.

3 For Item 5, I could tell that it was a mixture of
4 at least two individuals, but it didn't meet the
5 requirements to calculate statistics at that time. By
6 the time I got the standards -- now we are making
7 comparisons with a new standard, we use this new
8 statistical calculation.

9 Q Was something wrong with the old method?

10 A No. It was more statistics so we could tell there
11 is a lot of information there. The guidelines for
12 calculating that statistic made it difficult to use
13 these more complicated mixtures that were not -- there
14 wasn't as much DNA present.

15 With the new Starmix method, it uses all the of the
16 information, and it allows us to make comparisons to
17 things that previously we could see there was
18 information there, but we couldn't make a comparison.

19 Q Is it fair to say, as the name might imply, Starmix
20 is better suited for when there is a mixture of more
21 than one person's DNA present?

22 A Yes. That was why we initially wanted to move
23 towards that. Now we are using it for all of our
24 statistics. So we use it on a single, source and we use
25 it on multiple people. It's really helpful when we have

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1 multiple people in a mixture.

2 Q Let's focus on State's 48 and 49, which SLED'S 6
3 and 6. Those were the swabs from the passenger's
4 door, interior and exterior.

5 What were your conclusions for those two items?

6 A For Item 6, it was still insufficient for
7 interpretation with Starmix. Just not enough
8 information there.

9 For Item 5, there wasn't enough information for a
10 calculation of the statistics in Starmix. The result
11 for that is that a DNA profile suitable for comparison
12 was developed. The likelihood ratio for this profile
13 was calculated using Starmix. We will compare each
14 standard individually to the mixture.

15 So the first comparison was Douglas Young to the
16 mixture. So for that comparison, the DNA profile was
17 interpreted as a mixture originating from two
18 individuals. Calculating statistics in Starmix, we are
19 comparing two opposing scenarios. The first scenario is
20 Douglas Young and an unidentified, unrelated individual
21 who contributed to the mixture.

22 The second is that two unidentified, unrelated
23 individuals contributed to the mixture.

24 The result is the DNA profile is approximately 99
25 times more than likely if Douglas Young and an

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1 unidentified, unrelated individual contributed to the
2 mixture than if two unidentified, unrelated individuals
3 contributed to the mixture.

4 Q So it's 99 times more likely that it is Douglas
5 Young than some unidentified person?

6 A It's 99 times more likely -- the DNA profile is
7 approximately 99 times more likely if Douglas Young and
8 an unidentified, unrelated individual contributed than
9 if two unidentified, unrelated individuals contributed
10 to the mixture.

11 Q So it's more likely that it is Douglas Young than
12 another person?

13 A Because of the way that the statistics is
14 calculated -- I think that is an oversimplification of
15 what it means.

16 Q I understand there is a lot of math. An
17 oversimplification would be that it's 99 times more
18 likely that he is there than he is not there?

19 A The DNA profile is better explained if it is a
20 combination of Douglas Young's DNA and someone else's
21 DNA than it is that it is a combination of two
22 unidentified individuals' DNA.

23 Q Okay. Did you run that same analysis related to
24 whether or not Christopher Mullen had touched the car?

25 A Yes.

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1 So I also compared Christopher Mullen, and the
2 scenarios are the same. The DNA profiles contributed as
3 a mixture of two individuals. Now it's Christopher
4 Mullen and an unidentified, unrelated individual
5 contributed to the mixture compared to two unidentified,
6 unrelated individuals contributed to a mixture. The
7 result is the DNA profile is approximately 23 times more
8 likely if two unidentified, unrelated individuals
9 contributed to the mixture than if Christopher Mullen
10 and an unidentified, unrelated individual contributed to
11 the mixture.

12 Q I will try to oversimplify this again.

13 It's more likely that two people who we have no
14 idea who they are touched that car than to say the
15 victim, Christopher Mullen touched that car?

16 A Right. The DNA profile is better explained if
17 it's a combination of two unidentified, unrelated
18 people.

19 Q I believe you used Starmix on one other item.

20 That would have been your SLED's Item 2?

21 A Yes.

22 Q Which would be State's Item 31. What did you find
23 in that process?

24 A The DNA profile suitable for comparison was
25 developed. Douglas Young is excluded as a possible

1 contributor to the DNA profile. Likely calculated was
2 using the Starmix. Here it's just one single source
3 item.

4 So the only possibilities that we are considering
5 are that Christopher Mullen contributed to the DNA
6 profile or an unidentified, unrelated individual
7 contributed to the profile. The DNA profile is
8 approximately 74 sextillion times more likely if
9 Christopher Mullen contributed to the profile than if an
10 unidentified, unrelated individual contributed to the
11 profile.

12 Q Let's get a context as to what sextillion is.

13 A That has 24 zeros.

14 Q Just to make sure we are clear. On State's Item
15 31, you found Christopher Mullen's DNA.

16 A The DNA profile is better explained if
17 Christopher Mullen contributed to the DNA profile.

18 Q There was not a mixture on that?

19 A Right. Just one person.

20 Q As to State's 32 and 33, we found Douglas Young's
21 DNA?

22 A The two beer cans, the DNA profile from the beer
23 cans matched to Douglas Young -- the other two beer
24 cans.

25 Q State's 48, it was more likely that it was Douglas

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1 Young than some unknown individual?

2 A The DNA profile is more likely if Douglas Young and
3 an unidentified individual contributed to the profile.

4 Q It's less likely than Christopher Mullen and an
5 unidentified individual?

6 A It's more likely if it's two unidentified
7 individuals than Christopher Mullen.

8 MS. ELLIOTT: I have no further questions for
9 you, Ms. Zapata.

10 THE COURT: Any questions on cross?

11 MR. D'ANGELO: Just briefly, Your Honor.

12 * * *

13 CROSS-EXAMINATION

14 BY MR. D'ANGELO:

15 Q Ms. Zapata, so the joke in law school is, I can't
16 do numbers and math. I just want to break this down
17 really quickly.

18 You were given a handful of items, right?

19 A Yes.

20 Q Some beer cans?

21 A Yes.

22 Q You were given comparisons of DNA for Mr. Douglas
23 Young and a DNA profile of Chris Mullen.

24 A I was given standards from both of them.

25 Q One of the cans -- it became more likely that Mr.

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1 Mullen's DNA was on that can. Another can it's more
2 likely that Mr. Young's DNA was on that can.

3 A Item 3 and Item 4 was Douglas Young's. Yes.

4 Q The other one was Christopher Mullen; is that
5 correct?

6 A Yes. Item 2.

7 MR. D'ANGELO: Nothing further, Your Honor.

8 THE COURT: Any questions on redirect?

9 MS. ELLIOTT: No, Your Honor.

10 THE COURT: Thank you, ma'am. You may step down.
11 I appreciate it.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: Is the State prepared to call its next
14 witness?

15 MR. OSBORNE: We are, Your Honor. As I mentioned,
16 this is going to be a little bit longer. It's Case
17 Agent Joe Owens.

18 THE COURT: I am going to let you-all go back into
19 the jury room for a second. We will discuss when lunch
20 is coming. That will help me decide whether we are
21 going to go forward with this witness or not.

22 Remember, you cannot talk about anything you have
23 heard so far.

24 (Whereupon, the jury exited the courtroom.)

25 THE COURT: All right. Do you-all want to take a

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1 break and you-all come back and we will start at 1:00?

2 Will be that be all right?

3 MR. D'ANGELO: I just have some housekeeping.

4 Where are we at in the trial, as far as do I need
5 to start getting witnesses? So Detective Owens and one
6 more witness?

7 MR. OSBORNE: The pathologist.

8 THE COURT: And that is it?

9 MR. OSBORNE: That's it.

10 THE COURT: So we should be finished by 3:00?

11 MR. OSBORNE: Easily. Yes, Your Honor. So 2:00,
12 2:30.

13 THE COURT: Okay. Are you-all prepared to call
14 witnesses this afternoon?

15 MR. D'ANGELO: We can certainly be ready.

16 THE COURT: All right. See you-all at 1:00.

17 (Whereupon, at 11:40 a luncheon recess was held.)

18 (Whereupon, the following proceedings were
19 held in open court. The defendant was
20 present with his attorney, along with
21 counsel for the State.)

22 THE COURT: Anything we need to bring up, Mr.
23 Osborne?

24 MR. OSBORNE: No, Your Honor.

25 THE COURT: Mr. D'Angelo?

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1 MR. D'ANGELO: Not from the defense, Your Honor.

2 THE COURT: Let's bring them in.

3 (Whereupon, the jury entered the courtroom.)

4 THE COURT: Thank you. Good afternoon. I hope
5 you-all enjoyed lunch.

6 We will continue now with the State's case.

7 Mr. Osborne.

8 MR. OSBORNE: The State calls Detective Joe Owens.

9 * * *

10 JOSEPH OWENS,

11 called as a witness by and on behalf of

12 the State to testify, being first duly

13 sworn was examined and testified as follows:

14 * * *

15 DIRECT EXAMINATION

16 BY MR. OSBORNE:

17 Q For the record, please state your name, spelling
18 your last name.

19 A Detective Joseph Owens, O-w-e-n-s.

20 Q Detective Owens, where are you employed?

21 A City of Charleston Police Department.

22 Q How long have you been with the City of Charleston?

23 A Eight years.

24 Q What have been some of your various positions while
25 at CPD?

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1 A Patrol, Power Squad Unit, Central Investigations
2 while I worked on the Field Intelligence Unit, and
3 currently on the Violent Crimes Unit.

4 Q You mentioned a couple of units. What did you do
5 on the Power Squad unit?

6 What were your responsibilities there?

7 A That was a direct effort patrol. It was a
8 proactive patrol unit that focused on higher crime
9 areas. It mainly dealt with violent crime, those crimes
10 that were identified through the Crime Intelligence
11 Unit, which created hot spots and mapping throughout
12 various parts of the city. Those were based on crimes
13 occurring in higher areas of risk.

14 Q You transitioned into the Field Intelligence Unit.
15 What did you do when you were in that unit?

16 A That is an undercover unit. It has gone through
17 some changes throughout the years. In my time in that
18 unit, it was more of a support role. A lot of
19 surveillance operations. We also maintain the career
20 criminal monitoring list, which certain individuals
21 throughout the city got placed on this monitoring list
22 based on certain criteria:

23 Certain number of arrests in three to five years;
24 certain number of violent crime arrests; certain number
25 of firearms arrest; multiple criteria points that the

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1 defendant has to meet to be placed on this monitoring
2 list. I was one who monitored things in the Field
3 Intelligence Unit.

4 Q You said that you then transferred. You applied
5 and were then accepted into the Violent Crimes Unit.

6 A Correct.

7 Q You currently work there now?

8 A Correct.

9 Q Violent crimes, murders, shootings, armed
10 robberies, violent crimes?

11 A Yes, sir.

12 Q Back on August 12, 2017, were you in the Violent
13 Crimes Unit then?

14 A Yes, sir.

15 Q What is your involvement with this case?

16 A I was assigned as the case agent on this case.

17 Q I think it might be a little bit obvious, but in
18 practical terms, what are some of your duties and
19 responsibilities as being the case agent to a case,
20 especially like a murder case?

21 A Anytime a murder occurs in the City of Charleston,
22 our unit, the Violent Crimes Unit is tasked with
23 handling that case, investigating it, seeing it through
24 to its end. In the beginning it's a lot of
25 investigative resources. It's a team approach. It's an

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1 all-hands-on-deck thing.

2 However, a case agent is identified. In this case
3 it was me. From that point, I become a point of contact
4 for all information that came in throughout the
5 investigation. I become the point of contact for
6 evidence to be analyzed and sent to SLED.

7 I also become a point of contact for the
8 Solicitor's office, any follow-up information or parts
9 of the case that might be needed to further be looked
10 into or provided to the Prosecutor's office.

11 Q Point of contact. You are familiar with the case.
12 You are the guy who runs the case; is that fair to say?

13 A Yes, sir.

14 Q We have heard some testimony from the 911
15 custodian, Tonya Mallette. We actually heard the 911
16 call from Ms. Zoe Whittaker.

17 What time was that call placed?

18 A 8:41 a.m.

19 Q What time did the first responder arrive on scene?

20 A 8:43 a.m.

21 Q 8:41 to 8:43?

22 A Correct.

23 Q There was some testimony from Ms. Kathy Brisbane
24 that was elicited from the defense regarding the
25 interview with her. I just want to ask you a couple of

1 questions. I don't need to get into what was said. I
2 want to ask some questions about the interview in
3 general.

4 The question was asked -- you were asked, Ms.
5 Brisbane was asked -- you interviewed her, right?

6 A Yes, sir.

7 Q The question was asked that over this entire period
8 of hours and hours and hours, you went over what you saw
9 multiple times, and she said, yes, is that correct?

10 A Yes.

11 Q Generally speaking, about how long during this
12 entire time that you were there -- how long were you-all
13 actually talking about what she saw?

14 A As far as the actual details of the incident, it
15 was approximately ten minutes.

16 Q What were you talking about the entire time after
17 that? Understanding that she was by herself a lot of
18 times, but when you did talk to her, what were you-all
19 talking about?

20 A At that point my main focus was identifying the
21 murderer in this case.

22 Q Fair to say, that is the bulk of what you-all were
23 trying to do; trying to figure out who the killer was?

24 A Correct.

25 Q Let's get into what you did personally in this

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1 murder investigation.

2 About when were you notified about the murder?

3 A I was at home. I received a phone call about 9:30
4 a.m.

5 Q Then you responded in to work?

6 A I did.

7 Q Did you have occasion to respond to the actual
8 murder scene?

9 A Not initially. I was notified that a witness was
10 identified, identified as Kathy Brisbane; that she was
11 being transported to our police headquarters. I was
12 also aware that other detectives were on the scene
13 processing the crime scene at that location.

14 I was redirected to police headquarters to conduct
15 that interview with Kathy Brisbane.

16 Q Is it fair to say that that is pretty common for
17 the case agent to -- if you have an eyewitness, you want
18 to do that interview?

19 A Yes, sir.

20 Q Start off by showing you State's Exhibit 4.

21 You are familiar with this photograph, obviously?

22 A Yes.

23 Q Let's talk a second about this. We have heard a
24 little bit about it. This murder occurred in what area
25 of Charleston? What is it commonly referred to, I

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1 guess?

2 A It's commonly referred to the east side.

3 Q How would you describe the neighborhood of the east
4 side?

5 A Traditionally, it's one of the most violent crime
6 areas of the City of Charleston. It is becoming better.
7 There is housing that is being redone in the area.
8 However, there is still quite a bit of violence in the
9 east side portion of Charleston.

10 Q When you worked on the Power Squad and you worked
11 in the Field Intelligence Unit, is it fair to say that
12 you became familiar with the east side?

13 A Yes.

14 Q Through your experience in the Field Intelligence
15 Unit and with the Violent Crimes Unit, did you find that
16 citizens living on the east side were generally
17 forthright and welcoming police and wanting to talk to
18 them?

19 A No.

20 MR. D'ANGELO: Relevance, speculation.

21 THE COURT: Do you mind repeating the question?

22 MR. OSBORNE: Not at all.

23 BY MR. OSBORNE:

24 Q Through your personal experience working in
25 both/all -- the Power Squad, the Field Intelligence

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1 Unit, the Violent Crimes Unit -- did you have a lot of
2 experience with working on the east side, in those
3 units?

4 A Yes.

5 THE COURT: That is the question?

6 MR. D'ANGELO: That was not the way the question
7 was phrased. The way that question is phrased, I don't
8 have an objection.

9 THE COURT: Okay. Thanks for rephrasing it.

10 BY MR. OSBORNE:

11 Q Next question.

12 In so dealing with the east side and people and
13 citizens who reside on the east side, did you find that
14 they were generally forthright and welcoming and wanting
15 to talk to the police?

16 MR. D'ANGELO: That, Your Honor; objection.
17 Speculation.

18 THE COURT: Again, I hate to ask you to repeat the
19 question one more time.

20 BY MR. OSBORNE:

21 Q Through your experience in the Power Squad and the
22 Violent Crimes Unit and the Field Intelligence Unit and
23 communicating and dealing with the citizens who live on
24 the east side, do you find that they are generally
25 forthright, welcoming, inviting in talking to the

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1 police?

2 MR. D'ANGELO: Your Honor --

3 THE COURT: Before you make -- you may get your
4 chance. All right. You say that is speculative?

5 MR. D'ANGELO: Correct, Your Honor.

6 THE COURT: I think because of his experience, I
7 will allow him to answer that. He has had experience in
8 the field. I will let him testify as to what he thinks.
9 You can cross-examine him, though. I will note your
10 objection for the record.

11 MR. D'ANGELO: Thank you.

12 THE COURT: Go ahead. You can answer.

13 THE WITNESS: Generally speaking, no, sir.

14 BY MR. OSBORNE:

15 Q I want to talk about this house right here,

16 [REDACTED] Line Street.

17 Did you ever through your investigation ascertain
18 who lived there?

19 A Yes.

20 Q Who was that?

21 A Katherine Young.

22 Q Did you learn the relationship, if any, between
23 Katherine Young and the defendant?

24 A I believe she is his aunt.

25 Q Is it fair to say, then, that the defendant had

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1 family who lived on the east side?

2 How about the victim in this case?

3 A The victim, Christopher Mullen, had just moved to
4 Charleston that Monday of that week.

5 Q That Monday of that week, and this murder occurred
6 on a Saturday?

7 A Correct.

8 Q You said that you learned that there was an
9 eyewitness, Kathy Brisbane; that the first thing you did
10 in this case was to interview her?

11 A Correct.

12 Q Let's talk about that for a second.

13 When you came in and you started interviewing Kathy
14 Brisbane -- I don't know how else to say it. Were you
15 confident that she wasn't involved in this thing?

16 A I wasn't sure. This was early on in the
17 investigation. I had just came in to start working the
18 investigation. I wasn't sure what her involvement was
19 directly. I didn't know if she was the get-away driver.
20 I didn't know if she brought the defendant there and
21 dropped him off, if the murder occurred and she took him
22 away. I didn't know at this point.

23 Q Having said that, even with that in the back of
24 your mind, was the interview with her heated in any way?

25 A No. Not at all.

1 Q We have heard her testify. You have interviewed
2 her. You have seen the lineups, 56 and 57. These are
3 the two lineups that you showed her?

4 A Yes, sir.

5 Q The name that led to 56. I think we have heard
6 some testimony. When you are showing a lineup, you have
7 a suspect and you have a bunch of fill-ins, is that fair
8 to say?

9 A Yes.

10 Q The first lineup you showed to her, Kathy provided
11 the name of a potential suspect after she made some
12 phone calls, correct?

13 A Yes.

14 Q She didn't identify anyone in 56?

15 A Correct.

16 Q Then you showed her 57. I know we heard her say
17 it, but I will ask you.

18 Did you suggest to her in any way that she should
19 pick out the Defendant, Number 5?

20 A No.

21 Q Just to bring you full circle, when she identified
22 the defendant, this would have been the third Young that
23 she had looked at?

24 A Correct.

25 Q The show-up, Odell, another one, and now this one.

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1 A Correct.

2 Q While you are interviewing Ms. Brisbane, we heard
3 testimony from Randy Unterbrink that the Yukon was being
4 processed?

5 A Correct.

6 Q Now, you being the case agent -- and we have heard
7 that. There was a fingerprint that was recovered from
8 the Yukon. Who did that fingerprint come back to?

9 A Douglas Young.

10 Q Showing you State's 44. That is from the
11 passenger's side of the car?

12 A Yes, sir.

13 Q We have some testimony about the DNA. To bring
14 that all home -- the numbers can get complicated
15 sometimes.

16 Showing you State's 11 here. The Ice House can,
17 which is not crushed. That is the can that came back
18 with the victim's DNA?

19 A Came back with the defendant's DNA crushed.

20 Q The one that is not crushed?

21 A No crushed, correct.

22 Q The one that is crushed, came back to the
23 defendant?

24 A Yes.

25 Q And the can that was on top of the car, also came

1 back with the defendant's DNA on it?

2 A Yes.

3 Q After you interviewed Ms. Brisbane, you didn't
4 know about any of this, about the DNA, is that fair to
5 say?

6 A Correct.

7 Q I know sometimes you see in the movies you are
8 thinking things happen real fast. It doesn't happen
9 like that in real life, isn't that right?

10 A Correct.

11 Q In fact -- I will talk about this in a second --
12 you later obtained the defendant's DNA and sent that
13 out, is that right?

14 A Correct.

15 Q At the end of that interview with Ms. Brisbane at
16 the end of the first day of this investigation -- after
17 talking to Ms. Brisbane, you didn't have any of the DNA
18 or the fingerprints or any of that, right?

19 A Correct.

20 Q After that eyewitness identified the defendant as
21 the shooter, you went ahead and charged him with murder?

22 A Yes.

23 Q What we are looking at right now comes into play
24 after?

25 A Yes.

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1 Q So you drafted up the arrest warrants after the
2 interview with Ms. Brisbane. What did do you then, if
3 anything?

4 A I continued my investigation. I reviewed the City
5 camera footage in an attempt to corroborate what
6 Ms. Brisbane had told me in my interview.

7 As part of that, I wanted to review the scene
8 footage, because I knew there were some things located
9 in the area that she had been describing to me.

10 Q You said City cameras?

11 A Correct.

12 Q The City of Charleston has posted surveillance
13 cameras throughout the city?

14 A Correct.

15 Q Where have they put those cameras up, generally
16 speaking?

17 A Generally speaking, there are a quite a few in
18 tourist areas. There are more strategically placed
19 throughout high-crime areas downtown.

20 Q The east side, as you said before, is a high-crime
21 area?

22 A Correct.

23 Q Showing you 55 to see Reid and Drake and viewing
24 these cameras?

25 A That is an area where Kathy Brisbane advised that

1 she drove the defendant to this area and where she
2 exited her vehicle.

3 Q I don't see any possible way I will be able to stop
4 directly on it. Right after you saw that image, did
5 that seem to corroborate exactly where Ms. Brisbane said
6 she had drove from?

7 A It did.

8 Q Can you put on here where that camera was and the
9 quick little glimpse of the maroon vehicle, where that
10 was set?

11 A That camera is located at this corner right
12 there.

13 Q Where would the SUV have been headed?

14 A The SUV would have headed South on Drake, West on
15 Reid.

16 Q I will go back to 55.

17 Do these cameras have the ability to zoom in on
18 them?

19 A They do.

20 Q I will play zoomed-in clips from the interaction
21 with Kim Rivers.

22 That is Zoom 1. This is Zoom 2. Then the last
23 clip.

24 On the over-arching image of that intersection, how
25 many people were out there?

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1 A Two people.

2 Q Who were they identified as?

3 A We identified one as Kim Rivers; the other is
4 Douglas Young.

5 Q We heard some testimony from Ms. Brisbane that she
6 had dropped off the defendant on Drake between Amherst
7 and Reid.

8 Did you find an individual who was living on Drake
9 within that block affiliated with the defendant?

10 A I did.

11 Q Showing you State's 54. Take a look at that and
12 tell me if you recognize that.

13 A I do recognize that.

14 Q Who is that?

15 A Ashley Frazier.

16 Q What is her address?

17 A ■ Drake Street, Apartment D, as in David.

18 Q Did the detectives ever search that residence?

19 A We did.

20 Q When did you-all search it?

21 A Her residence was searched after the arrest of
22 Douglas Young. So at 8:30 p.m. on the date of the
23 murder.

24 Q After he was taken into custody?

25 A Yes.

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- 1 Q Did you-all recover anything?
- 2 A No.
- 3 Q All right. After his arrest -- we had mentioned
- 4 before that you had collected his DNA?
- 5 A Yes.
- 6 Q Showing you State's Exhibit 52. Take a look at
- 7 that and tell me if you recognize that.
- 8 A This is evidence that I collected and marked with
- 9 the case number, Number 6791.
- 10 Q This would be his DNA, his buccal swabs?
- 11 A Correct.
- 12 Q How do you go about collecting the defendant's
- 13 buccal swabs?
- 14 A I would don a pair of latex gloves. I would have
- 15 taken a sterile cotton swab and just swab the inside of
- 16 his mouth, typically, his gum and cheek area.
- 17 Q You did that in this case?
- 18 A Yes.
- 19 Q To obtain someone's buccal swabs, you have to first
- 20 get a search warrant?
- 21 A Yes.
- 22 Q You did that in this case?
- 23 A I did.
- 24 Q Was that the end of the investigation, or were you
- 25 interested in finding out something else?

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1 A No. That was not the end of it.

2 Q Did you look for any connection between the
3 defendant and the victim?

4 A I did.

5 Q What did you look for?

6 A We had the victim's cell phone. We also searched
7 Facebook records belonging to the victim, identified as
8 belonging to his Facebook profile.

9 We searched that, and we did not find any
10 connection between the defendant and the victim, Mr.
11 Mullen.

12 MR. OSBORNE: No further questions.

13 THE COURT: Any questions of this witness?

14 MR. D'ANGELO: Yes, Your Honor. Brief moment.

15 * * *

16 CROSS-EXAMINATION

17 BY MR. D'ANGELO:

18 Q Good afternoon, Detective.

19 Briefly talking about the interview with Kathy
20 Brisbane. You stated initially you were speaking with
21 her for about ten minutes in regards to what she
22 initially saw.

23 A We spoke for longer, but ten minutes was a portion
24 of that, yes.

25 Q You-all spoke for a long time?

1 A Yes, sir.

2 Q You-all spoke for a couple of hours?

3 A Yes, sir.

4 Q You were speaking about what she had initially
5 seen, right?

6 A Yes.

7 Q Then you-all were discussing -- you spent a while
8 discussing the route that she went?

9 A Yes. That was covered.

10 Q She couldn't -- she was kind of struggling to
11 remember a lot of those details of what had happened
12 following the shooting, right?

13 A Yes. That was important for us in the
14 investigation.

15 Q It was important that she was kind of struggling to
16 remember a lot of those important details, wasn't she?

17 A It helped with the map. So, yes.

18 Q You were trying to get those details out so you
19 spent awhile talking about that, correct?

20 A Yes.

21 Q She would circle back and kept mentioning again
22 what she had initially seen, correct?

23 A There were times when she would reference moments
24 going back to details. However, the main focus was
25 attempting to identify who the shooter was.

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1 Q It's not like you spent ten minutes talking about
2 initially what she saw, and then you were just done,
3 correct?

4 A Correct. The focus was trying to identify who the
5 shooter was.

6 Q There were details that she couldn't quite remember
7 correctly, weren't there?

8 A What kind of details?

9 Q For example, you asked her about the description of
10 the shooter that she saw, correct?

11 A Correct.

12 Q She couldn't quite remember the color of the shirt
13 or the color of his pants, right?

14 A She gave me the description of the clothing.

15 Q She stated when you asked, was he wearing a hat,
16 she said, no, he wasn't wearing a hat?

17 A Correct.

18 Q You saw the video that Mr. Osborne just showed you
19 of Douglas speaking to Kim Rivers, right?

20 A Yes.

21 Q She specifically said to you in that interview
22 that she immediately saw Douglas shoot the gun, and then
23 she started honking the horn, didn't she?

24 A Correct. Rephrase that for me one more time. I
25 apologize.

1 Q She initially told you that she saw Douglas shoot
2 the gun, and then she started honking the horn.

3 A She told me that she honked the horn first and
4 then the gunshot was heard.

5 Q The interview was recorded, correct?

6 A Yes.

7 Q It was recorded on camera?

8 A On audio and video.

9 Q Then you had a tape recorder there, right?

10 A Yes.

11 Q In regard to moving through the investigation, you
12 were ultimately trying to determine why it happened,
13 right?

14 A I was wondering why.

15 Q Correct. You had been given the name of Douglas
16 Young.

17 A Yes.

18 Q Douglas Young was arrested?

19 A Yes.

20 Q You were trying to determine why this happened?

21 A Yes.

22 Q Mr. Osborne -- you stated to Mr. Osborne on direct
23 that Christopher Mullen was not from Charleston, right?

24 A Right.

25 Q You said that he had moved to Charleston from

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1 Beaufort earlier that week.

2 A Correct.

3 Q You are trying to determine what possible
4 connection might there be between Mr. Mullen and Mr.
5 Young?

6 A Correct.

7 Q You were contacted by law enforcement down in
8 Beaufort about Mr. Mullen, weren't you?

9 A Yes.

10 Q You were contacted by Sergeant Calhoun about
11 information about Mr. Mullen for you?

12 A Yes.

13 Q Ultimately, you were not able to learn about any
14 prior relationship between Mr. Young and Mr. Mullen from
15 talking to Sergeant Calhoun?

16 A Correct.

17 Q You mentioned that Mr. Mullen had a cell phone on
18 him, right?

19 A Yes.

20 Q That cell phone was dumped?

21 A Yes.

22 Q What I mean by that, the information that was on
23 that phone was retrieved.

24 A Yes. It was extracted.

25 Q You went through that information?

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1 A Yes.

2 Q You had mentioned a moment ago you pulled his

3 Facebook records, right?

4 A Yes.

5 Q You went through that information?

6 A Yes.

7 Q Mr. Young had a phone on him when he was arrested?

8 A He did.

9 Q You went through that information?

10 A Yes.

11 Q Ultimately, in going through all of that

12 information, you were not able to come up with anything

13 that connected the two men?

14 A Correct.

15 Q You don't know what happened in the five hours that

16 led up to the shooting?

17 A I don't know.

18 Q You don't know what happened in the five minutes

19 that led up to the shooting?

20 A Correct. I don't know.

21 Q You don't know what happened in the five seconds

22 that led up to the shooting?

23 A I only know what Kathy Brisbane told me at that

24 point.

25 MR. D'ANGELO: One moment, Your Honor.

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1 I have nothing further at this time, Your Honor.

2 THE COURT: Anything on redirect?

3 MR. OSBORNE: I hate to do this, but I think we
4 have a matter of law.

5 THE COURT: I hate for you to do that, too.

6 All right, ladies and gentlemen, if you would go
7 back to your jury room. We will have you back in a
8 minute. Remember, you can't talk about anything. Enjoy
9 your stretch walk.

10 (Whereupon, the jury exited the courtroom.)

11 THE COURT: Yes, sir.

12 MR. OSBORNE: When the defendant was arrested, he
13 was brought into the station, and Detective Owens
14 attempted to interview him. When he got into the
15 station, the defendant said, Murder? I don't know what
16 you-all are talking about. I didn't have anything to do
17 with this, something to that effect.

18 They tried to get through Miranda, and he said,
19 lawyer, lawyer, lawyer. I don't think I can ask him
20 about that until the door is opened. What I mean by
21 that, Mr. D'Angelo has made a lot throughout this entire
22 trial in saying that no one knows what happened. Then
23 he asked Detective Owens, did you make any attempts to
24 try to find out what happened? Well, he did. I tried
25 to ask him.

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1 So I think that I am then able to ask, what efforts
2 did you make to try to determine what happened in those
3 five minutes prior to it?

4 THE COURT: He never was Mirandized?

5 MR. OSBORNE: That's correct.

6 THE COURT: So you are not going to get into
7 anything he said. You can get into what he tried to do,
8 his reactions. I am assuming that is what you are
9 trying to do; find out what efforts that he made to try
10 to find out without getting into, what did he say,
11 correct?

12 MR. OSBORNE: Okay. Did you make any attempts to
13 try to determine what happened prior to the murder?

14 Yes, I did.

15 What did you do?

16 I tried to ask him.

17 Did that prove fruitful?

18 No.

19 MR. D'ANGELO: I would object to that. No. He is
20 not allowed to get into that. I would say I haven't
21 opened the door. I have been asking him what he has
22 done throughout the investigation. Did you try to go
23 through the phone; did you try to go through Facebook
24 records; did you try to go through his phone records;
25 were you able to determine anything through that?

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1 He doesn't get to then go into that my client
2 didn't want to speak to law enforcement.

3 THE COURT: You can ask him. He said he didn't
4 talk to him. He can't use any statements that his
5 client said.

6 MR. D'ANGELO: It's the suggestion, then, that he
7 didn't talk to law enforcement, which is not allowed to
8 go to the jury.

9 It's commenting on his right to remain silent.
10 That is heavily suggesting that he remain silent.

11 MR. OSBORNE: I would agree with that until he
12 asked the question. Once he asked the question --

13 THE COURT: Let me think about that for a minute.
14 He has the absolute right to remain silent. Whether or
15 not he says anything or not, we can't get into it.

16 Then the question becomes, is he negatively
17 affected by the fact that he refused to cooperate with
18 the police. That is, as I see it, what it boils down
19 to.

20 MR. OSBORNE: The only thing -- I would play that
21 out a little bit just to say that -- we are not
22 commenting on his silence, because he very well could
23 have given a statement to the police. The question is,
24 did that provide fruitful information?

25 Really, let's be honest, the only reason why Mr.

1 D'Angelo asked that question at all was to insinuate
2 that Detective Owens had no interest in talking to him;
3 that he had no interest in hearing his side of the
4 story. That is why he asked the question.

5 THE COURT: I think we might be getting into
6 something we don't even need to get into.

7 Apparently, Mr. Young plans to testify. The
8 defense -- they have got witnesses. They have indicated
9 that they are going to testify.

10 MR. D'ANGELO: That is currently, yes, Judge. That
11 would be the plan, but that doesn't even change
12 anything. Hypothetically, if Mr. Young was to testify,
13 on cross-examination that doesn't allow for the State to
14 be able to get into those questions on
15 cross-examination.

16 Furthermore --

17 THE COURT: You don't think he will be able to ask
18 him if Investigator Owens tried to ask him anything
19 about this?

20 MR. D'ANGELO: That would be going into his ability
21 to remain silent.

22 THE COURT: If he takes the stand?

23 MR. D'ANGELO: Yes, Your Honor.

24 MR. OSBORNE: I am going to concede that point. I
25 think he is right with that, but what I think I can ask

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1 him then is, so he never called 911. He never reported
2 it. He never did anything of that. After
3 post-arrest -- I think he is right. I think I cannot
4 comment on that, but I do have some jail calls that talk
5 about where -- he is not talking to the police. He is
6 talking to friends.

7 While talking to his friends, he told friends, I
8 told them to "F" off. That is not talking to the
9 police. That is different. I can get where I need to
10 get on that. I just don't want the jury left with the
11 impression that this man made no attempts to try to
12 figure out what happened prior to that.

13 THE COURT: I understand that, but I just don't
14 think that --

15 MR. OSBORNE: Well, then I will just ask: Did you
16 make attempts? Yes, I did.

17 MR. D'ANGELO: Then that, I am fine with.

18 THE COURT: Let's bring the jury in.

19 (Whereupon, the jury entered the courtroom.)

20 THE COURT: Thank you-all.

21 THE BAILIFF: All the jurors are present, Your
22 Honor.

23 THE COURT: Thank you. After you have stretched
24 your legs, we are now going to continue with redirect.
25 Mr. Osborne.

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1 MR. OSBORNE: Thank you, Judge.

2 * * *

3 CROSS-EXAMINATION CONTINUES

4 BY MR. OSBORNE:

5 Q Detective Owens, yes or no, did you make attempts
6 to try to figure out what happened prior to this, prior
7 to the murder?

8 A Yes.

9 MR. OSBORNE: Nothing further.

10 THE COURT: Recross?

11 MR. D'ANGELO: Nothing else, Your Honor.

12 THE COURT: Thank you, sir. You may step down.

13 (Whereupon, the witness exited the witness stand.)

14 THE COURT: Is the State prepared to call its next
15 witness?

16 MS. ELLIOTT: Yes, Your Honor. The State calls
17 Cynthia Schandl.

18 * * *

19 CYNTHIA SCHANDL, M.D.,
20 called as a witness by and on behalf of
21 the State to testify, being first duly
22 sworn was examined and testified as follows:

23 * * *

24 DIRECT EXAMINATION

25 BY MS. ELLIOTT:

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1 Q Please state your name for the record, spelling
2 your last name.

3 A Cynthia Anna Schandl, S-c-h-a-n-d-l.

4 Q Dr. Schandl, can you speak a little bit louder?

5 A Absolutely.

6 Q We have been having problems with that mike.

7 A Very good. I will do it.

8 Q Dr. Schandl, what do you do for a living?

9 A I am a pathologist.

10 Q How long have you been a pathologist?

11 A I have been a pathologist on faculty at the Medical
12 University of South Carolina since 2004. In order to
13 become a pathologist, first, I went through college and
14 got a Bachelor's degree.

15 Following college, I went to medical school as well
16 as graduate school. I completed my M.D., Ph.D in 1999.

17 Following that schooling, you subspecialize if you
18 are going to go into medicine. After getting my M.D., I
19 decided to specialize in the field of pathology, which
20 is basically the study of disease. That involves a
21 residency program, which is four years.

22 Then I also went into a sub-specialty on top of
23 that. So another year in forensic pathology, where that
24 is sort of the study of disease as it relates to the
25 law. So one of the main tools that we use is the

1 autopsy. I also have another sub-specialty, molecular
2 genetic pathology.

3 After all of that schooling, then they hired me on
4 faculty at MUSC in 2004, and I have been there ever
5 since.

6 Q Just so we get a little bit of a better sense. You
7 said that forensic pathology was your sub-specialty.

8 Touch on what the other ones are and how this is
9 kind of different.

10 A Sure. There are many sub-specialties in medicine,
11 so for example, internal medicine, that might be your
12 family doctor, for example, that you go to if you have a
13 cold or just something that you are concerned about.
14 Surgery is another sub-specialty. Pathology is a
15 different sub-specialty. Under pathology, just like
16 surgery has plastic surgery and ENT and all of that,
17 pathology has anatomic pathology, under which forensic
18 pathology falls. There is also clinical pathology,
19 under which micro genetic pathology falls.

20 So there are many different subspecialties once
21 you are in pathology that you can work in. Forensic
22 pathology is under the anatomic pathology side. As I
23 mentioned, I have anatomic pathology and clinical
24 pathology boards, as well as forensic pathology.

25 The forensic pathology falls under anatomic

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1 pathology primarily because it deals with looking at
2 tissues and organs and those sorts of things, similar to
3 what you might do in surgical pathology, which is
4 another sub-specialty.

5 Q You mentioned board certifications. How many board
6 certifications do you hold?

7 A I am a licensed physician. I hold board
8 certifications by the American Board of Pathology, in
9 Anatomic Pathology, Clinical Pathology, Forensic
10 Pathology, and Molecular Genetic Pathology.

11 Q The requirement for certification, is it a testing
12 process?

13 A Yes. After all the training, there is also a
14 board examination. Yes, we get to do that too.

15 Q That is a national certification?

16 A It is.

17 Q Just as a rough estimate, how many autopsies would
18 you say that you have performed in your career?

19 A More than 2,000.

20 Q I know you said you joined MUSC in 2004. Were you
21 a practicing forensic pathologist before that?

22 A That was the time that I completed all of my
23 training, in 2004. Before that, I did participate in
24 forensic cases. I had done 300 or 400 before I finished
25 my training as well.

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1 Q Do you hold a teaching position in the area of
2 pathology and forensic pathology at MUSC?

3 A Yes. I am on faculty as a full professor.

4 Q Are you member of any specialized groups or
5 associations?

6 A Yes, several, including The College of American
7 Pathologists, The National Association of Medical
8 Examiners, The Association for Molecular Pathology and
9 some others.

10 Q Have you ever testified in a criminal trial before?

11 A I have.

12 Q How many times and in what courts?

13 A More than 100 State Court, as well as Federal
14 Court, and Military Court as well.

15 Q Has the Court ever qualified you as an expert in
16 the field of forensic pathology?

17 A Yes.

18 Q Was that all of those times?

19 A Yes.

20 Q Have you ever failed to be qualified as an expert?

21 A No.

22 MS. ELLIOTT: Your Honor, at this time I would
23 offer Dr. Schandl as an expert in the field of Forensic
24 Pathology.

25 MR. D'ANGELO: We certainly agree. No objection,

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1 Your Honor.

2 THE COURT: No objection, good.

3 Do you-all want me to go over the cautionary tale?

4 Everybody is shaking their heads, because you-all

5 remember what I told you about experts.

6 Okay. Go ahead, Ms. Elliott.

7 BY MS. ELLIOTT:

8 Q Dr. Schandl, did you have occasion to perform an

9 autopsy on Christopher Mullen?

10 A Yes, I did.

11 Q When did you perform that autopsy?

12 A In 2017. This is my case file from MUSC. I will

13 refer to that here and there, if the Court allows, in

14 order to make sure I get my dates right and that sort of

15 thing.

16 The autopsy date was August 14, 2017.

17 Q What was Mr. Mullen's age?

18 A He was 30 years old.

19 Q Would you mind telling us his height and weight?

20 A He was just shy of 6 feet, what I measured to be

21 5'11.5. He weighed at 156 pounds.

22 Q Before we get into Mr. Mullen's injuries, was a

23 toxicology performed on his blood?

24 A Yes. In every forensic pathology case, one of our

25 tools is toxicology. For every case where there is

1 something to send for toxicology analysis, we will send
2 it, and similarly in this case.

3 Q What were those result?

4 A So those results, here is the report. I will read
5 from it. So the specimen that we obtained at autopsy
6 was chest cavity blood, if I may explain.

7 Q Yes.

8 A Our ideal specimen is blood that is still in your
9 vessels. Even better, the farther away from the core of
10 the body. That meaning after you die, things start to
11 break down, and the barriers between different
12 compartments start to break down as well.

13 We are hoping for things that are far away from
14 your stomach, and all of the things that can change the
15 levels. In this case, there wasn't any blood in his
16 vessels to get, so we used chest cavity blood. That
17 blood is loose in his chest cavity, around where your
18 lungs live -- because of his injuries.

19 So that is the -- first of all, that is the
20 specimen that we used. The results with keeping that in
21 mind is ethanol or alcohol at .150 milliliters. That
22 works out to .015 percent, if you are thinking about it
23 in terms of whether you would want to be driving or
24 whatnot.

25 He had caffeine on board, which probably I do

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1 too. Cotinine is a metabolite of nicotine. He has that
2 on board. He has amphetamine at 5.0 nanograms per
3 milliliter, and meth-amphetamine at 66 nanograms per
4 milliliter.

5 Keep in mind that amphetamine can be a breakdown
6 product of meth-amphetamine. So it may just be one
7 substance that he used or took that is putting both of
8 these things in my log here.

9 Q Dr. Schandl, I will show you what I have marked as
10 State's 62.

11 Are you familiar with these types of diagrams?

12 A Yes. This is what we call body diagrams.

13 One of the things we do in autopsy, when we get
14 the body, which it is referred to, generally speaking,
15 from the coroners in the state.

16 The first thing I will do is look at it as it comes
17 to me. Take pictures of the body as it comes to me.
18 Whatever clothes may be on an so on. As we go forward,
19 I will also diagram the body. We have these things
20 called body diagrams. This is the front of a guy and
21 the back of a guy. Drawing of a guy or girl, depending
22 on whether it's a woman or a man, et cetera -- girl or
23 boy.

24 On these body diagrams, that is where I am going
25 to mark other things that have to do with his

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1 identification, scars, tattoos, those sorts of things.

2 In case where there are injuries, that might be where I
3 put, injuries, on the form, in addition to taking
4 pictures.

5 Q Would using a diagram like this help you depict
6 using our touch screens where the gunshot wounds were
7 for this particular victim?

8 A Yes.

9 MS. ELLIOTT: At this time I will publish State's
10 62.

11 THE COURT: Any objection?

12 MR. D'ANGELO: No objection.

13 THE COURT: You are asking this to be put into
14 evidence?

15 MS. ELLIOTT: Your Honor, this is demonstrative.

16 BY MS. ELLIOTT:

17 Q Start walking us through each of the gunshot
18 wounds that the victim suffered and the direction of
19 travel.

20 A You bet. One of the gunshot wounds was to the
21 chest, right about there. It was an entrance gunshot
22 wound, so when the bullet came into the body, it
23 traveled this way across and exited somewhere here. I
24 say somewhere here, because during emergency surgery
25 procedures, they cut through that area. I couldn't tell

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1 exactly where it exited.

2 Following the path of destruction, and hemorrhage
3 and so forth, it goes all the way through and exits
4 somewhere over there.

5 Q Let me ask you this question.

6 By talking about this shot first, do you mean to
7 say that that is the first shot? Can you offer any
8 opinion as to which shot occurred first?

9 A In most cases, no, including this one. I cannot
10 tell you which one occurred first.

11 Q Would it be fair to say in your autopsy report and
12 your testimony, you simply picked one to be the first,
13 because something has to be the first.

14 A That's correct.

15 Q Anything further that we need to know about the
16 direction or the means and modes of that particular
17 gunshot?

18 A Very important to my work is, what did it hit and
19 what happened as it went through the body? In this
20 particular case, it went through one of the ribs on the
21 right-hand side and then traveled through some of the
22 lung tissue on the right-hand side.

23 It traveled through parts of the heart on its way
24 to its left-hand side. It traveled to two of the lobes
25 of the lung on the left-hand side and then another rib

1 and then out.

2 In so doing, obviously, there were injuries to
3 these things that it passed through -- the structures.
4 The right lung; the left lung and the heart. There was
5 quite a bit of bleeding associated with that.

6 Somewhat meaningless for me to quantify what we
7 measure

8 Because, as I mentioned, the individual was in surgery. So
9 one can presume that he lost most of his blood in
10 surgery or before I saw him. There was also blood in
11 those cavities. That, as I mentioned before, is where
12 we got our specimen for toxicology in this case.

13 Q What about the next one?

14 A There is another one that goes through and through
15 his left forearm. It goes there to there. It appears
16 to go in that direction. Keeping in mind you can put
17 your arm pretty much anywhere. Those are nice mobile
18 things. I can't tell you where the two people were
19 standing, but when I am looking at a person who is
20 standing completely still, from my point of view, it
21 looks like it's going in an upward and rightward
22 direction.

23 The third gunshot wound pathway began at the left
24 back. It didn't exit the body. We retrieved that
25 bullet. That one came into the back, hit the spine, the

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1 vertebral column. It didn't exit all the way out. It
2 got slowed down by the vertebral column. It went
3 through the small bowel and large bowel. Then we
4 retrieved that bullet beneath the skin right around here
5 on the front-hand side. So that was the third one.

6 I am calling these three gunshot wounds. These are
7 three gunshot wound paths. We know that two of them
8 went through and through. We don't have a bullet
9 attached. This one, we do have a bullet attached. So
10 we know that is one. We are good with that. It went
11 in, it stopped. We have a bullet and one gunshot.

12 This one to the chest over here, we know it came in
13 and it went out. We are pretty good that that is
14 another one, but is it possible that that one continued
15 through the arm? It is possible, depending on where you
16 put the person's arm.

17 It's possible that the person was shot twice or
18 three times. I can't tell you that with certainty,
19 because we have only one bullet recovered.

20 Q You recovered one bullet. You also recovered
21 another portion of a bullet from his body as well?

22 A That is true.

23 Q Showing you what has been admitted as State's 50
24 and 51. Are these the bullets and bullet fragments that
25 you retrieved?

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1 A Yes, they are.

2 Q They were packaged and provided to the City of
3 Charleston Police Department?

4 A I can double check exactly who they were
5 transferred to, if that would be helpful. .Holly
6 Saunders, Charleston Police Department.

7 Q I would like to talk to you about a phenomenon
8 called stippling.

9 Did you see any presence of stippling in your
10 autopsy of Mr. Mullen?

11 A No.

12 Q What is the significance of stippling?

13 A So what we are trying to describe here is whether
14 or not I am able to tell how far away the muzzle, this
15 end of the gun from the target in this case, Mr. Mullen.
16 So there may be signs on the body if you are within
17 a certain range of the target. If you are right up
18 against the target, you would expect that there would be
19 soot around the wound. As you start to back up, there
20 would potentially be stippling.

21 Soot is something you can rub off, but stippling,
22 on the other hand, are little particulate things coming
23 out of the muzzle of the gun that actually scrape the
24 skin. So stippling is an abrasion or a scrape of the
25 skin by these little particulate things coming out of

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1 the end of the gun.

2 If we continue to back up, those signs then become
3 absent. We generally -- and without test firing the gun
4 with the ammunition, you don't know for certain. We
5 generally consider that distant -- which only means to
6 me that I am not seeing anything on the skin to tell me
7 it's closer. It starts around 3 feet. Again, that is
8 just a guideline.

9 Q I will ask you this. When you are conducting an
10 autopsy, do you also look for evidence that the victim
11 was in some sort of a physical altercation?

12 A We will look at all of his outside parts and inside
13 parts. So, yes.

14 Q What are you normally looking for when looking for
15 an indication of some sort of an altercation?

16 A It can frankly be any number of things. One thing
17 you may look at is the person's hands to see if there is
18 bruising or abrasions to the knuckles or the hands.

19 If there is nothing what are called defensive
20 injuries -- when there are wounds to the forearms,
21 sometimes you are thinking those are defensive injuries.
22 You are suggesting that the person was trying to shield
23 themselves or are in some kind of an altercation.
24 Depending upon your case, it can be any number of things
25 where the person is interacting with another person. In

1 the case of an altercation, you would suggest that the
2 interaction was physical, and potentially there would be
3 signs left on the body, like bruising and scrapes, as I
4 mentioned.

5 Q Could that arm wound have been a defensive
6 wound?

7 A It's possible.

8 Q I know you have already touched on this a little
9 bit. How many times would you say that Mr. Mullen was
10 shot?

11 A He was shot at least twice. Depending on whether
12 the arm is a continuation of the chest wound or its own
13 thing, possibly three times.

14 Q Dr. Schandl, I understand what you are saying
15 about that arm moved. Is the directionality consistent
16 with someone who might have their hands out by their
17 sides?

18 A No. I cannot answer that, because people move.

19 Q Would that be possible?

20 A It would be possible.

21 Q Can you explain to us kind of where that -- the
22 theory of if that bullet wound was from the same as what
23 you had marked as the first gunshot room, entering
24 through the right and coming out?

25 How would the arm have been placed for that to have

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1 been hit with the same bullet?

2 A Can I stand?

3 Q Please do.

4 A We have here with the arm wounds is what looks like
5 the entrance here and the exit here. So we think it's
6 coming this way, whereas this one is coming that way.
7 You have positioned this arm in a way to make that
8 happen. It's certainly possible.

9 Q For the bullet wounds to have hit him in the chest
10 and the back, is that consistent with movement and
11 turning?

12 A That is possible.

13 Q Dr. Schandl, in your expert opinion, what was the
14 manner and cause of Mr. Mullen's death?

15 A I will read those off directly how I have them
16 written. His cause of death was multiple gunshot wounds
17 to the chest, back, left arm; manner of death,
18 homicide.

19 MR. OSBORNE: That is all I have for you at this
20 time, Dr. Schandl.

21 THE COURT: Any questions of this witness?

22 MR. D'ANGELO: Yes, Your, Honor. Thank you.

23 * * *

24 CROSS-EXAMINATION

25 BY MR. D'ANGELO:

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1 Q Good afternoon, Dr. Schandl. Good to see you
2 again.

3 You were talking about stippling. I am not good
4 with numbers. I am much more of a visual person. I
5 have a tape measure.

6 MR. D'ANGELO: Permission to approach the witness?

7 THE COURT: You may.

8 BY MR. D'ANGELO:

9 Q You mentioned we typically expect to see stippling
10 somewhere around 3 feet; is that correct?

11 A Three feet and closer.

12 Q Holding that tape measure, right there is 2 feet,
13 isn't that right?

14 A Yeah.

15 Q Now I will extend to -- now we are starting to
16 extend 3 feet here. That is 3 feet, is that correct?

17 A Yes.

18 Q Typically, someone who is close as we are, 3 feet,
19 that is typically where you start to see stippling end.
20 Would that be fair to say?

21 A Correct. If you took another step back, we are
22 pretty sure it's not there anymore.

23 Q This right here, is that 4 feet?

24 A Yes, it is.

25 Q If we are standing this distance, 4 feet, typically

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1 you are not expecting to see stippling on the body at
2 that point?

3 A Typically. I have to reiterate, you don't know
4 those numbers for sure unless you have the weapon and
5 the ammunition that was used that you test fired.

6 Q As you stated, you were not at the scene of the
7 shooting, right?

8 A No. I was not.

9 Q You don't know how the bodies were positioned?

10 A Correct.

11 Q As the State was stating, the gunshot wound to the
12 arm, it's possible that the arm could have been down,
13 right?

14 A It is.

15 Q It's also possible that the arm could have been up
16 that way, and the bullet would have come in and still
17 have been going in an upward direction?

18 A Yes.

19 Q You don't know?

20 A I cannot tell where the two people were by my exam.

21 Q You stated one of the things you do in -- you are
22 examining the body, right?

23 A Yes.

24 Q You are looking for abnormalities, abrasions to the
25 skin?

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1 A Yes.

2 Q Scars, tattoos, things like that, correct?

3 A Yes.

4 Q When examining Mr. Mullen's left bicep, he had a
5 tattoo that stated, God forgives --

6 MR. OSBORNE: Objection, Your Honor. It's
7 irrelevant, Your Honor.

8 THE COURT: I will let you-all leave for one
9 second so I can find out what is going on. Remember
10 don't talk about anything.

11 (Whereupon, the jury exited the courtroom.)

12 THE COURT: Mr. Osborne, I am sure we appreciate
13 your help with that, but, Ms. Ellis, I will let you
14 address this.

15 MS. ELLIOTT: Thank you, Your Honor.

16 None of his tattoos are relevant to this case.
17 There is no context for them. It just simply isn't
18 relevant in this case.

19 THE COURT: What is the tattoo about?

20 MR. D'ANGELO: Specifically, in this case, I would
21 say it's relevant.

22 THE COURT: Tell me what the tattoo supposedly
23 says.

24 MR. D'ANGELO: So it says, God forgives; I don't.

25 THE COURT: Okay. And the relevance?

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1 MR. D'ANGELO: The relevance would be, again, if
2 it's a sparrow, who knows what it could be. Certainly,
3 I would understand there is no relevance there. But
4 something that is permanently tattooed on his skin is
5 going to his very being of that idea that God forgives;
6 I don't. In a self-defense case, I think this is
7 incredibly relevant as to how this person thinks.

8 THE COURT: I didn't know it was a self-defense
9 case. Is it?

10 MR. D'ANGELO: I believe I said that in my opening,
11 Your Honor.

12 THE COURT: That is what you have indicated, but he
13 still hasn't testified to that.

14 MR. D'ANGELO: I understand that, Your Honor.

15 THE COURT: Do we have any other tattoos on his
16 body?

17 MR. D'ANGELO: There are a number of tattoos all
18 over his body. This is the only one that I am planning
19 on going into.

20 THE COURT: Is there one that says, I love mom?

21 MR. D'ANGELO: He does not. He has a skull on his
22 abdomen. I am not planning on going into that.

23 THE COURT: So your objection is it's not relevant?

24 MS. ELLIOTT: It is not relevant, especially when
25 we are thinking about the Day case that we previously

1 discussed. We are talking about, basically, a victim's
2 frame of mind. It has to be close in proximity to when
3 the incident occurred.

4 We have no idea when he got the tattoo, what the
5 back story to that was. The victim is not here to tell
6 us. It could have been a youthful indiscretion, as many
7 people have relations to tattoos. It's an improper
8 inference for him to say that that is what this man's
9 frame of mind is, because it's permanently tattooed on
10 his body. That doesn't say who he is today, or who he
11 was that day.

12 THE COURT: Do you have a copy of the Day case?

13 MS. ELLIOTT: We do.

14 THE COURT: Ms. Elliott, you were pointing out
15 something.

16 MS. ELLIOTT: In State v. Day it refers -- I think
17 he is talking about that this tattoo would indicate to
18 the mindset. I think he is trying to lay the foundation
19 that he is an unforgiving, aggressive person.

20 In Day, when they are talking about prior bad acts
21 and the mindset of the defendant, they talk about to
22 show if there is a nexus between, one, either violent
23 acts, violent propensity towards the defendant or to
24 another person that is so interlinked that it would be
25 relevant. In that particular case, I want to say it was

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1 four months. I might be wrong about that, but I believe
2 it was four months.

3 We have no context for when this tattoo happened,
4 whether that represented who he was and his frame of
5 mind or anything like that at the time that this murder
6 occurred.

7 THE COURT: Do you have any idea about when it
8 happened?

9 MR. D'ANGELO: About when the tattoo was placed?

10 THE COURT: Yes.

11 MR. D'ANGELO: I do not, Your Honor.

12 THE COURT: Specific incidents of violence, not
13 just a tattoo. I assume your client is going to testify
14 that he had gotten close enough to him to have seen
15 that?

16 MR. D'ANGELO: Yes, Your Honor. See what the
17 testimony shows, Your Honor.

18 The last thing I can put on the record -- I found a
19 case. Unfortunately, our office Lexus account had not
20 been working as of yesterday. I do not have the case
21 cite. There is a case from Texas Court of Appeals where
22 the defendant's arm had tattooed murder backwards.

23 THE COURT: In case you were looking in a rearview
24 mirror, you would never be fearful or what?

25 MR. D'ANGELO: Not sure what the thought process

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1 was in tattooing it that way. The State is seeking to
2 get into it for the exact reasons that I have stated.

3 THE COURT: Did they let the State get into it?

4 MR. D'ANGELO: They let the State get into it, over
5 the defense's objection.

6 THE COURT: Now it's reversed?

7 MS. ELLIOTT: It's also Texas.

8 THE COURT: I know. They will prosecute anything.

9 In the Day case, they have little quotes in here.
10 "Evidence concerning the defendant's tattoo or nickname
11 is not prejudicial when used to prove something at issue
12 in the trial, such as identification."

13 You are not trying to prove identification, are
14 you?

15 MS. ELLIOTT: No, Your Honor.

16 THE COURT: It would seem to me that unless you
17 have got something else, I am inclined not to get into
18 the tattoo. I will note your objection. I believe you
19 are going to bring the sergeant here to testify to
20 something tomorrow?

21 MR. D'ANGELO: Yes, Your Honor.

22 THE COURT: Anyway, I will note your objection. I
23 will sustain Ms. Elliot's objection. I will say that
24 for the record.

25 MS. ELLIOTT: Thank you, Judge.

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1 THE COURT: Bring the jury back in. No other
2 tattoos; right?

3 MR. D'ANGELO: Not that I am going to talk about.
4 (Whereupon, the jury entered the courtroom.)

5 THE BAILIFF: All jurors present, Your Honor.

6 THE COURT: Mr. D'Angelo, you can continue with
7 your cross-examination.

8 MR. D'ANGELO: Thank you, Your Honor.

9 * * *

10 CROSS-EXAMINATION CONTINUES

11 BY MR. D'ANGELO:

12 Q Dr. Schandl, we heard a lot of mention of the word
13 murder today. You are a medical examiner, correct?

14 A I am a forensic pathologist.

15 Q You are the one who determined the cause of death,
16 right?

17 A Yes.

18 Q You didn't put murder when you determined that, did
19 you?

20 A No, because that is not one of my choices.

21 Q So that is not what you can determine from it?

22 A That's correct. If I may explain, just briefly?

23 Q Certainly.

24 A So in this state we have five manners of death
25 specifically. So it's not uncommon that this could be

1 the case. In this state we have the choices of
2 homicide, suicide, accident, natural, and undetermined.
3 So those are my five choices. In this case, the
4 appropriate choice is homicide.

5 Q Again, going through your investigation. You don't
6 know, ultimately, what the legal conclusion is as to
7 why, correct?

8 A That's correct.

9 Q You had mentioned that you reviewed the toxicology
10 report, right?

11 A Yes.

12 Q There was alcohol in Mr. Mullen's system?

13 A There was.

14 Q He was at almost two times the legal limit to
15 drive, right? 0.15 I believe it was?

16 A If I may. Again, I mentioned how we have preferred
17 samples and then we have what we were able to gather
18 from Mr. Mullen, which was chest cavity blood. If this
19 sample had been from the peripheral circulation, I would
20 say with some assurance that .15 represents something
21 close to what his level is.

22 Because the sample is from chest cavity blood, I
23 don't have the same level of assurance that it is
24 accurate. It may be artifactually high. It may not be
25 as high as it's reading. That is one possibility.

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1 So, to answer your question directly, the level
2 measured is almost twice the legal limit to drive, .08,
3 .15. I can't tell you that that is what his actual
4 level is, because of the limitation of testing.

5 Q It could be lower?

6 A It's less likely that it is lower. If I may again,
7 the problem is if you think about the proximity of blood
8 to another compartment that potentially has, let's say,
9 a beer in it. If this compartment has a beer in it
10 that's 5 percent and any of that alcohol mixes with the
11 blood -- which is at .15 percent -- it's going to
12 increase that level potentially dramatically.

13 It's very difficult to know with certainty, but
14 that is the best number that I can come up, the number
15 of that sample that I had, which, as I pointed out, is
16 .15 percent.

17 Q Just so I am clear on what you just said. It's
18 likely that it would be lower?

19 A It's less likely that it would be lower.

20 Q Alcohol is a stimulant, right?

21 A Alcohol has many different effects on different
22 people. For me to call it a stimulant might suggest
23 something about his behavior. I cannot suggest
24 something about someone's behavior based upon whether
25 they have been drinking alcohol.

1 Q I understand that. It can affect people's
2 behavior?

3 A It can affect people's behavior.

4 Q Here in this case, you don't know he was mentally
5 affected?

6 A That's correct.

7 Q Mr. Mullen also had meth in his system, right?

8 A He had meth-amphetamine, that's correct.

9 Q There was amphetamine in his system as well?

10 A Yes, which may be a breakdown product.

11 Q From the meth-amphetamine.

12 A Correct.

13 Q I understand you don't know how it specifically
14 affected Mr. Mullen, but meth-amphetamine is a
15 stimulant, right?

16 A Yes, in many situations. It can also be used
17 pharmacologically for other things, such as, ADHD, for
18 example.

19 Yes, the way we generally think of
20 meth-amphetamines or amphetamines is that they are a
21 stimulant.

22 Q Specifically with meth-amphetamine, it can give on
23 a feeling of energy, a rush of energy?

24 A It could.

25 Q A feeling of supremacy?

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1 A Again, these are very specific behavioral changes
2 that may or may not occur in any particular individual.

3 Q They are conditions that have occurred, correct?

4 A They have many different types of conditionings.

5 Q Anger?

6 A Potentially.

7 Q Irritability potentially?

8 A Any of the range of human emotions may have been
9 experienced by this individual.

10 Q Chris Mullen -- certainly, you would not suggest
11 mixing alcohol and meth-amphetamine?

12 A As a physician, no. I wouldn't really suggest
13 that.

14 MR. D'ANGELO: No further questions at this time,
15 Your Honor.

16 THE COURT: Anything on redirect?

17 * * *

18 REDIRECT EXAMINATION

19 BY MS. ELLIOTT:

20 Q You told Mr. D'Angelo that meth-amphetamines can
21 have different effects on different people?

22 A That is true.

23 Q For people with ADHD, it can calm them down?

24 A Yes. Again, I cannot pretend to know any
25 individual's behavior based upon a drug being present or

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1 absent or the level.

2 Q Mr. Mullen's behavior that night could have ranged
3 anything from sedate to hyped up?

4 A I believe that that is true. Having not been
5 there, as was also pointed out, I don't know how he was
6 behaving.

7 Q It could range anything from happy to mad?

8 A That is true.

9 THE COURT: Anything on recross?

10 MR. D'ANGELO: Nothing further, Your Honor.

11 THE COURT: Thank you, Doctor. You may step down.

12 (Whereupon, the witness exited the witness stand.)

13 * * *

14 THE COURT: Is the State ready to call its next
15 witness?

16 MR. OSBORNE: The State rests, Your Honor.

17 * * *

18 STATE RESTS

19 THE COURT: All right, ladies and gentlemen.

20 At this time I will excuse you-all from the
21 courtroom for a minute. We have matters that we have to
22 take up without you-all being present.

23 Again, you cannot talk about any of the testimony
24 you have heard so far. I will get you-all back in here
25 absolutely as soon as I can.

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1 Thank you all very much.

2 (Whereupon, the jury exited the courtroom.)

3 THE COURT: Anything from the defendant at this
4 time?

5 MR. D'ANGELO: Yes, Your Honor. At this time the
6 State would move for a direct verdict -- the defense
7 would move for a directed verdict. .

8 THE COURT: I won't notice the fact on the record
9 of any other comments.

10 Go ahead.

11 MR. D'ANGELO: Thank you, Your Honor.

12 MR. OSBORNE: We would not object.

13 MR. D'ANGELO: Simply at this time, Your Honor, I
14 don't believe the State has presented evidence
15 ultimately that goes towards malice. The attention to
16 aforethought, I don't believe evidence has been
17 presented going towards that. Obviously, I believe I
18 will have a little bit more of a motion to add later,
19 at that time. I will keep it at that for right now.

20 THE COURT: As to your comment about malice,
21 malice has to occur just immediately before, which you
22 are more aware of than anybody, I am sure. Whereas I
23 appreciate your motion for a directed verdict, I believe
24 there has been evidence to support that, so I will deny
25 your motion. Do you-all need to talk to Mr. Young

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1 before I ask him, questions?

2 MR. D'ANGELO: I think we have discussed it at
3 length already, Your Honor.

4 THE COURT: So he is ready for me to question him?

5 MR. D'ANGELO: That is what I was going to suggest,
6 yes, Your Honor.

7 THE COURT: Mr. Young, if you don't mind standing,
8 raise your right hand. I appreciate it.

9 * * *

10 DOUGLAS LAVANCE YOUNG,
11 called as a witness by and on behalf of
12 the Court to testify, being first duly
13 sworn was examined and testified as follows:

14 * * *

15 VOIR DIRE EXAMINATION BY THE COURT

16 THE COURT: Mr. Young, I know there is not a mike
17 over there. So when I ask you the questions, you will
18 need to speak up a little louder than that.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: At this time, I am going to explain to
21 you certain of your rights. If you do not understand
22 anything I say, please let me know. If you want me to
23 explain anything in more detail, please also let me
24 know.

25 Do you understand that?

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1 THE WITNESS: Yes, sir.

2 THE COURT: We have now reached the stage of the
3 trial where you may present your defense. You have the
4 right to claim the protections given to you by the Fifth
5 Amendment of the Constitution of the United
6 States.

7 This Amendment states in part that no person shall
8 be compelled in any criminal case to be a witness
9 against himself. This means that you cannot be required
10 to testify in this case. You have the right to testify
11 on your own behalf; no one can make you testify. This
12 is a personal right, and no one can waive this right
13 except you.

14 If you decide to testify, you will be subject to
15 the same rules that govern other witnesses, and you may
16 be examined and cross-examined on any relevant issues in
17 this case.

18 In addition, if you have any convictions involving
19 dishonesty or false statements or for crimes punishable
20 by imprisonment for more than one year and this Court
21 determines that the probative value of admitting this
22 evidence outweighs its prejudicial effect to you, the
23 Solicitor will be able to introduce your record to
24 attack your credibility.

25 If you decide to testify, this decision on your

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1 part must be freely, voluntarily, and intelligently made
2 with knowledge of the protections given to you by the
3 Fifth Amendment, and the consequences of your decision
4 to testify.

5 If you decide not to testify, I will instruct the
6 jurors that they cannot give the fact that you did not
7 testify any consideration whatsoever; that there is to
8 be absolutely no prejudice to you because you did not
9 testify. It is left entirely up to you whether or not
10 you testify.

11 You may talk with your attorneys, your family, or
12 friends or anyone else, but the final decision is left
13 entirely up to you.

14 Do you understand what I have explained to you?

15 THE WITNESS: Yes, sir.

16 THE COURT: Do you have any questions about what I
17 have explained to you?

18 THE WITNESS: No, sir.

19 THE COURT: Have you discussed with your lawyers
20 whether you should or should not testify?

21 THE WITNESS: Yes, sir.

22 THE COURT: Do you wish to talk to your lawyers
23 anymore at this time?

24 THE WITNESS: No, sir.

25 THE COURT: Do you wish to testify?

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1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you, Mr. Young. You can sit
3 down.

4 THE COURT: Let's take a short break.

5 Do you-all have two witnesses, Mr. D'Angelo?

6 MR. D'ANGELO: Today, yes, Your Honor.

7 The first witness we will be calling is Gerald
8 Young.

9 THE COURT: I just want to make sure the courtroom
10 security is okay with him not coming in with shackles?
11 If there is a problem, I can get him up here earlier.
12 You tell me what is easiest.

13 THE CLERK: We will have one of our deputies
14 sitting up there.

15 THE COURT: We will do it that way then.

16 Let's take a short break and then come back.

17 (Whereupon, a recess was held.)

18 (Whereupon, the following proceedings were
19 held in open court. The defendant was present
20 with his attorney, along with counsel for the
21 State.)

22 THE COURT: Ladies and gentlemen, we will now start
23 with the defendant's portion of the case.

24 Mr. D'Angelo.

25 MR. D'ANGELO: Thank you, Your Honor. The State

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1 will call Gerald Young.

2 THE COURT: Mr. Young, the clerk is going to swear
3 you in right now.

4 * * *

5 GERALD YOUNG,
6 called as a witness by and on behalf of
7 the Defendant to testify, being first duly
8 sworn was examined and testified as follows:

9 * * *

10 DIRECT EXAMINATION

11 BY MR. D'ANGELO:

12 Q Please state your name and spell your last name.

13 A Gerald Young, Y-o-u-n-g.

14 Q Gerald, again, I would ask that you speak up. This
15 woman next to you is taking down everything that you
16 say; all right?

17 A Yes, sir.

18 Q Gerald, where are you from?

19 A Charleston.

20 Q Do you live on the east side?

21 A Yes, sir.

22 Q How long have you lived on the east side?

23 A All of my life.

24 Q Has the east side changed a lot?

25 A A whole lot.

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1 Q Where did you used to work?

2 A I did construction work. I do brick mason work. I
3 do dishwashing. I do any kind of work that I can find.

4 Q Gerald, let's put it out in the
5 open.

6 Are you currently in prison right now?

7 A Yes, sir.

8 Q Are you serving a sentence for drugs?

9 A Yes, sir.

10 Q Are you a convicted felon?

11 A Yes, sir.

12 Q Gerald, I want to ask you, how do you know Douglas
13 Young?

14 A He is my nephew.

15 Q Do you know Kathy Brisbane?

16 A Yes, sir.

17 Q How do you know Kathy Brisbane?

18 A She was my girlfriend at one time.

19 Q August 12, 2017 -- August 12, 2017, were you
20 currently in prison at that time?

21 A No, sir.

22 Q August 12, 2017, where were you living at that
23 time?

24 A With my older sister.

25 Q Where is that?

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- 1 A In North Charleston.
- 2 Q Are you aware of the shooting that happened at
- 3 your sister's house, Katherine's, [REDACTED] Line
- 4 Street on August 12th?
- 5 A Yes, sir.
- 6 Q I want to talk to you a little bit about the night
- 7 prior. The night prior, that Friday night, what were
- 8 you doing that night?
- 9 A Coming from work.
- 10 Q Where were you working at?
- 11 A Hall's Shop on King Street.
- 12 Q You were coming from work. Where were you headed?
- 13 A My sister was on Line Street. I stopped to talk to
- 14 her before I went home.
- 15 Q Did you go to her place that night?
- 16 A Yes, sir.
- 17 Q Were you able to talk to her?
- 18 A Yes, sir.
- 19 Q What did you do after you got to your sister's
- 20 house at [REDACTED] Line Street?
- 21 A When I get to my sister's house, I talk to my
- 22 sister and my niece for a while. Then I went next door
- 23 and talked to the young ladies who lived next door.
- 24 Q You said young ladies next door.
- 25 What young ladies are you talking about?

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1 A Two young ladies -- I guess they go to college.
2 They live next door to my sister. I just always stopped
3 and talked to them at nighttime. They be sitting out in
4 front of their door.

5 Q Do they live downstairs or upstairs?

6 A Downstairs.

7 Q Did you see Doug that night?

8 A Not really, no.

9 Q What were you doing when you were hanging out with
10 -- let me back up.

11 Who exactly were you hanging out with?

12 A The two young ladies who live next door. They were
13 sitting on their porch, I was talking to them that
14 night.

15 Q Was anyone else out there?

16 A Couple of peoples, yes, sir.

17 Q That night did you see Chris Mullen?

18 A Yes, sir.

19 Q Where did you see Chris Mullen that night?

20 A Early, around about 4:30. I knock off like 4:30 in
21 the evening. I get across the bridge in the east side
22 about quarter to 5:00. I stopped by Moore Park, sitting
23 right there for a little while until I go on my night
24 job.

25 In between me sitting there, I walked to the store.

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1 By the store there is a barber shop right next to the
2 store. I see the dude standing up right there by the
3 barber shop. That is the first time I seen him.

4 Q When you said, the dude, is that Chris Mullen?

5 A Mr. Mullen, yes, sir.

6 Q Did you see him later that Friday night?

7 A Yes, sir.

8 Q Where was that?

9 A Later on I came from my night job. I am a
10 dishwasher there. Come around by my sister's house
11 around 11:00 to 12:00. I talk to my sister and my niece
12 for a little while. Go to the girls next door and start
13 talking to them.

14 That is when Mr. Mullen come up.

15 Q What was he doing?

16 A He had to come from Columbus Street coming down
17 Line -- Shepard to Line. Coming down on Line. He was
18 with some dude. I don't know who the other dude was.
19 He was with some dude. He appeared to be drinking. He
20 had a can of beer in his hand. I know for sure he had a
21 can of beer in his hand.

22 He come up, we were sitting there. He was, like,
23 hey what are you-all doing out here?

24 He started talking nasty trash to the young ladies
25 sitting with us. Who was you? What are you doing man?

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1 Why do you want to disrespect me like that?

2 Q Did Chris hang out with you-all out there?

3 A Not me, no, sir.

4 Q Did you see Chris with a gun.

5 A He had in the shirt what appeared to be a lump of
6 a gun in his pants, when he upped his shirt as he be
7 talking trash to us.

8 Q What do you mean he upped his shirt?

9 A He was just acting weird. Just like, we all
10 selling; we all doing, blah, blah. He just wanted to
11 pick a fight.

12 Q You are sure he had a gun on him that night?

13 A Yeah. You know what I am saying? I know he had a
14 gun.

15 MR. D'ANGELO: That's all, Your Honor, at this
16 time.

17 THE COURT: Anything on cross-examination?

18 MR. OSBORNE: Yes, Your Honor?

19 * * *

20 CROSS-EXAMINATION

21 BY MR. OSBORNE:

22 Q Mr. Young, I don't want to say this in a
23 disparaging way or anything.

24 Those are not your clothes that you are wearing
25 right now, are they?

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1 A No, sir.

2 Q In fact, they provided that to you, didn't they?

3 A I guess so.

4 Q Otherwise, you would have had to come out here in

5 shackles and handcuffs, but they gave you clothes?

6 A Yes, sir.

7 Q That is why the bailiff is sitting where he is

8 sitting, correct?

9 A Yes, sir.

10 Q All right.

11 So Mr. D'Angelo covered and spoke about this a

12 little bit. You have got a few convictions.

13 What was your drug of choice? Was it crack?

14 A No, sir, heroin.

15 Q Just talk about over the last few years. You have

16 had a few convictions. You have been battling this for

17 awhile. Is that fair to say?

18 A Drugs?

19 Q Yes.

20 A Yes, sir.

21 Q All right. So let's get into this. Now, you said

22 it was about 4:30 to 4:45 that you were at Moore Park.

23 That is when you first saw Chris Mullen?

24 A Yes, sir.

25 Q Did you know him? Did you talk to him, or was it

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1 this is first time you saw him?

2 A That is the first time I ever seen him on that side
3 in my life.

4 Q So he is not a normal guy from up there?

5 A No, sir.

6 Q You took notice of him, is it fair to say, because
7 he was a barber at Top of the Line?

8 A I didn't know he was working at the barber shop. I
9 just seen him standing there.

10 Q Top of The Line, the barber shop out there on
11 Columbus?

12 A I don't know the name, sir.

13 Q There is a barber shop right there, but that is
14 when you first saw him?

15 A Yes, sir.

16 Q You were not aware that he was actually a barber?

17 A That young man who was standing right there -- he
18 said, my man right there is a barber. I said, I ain't
19 need to get my hair cut. I just asked.

20 Q You wouldn't have known that he had just moved into
21 the area, and had just started working in the area?

22 A No, sir.

23 Q When you saw Christopher earlier that day, when he
24 was hanging out outside the barber shop, he didn't
25 appear to be intoxicated then, did he?

1 A He was still standing outside the store drinking
2 like they always do.

3 Q They was always drinking there, but was he
4 drinking there?

5 A He had a can of beer in his hand.

6 Q What kind of can was he drinking?

7 A I really can't tell you. I know he had a can of
8 beer.

9 Q Let's go forward. You got off work, and you were
10 talking to a couple of white girls?

11 A Yes, sir.

12 Q Who else was there?

13 A Me and one of my friends.

14 Q Who was your friend?

15 A He dead now. We don't talk about him.

16 Q I am sorry that he is dead right now. Who is your
17 friend?

18 A Bernard Murphy.

19 Q So when you got there, he was already talking to
20 the two girls?

21 A We came together. They all just sitting out there.

22 Q You were all just hanging out, having a good time?

23 A Yes.

24 Q Were you driving?

25 A We were sitting there talking.

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1 Q You were not driving to get there?

2 A No, sir.

3 Q Were you not on heroin?

4 A I can't go to work high.

5 Q You were off work at that point, yes?

6 A I was in my house. I get high in my house. I
7 don't get high in the street.

8 Q We certainly appreciate that.

9 MR. OSBORNE: That is all I have.

10 No further questions.

11 THE COURT: Anything on redirect?

12 MR. D'ANGELO: Nothing, Your Honor.

13 MR. D'ANGELO: Thank you, sir. You may step down.

14 (Whereupon, the witness exited the witness stand.)

15 THE COURT: Defense ready to call its next witness?

16 MR. OSBORNE: We are, Your Honor.

17 THE COURT: All right.

18 MR. D'ANGELO: At this time, the defense would
19 call Douglas Young.

20 * * *

21 DOUGLAS YOUNG,

22 called as a witness by and on behalf of

23 the Defendant to testify, being first duly

24 sworn was examined and testified as follows:

25 * * *

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1 DIRECT EXAMINATION

2 BY MR. D'ANGELO.

3 Q Please state your name for the record, spelling
4 your last name.

5 A Douglas Young, Y-o-u-n-g.

6 Q Are you nervous?

7 A Yes, sir.

8 Q Speak up so everyone can hear you and the court
9 reporter can take it down, okay?

10 A Yes, sir.

11 Q Doug, where were you born?

12 A Charleston, South Carolina.

13 Q Have you lived in Charleston your whole life?

14 A Yes, sir.

15 Q Where have you lived at in Charleston?

16 A North Charleston, downtown, West Ashley.

17 Q Where did you go to high school?

18 A *Burke High School.

19 Q Where is Burke High School?

20 A Downtown.

21 Q That is kind of towards the neck of the peninsula
22 there?

23 A Yes.

24 Q What did you do after high school?

25 A I worked supermarkets, construction, restaurants,

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1 hotels, janitorial, any place I could get a job at.

2 Q Doug, again, I just want to get this out in the
3 open. Are you a convicted felon for drug charges?

4 A Yes, sir. I was convicted felon for drug charges.

5 Q You have lived your whole life here in Charleston?

6 A Yes, sir.

7 Q Do you have any kids?

8 A Yes, sir.

9 Q How many kids do you have?

10 A Three.

11 Q Do you know their ages?

12 A Yes, sir.

13 Q How old are they?

14 A Eighteen, 17, 12, and 9.

15 Q Are your kids here in Charleston?

16 A Yes, sir.

17 Q I want to talk a little bit -- if it's okay with
18 you -- about the injury that you have to your arm.

19 A That's okay.

20 Q In a nutshell, the best that you can describe it,
21 what is the injury that you have to your arm?

22 A My bicep muscle collapsed.

23 Q What do you mean it collapsed?

24 A My brain is not giving the nerves to tell it to
25 operate to move.

- 1 Q Did the muscle dissolve in your arm?
- 2 A Yeah.
- 3 Q So you don't have a bicep; right?
- 4 A No.
- 5 Q What arm are we talking about?
- 6 A My right arm.
- 7 Q Is this something you were born with?
- 8 A No.
- 9 Q About when in your life -- how old were you when
- 10 you started noticing this issue?
- 11 A Early 30s.
- 12 Q Doug, with the Court's permission, stand up and
- 13 take off your jacket.
- 14 A (Witness complies).
- 15 Q So, Doug, your left arm -- there is nothing wrong
- 16 with your left arm, right?
- 17 A No, sir.
- 18 Q Could you hold your left arm out.
- 19 A (Witness complies.)
- 20 Q Can you flex?
- 21 A Yes, sir.
- 22 Q Can you make a muscle?
- 23 A Yes.
- 24 Q Would you do the same with your right arm?
- 25 A (Witness complies.)

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1 Q Could you extend your arm?

2 A (Witness complies.)

3 Q Again, the issue is that you don't have a bicep in

4 your arm, right?

5 A No, sir.

6 Q How does that affect lifting objects?

7 A I can't lift heavy objects.

8 Q Can you throw a punch with that arm?

9 A No.

10 Q You can have a seat, Doug.

11 I want to talk to you a little bit about Chris

12 Mullen. Prior to August 12, 2017, had you ever met

13 Chris Mullen before?

14 A Yes, sir.

15 Q Where had you met him?

16 A Right there. [REDACTED] Line.

17 Q Do you know where Chris was staying?

18 A Yes, sir.

19 Q Where was Chris staying?

20 A At a friend, Jeremy's house.

21 Q Where is Jeremy's house at?

22 A Right across the street. His house on the side, on

23 Line Street, but the front part face Nassau Street.

24 Q What had you-all done when you had met in the past?

25 A Drink with him. I sold him coke.

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1 Q You-all would drink at your Aunt Katherine's house
2 there?

3 A Yeah.

4 Q Were you and Chris together the night before the
5 shooting?

6 A Yes.

7 Q I want to talk about your Friday night there.
8 What were you doing that Friday night?

9 A I was just hanging out. Me, my cousin, some other
10 of those cats, Chris.

11 Q Had you been out there before Chris came?

12 A No.

13 Q When you got there, Chris was already out there
14 hanging out?

15 A Yeah.

16 Q How would you describe Chris that night when you
17 saw him?

18 A Acting wild. Hyped up.

19 Q You said acting wild and hyped up; isn't that
20 right?

21 A Yes.

22 Q Doug what do you mean by acting wild and hyped up?

23 A Just the conversation was just like moving around,
24 just jumping and bragging.

25 Q What was he bragging about?

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1 A He had done shootings and all of the other stuff he
2 was doing back home in Beaufort.

3 Q Doing it back home in Beaufort?

4 A Yeah. When he was going back home and the things
5 that he had done in Beaufort.

6 Q Why would he just be bragging and talking about
7 shootings that he had done down in Beaufort?

8 A To try to fit in, I guess.

9 Q Did he have a gun with him?

10 A Yeah.

11 Q How do you know he had a gun with him?

12 A As he was talking about the shootings and all, I
13 see a strap.

14 Q Where did he have the gun?

15 A In his pants, under his shirt.

16 Q When you heard him talking about shootings down in
17 Beaufort and pulling out a gun, flashing it around, what
18 is going through your mind?

19 A Nothing at first. This guy is just wild, you
20 know. I just was really sitting out there drinking.

21 Q Trying to just mind your own business?

22 A Yeah.

23 Q How late were you-all out there that night?

24 A Up until the incident the next morning.

25 Q Up until the shooting?

1 A Yeah.

2 Q Let's break that down a little bit.

3 At the time of the shooting, Doug, who is out

4 there?

5 A Just me and him.

6 Q Doug, I am showing you State's Exhibit 4.

7 Do you recognize that house?

8 A Yes, sir.

9 Q Whose house is that?

10 A My Aunt Cat's house.

11 Q Is that where you and Chris Mullen were sitting

12 that morning?

13 A Yes, sir.

14 Q That screen in front of you is a touch screen,

15 Doug. Could you mark on there where are you sitting?

16 A I was sitting right there.

17 Q That step?

18 A Yeah.

19 Q Where is Chris Mullen at?

20 A Sitting right here.

21 Q While you are sitting next to Chris on the steps,

22 what happens?

23 A We was just talking. He was asking me what type of

24 neighborhood this is. Are the gangs represented around

25 this neighborhood.

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1 Q Which gangs are on the east side?

2 A Yeah. Then we were talking about drugs. That is
3 when he was, like, I got some coke.

4 Q You said some coke, cocaine?

5 A Yeah. I was dealing the coke. He got mad.

6 Q Why would he get mad that you are dealing coke?

7 A He wanted some. I didn't want to give him none.
8 I didn't have enough. He got mad and jumped up and took
9 off his shirt. He said, you be shysting me.

10 Q Why would he take off his shirt?

11 A He got mad and he wanted to fight, do something.

12 Q In that photo, the white shirt that is on the step,
13 is that Chris Mullen's shirt?

14 A Yes.

15 Q He stands up and takes off his shirt. What does he
16 do next?

17 A He pulled out a gun.

18 Q Where was the gun?

19 A In his pants.

20 Q Tucked into the waistband?

21 A Yeah. Tucked into his pants on the side.

22 Q He stands up, takes off his shirt, pulls out the
23 gun from the waistband. What does he do?

24 A He points it at me and says, Give me your coke and
25 your money. He want to be shysting me.

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1 THE COURT REPORTER: I'm sorry. What was that
2 word?

3 MR. D'ANGELO: Say it again.

4 THE WITNESS: Stingy.

5 BY MR. D'ANGELO:

6 Q What is going through your head when he says that?

7 A I am scared.

8 Q Why are you scared?

9 A He has a gun in my face.

10 Q What do you do as he is sitting there with a gun in
11 your face?

12 A I am still looking at him. At the same time, he
13 walking toward me. I thought he was going to go in my
14 pocket himself and take whatever I had. He came and sat
15 back down.

16 Q Why did he sit back down?

17 A The SUV was coming up at the stop sign.

18 Q We have heard a lot of talk about the SUV. Was
19 that Kathy Brisbane's SUV coming up?

20 A Yes.

21 Q As you were sitting there, did you recognize whose
22 SUV that was?

23 A No. Not at first.

24 Q He sits back down. You said there is an SUV coming
25 up.

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1 What happens?

2 A He sit back down. Crossed his arms and hunched
3 over like this.

4 Q Why is he crossing his arms?

5 A He had the gun pointed at me while he is sitting
6 down. That is when, he was like, I was like, come on,
7 man, you are not serious. You put this on my set.

8 Q What does that mean? Put this on my set?

9 A Gang term, a promise, putting on them.

10 Q Gangs backing that promise?

11 A Yes.

12 Q After you said, I will put this on set, what did he
13 do?

14 A As soon as the truck go by, you are going to give
15 it up.

16 Q What did you do, Doug?

17 A I am kind of thinking that he is just trying to
18 get me to look somewhere else, so he can go and ration
19 it. I glanced. At that time, I looked back at him,
20 and he showed it like this. He still had it. He was
21 hunched over some more to the right to see nobody else
22 coming or whatever.

23 That is when I just took my chance and snatched the
24 gun from him. We both jumped up, and I just started
25 pulling the trigger.

1 Q You said you are sitting on the steps, and you
2 grabbed the gun?

3 A Yes.

4 Q You jump up. How far back do you think you get
5 from Chris?

6 A Probably about 3 feet. A good distance from him.

7 Q A good distance from him?

8 A Uh-huh.

9 Q When you back up from Chris, what is Chris doing at
10 that moment?

11 A He was trying to snatch the gun back, trying to
12 come at me.

13 Q You have the gun in your hand now, right?

14 A Yeah.

15 Q Why did you feel that you had to shoot Chris
16 Mullen?

17 A I knew he would have taken that gun back from me,
18 with my messed up arm --

19 Q If you had the gun -- why do you think he would
20 have been able to get that gun from you?

21 A He is stronger than me. Faster than me too. He
22 had more advantage.

23 Q Do you feel you could have fought Chris Mullen off?

24 A No.

25 Q Why do you not feel that you could have fought

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1 Chris Mullen off?

2 A I had to shrimp the fight.

3 Q Did you want to shoot Chris?

4 A No. I didn't want to shoot him.

5 Q Did you shoot Chris Mullen?

6 A Yeah. I shot him.

7 Q Why did you shoot Chris?

8 A I thought he was going to shoot me or kill me.

9 Q Were you scared?

10 A Yes. I was.

11 Q Are you scared now?

12 A Yes.

13 Q After the shooting, Doug, what did you do?

14 A Well, I was starting to run. That is when I
15 noticed the SUV was honking. I noticed it was Kathy.

16 Q When you first saw that SUV -- let me back up.

17 You started to kind of walk away from that corner,
18 right?

19 A Yeah.

20 Q You said you heard a car honking?

21 A Yes. She done pulled right up on me.

22 Q Was the gun in your hand still?

23 A Yeah.

24 Q Did you recognize who that car was?

25 A No.

1 Q How did you ultimately recognize who was in that
2 car?
3 A I took a lucky shot. She was yelling out the
4 window, that is when I could see clearly through the car
5 window.
6 Q After the shooting, she rolls up and tried to start
7 talking to you?
8 A Yeah.
9 Q Did you get in her car?
10 A Yeah.
11 Q Where did you go?
12 A I asked her to take me around to my baby momma
13 house.
14 Q Did she know exactly where your baby momma's house
15 was?
16 A No.
17 Q When you say baby momma --
18 A My girlfriend.
19 Q Ashley Frazier?
20 A Yeah.
21 Q She lived over on Drake Street?
22 A Yeah.
23 Q Kathy Brisbane didn't know exactly where that was?
24 A No.
25 Q You were telling her where to go?

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1 A Yeah.

2 Q What happened next? You told Kathy, and she is
3 taking you there.

4 Were you holding Kathy at gunpoint?

5 A No.

6 Q What happens -- did you get to your baby momma's
7 house?

8 A Yes. She dropped me off right there on Drake
9 Street, but Ashley wasn't home.

10 Q She wasn't home?

11 A No.

12 Q Did you have a key to her house?

13 A No.

14 Q What did you do after you couldn't get to Ashley's?

15 A I went around the corner from her house to Amherst
16 Street. It's an abandoned house where we get high at
17 and do other stuff there.

18 I was sitting there trying to soak everything in
19 that had just happened. I just happened to crash out.

20 Q You just had someone threaten to shoot and to rob
21 you. You had to take their gun that they had on you and
22 you had to kill him.

23 Doug, what is going through your head right now?

24 A I was so scared. I couldn't really think. All
25 kinds of stuff was going through my head.

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1 Q Did you think there was anything that could help
2 this situation for you?

3 A At that time, no. Nothing never happened like
4 this.

5 Q Were you scared that morning?

6 A Yeah.

7 Q Do you wish there was any other option that you
8 could have taken?

9 A Yeah.

10 Q Did you feel there was any other option that you
11 could take?

12 A No.

13 Q Why did you feel that way?

14 A It all happened so fast. He had me at gunpoint. I
15 was scared he was going to kill me.

16 Q What did you feel that Chris Mullen would do if he
17 got that gun back from you, Doug?

18 A He was going to shoot me. He was going to kill me.

19 MR. D'ANGELO: Brief moment, Your Honor.

20 No further questions at this time, Your Honor.

21 THE COURT: Anything on cross-examination?

22 MR. OSBORNE: A little bit.

23 * * *

24 CROSS-EXAMINATION

25 BY MR. OSBORNE:

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1 Q Mr. Young, let's talk first about your injury. It
2 doesn't stop you from pulling the trigger of a gun,
3 though, does it?

4 A I don't know.

5 Q It doesn't, does it?

6 A No.

7 Q You could pull that trigger over and over again,
8 can't you?

9 A Yeah.

10 Q You can kill, can't you?

11 A If I had to, I guess.

12 Q What is your drug of choice?

13 A Coke.

14 Q You are not a very good seller, are you?

15 A No.

16 Q You use the product?

17 A Yeah.

18 Q That is what you are telling the jury?

19 A Yes.

20 Q Where did you work at this time?

21 A I was doing janitorial work then.

22 Q Where did you work at this time?

23 A Various places. I would go and clean up the
24 buildings after they close.

25 Q I understand. Where did you work at this time?

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1 A Where did I work?

2 Q Yeah.

3 I will give you an out. Temp work?

4 A Temp work? I was working for a person.

5 Q Where did you work?

6 A It was a janitorial person who had a janitorial

7 company.

8 Q You didn't have a job, did you?

9 A No. Not a payroll or whatever you want to say.

10 Q I understand. You didn't work. You used your

11 product. That is what you are telling the jury?

12 A Yeah.

13 Q Did you find that using cocaine helped your bicep

14 at all? Did it make it feel a little better or

15 stronger?

16 A No.

17 Q All right.

18 You said that you had met the victim sometime

19 earlier. You knew that he had just moved to Charleston?

20 A I didn't even knew (sic) he moved. I thought he

21 was just visiting.

22 Q Either way, you knew he was new to the area?

23 A Yes.

24 Q You knew that he was a barber who worked at Top of

25 the Line? You know where Top of The Line is, right?

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1 A I didn't know he was a barber or nothing like
2 that.

3 Q You weren't that close to him?

4 A No.

5 Q You didn't know he worked at Top of The Line?

6 A No.

7 Q You do know where Top of The Line is?

8 A Yes.

9 Q So he never shared that with you that he was a
10 barber in training who was working under a master
11 barber, like an apprentice?

12 He never shared that with you?

13 A No. He ain't never tell me that.

14 Q He never shared with you that he too had a young
15 infant child?

16 A No.

17 Q You were nothing more than a drug supplier to him;
18 right? It's not like you-all were tight?

19 A Yes. Just street conversation.

20 Q So when he needed -- according to you, when he
21 wanted drugs, coke, you were together?

22 A Yeah.

23 Q How much do you think you sold him over these five
24 days that he had lived in Charleston?

25 A I only sold him a gram.

1 Q You sold him a gram? All right. How much was
2 that? How much did he pay for it?
3 A \$80.
4 Q One time?
5 A Yeah.
6 Q That is it?
7 A Yes.
8 Q Sure?
9 A Yes.
10 Q Okay.
11 Let's talk about how you and Chris came to see each
12 other that night. How did it first come about that you
13 first saw each other? Was it a pre-arranged thing that
14 you-all would be out there?
15 A No.
16 Q He was already out there when you walked out there?
17 A Yes.
18 Q Not causing any trouble?
19 A No.
20 Q Just hanging out?
21 A Rambunctious, loud.
22 Q So he was causing trouble?
23 A No.
24 Q He wasn't causing trouble?
25 A No. He wasn't causing trouble. He was hyped up,

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1 jumping around.

2 Q Nothing that concerned you in any way?

3 A No.

4 Q So he wasn't causing any trouble. Just hanging
5 out, and you-all were drinking?

6 A Yeah.

7 Q Ice House?

8 A I was drinking Ice House. I think he was drinking
9 Heineken.

10 Q Ice House, that is your beer of choice?

11 A Yeah.

12 Q That is kind of your thing, right, Ice House?

13 A Yeah.

14 Q 16 ounce?

15 A Forty. Whatever I could afford at that time.

16 Q We saw it up here.

17 Did you provide that beer to him?

18 A Probably around that time.

19 Q Okay. So you gave him the Ice House, and you-all
20 were just hanging out drinking. What Gerald said was
21 pretty accurate? It went on all throughout the night?

22 A Yeah.

23 Q As it gets late into the morning, there is no place
24 to go get any more beer. It's closed. Even the Exxon
25 on Meeting is going to be closed, right?

1 A No. It's still going to be open.

2 Q It's still open? You can hit the window?

3 A Yeah.

4 Q Is that what you did? Did you make some beer runs

5 throughout the night?

6 A Yeah.

7 Q You would buy beer for Chris and brought it back

8 for Chris?

9 A Yes.

10 Q So you-all were drinking and hanging out and

11 everything is going good?

12 A Yeah.

13 Q No problems?

14 A No.

15 Q At some point, it's just you and him?

16 A Uh-huh.

17 Q Yes?

18 A Yes.

19 Q So you and him hanging out, drinking. Is he

20 paying for any of the beers, or is this all you?

21 A No. He didn't pay for nothing.

22 Q He didn't pay for nothing?

23 A No.

24 Q You are giving him beers. You-all were drinking.

25 You-all were having fun. He is a nice guy drug dealer?

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1 A Yeah. That is how we do.

2 Q I am talking about when it was just you and Chris.

3 A Well, we had the beer before it was just me and him
4 by ourselves.

5 Q How many beers do you think you drank that night?

6 A I would say probably around a six-pack worth for
7 me.

8 Q For you?

9 A Yeah.

10 Q How many beers do you think you drank that night?

11 A That is what I said.

12 Q You drank a six-pack?

13 A Probably a six-pack of beers.

14 Q Six-pack of the Ice House. These are 16 ounces?

15 A Yeah.

16 Q How much do you think Chris drank?

17 A He had already been out there. They had beers when
18 I came out there. I can't tell you how many beers they
19 were drinking.

20 Q Let me ask you this. In your presence, how many
21 beers do you think Chris drank when you-all were
22 together?

23 A I don't know.

24 Q You-all were out there for a while, right?

25 A Yeah.

1 Q Okay.

2 A Me and him drink about the same amount that I was

3 drinking.

4 Q He drank six beers too?

5 A Yeah.

6 Q So 12?

7 A Yeah.

8 Q You were making several trips back and forth to the

9 Exxon?

10 A Like I said, it wasn't me and just him by

11 ourselves. Other people went. It was all us just

12 getting beers.

13 Q Either way, you paid for about six beers for Chris

14 to drink?

15 A I paid for one round. Each one of us would buy

16 each other a round.

17 Q So Chris did buy beer too?

18 A No. He didn't buy one. Other people that was out

19 there.

20 Q Anyway, you-all were hanging out on the steps here.

21 You can put an X there. Tell me when it's just you and

22 him. I am moving ahead here to just you about this.

23 I know you-all were both drinking beer. He

24 probably drank a six-pack. You probably drank about

25 that too. Either way, when it was just you and him

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1 sitting on the steps prior to Ms. Brisbane pulling up,
2 where are you sitting?

3 A Right here. To the edge.

4 Q Where is Chris sitting?

5 A Right here.

6 Q So he is on your right?

7 A Yeah.

8 Q Now something happens?

9 A Yeah.

10 Q And you start snorting coke?

11 A Yeah.

12 Q How did you do it?

13 A I had a dollar bill. I took it out of my front
14 pocket. Open it up.

15 Q You hit it right from in the baggy?

16 A No. It was in a dollar bill.

17 Q You used another dollar bill to hit it from that or
18 you just went straight there?

19 A I just went straight.

20 Q That is all you had on you that night? How much
21 coke was it?

22 A Probably .2.

23 Q Grams?

24 A Yes.

25 Q Just for the jury, what is that? Ten or 20

1 dollars?

2 A Thirty, 20. It all depends.

3 Q That is all you had on you that night?

4 A That is all I had left.

5 Q So you were doing coke throughout the night?

6 A Just a little bit.

7 Q And you were not sharing with Chris?

8 A He didn't know at first.

9 Q So you were doing the coke throughout the night,

10 but you were not sharing it with anybody?

11 It was just you doing it?

12 A Yeah.

13 Q So Chris wasn't offered any from you?

14 A No.

15 Q You did give him beer?

16 A Yeah.

17 Q So you are on coke and you are drinking beer too.

18 A Yeah.

19 Q So he never saw you do the coke earlier in the

20 night, but he saw it at that time?

21 A Yeah.

22 Q So he saw you take it out, and you didn't offer him

23 anything?

24 A No. It wasn't enough to share.

25 Q Wasn't enough to share. You hit it, and then what

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1 does he do then?

2 A I didn't hit it.

3 Q Okay. Snort it.

4 A I thought you mean hide. Like I hide it.

5 Q No.

6 A He said, ain't you going to share that?

7 I'm, like, naw. It's only enough for me.

8 Q You don't share nothing. You just told him the
9 cold hard facts. I just don't have enough for you?

10 A Yeah.

11 Q Things must escalate quick then, right?

12 A Yeah.

13 Q You don't have enough for me. Then what happens?

14 A That is when he jumped up and take off his shirt
15 and said, do you want to be shysted?

16 Q That is what I am getting at. What we are getting
17 to here is an attempted robbery, right?

18 A Yeah.

19 Q Chris thought that, the first thing I want to do
20 before I rob somebody is take off my shirt.

21 That is what he did, right?

22 A Yes.

23 Q He took off his shirt. He put his shirt down and,
24 you want to get stingy?

25 A Uh-huh.

1 Q Right?

2 A Yeah.

3 Q Where is standing now on these steps?

4 A He ain't standing on the steps. He was like that

5 distance right there. A little further back.

6 Q Enough room for you to back up?

7 A Yeah. About that little right there.

8 Q When you left off, were you still on the steps at

9 this point?

10 A I am still sitting on the step right there.

11 Q So it looks like he took his shirt off and threw it

12 down at your feet, basically?

13 A I didn't focus on that.

14 Q Now he gets up. That pesky shirt is out of the

15 way. Now what does he do?

16 A Aiming the gun at me. Saying, do you want to be

17 shysted?

18 Q Cocaine in mind?

19 A Yeah.

20 Q You just told him you didn't have any coke, but he

21 still wanted whatever coke?

22 A I guess he thought I was lying.

23 Q The money, how much money did you have on you?

24 A I didn't have much money on me. That is the funny

25 thing. He probably thought I had a lot.

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1 Q How much money did you have?

2 A I probably had \$60, somewhere up in there, not
3 much.

4 Q All right. So I would imagine at this point -- you
5 are not about getting shot -- you probably tell him, I
6 don't have any coke.

7 A Yeah. I am saying I didn't have any. It didn't
8 even get to that. I was coming down there, and that is
9 when he was approaching me. I thought he was going to
10 go into my pockets himself. He sat down and was pulling
11 the gun on me.

12 Q So you didn't respond at all to that?

13 A No. I didn't respond.

14 Q Then he came back, and then he sat down again?

15 A Yeah.

16 Q In the same spot?

17 A Yeah.

18 Q Sitting down next to you?

19 A Yeah.

20 Q Still holding the gun?

21 A Yeah.

22 Q Right hand?

23 A Yeah.

24 Q He has the gun over his body?

25 A Yeah. Hunched over. Arms crossed.

1 Q Gangster style like that, pointing at you?

2 A Not gangster style, but he was tucking and hiding
3 it. Then we saw the vehicle at the same time.

4 Q You didn't know who was in that car at that time?

5 A No.

6 Q The car is still stopped at the stop sign?

7 A When I looked, the car hadn't gotten there yet. It
8 still was coming down.

9 Q And you now basically have a decision to make,
10 don't you?

11 A I was thinking a lot of stuff. I looked and the
12 vehicle was coming down. That is when I looked back.
13 That is when he stopped. I stopped to look that way, I
14 guess to see if the coast was going to be clear.

15 Q So I would imagine -- tell me if I am wrong here --
16 I would imagine in your mind, you are thinking you have
17 about three options here.

18 I can walk away. I can try to take the gun from
19 him. I can sit and wait and see what happens, right?

20 A If that is how you want to say it.

21 Q Well, tell us then.

22 A I was only thinking one thing, get that gun away
23 from him.

24 Q Bad arm and all?

25 A Yeah.

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1 Q We are going hands on. He has the gun pointed at
2 me, he is bigger, like you said. How tall are you?

3 A 5, 11.

4 Q How much do you weigh?

5 A 135.

6 Q Actually, that's right on par with Chris. Despite
7 that, you are going to go hands on, bad arm and all,
8 take that gun away from him, the gun that is pointed at
9 you, and now the fight is on?

10 A I wasn't contemplating thinking nothing like that.

11 Q That is what you did?

12 A Yeah.

13 Q Even in your weakened state, you were able to take
14 that gun from him, right?

15 A I thought I would try that.

16 Q How did you do it? Punch him?

17 A I took both hands. His head was turned.

18 Q You reached in with both hands?

19 A Yeah.

20 Q And you grabbed him?

21 A Yeah.

22 Q And he just let you have it?

23 A He was surprised, I guess.

24 Q You beat him, got the gun.

25 A I guess so.

1 Q You have already bested him, and now you have the
2 gun in your hand.

3 A Say that again?

4 Q You have bested him. You are in a superior
5 position right now. You have the gun in your hand. You
6 have taken that gun from him.

7 That is your testimony, right?

8 A Yeah.

9 Q Then you stand up, right?

10 A No. It's not like that.

11 Q You didn't stand up?

12 A Everything happened right then in one motion. It
13 didn't happen like a piece at a time. I snatched the
14 gun, and we both jumped up at the same time. He was
15 coming towards me, and I just was pulling the trigger
16 until he fell to the ground. Boom. It was all one fast
17 motion.

18 Q When you stood up and you started firing, where
19 were you standing?

20 A I stood up. I jumped back. I was standing right
21 here.

22 Q Where is Chris standing?

23 A Probably about -- I would say there.

24 Q About right there?

25 A Yeah.

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- 1 Q When you pointed that gun, did you point it
2 stretched out like this at him?
- 3 A I couldn't tell if I stretched it out.
- 4 Q Why not?
- 5 A My arm.
- 6 Q So we are on the arm again. So the arm didn't
7 allow you to stretch it out, but it didn't stop you from
8 pulling the trigger?
- 9 A No.
- 10 Q You heard Ms. Brisbane trying to get you to stop,
11 right? You heard the honking, right?
- 12 A Really, my mind wasn't paying attention on her.
- 13 Q Right. You had one thing on your mind at that
14 point, to shoot Chris Mullen, right?
- 15 A No. It wasn't intentional. It wasn't on my mind
16 to shoot him. It just happened like a reaction.
- 17 Q I heard you say that to Mr. D'Angelo, that it just
18 happened. Guns don't shoot themselves, do they?
- 19 A Yeah. Guns don't shoot theyself (sic).
- 20 Q You made that decision to pull the trigger again,
21 again, again, again?
- 22 A I was scared.
- 23 Q I understand you were scared. Were you scared when
24 you shot him the first time?
- 25 A I was scared from the whole get-go.

1 Q When he was standing like this, you were scared?

2 A He wasn't standing like that.

3 Q He wasn't standing like that?

4 A No.

5 Q He didn't say nothing like, well, are you going to

6 shoot me?

7 A No.

8 Q He didn't say that?

9 A No.

10 Q So you were scared the first time you shot him.

11 When he turned and you fired again, were you scared?

12 A The whole time it happened, I was scared.

13 Q When you shot and you shot, and he was standing

14 just like this, were you scared when you shot him in the

15 back?

16 A I didn't shoot him in the back. He didn't turn

17 around like that.

18 Q You didn't shoot him in the back?

19 A No.

20 Q Okay.

21 A I am not saying that I didn't shoot him in the

22 back, I didn't know exactly where I shot him at, because

23 I was just pulling the trigger.

24 Q I get it. You were just pulling the trigger. I

25 get it.

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1 When Kathy ended up crossing the street in her SUV,
2 you were just pulling the trigger, and then you
3 stopped. I am just curious, why didn't you stop after
4 shooting him four times? Why didn't you keep shooting?

5 A He done fell to the ground. I didn't felt (sic)
6 like there was no more to shoot him.

7 Q The back shot was okay, but once he was on the
8 ground, that was it?

9 A Like I said, I don't know exactly where, I was not
10 pointing at places to shoot him at. I just pulled the
11 trigger until he fell to the ground.

12 Q When you turned and looked at Kathy, you didn't
13 know at first it was her when you pointed the gun at
14 her, right?

15 A Yeah.

16 Q Then you got in the car?

17 A Yeah.

18 Q What was that that Kathy said that you said?
19 Something like, you don't say nothing, and I won't say
20 nothing?

21 A I was telling her, don't say nothing to any people
22 about what just happened.

23 Q Keep her mouth shut?

24 A Not keep your mouth shut. I was scared, so I
25 didn't want her to have it out there in the street what

1 I had done.

2 Q You don't tell on me; I won't tell on you.

3 Is that what you said?

4 A I can't remember exactly everything I said.

5 Q What would you have told on her about? For driving

6 you from the scene?

7 A If I said that, I don't remember saying that. I

8 don't have no reason why I would have said that.

9 Q You did have the wherewithal in your mind to say, I

10 need to go to my girlfriend's house. That is where you

11 asked her to drop you off.

12 You directed her, right?

13 A Yeah.

14 Q You got out of the car?

15 A Uh-huh.

16 Q You have to say yes or no?

17 A Yes.

18 Q We have seen the video. You went up to Kim Rivers,

19 right?

20 A Yeah. I sat there. She wasn't home.

21 Q And you still had Christopher's gun, according to

22 you, in your possession, right?

23 A Yeah.

24 Q So you walked up to Kim, and you asked Kim to take

25 the gun, right?

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- 1 A I was trying to talk to her.
- 2 Q You were trying to get her to take the gun, right?
- 3 A I don't remember telling her that.
- 4 Q You don't remember telling her that?
- 5 A No. I was trying to talk to her. I don't remember
- 6 telling her that. I was just -- my mind was still
- 7 bothered, running all over the place.
- 8 Q Let me ask you this. Just some other questions
- 9 about Aunt Kat. That is what you call her, right, Aunt
- 10 Kat?
- 11 A Aunt Kat.
- 12 Q You have known her your whole life?
- 13 A My Aunt Kat or Kathy? I have an Aunt Kat and I
- 14 have an Aunt Kathy we call Aunt Kathy.
- 15 Q What do you call Katherine Brisbane?
- 16 A Aunt Kathy or Auntie.
- 17 Q Ms. Brisbane, that is who you call Aunt Kathy?
- 18 A No. Kat is my aunt.
- 19 Q What do you call Ms. Brisbane?
- 20 A Auntie.
- 21 Q When you were talking on the jail calls about
- 22 getting to Aunt Kat and getting her to straighten out
- 23 her story, you were talking about Kathy Brisbane, right?
- 24 You don't remember saying that?
- 25 A Get to Aunt Kat?

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1 Q Yeah.

2 A To straighten out her story?

3 Q Yes. Remember how Uncle Freddie told you that Aunt
4 Kat was already running her mouth, and you needed to get
5 to her and straighten out her story?

6 MR. D'ANGELO: Objection, hearsay.

7 THE COURT: He is just -- repeat the question.

8 BY MR. OSBORNE:

9 Q Do you remember being told that Uncle Freddie said
10 that --

11 MR. D'ANGELO: That part, I object to the hearsay.

12 THE COURT: To what Uncle Freddie said is hearsay.
13 Okay.

14 BY MR. OSBORNE:

15 Q But you didn't have any problems with Ms.
16 Brisbane, right?

17 A No.

18 Q No issues with her or anything like that?

19 A No.

20 Q Prior to this?

21 A No.

22 Q When you got in the car with her, you never said, I
23 just had to kill this guy. Let me tell you what
24 happened. That guy was about to rob me.

25 You never mentioned anything like that?

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1 A My mind wasn't focused on that.

2 Q Your mind at that point was focused on one thing,

3 getting out of Dodge?

4 A Getting as comfortable as I could with a person I

5 could talk to like that.

6 Q Ashley Frazier?

7 A Yeah.

8 Q You told Ashley Frazier what happened?

9 A She wasn't home.

10 Q At some point you did?

11 A I never talked to her nothing until I got locked

12 up.

13 Q You told her once you got locked up?

14 A Yeah.

15 Q Yes?

16 A Yes. I had a conversation with her.

17 Q I understand. That was on a jail call?

18 A Yeah.

19 Q Okay. You never called 911, never waited for the

20 police, never did any of that. You just got Kathy to

21 get you out of there?

22 A I didn't have a phone.

23 Q But Kathy did. Did you ask her to call 911?

24 A No. I think I said my mind was running wild on

25 getting to safety ground and getting out of there. I

1 wasn't thinking like that.

2 Q Safety grounds, that means getting to a place where
3 there are no police?

4 A I feel nobody is going to injure me or do
5 anything else to me. I can just sit down and think
6 about what happened.

7 Q Are you a typically scary guy that you are afraid
8 people are going to hurt you?

9 A No. At that moment right there, I was worrying
10 about it.

11 Q But that moment had passed. We would agree, right?

12 A It was still kind of bothering me.

13 Q It was definitely bothering Chris.

14 So you said you had went to an abandoned house.

15 A Yeah.

16 Q Is that where you left the gun?

17 A Yeah.

18 Q The gun is still sitting there, as far as you know?

19 A Say that again.

20 Q The gun is still there now, as far as you know?

21 A No. It was not there.

22 Q Not in the abandoned house now?

23 A No. They tore it down.

24 Q So you hid the gun at the abandoned house, but you
25 don't know where the gun is now?

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1 A Yes. I don't know where it is.

2 Q You said that you were tired. You probably had an
3 adrenaline dump, you were probably excited. You took a
4 nap in the abandoned house?

5 A Yeah. I did.

6 Q You woke up?

7 A Yes, I did.

8 Q Had to change your clothes?

9 A Yes, I did.

10 Q You knew at this point people were looking for you?

11 A Yeah.

12 Q You changed your clothes. Did you go to Ashley's
13 house to change your clothes?

14 A No. I had a little bag of clothes sitting there
15 right at the abandoned house.

16 Q This is kind of like saying this is your stash
17 house? This is your safe haven? Leave your stuff
18 there?

19 A Not really. All of us be going in there.

20 Q By the time you had woke up, word had already
21 spread on the east side.

22 You knew that Kathy Brisbane had talked to the
23 police, right?

24 A I didn't know that.

25 Q When you left that abandoned house and you were

1 walking, you were headed to Kathy Brisbane's, weren't
2 you?
3 A No, sir.
4 Q When the police arrested you, you were going to go
5 straighten out Kathy Brisbane, weren't you?
6 A No, sir.
7 Q She told on you, right?
8 A I didn't know who told on me or nothing.
9 Q But you were arrested?
10 A Yes, sir.
11 Q You were arrested about a block from the crime
12 scene?
13 A Yeah.
14 Q On Nassau?
15 A Yes, sir.
16 Q That would be about a block or two from Kathy's
17 place of work?
18 A Yes, sir.
19 Q You were not too happy about being arrested, were
20 you?
21 A I was scared.
22 Q I am not saying scared. I am saying you were not
23 too happy. When they got you to the jail, they tried to
24 get you out of the car, and you wouldn't get out of the
25 car, would you?

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- 1 A I didn't want to be arrested for murder.
- 2 Q You said they lied to you?
- 3 A No. I realized I was being arrested, like kicked
- 4 in, like going to jail.
- 5 Q So you knew you were arrested for murder before you
- 6 got to the jail?
- 7 A Yeah.
- 8 Q But you are saying that that is the moment of
- 9 realization?
- 10 A Yeah.
- 11 Q But you knew you had killed somebody. It shouldn't
- 12 have been that surprising, right?
- 13 A I didn't say I murdered somebody.
- 14 Q I get it. They had to call out the special
- 15 response team to get you out of the car, didn't they?
- 16 A Yeah.
- 17 Q Do you remember that?
- 18 A Yeah.
- 19 Q You said that while you were at jail, you admit you
- 20 made some phone calls, right?
- 21 A Yes.
- 22 Q Were you switching up PINs with other people, or
- 23 were you using your own PIN?
- 24 A I was using my PIN. People use your PIN
- 25 sometimes, stuff like that.

1 Q When you made the phone calls, did you use your
2 PIN?

3 A Yes. I used my PIN.

4 Q When you do that, you have to give your name in
5 the beginning, Douglas Young?

6 A Yeah.

7 Q You said your name, Douglas Young?

8 A Yeah.

9 Q I just want to ask you something real quick about
10 this. When you were first arrested, the only thing that
11 you knew at that time was what they told you, which was
12 on that warrant, right?

13 A Yeah.

14 Q So you knew that Kathy Brisbane had talked, but you
15 didn't know anything about the DNA or anything like
16 that, right?

17 A No. I didn't know about Kathy either.

18 Q You knew someone had pointed it out, right? You
19 knew Kathy was the only one that was there, right?

20 A Honestly, I didn't think it was her.

21 Q You didn't think it was her? You didn't think it
22 was Kathy?

23 A No.

24 Q Are you sure?

25 A I am positive.

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1 MR. OSBORNE: Nothing further.

2 THE COURT: Anything on redirect?

3 MR. D'ANGELO: Briefly, Your Honor.

4 * * *

5 REDIRECT EXAMINATION

6 BY MR. D'ANGELO:

7 Q Doug, I want to talk a little bit about kind of
8 what is going through your head, okay?

9 A Yes, sir.

10 Q Why did you shoot Chris Mullen?

11 A I was afraid that he was going to shoot me, hurt
12 me.

13 Q Is it fair to say you were acting in self-defense?

14 MR. OSBORNE: Objection, Your Honor.

15 THE COURT: Can you rephrase that.

16 MR. D'ANGELO: Yes.

17 BY MR. D'ANGELO:

18 Q Did you feel like you were protecting yourself?

19 A I was like saving my own life.

20 Q Talk to you a little bit about, again, what you
21 knew at that time. Did you think you protecting
22 yourself justified you killing Chris Mullen?

23 A Yes.

24 Q In your head, did you think legally you wouldn't be
25 charged with murder?

1 MR. OSBORNE: Objection, Your Honor. That is
2 completely irrelevant.

3 THE COURT: Yes.

4 MR. D'ANGELO: I can rephrase.

5 THE COURT: Thank you.

6 BY MR. D'ANGELO:

7 Q Doug, why didn't you want to tell anybody what
8 happened?

9 A Because I was going to be charged with murder.

10 Q Why did that scare you?

11 A Because I didn't murder nobody.

12 Q Why did you think you would be charged with that,
13 though?

14 A Because I am a convicted felon. I didn't know
15 there was a self-defense law to help me defend myself.

16 Q To you, what did being a convicted felon mean?

17 A I have no rights.

18 Q You didn't think you had a right to shoot Chris
19 Mullen?

20 A No.

21 Q You didn't think you had a right to defend
22 yourself?

23 A No.

24 MR. D'ANGELO: Nothing further.

25 THE COURT: Anything on recross?

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1

* * *

2

RE CROSS-EXAMINATION

3 BY MR. OSBORNE:

4

Q You didn't think you had a right to defend
yourself, because you are a convicted felon. Is that
what you just said?

7

A I didn't think there was rights for it, no.

8

Q So you think convicted felons don't have a right to
protect themselves? Is that what you just said?

10

A No. I didn't know that.

11

Q There would be no reason, no reason, to lie to your
friends and family about what you did, would there?

13

A No.

14

Q None at all?

15

A No.

16

MR. OSBORNE: Nothing further.

17

THE COURT: All right. You may step down.

18

(Whereupon, the witness exited the witness stand.)

19

THE COURT: Is the State ready to call its next
witness?

21

MR. D'ANGELO: Your Honor, at this time the next
witness is the one that is currently unavailable to
testify.

24

THE COURT: Would you like to wait until tomorrow
morning?

25

1 MR. D'ANGELO: Yes, Your Honor.

2 THE COURT: All right.

3 Ladies and gentlemen, we are going to stop today.
4 I will ask you-all to be back in the jury room at 9:30,
5 and we will continue with the defendant's case.

6 Again, let me remind you. Do not talk among
7 yourselves or to anybody else. Do not do any separate
8 investigation.

9 Get a good night's rest. I will see you-all at
10 9:30 in the morning.

11 (Whereupon, the jury exited the courtroom.)

12 THE COURT: Anything from the State before we go
13 home?

14 MR. OSBORNE: No, Judge, I think we can address --
15 we have stuff to say about this potential witness.

16 THE COURT: I would just as soon do it now, if
17 you-all don't mind.

18 MR. OSBORNE: I don't mind at all. I have yet to
19 speak to this Detective Sergeant in Beaufort. It's my
20 understanding -- and they can probably elaborate more on
21 this than me. It's my understanding that this detective
22 is going to say that he has investigated two separate
23 incidents in Beaufort which occurred a month or two
24 prior to this involving Chris, in which he was a suspect
25 in a shooting.

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1 That is great, but that is clearly hearsay. This
2 guy has no direct knowledge of Christopher committing
3 these crimes. There is nothing this detective can bring
4 to this equation that would not be hearsay. He has no
5 personal knowledge of anything that Christopher did or
6 was accused of doing.

7 MR. D'ANGELO: I am not planning to get into --
8 down in Beaufort there are a handful of charges that he
9 had, shootings that he has done. I am not trying to get
10 into any specifics. I am not planning on asking any
11 questions about where it was at, who was involved, all
12 of that.

13 He is simply being called to support the testimony
14 of Doug in that -- what his knowledge was at the time.
15 It's the state of mind of what he knew at the time of
16 the shooting. Prior to the shooting, Chris Mullen had
17 been bragging about these shootings. Bragging about
18 shootings down in Beaufort. Doug knew that. Doug
19 testified that he knew that.

20 It goes to the state of mind of why he was feeling
21 ultimately that he has to defend himself, because of
22 what he believes Chris Mullen is going to do.

23 Sergeant Calendine is going to be able to testify
24 by saying it is true. The State is trying to attack him
25 through that cross-examination by trying to say Doug is

1 a liar. He is lying about all of this. He is making
2 this stuff up. He is making up the fact that Chris has
3 got this gun and the shootings, all of that.

4 This witness is coming simply to corroborate that,
5 yes, there were shootings. He had investigated that,
6 and he had made Detective Owens aware of those. I am
7 not trying to get into any specifics about any of the
8 shootings.

9 THE COURT: Was Chris charged with any of these
10 shootings?

11 MR. D'ANGELO: Yes. He had pled guilty to pointing
12 and presenting. The Monday before the shooting, he
13 attended a court hearing on a pending shooting and
14 presenting down in Beaufort.

15 THE COURT: That is not admissible.

16 MR. OSBORNE: I think the pointing and presenting
17 is from 2013, four years prior to this incident.

18 MR. D'ANGELO: I believe that is correct.

19 MR. OSBORNE: Mr. D'Angelo made my argument for me.
20 He is trying to introduce this evidence to prove it.
21 That is exactly what hearsay is. You are introducing
22 the evidence to prove the truth of the matter asserted.

23 He already has what he is looking for. He has it
24 through the defendant's testimony. The jury can judge
25 the credibility of that. You don't get to bolster

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1 testimony through hearsay testimony. There are specific
2 rules which prohibit that.

3 If he gets the victim from one of these incidents
4 in here to say that, I would object, but the case law is
5 pretty clear on that. I think that comes in. There is
6 no hearsay exception which allows him to have a
7 detective get on the stand and say, we have reports of
8 this victim being involved in something. Corroboration
9 is cool, but there is no hearsay exception that allows
10 hearsay to come in.

11 MR. D'ANGELO: Furthermore, I would say this is
12 rehabilitating. Doug has testified to this. The State
13 has essentially said he was a liar. He said that this
14 doesn't happen. This is rehabilitating and establishing
15 that Doug is not lying.

16 MR. OSBORNE: If he can find a hearsay exception
17 that allows him to do that, then I will withdraw my
18 objection. But I would love to hear it.

19 MR. D'ANGELO: Other than the arguments I have
20 made, Your Honor, I have no additional arguments.

21 THE COURT: If he didn't have any actual knowledge
22 of, it would be hearsay. I will let you proffer what
23 you want to do.

24 MR. D'ANGELO: Certainly.

25 THE COURT: Who else are you going to call

1 tomorrow?

2 MR. D'ANGELO: I believe that would be our last
3 witness.

4 MR. OSBORNE: We will have two reply witnesses.

5 THE COURT: What are they going to be replying to?
6 Just out of curiosity.

7 MR. OSBORNE: There has been testimony that they
8 elicited through their client that he was involved in
9 gang activity. Now we will start talking about tattoos.
10 We have no problem talking about tattoos now. Detective
11 Jolliff through his experience -- he has been a
12 narcotics detective for years. He is very familiar with
13 gang activity.

14 He will say that whenever he looked at these
15 victims' tattoos, he saw no evidence that he was
16 involved in gang activity. Detective Owens will say
17 that he went through his phones, and he went through his
18 Facebook records and everything along those lines, and
19 he will testify that he saw no evidence of gang
20 activity.

21 There would be no point for me in my case-in-chief
22 to introduce evidence of non-gang activity, but to imply
23 that is a different thing.

24 THE COURT: Tell me why I want the jury to hear
25 anything about the gang activity based on whatever

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1 testimony that Mr. Young may have said that.

2 MR. OSBORNE: He just brought the victim's
3 character into this courtroom by saying he was involved
4 in gang activity; that he wanted to know what set he was
5 in. How can he jump into a set. He is bringing in gang
6 activity. We didn't bring that in.

7 MR. D'ANGELO: The phrase jumping in was never
8 mentioned.

9 MR. OSBORNE: He never said that?

10 MR. D'ANGELO: He said, set. He never said jumping
11 in. This is ridiculous. I'm sorry. I am done.

12 THE COURT: I will let you make one other point.

13 MR. OSBORNE: This is not some guy from Beaufort
14 who doesn't have any knowledge about this case. This is
15 a guy who did victimology on the victim in the case. I
16 don't plan on qualifying him as an expert on gang
17 activity or anything along those lines.

18 All I am going to do is ask him, did you have the
19 occasion to look through the victim's Facebook records
20 and the victim's phone records? Yes. Did you see any
21 evidence at all that he was involved in drugs, because
22 that has come out through him that he was a drug user or
23 that he was a gang member or anything like that.

24 THE COURT: Let me say about gangs and tattoos or
25 buying drugs, we are not going to get into any of that.

1 The only thing we are dealing with is whether or not it
2 was self-defense in this present situation, which he
3 testified to.

4 That is the way I look at it. If you want to
5 raise an objection to that, you can note that, and I
6 will preserve it.

7 See you all at 9:30 tomorrow.

8 (Whereupon, at 3:15 p.m. the proceedings were
9 continued to be resumed the following day without
10 interruption.)

11 END OF VOLUME II

12 * * *

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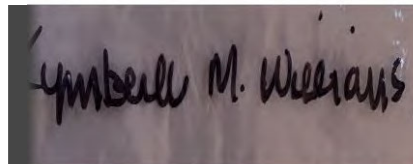
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CERTIFICATE OF REPORTER

I, Kymberlee A. Hanson, Certified Shorthand Reporter/Registered Professional Reporter for the Tenth 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 and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 2nd through 4th days of December, 2019.

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

This, the 7th day of May, 2020.

A rectangular box containing a handwritten signature in black ink. The signature is written in a cursive style and reads "Kymberlee M. Williams".

KYMBERLEE M. WILLIAMS, CSR/RPR

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STATE OF SOUTH CAROLINA	IN THE GENERAL COURT OF JUSTICE
CHARLESTON COUNTY	CIRCUIT COURT DIVISION
	2018-GS-10-00558,
	-00559

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STATE OF SOUTH CAROLINA,	:
	:
Plaintiff,	:
	:
vs.	: TRANSCRIPT OF JURY TRIAL
	: VOLUME III - PAGES 357 - 451
DOUGLAS LAVANCE YOUNG,	:
	:
Defendant.	:
-----X	

December 4, 2019
Charleston, South Carolina

B E F O R E

The Honorable R. Edgar W. Dickson, Judge Presiding.

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1 P R O C E E D I N G S

2 * * *

3 WEDNESDAY, DECEMBER 4, 2019

4 CHARLESTON, SOUTH CAROLINA

5 * * *

6 (Whereupon, the following proceedings were
7 held in open court. The defendant was
8 present with his attorney, along with
9 counsel for the State.)

10 THE COURT: Is the State ready to proceed?

11 MR. OSBORNE: Yes, Your Honor.

12 MR. D'ANGELO: Yes, Your Honor.

13 THE COURT: Bring the jury in.

14 (Whereupon, the jury entered the courtroom.)

15 THE COURT: Good morning, ladies and gentlemen.
16 How are you-all? All right. We will continue with the
17 trial today, and we will continue with the defense of
18 the case.

19 Is the defense ready to call its next witness?

20 MR. D'ANGELO: Your Honor, at this time the
21 defense rests.

22 THE COURT: All right. Thank you, sir.

23 We have now heard all of the defense part of the
24 case. It's my understanding that the State has
25 something on reply?

1 MR. OSBORNE: Very quickly, Your Honor.

2 The State calls Lisa Bloodworth.

3 * * *

4 LISA BLOODWORTH,

5 called as a witness by and on behalf of

6 the State to testify, being first duly

7 sworn was examined and testified as follows:

8 * * *

9 DIRECT EXAMINATION

10 BY MR. OSBORNE:

11 Q Please state your name for the record, spelling
12 your last name.

13 A My name is Lisa Bloodworth, B-l-o-o-d-w-o-r-t-h.

14 Q Goòd morning, Ms. Bloodworth.

15 A Good morning.

16 Q Where do you work?

17 A I work with the Sheriff's Department. I work as
18 part of the Security Threat Group.

19 Q How long have you been with the Sheriff's
20 Department?

21 A About ten years now.

22 Q When you say Security Threat Group, do you actually
23 mean at the detention center?

24 A Yes, sir.

25 Q How long have you been employed there?

1 A Ten years.

2 Q What are some of your duties and responsibilities
3 in the Security Threat Group?

4 A We monitor phone calls, video visitation with
5 inmates. Our office is in charge of all of the
6 subpoenas that come into the jail. We do a number of
7 things.

8 Q I asked you to come here in regards to jail calls,
9 so let's talk a little bit about that.

10 Do you sometimes receive subpoenas from various law
11 enforcement agencies for inmate jail calls?

12 A Yes, we do.

13 Q That is part of your duties and responsibilities to
14 provide us with those jail calls?

15 A Yes, it is.

16 Q Let's explain to the jury how that works.

17 When an inmate comes in, they have the ability to
18 call out, make outgoing phone calls?

19 A Yes. Once somebody who comes in and is booked into
20 our facility, they go through booking process. Once
21 they get over to our processing side, they will get
22 fingerprints and photographs.

23 Once they get those, they will receive a PIN
24 number. That PIN number allows them to do various
25 things within the jail; make phone calls; get on the

1 kiosk. It helps them move through to be able to do
2 calls for themselves.

3 Q When a request is made for jail calls, you can
4 search, I suppose, and retrieve those jail calls by the
5 inmate name as well as the PIN number?

6 A Yes, we can.

7 Q Is it fair to say that inmates can switch PIN
8 numbers?

9 A That would be very fair to say.

10 Q So I can give you my PIN number, and you can make
11 a phone call. That phone call will be kept under that
12 PIN number.

13 A Correct.

14 Q I will show State's 65 and 66.

15 What is 65?

16 A 65 looks like it's the jail calls that were
17 requested.

18 Q For Douglas Young?

19 A Yes.

20 Q 66, is that just clips from those jail calls?

21 A Yes, it is.

22 Q 65 contains all the jail calls, and 66 are just
23 some clips from 65?

24 A Correct.

25 MR. OSBORNE: No further questions.

1 THE COURT: Any questions for this witness?

2 MR. D'ANGELO: Just very briefly.

3 * * *

4 CROSS-EXAMINATION

5 BY MR. D'ANGELO:

6 Q Good morning, Ms. Bloodworth.

7 A Good morning.

8 Q At the beginning of those jail phone calls, there
9 is a message that tells the inmate that the call is
10 going to be recorded, and it can be used against them,
11 correct?

12 A Correct.

13 Q They hear that the second they dial out that phone
14 call?

15 A Correct.

16 MR. D'ANGELO: Nothing further, Your Honor.

17 THE COURT: Anything on redirect?

18 MR. OSBORNE: No, Your Honor.

19 THE COURT: You may step down.

20 (Whereupon, the witness exited the witness stand.)

21 MR. OSBORNE: One more witness.

22 THE COURT: All right.

23 MR. OSBORNE: The State calls Detective Joe Owens.

24 * * *

25 JOSEPH OWENS,

1 called as a witness by and on behalf of
2 the State to testify, being previously duly
3 sworn was examined and testified as follows:

4 * * *

5 DIRECT EXAMINATION

6 BY MR. OSBORNE:

7 Q Please state your name for the record, spelling
8 your last name.

9 A My name is Detective Joseph Owens, O-w-e-n-s.

10 Q Detective Owens, just a couple of things. I do
11 want to ask you one question. You were in here whenever
12 Gerald Young testified, and Mr. Young said that when he
13 walked by the victim, he saw a sheet lying over the
14 victim.

15 Let me just ask you. Do you all-put sheets over
16 victims?

17 A No. That is not common.

18 Q In this case in particular, why did you -- what
19 about that seemed inconsistent with the investigation?

20 A In this case when the victim, Christopher Mullen,
21 was shot and lying on the sidewalk, life resuscitations
22 efforts were still being made. When EMS responded on
23 scene, they were attempting those efforts as well. He
24 was transported by EMS to MUSC hospital.

25 Q So he didn't die on the sidewalk; he died in the

1 hospital?

2 A Correct.

3 Q Jail calls. In this case did you do a search

4 warrant to obtain some of the defendant's jail calls?

5 A Yes, I did.

6 Q I'm showing you 65 and 66.

7 Do you recognize 65?

8 A 65 looks like an audio CD of the jail phone calls

9 from Douglas Young.

10 Q 66?

11 A 66 looks like the same. It is jail call clips

12 from the full recording of the jail phone calls

13 themselves.

14 Q I know that 66 contains clips. You are familiar

15 that sometimes guys can switch PINs and whatnot?

16 A Correct.

17 Q In reference to 65, all of the jail calls -- are

18 you familiar at all with the defendant's voice?

19 A Yes.

20 Q When you listened to the jail call, did it sound

21 like him?

22 A It did.

23 Q Did you hear things on that call that are not

24 included in the clip that were consistent with it being

25 the defendant's voice?

1 A I did. Certain comments. Certain names mentioned
2 that made it very consistent that told me, authenticated
3 it as being Douglas Young's voice.

4 Q One thing in particular, he was talking to Ashley?

5 A Correct.

6 Q Who did you identify Ashley as being?

7 A I identified Ashley as being at an address of ■
8 Drake Street, Apartment B, also being the mother of the
9 children they have in common.

10 MR. OSBORNE: Your Honor, at this time we would
11 seek to admit and publish State's 66.

12 THE COURT: Any objection?

13 MR. D'ANGELO: No objection, Your Honor.

14 THE COURT: State's 66 is in without objection.

15 (The aforementioned item was marked as

16 State's Exhibit 66 for identification and was

17 admitted into evidence.)

18 BY MR. OSBORNE:

19 Q What are we looking at right here on this opening
20 screen?

21 A This looks like the user interface. When we
22 receive jail phone calls, this is where we would play
23 the audio: Stop, fast-forward, rewind. The interface
24 allows us to listen to those phone calls.

25 Q Does it give a date and time on here that this call

1 was placed?

2 A August 13, 2017, 7:24.

3 Q August 13. We have heard testimony that the
4 murder occurred on August 12, 2017; is that fair to say?

5 A Correct.

6 Q He would have been arrested about 7:00 p.m. on the
7 12th?

8 A He was arrested at approximately 6:30 p.m. on the
9 day of the murder.

10 Q We will play the clip now on 66.

11 What happened there was, we heard two clips;
12 right?

13 A Correct.

14 Q I will play clip two again.

15 On Clip 2, what is the date and time of this call?

16 A August 13, 2017, 7:24.

17 Q This is from the same call. It's just a separate
18 clip from the same call?

19 A Correct.

20 Q Do you know what he is talking about with the five
21 witnesses?

22 MR. D'ANGELO: Objection, Your Honor.

23 THE COURT: How are you going to get him to testify
24 about what he is talking about with those witnesses?

25 I am just kind of curious.

1 MR. OSBORNE: He said they are talking bullshit.

2 They have five witnesses against me and shit like
3 that. I am asking him if he knows anything about there
4 being five witnesses.

5 THE COURT: I will sustain the objection. We will
6 not get into that.

7 MR. D'ANGELO: Thank you, Your Honor.

8 BY MR. OSBORNE:

9 Q Now we are playing Clip 3.

10 And the date and time on this call?

11 A Same date and time, August 13, 2017, 7:24.

12 Q Now we will play Number 4.

13 Again, date and time on this?

14 A August 13, 2017, 7:41.

15 Q Now we are moving onto a separate call.

16 Is it still the day after the murder?

17 A Correct.

18 Q Now the last one, Number 5.

19 The date and time?

20 A August 13, 2017. At 7:41.

21 Q Same call?

22 A Correct.

23 MR. OSBORNE: No further questions.

24 THE COURT: Anything on cross-examination?

25 MR. D'ANGELO: Briefly, Your Honor.

1

* * *

2

CROSS-EXAMINATION

3 BY MR. D'ANGELO:

4

Q Detective Owens, all of these clips that we just

5

heard are all phone calls from the date immediately

6

after Mr. Young was arrested; correct?

7

A That's correct.

8

MR. D'ANGELO: Nothing further.

9

THE COURT: Anything further?

10

MR. OSBORNE: No, sir.

11

THE COURT: That is it?

12

MR. OSBORNE: Yes, sir.

13

THE COURT: Thank you, sir. You may step down.

14

(Whereupon, the witness exited the witness stand.)

15

THE COURT: Ladies and gentlemen, you-all have now

16

heard all the testimony that you are going to hear in

17

this case. Before we continue, we have got to take a

18

break. There are some matters of law that I have to

19

discuss with the attorneys.

20

What is going to happen is, after we get all of

21

that kind of organized and straight, I will bring

22

you-all back in here. The attorneys will do their

23

closing arguments. I will charge you on the law, which

24

is one of the most exciting parts of the law. It's like

25

a mini law school course. So I want you to look forward

1 to that.

2 After that, you-all will go back in the jury room.
3 If I have not made any errors on my charge on the law,
4 all of the evidence will come back into the jury room
5 with you-all, along with the verdict form. You-all will
6 be told to begin your deliberations at that time.

7 Until you get the word that you can begin your
8 deliberations in this, you cannot talk about this case.
9 Okay.

10 Hopefully, it will just take a minute before we get
11 back out here. If you-all will go back in there, I will
12 bring you out as soon as I can. Thank you.

13 (Whereupon, the jury exited the courtroom.)

14 THE COURT: Anything else from the State?

15 MR. OSBORNE: No, Your Honor.

16 THE COURT: Anything else from the defendant?

17 MR. D'ANGELO: Your Honor, at this time the defense
18 would renew its motion for directed verdict, primarily
19 from the evidence of Douglas Young corroborated by the
20 defense put on with Gerald Young; that Mr. Young has
21 raised and presented evidence of self-defense.

22 I don't believe the State has presented anything
23 that would dispute the elements of self-defense, first,
24 that Mr. Young did not bring about the hardship himself.

25 We have heard Mr. Mullen is the one who had the gun

1 and pulled the gun on the attempted robbery of Mr.
2 Young.

3 Second, Mr. Young believed he was in real danger
4 for his life, based on the threats. Mr. Mullen was
5 holding the gun on him.

6 Third, Mr. Young recently -- another person would
7 reasonably believe the same fear and apprehension that
8 Mr. Young had.

9 Last, Mr. Young did not have the ability to retreat
10 without sacrificing his own safety; again, because of
11 his condition as Mullen was coming at him, based on what
12 Mr. Young testified that he believed and knew what Mr.
13 Mullen would do to him if he was able to get the gun
14 back.

15 Again, I just don't believe the State has presented
16 any evidence that would refute that.

17 THE COURT: All right. I am going to deny your
18 motion for self-defense. I think that is an issue for
19 the jury to decide. I am not going to go into that
20 further. I don't think I need to go into further
21 explanation. If you want me to, I am happy to do that.

22 MR. D'ANGELO: I don't believe so.

23 THE COURT: Anything else from the defense?

24 MR. D'ANGELO: Nothing further at this time.

25 THE COURT: Have you-all had a chance to update the

1 charges?

2 Mr. Lewis, have you had a chance to look through
3 those?

4 MR. LEWIS: Yes, Your Honor, I have.

5 I keep thinking I have them. I will keep looking
6 for them.

7 THE COURT: All right.

8 MR. OSBORNE: Ms. Elliott will finish looking at
9 them.

10 THE COURT: We will take a short break to give
11 you-all time to set up.

12 MR. D'ANGELO: Thank you, Judge.

13 THE COURT: You're welcome.

14 (Whereupon, a recess was held.)

15 (Whereupon, the following proceedings were
16 held in open court. The defendant was
17 present with his attorney, along with
18 counsel for the State.)

19 THE COURT: Is the State ready to proceed?

20 MR. OSBORNE: Yes, Your Honor.

21 THE COURT: Defense ready?

22 MR. D'ANGELO: Yes, Your Honor.

23 The only thing I would just mention -- I am trying
24 to remember the case. I think it was State v. Davey.
25 It is simply asking that the State opens in full.

1 I know that they have a rebuttal.

2 THE COURT: You get to close, and then he gets to
3 reply to you.

4 MR. OSBORNE: Thank you, Your Honor.

5 THE COURT: Bring the jury on in.

6 (Whereupon, the jury entered the courtroom.)

7 THE COURT: All right, ladies and gentlemen. We
8 are now getting to the part of the case where the
9 attorneys will make their closing arguments.

10 Mr. Osborne, is the State ready to proceed?

11 MR. OSBORNE: Yes, Your Honor.

12 * * *

13 CLOSING ARGUMENT BY MR. OSBORNE

14 MR. OSBORNE: What do you do when you are stuck
15 between a rock and a hard place?

16 You have to make some pretty drastic decisions.
17 That is exactly what this defendant did in this case.
18 He had to pivot. He had to change his story.

19 When talking to his family and friends one day
20 after the murder, you heard him say, over and over and
21 over again. You will have the clips back there so you
22 can hear them yourselves. This ain't me. I ain't
23 feeling. You got wrong man.

24 Now, now that he knows all of the evidence against
25 him, it's time for a change. Now he is trying to tell

1 just how scared he was back then, and how he had no
2 option but to kill.

3 All right. Before I get into the evidence in the
4 case or the investigation, I want to talk to you about
5 something that is very important to you as jurors. The
6 Judge will tell you this as well. That is credibility.

7 You as jurors get to judge the credibility of what
8 came out of that witness stand. When you look at it,
9 and when you look at what was said to you, you can
10 believe all, none, or some of what a witness tells you.
11 This is all yours.

12 I would suggest to you, look at what fits, and look
13 at what doesn't. Corroborate what came out of the
14 witness stand between the witnesses, corroborated by the
15 physical evidence. If there is a difference, then ask
16 ask yourselves why.

17 In doing so, ask yourself this question: Who was
18 motivated to lie to you?

19 Lastly, and most importantly -- I believe the Judge
20 will tell you this -- you are not required to check your
21 common sense at the door. When you go into that
22 deliberation room, bring it with you. It will be
23 extremely helpful in this case.

24 I want to start by talking to you about two
25 witnesses who came in here and talked to you who have no

1 motivation to lie whatsoever. That is Ms. Brisbane and
2 Ms. Zoe Whittaker.

3 We will start with Ms. Brisbane. Ms. Brisbane told
4 you that she was coming down Line Street, and was on her
5 way in to work, where she worked as a beautician right
6 down Blake Street. As she was on her way into work, she
7 stopped at Line and Nassau. This is a route that she
8 has taken for years that she took that day.

9 While she was stopped at that intersection, she
10 witnessed something she would never forget.

11 From that position, Ms. Brisbane told you that she
12 saw the defendant was at the corner of Line and Nassau
13 with the victim. She didn't come in here and say
14 that the defendant was out here with Chris Mullen. She
15 didn't know who Christopher Mullen was.

16 She said, I saw him out there, the defendant, and
17 he was out there with the guy and with a gun. That
18 would make sense. Ms. Brisbane does live down there,
19 and she does work down there. Like Detective Owens told
20 you, Christopher had just moved there. He had only been
21 there for five days.

22 While she didn't know Christopher, she sure knew
23 him. She has known him since he was a child. She knows
24 his family. She knows his family well.

25 Not only do you have Ms. Brisbane telling you that

1 the defendant was out there, you have the physical
2 evidence that corroborates that. I know we kind of went
3 through that DNA, we will go through it really quickly.

4 Ten was swabbed for DNA. It came back to the
5 victim. Eleven was swabbed for DNA. It came back to
6 the defendant. Nobody else. Twelve, the can sitting on
7 top of the car right in front of the steps came back to
8 the defendant, and nobody else.

9 There were two people out there. Ms. Whittaker
10 tells you that too. There were two people. This DNA
11 right here is significant in this case. I will tell you
12 why. After hearing about this DNA, that evidence that
13 was had, we know there were only two people out there,
14 so he had to change his story.

15 Keep in mind, Detective Owens didn't know about
16 this DNA the day after the murder. Nobody did. The
17 physical evidence, Ms. Brisbane and Ms. Whittaker's
18 testimony, is exactly what led this defendant to change
19 his story from, not me, to self-defense.

20 This is significant as well. Zoe told you that she
21 was getting ready in her bathroom when she heard a
22 gunshot. She then had the time to leave her bathroom
23 and walk to the front window and then look down and see
24 a black male fire over and over and over. There is a
25 pause. There is time there.

1 I am not suggesting to you there is minutes. It
2 only took seconds. There is seconds, and there is a
3 pause. I understand that Ms. Brisbane said, said that
4 it happened fast in rapid succession. I would bet from
5 her perspective, while she is witnessing that man right
6 there commit a murder, it was happening fast. She was
7 laying on her horn. She was honking over and over and
8 over again, trying to get him to stop.

9 I am sure it was a traumatic experience. It
10 probably seemed to her today, even today, that it only
11 took a second, but you know from Zoe it took several
12 seconds.

13 The victim had his hands down to his side.
14 Christopher was standing there with his hands out and
15 palms up. He was not in control. He was, the defendant
16 was, the one in control. Ms. Brisbane honked her horn,
17 laying on it, over and over and over again, trying to
18 get him to stop. The defendant was the aggressor. She
19 was trying to stop him.

20 Ms. Brisbane said that she heard several gunshots.
21 Ms. Whittaker said that as well. This is corroborated
22 by the physical evidence on the scene, the fired shell
23 casings. You have four of them. This is why we had Ms.
24 Eichenmiller testify. Ms. Eichenmiller came in here and
25 told you that all of these shell casings were fired from

1 one gun. There was one murder weapon in this case, and
2 it was fired by the defendant, and he made sure of
3 that.

4 The victim was shot while he was turning from his
5 shooter while he was trying to flee. This too is
6 corroborated by the evidence. I am not going to show
7 you the video again. What you saw from that video, if
8 you remember, was Christopher lying on the ground
9 fighting to stay alive. He was lying on the sidewalk,
10 and you can see his sandals right there. His head would
11 have been pointing toward Columbus, up the sidewalk, a
12 little bit further than what you see right there in that
13 picture.

14 What this blood shows you right here is a man who
15 was shot and turning and retreating from the defendant.
16 It was after that shot that he callously shot him in the
17 back. The defendant then entered Ms. Brisbane's car.
18 As quickly as the police were able to locate
19 Ms. Brisbane, if that were true, that the defendant did
20 enter her car, you would expect to see some sort of
21 physical evidence corroborating the fact that he was, in
22 fact, in her car. You have that.

23 You have Randy Unterbrink who testified that he
24 swabbed the outside window of the passenger's side, the
25 substance came back consistent with belonging to the

1 defendant's DNA. I think he said 99 times likely. Even
2 more significant than that, we have a fingerprint, this
3 is why Ms. Grilli testified. His fingerprint was
4 recovered from Ms. Brisbane's car on the passenger's
5 door or frame, right where you would expect to find this
6 fingerprint that came back identified to a known print
7 belonging to the defendant.

8 Now, after getting in the car -- there is a
9 question that Mr. D'Angelo posed to you in his opening.
10 A question that Kathy Brisbane wanted to know right
11 after she witnessed the murder. Why did you do that?

12 He doesn't have an answer. You know why? Because
13 there is no excuse for what he did. This is a murder.
14 He doesn't come up with an excuse until about two years
15 later here on this witness stand. Look at what he did
16 have time to recognize. At that moment when Kathy asked
17 that question, you didn't see nothing.

18 Does this sound to you like someone who is so
19 scared, who is so confused? This sounds to you like
20 someone who is showing you his true colors. This sounds
21 like a cold-blooded killer. That is exactly what he
22 is.

23 In regard to Kathy, I think this image says it
24 best. This is not the image of the killer. This is
25 what that looks like. This is an image of someone that

1 wasn't trying to get a killer away from him. This is an
2 image of someone who was traumatized. Someone who has
3 just witnessed a murder. Someone who was even
4 traumatized further by the killer directing her while
5 still holding a gun to drive him from the scene. There
6 was nothing justified about what she saw, and there was
7 certainly nothing justified about what she was made to
8 do.

9 Let's take a look at this just for a second. Line
10 and Nassau. That is the location of murder. While
11 still holding the gun in his lap, he directed Ms.
12 Brisbane to drive him through the east side and
13 eventually asking or demanding to be dropped off at this
14 location. This is on Drake in between Reid and Amherst.
15 Kathy then took the right onto Reid. This is where you
16 catch that quick glimpse of her car.

17 Why would he want to be dropped off here on Drake
18 in between Reid and Amherst. The one thing he had on
19 his mind was to get rid of the evidence.

20 Detective Owens told you that his girlfriend lives
21 on that corner. He told you he tried to go there, but
22 she wasn't home. Then he comes up to Kim Rivers. Sure
23 looks like he has something in his right pocket he wants
24 to give her.

25 I know he doesn't remember this, and I know Kim

1 can't remember either. I will tell you one thing she
2 didn't forget is that he was drunk. One thing is for
3 sure, Kim wants no part of whatever he is trying to give
4 her.

5 This is the east side. Most people do not have the
6 same courage that Ms. Brisbane has. They will not tell
7 the police what happened. Let me just point this out to
8 you. This is the intersection right here where that
9 interaction incurred, at Reid and Drake. If you
10 remember on the video, he then walked up Drake up toward
11 Amherst.

12 He told you on the stand where he was going, why
13 that is significant. He said he had a stash house right
14 there on Amherst. That is where he was headed. He was
15 so scared, but yet he knew he had to get rid of that
16 murder weapon.

17 He tried to go to his girlfriend's house. He tried
18 to give it to Kim. Lastly, he went to a stash house.
19 He wasn't trying to get to safety, he was trying to get
20 rid of evidence. Once he got there, he changed all of
21 his clothes, and he got rid of the murder weapon.

22 I want to take a second to illustrate to you just
23 how easy it would have been for Ms. Brisbane to avoid
24 all of this. First, when she was questioned by that
25 man, she could have easily told Detective Owens, I don't

1 know who got in my car. That would have been one way to
2 avoid him.

3 Another way would have been to come in here and
4 say, the victim had the gun. She could have come in
5 here and said, the victim was lunging toward the
6 defendant, and he had to shoot. She could have changed
7 her story.

8 She could have done any of those things. That
9 would have been much easier for her to do. That is not
10 what she did. She told Detective Owens what she saw.
11 You remember the defense challenged her a little bit,
12 and never mentioned anything about hands out or palms
13 out or anything like that.

14 What did she say? I told him what I saw. When I
15 say to you that she had absolutely nothing to gain by
16 coming in here and testifying to you, this is what I
17 mean.

18 I would agree with something the defense said. He
19 certainly has a strong human instinct to survive. You
20 can hear that in his voice right now. His problem in
21 this case, and he knew it the same day, was that
22 Katherine Brisbane was his problem. She knows.

23 He knew his name was being called right from the
24 get-go, so he changed his clothes, changed his shades.
25 Then he went out there to straighten that out, just like

1 Uncle Freddie told you.

2 He was on his way to see Aunt Kathy. Here is where
3 Kathy worked. When the police stopped him, he was one
4 block away from getting to his destination.

5 If you will remember, I asked him over and over
6 again, you were on your way to visit Ms. Brisbane,
7 right?

8 No. He almost acted like he was confused about that
9 question.

10 He doesn't want you to listen to that jail call.
11 He wants you to believe that he was not going to go
12 straighten out Ms. Brisbane, whatever that means. If he
13 admits that he was going to go straighten her out, he
14 doesn't look like that scared person he was trying to
15 portray to you.

16 I want to talk a second about his handicap. We
17 all saw it. There is certainly some sort of
18 degenerative thing going on with his bicep. I would
19 submit to you that he is exaggerating. Mr. D'Angelo
20 asked the defendant to step down. He was right in front
21 of you. He said, go ahead and flex your muscle for the
22 jury. He flexed his muscle.

23 Then I asked him, did you hold your gun out like
24 that when you shot him? He said, no. I can't do that.
25 He can do this, but he can't do that.

1 One thing about his disability. He sure wants to
2 minimize that he was confident enough and strong enough
3 that he had no problem confronting, going hands on and
4 wrestling a gun away from another man, Christopher
5 Mullen.

6 If you believe that, one thing you do know -- and
7 he admits to this -- he is certainly strong enough to
8 pull that trigger over and over and over and over.

9 That brings me to the other witness that the
10 defense put up. That is Gerald Young, the defendant's
11 uncle. That is why I mentioned credibility. It's very
12 important. You don't have to take their word for it
13 when they are on the stand. You can dismiss everything
14 that came out of their mouths.

15 I would submit that is exactly what you should do,
16 because he is a convicted drug dealer and thinks nothing
17 of lying by coming in here and lying for his cousin. He
18 is sitting in prison right now.

19 You can also look at his demeanor. He couldn't
20 answer simple questions. I would submit to you that I
21 don't think he knew who Chris Mullen was. He told you
22 that the first time he had even seen him was the night
23 before the murder.

24 I asked him, when did you hear that the murder even
25 occurred? He said, a few weeks before, when they came

1 to visit him in prison. That is the first time he heard
2 that Chris Mullen had been murdered.

3 After that meeting, not only does he know it was
4 Chris Mullen that was murdered, he also knows that Chris
5 Mullen had a gun that night. He also said that Chris
6 Mullen was behaving erratically. Same thing that the
7 defendant said.

8 All right. I am going to talk to you now about the
9 law. I have to get a little disclaimer. When I talk to
10 you about the law or Mr. D'Angelo talks to you about the
11 law, if we see things differently, you are to follow the
12 Judge's instructions.

13 I would bet that you are going to hear the Judge
14 say something along the lines of a murder in this state
15 is that they killed another person with malice
16 aforethought. Malice aforethought is like an old
17 English term. I certainly don't use it anymore. I will
18 break it down a little bit. Malice is simply like a
19 hatred or an ill-will or a hostility toward another
20 individual. Shooting a person three times, once square
21 in his back, is the definition of hostility or ill-will
22 toward another person.

23 Malice is also like an intentional doing with the
24 intent to inflict harm. It can't be anything. You
25 haven't heard anything to suggest this was an accident.

1 He told me he did it. He said he had to do it.

2 Last, without just cause or excuse. That brings us
3 to self-defense. I will address that here in a second.

4 The second part of malice aforethought, there is no
5 time requirement to form the intent of malice. Malice
6 aforethought does not require malice exists for any
7 particular time before the act is committed. The intent
8 to kill can be formed in an instant.

9 Don't think that we need to prove that the
10 defendant woke up that morning with the intent to kill
11 Christopher, even though we have to prove malice
12 aforethought, there is no time requirement.

13 I do want to talk along the same lines, sometimes
14 when you hear murder, you will hear motive or
15 premeditation as being an element for murder. We don't
16 have motive or premeditation as being an element in this
17 state. There are some states where you will hear
18 premeditation as being an element to murder. In those
19 states, they break it down into degrees. First, second.
20 Premeditation is somewhere along those lines. We don't
21 have that.

22 In our state we have murder, and then we have a
23 lesser-included crime of voluntary manslaughter.
24 Neither one has an element of premeditation to it.

25 So now let's talk about voluntary manslaughter. If

1 you believe that we have not proven murder, you can find
2 him not guilty by self-defense, or you could elect to
3 convict him of voluntary manslaughter. This is a lesser
4 charge to murder.

5 The elements of voluntary manslaughter are, took
6 the life of another. This is kind of in one, but two
7 elements. The sudden heat of passion based on
8 sufficient legal provocation.

9 Break that down a little bit. Sudden heat of
10 passion based on sufficient legal provocation. Some
11 heat of passion. The type of passion that would make an
12 ordinary person unable to coolly reflect on his actions,
13 and what produced an uncontrollable impulse to do
14 violence. By the defendant's testimony on the stand,
15 there was nothing uncontrollable about this killing.
16 This was a controlled violence.

17 Based on sufficient legal provocation. A person
18 of ordinary reason was enraged and lost control
19 temporarily. You haven't heard anything about him being
20 enraged. You haven't heard anything about him losing
21 control. There is only one loser in this case. That
22 was Christopher Mullen.

23 I would say to you he is either guilty or murder or
24 he is not guilty. He is not entitled to a conviction of
25 a lesser crime of voluntary manslaughter.

1 If you decide to convict him of either murder or
2 voluntary manslaughter, you may also elect to convict
3 him of possession of a weapon during the commission of a
4 violent crime. That is exactly what you think it is.
5 Voluntary manslaughter and murder are both violent
6 crimes. The gun, obviously, is a weapon.

7 Talk a second about self-defense. Self-defense is
8 a little bit different. As the prosecution, we have the
9 burden of disproving self-defense. To prove murder is
10 to disprove self-defense.

11 If we can prove beyond a reasonable doubt that he
12 has failed one of the elements, he is not entitled to
13 self-defense.

14 What are the elements? The first element, without
15 fault. If the defendant's conduct was the type which
16 was reasonably calculated to and did provoke a deadly
17 assault, the defendant would be at fault in bringing on
18 difficulty. He is not entitled to self-defense.

19 The defendant brought about the difficulty. When
20 Kathy was stopped at that stop sign, the defendant had
21 his back to her.

22 She got to look at the victim. She got to see
23 what he was doing. What she saw was hands out, palms
24 up. Nothing in his hands. That is how Christopher
25 died. This defendant brought on difficulty, not

1 Christopher.

2 Second element, imminent danger. The defendant has
3 to be in danger of death or serious bodily injury. It's
4 the type of danger that would warrant a person with
5 ordinary firmness and courage to strike the fatal blow.

6 First, he is no ordinary person. He admitted that
7 he is a convicted, drug-dealing felon. He would have
8 you believe that some out-of-town white boy running his
9 mouth about how bad he was just created this
10 uncontrollable fear in him. A white boy that was
11 running his mouth on his home turf, the east side.

12 This story that he is trying to sell to you is
13 complete fiction. What he said to you is that he, the
14 defendant, pulled out cocaine, after using cocaine
15 throughout the night. He pulled it out again at 8:30 in
16 the morning.

17 Christopher said, give me some. The defendant said
18 no. Christopher got mad. He said, are you going to be
19 shyty -- stingy?

20 The defendant said, that is all I have got.
21 Christopher then took off his shirt and then threw it at
22 the defendant's feet. That is exactly what you are
23 going to do before you rob somebody; right? You will
24 take your shirt off and put it down as evidence. Leave
25 that behind.

1 Chris had to stop, because he saw a car. It
2 wasn't just any car. It was Ms. Brisbane's car. Then
3 he sat back down next to the gun. Then he held that gun
4 tight, openly embracing it, pointing it at the
5 defendant. That is what he did.

6 At that moment, this defendant, bad arm and all,
7 decided in a valiant moment of heroism that he was going
8 to reach in and yank that gun from Christopher.

9 He was hands on, fighting over the gun. Just get
10 up and just have a shooting -- over and over again.
11 Even after damage control.

12 I don't need to tell you the mechanics behind that.
13 You will all be sitting back there. Use your common
14 sense. If that defendant -- if that did happen that
15 way, the way he said it would, and Kathy is right there,
16 with all of this going on, she would have seen the
17 struggling. She would have seen something. She didn't
18 see anything. She didn't see that, because no struggle
19 had occurred.

20 All right. The last element is the one that really
21 gets it if the other two didn't. He had no other way to
22 avoid the danger. He has a duty to retreat. The
23 defendant tells you that he had no other option but to
24 kill the victim, unarmed; hands out; palms out; he had
25 no other option.

1 Let's look at this for a second. I realize that
2 Dr. Schandl can't tell you the order of the gunshots. No
3 one can. Maybe sometimes you can, but generally you
4 can't do that. Let's take a look at the physical
5 evidence that is on the scene and what Kathy Brisbane
6 told you. I think you can make a pretty good educated
7 guess on what happened out there. That is the first
8 shot.

9 The angle has to be a little bit higher. The angle
10 is coming up. It's not on the ground; it's a little bit
11 higher. What does this say? Are you going to shoot
12 me? Christopher was probably stunned. He probably
13 looked down, backing up then turning away. It's
14 consistent with what you have on the crime scene,
15 backing up, turning away, trying to get away from his
16 attacker. He is retreating.

17 Left side, right side, turning, going away. Is it
18 possible? She said, yes, it's possible that this shot
19 came in here and came out. Did you notice how she had
20 to torque her arm and go backwards for it?

21 It's still possible, but either way, he is turning
22 away from the shooter in this shot.

23 Lastly, shot square in the back. You heard me ask,
24 why did you have to shoot him in the back? He said, I
25 didn't shoot him in the back. He can't admit that. He

1 realized that if he admits to shooting Christopher in
2 the back, he is lost on the third element big time.

3 You don't get to shoot someone in the back while
4 they are fleeing and say you had no choice but to kill
5 him. That might be street justice, but that is
6 certainly not self-defense, and it's certainly not
7 justice in this courtroom.

8 We have disproven all of the elements of the
9 self-defense. They are simply not entitled to say that
10 this was a justifiable murder.

11 You will hear the Judge talk to you about proof
12 beyond a reasonable doubt. This is a high burden. It's
13 certainly one that we recommend and that we welcome, and
14 it should be a high burden.

15 It's proof that leads you firmly convinced of the
16 defendant's guilt. The law does not require proof that
17 overcomes every possible doubt. There are few things in
18 life that we know to an absolute certainty.

19 The Judge will talk to you a little bit about
20 hesitating to act as well. Defense attorneys will say
21 sometimes, if you get back there and you hesitate, then
22 he is not guilty.

23 There is a clear difference between hesitation and
24 deliberation. Go back there and deliberate. That is
25 not hesitation. Go through the evidence, watch the

1 videos. It will all be back there with you.

2 I will end it with this: People get killed every
3 day for senseless reasons. Giving someone the wrong
4 look, saying the wrong thing to someone, someone trying
5 to prove that they are the big dog. Who knows?

6 There is simply no justifiable reason for this.
7 Kathy said it best. Why did he do it? This is
8 unfortunate, but it's not uncommon. You have another
9 senseless, east-side murder. It is a murder,
10 nonetheless, and now we are asking you to hold him
11 accountable for his actions.

12 We are asking you to convict him of murder and
13 possession of a weapon during the commission of a
14 violent crime.

15 Thank you.

16 THE COURT: Thank you, Mr. Osborne.

17 Mr. D'Angelo.

18 MR. D'ANGELO: Thank you, Your Honor.

19 * * *

20 CLOSING ARGUMENT BY MR. D'ANGELO

21 MR. D'ANGELO: We made it to the end. At the start
22 of this trial, I told you-all that this was a story of
23 human instinct for survival. Fear of danger is
24 powerful. That human instinct to persevere, to
25 overcome, is just as strong. Again, I told you that

1 story or Aron Ralston, the American outdoorsman trapped
2 under an 800-pound boulder who overcame gripping fear to
3 make that decision to fight for survival.

4 In this trial, Doug was facing an 800-pound boulder
5 crushing down on him in the name of Chris Mullen. The
6 expression of fighting with one arm tied behind your
7 back -- that expression exists for a reason. It's a way
8 to describe someone at a disadvantage, someone hobbled,
9 someone unable to fight back equally. That is what we
10 have seen throughout this trial. That was Douglas
11 Young.

12 Behind in the fight, at a disadvantage. The
13 information that he knew, knew about Chris Mullen, and
14 what Chris Mullen was bragging about. Douglas knew what
15 would happen if Chris Mullen pulled that trigger. That
16 is why Doug is not guilty. The State has failed to meet
17 that burden.

18 Mr. Osborne talked a lot about the State's burden.
19 The Judge will talk to you again after my remarks. I
20 want to talk a little bit about that. I am assuming
21 that most of you when you were selected for jury duty
22 and you were seated on this jury, you thought, my job is
23 to sit here and remain neutral. I will keep an open
24 mind. I will listen to the State's evidence and the
25 defense's evidence. I will wait until the end of that

1 trail, and when we get back to that deliberation, I am
2 going to remain neutral and keep an open mind.

3 That is incorrect. That is not how you are
4 supposed to be approaching this trial at all. We have a
5 phrase in this country, cloaked in the presumption of
6 innocence. The idea of innocence until proven guilty.
7 TV, movies, pop culture. A lot of times we joke about
8 that idea of innocent until proven guilty, but it is a
9 very real and important thing. It is what makes the
10 criminal justice system in the United States of America
11 the greatest justice system.

12 The idea that we have come up with is you are
13 innocent until proven guilty. That is how each and
14 every one of you is thinking in this case. Again, you
15 are not remaining neutral. It's as if each and every
16 one of your seats is seated behind our table. You are
17 on our side throughout this entire trial. It is the
18 government's lawyers' job to pick each and every one of
19 your seats up and move them to our side. That is what
20 it means to be innocent until proven guilty. You all
21 are not neutral.

22 The State has the burden to move you across and
23 convince you beyond a reasonable doubt. It's the
24 State's job, and the State's job alone.

25 Furthermore, Doug told you-all and raised the fact

1 that this was self-defense. Doug testified and put up
2 evidence through our witnesses that he acted in
3 self-defense. Mr. Osborne told you all that. It is
4 their burden to disprove that beyond a reasonable
5 doubt.

6 I want to talk a little bit about, again, what
7 beyond a reasonable doubt really means. He put up some
8 legal words. I want to talk about, what does that mean?

9 In the United States, if someone wants to take your
10 hard earned money away from you, they bring you into
11 Court. The plaintiff has to prove that by a
12 preponderance of the evidence. That is down here. That
13 is the burden that they have to prove to take your money
14 away from you.

15 If someone wants to take your kids or put you in a
16 mental hospital against your own will, clear and
17 convincing evidence. This trial is beyond a reasonable
18 doubt. It's the highest burden of proof that we have in
19 this country.

20 What is reasonable doubt? If you have cause to
21 pause, that is reasonable doubt. Not beyond any
22 possibility or beyond 100 percent. If there is a
23 possibility that you believe is an option, that is
24 reasonable doubt.

25 If you are thinking there is a possibility that

1 that could have happened, the State has not met their
2 burden.

3 MR. OSBORNE: Your Honor, I will object. That is a
4 misstatement of the law.

5 THE COURT: I will note your objection, continue.
6 You get to reply, and I get to charge them.

7 Go ahead.

8 MR. D'ANGELO: I want to talk to you about
9 self-defense and those elements. Four main elements
10 that Mr. Osborne went over, first being didn't bring on
11 the hardship; meaning, I am not the one responsible for
12 this issue.

13 Again, let's say I start a fight and I punch
14 somebody. They pull a gun on me, and I pull the gun on
15 them and shoot them. They can claim self-defense there.
16 I started the fight. That is not what happened here.
17 We heard testimony from Doug that Chris Mullen is mad
18 that Doug is not sharing drugs with him, on meth,
19 drinking alcohol. He pulls out his gun, points it at
20 Doug, threatens to shoot him and rob him. Chris is the
21 one that brought on the hardship, not Doug.

22 The second point, the person must have a belief
23 that they were approaching or in actual danger. You
24 have got to think that you are actually about to be in
25 or approaching a dangerous situation. I certainly would

1 think that if Doug is sitting there and believing as
2 Chris is holding a gun on him and bragged the night
3 before about shootings that he has done, I certainly
4 think Doug is in an actual dangerous situation.

5 The third element of self-defense. A reasonable
6 person must believe that. Again, I would certainly
7 believe a reasonable person. If you are being
8 threatened to have someone shoot you, someone is going
9 to rob you and they are pointing a gun at you, a
10 reasonable person is certainly going to believe they are
11 in real danger.

12 Lastly, and I think most important, is duty to
13 retreat before using deadly force. There is another
14 part to that. Without giving up your own safety. If
15 you believe that retreating is going to jeopardize your
16 own safety, you do not have to retreat.

17 Doug stated on the stand when I asked him, why did
18 you pull the trigger? He said he knew he had to;
19 because of his arm; because he knew that he wasn't in a
20 fair fight with Chris. He already had one arm tied
21 behind his back. He knew if Chris came at him, Chris
22 would get that gun away from him. If he knew if Chris
23 got the gun back, he had already threatened to shoot
24 him, he knew Chris was definitely going to shoot and
25 kill him. That is why Doug had to pull the trigger.

1 That is self-defense.

2 One of the most crucial tools that you have, as
3 you go through the evidence, analyzing what the
4 witnesses said. As Mr. Osborne has already stated, and
5 I know Judge Dixon is going to as well, is common sense.
6 You don't have to be a lawyer. Thank God you don't have
7 to be a doctor and understand numbers. It's your common
8 sense. It's the skills that each and every one of you
9 brings with you into this courtroom.

10 When the State tries to suggest someone is on
11 drugs, on meth, is going to be sedated, is not going to
12 be acting the way Doug and Gerald stated. It doesn't
13 make sense. Use your common sense. When the State
14 tries to suggest they couldn't understand why someone
15 would take their shirt off to a fight.

16 Again, use your common sense. When the State mocks
17 someone's disability for suggesting that despite lacking
18 strength in their arm they couldn't fight someone off,
19 use your common sense.

20 I want to go briefly through some of the witnesses
21 that we have heard. I want to start with Gerald Young.
22 Gerald Young got on that stand and testified that he saw
23 Chris Mullen at [REDACTED] Line Street around 11:00
24 or 12:00 that night after he had gotten off work at
25 Hall's Chop House. He got on his bike and gone over

1 there.

2 He stated that Chris had a can of beer with him
3 when he saw him. He seemed drunk. As he told Mr.
4 Osborne on his cross, he was talking nasty with the
5 ladies that he was sitting with on that bottom porch.
6 Mr. Gerald Young took offense to that.

7 Mr. Mullen didn't like the way Gerald was
8 responding. We saw that temper. He said he started
9 mouthing off. He pulled up the shirt and showed the
10 gun. Chris was armed. That is what Gerald Young told
11 him.

12 Mr. Osborne has gone on that we shouldn't believe a
13 single thing that Gerald said. Everything he said to
14 you was a lie.

15 Gerald stated that people were out the night
16 before. People were out drinking. There was a crowd
17 out there. We heard that from Zoe Whittaker. She got
18 on the stand and confirmed that. There were people out
19 there drinking that Friday night.

20 Kathy Brisbane gave Gerald's name to the police,
21 so the police knew about Gerald and who Gerald was. She
22 got out there and said how he had been drinking that
23 Friday night. Kathy Brisbane gave Gerald's name to the
24 police.

25 Kathy Brisbane didn't call the police. Kathy

1 Brisbane witnessed the shooting. She never called the
2 police. Drove back, picked up Gerald Young, then
3 dropped Gerald Young off, passed by police officers. We
4 know that, because it's on body cam, and then kept
5 driving.

6 Why didn't Kathy Brisbane ever talk to the police?
7 If we are applying that same logic, that doesn't make
8 sense. Furthermore, the State knew who Gerald Young
9 was. The State is trying to make this argument that
10 Gerald Young never gave this story until here at the
11 trial.

12 The State knew about Gerald Young. They could have
13 talked to him at any point. They have all the powers of
14 law enforcement. They could have found him and taken
15 his statement. They had his name. The State never
16 chose to do that. The State tries to insinuate that he
17 is lying because he is in prison for drugs.

18 So someone who breaks the United States drug laws,
19 goes to prison and is serving their time, they can
20 never be trusted again for the rest of their life based
21 on something they saw.

22 He is Doug's uncle. Circuit and friends are people
23 that are going to be around us. They are going to be
24 the people that see what happens that are going to be
25 closest to the situation and know how to understand.

1 People on the outside looking in are not going to have
2 that same perspective.

3 For example, Zoe Whittaker, she is a person on the
4 outside looking in. Go back and listen to her
5 testimony. Mr. Osborne brought up the discrepancies and
6 how she describes the shooting. From what Zoe Whittaker
7 states to what Kathy Brisbane states. There are
8 inconsistencies all over the place.

9 Mr. Osborne is trying to say, those inconsistencies
10 don't matter as much. The way she is describing the
11 shooting, yes, it doesn't quite line up with how Ms.
12 Brisbane described it, but that girl knows what she is
13 talking about.

14 She doesn't. She is a poor, scared girl who heard
15 a gunshot. She is in the bathroom getting ready for the
16 morning. She is not paying attention to what is going
17 on. She hears a gunshot. I asked her on the stand, you
18 were scared. This was traumatic for you. It was.

19 She wasn't paying attention to key details. She
20 was shown a six-pack photo of Doug Young, and she
21 crossed him out. She didn't remember details that she
22 saw.

23 This is a person on the outside looking in. Her
24 perspective isn't going to be as clear like the people,
25 like Gerald Young, who are familiar with the situation,

1 who were there at the situation. He stated he was
2 drinking with Chris Mullen that Friday night.

3 Again, Mr. Osborne went in that we should not
4 believe a thing that Douglas Young says or Gerald Young
5 says. Doug said he was drinking there that night. We
6 heard a whole lot of numbers that ultimately said,
7 Doug's DNA was on the can of beer. That is what he told
8 you; that is what Gerald told you.

9 Chris was acting hyped. He was acting wild. That
10 is how Doug described. Gerald told us that. Doug told
11 us that. We have a scientist who sat there on that
12 stand and told us there was alcohol in Chris Mullen's
13 system. There was amphetamine in his system, and there
14 was meth-amphetamine in his system.

15 She stated that, yes, she cannot say exactly how
16 those chemicals would be reacting in his body. Some of
17 the symptoms she stated that could be possibilities:
18 feelings of superiority, anger. When you mix alcohol
19 and meth -- did Gerald plant that meth in his system?
20 Did Doug plant that meth in his system?

21 The State wants you to believe everything that they
22 are saying is incorrect. Science backs that up

23 Doug said that Mr. Mullen was bragging about
24 shootings down in Beaufort to fit in. This goes to
25 state of mind of why Doug would be afraid and have fear

1 Chris would shoot him.

2 In my opening I said, fear of what he believed
3 Chris had done and fear of what he believed Chris would
4 do.

5 Why was Doug afraid that once he took that gun, he
6 had to pull that trigger? Because Chris had bragged
7 about shootings in the past, had threatened to shoot him
8 there, and he knew in his mind that Chris would get that
9 gun and pull the trigger.

10 The State then challenged Doug on that on their
11 cross. Chris goes to rob him. Chris is doing meth, he
12 is drinking, and now Doug is holding out on him. Again,
13 the temper is coming out. He threatens to shoot. He
14 pulls his shirt off, and throws it at Doug's feet.

15 He is flexing. Again, use your common sense. Ms.
16 Elliott asked the question on her questioning better
17 than I could about the shirt. Crime scene stated that
18 there was no bullet holes, there were no tears, and
19 there was no blood on that shirt. Chris took that shirt
20 off, and he was getting ready to fight, and he threw it
21 at Doug's feet.

22 Human instinct to fight for survival. Chris was
23 looking at the SUV. Doug stated the SUV -- they could
24 see down Line Street. You have the pictures. You can
25 look at the aerial map. From where they were sitting on

1 that corner, they could see down Line. They see an SUV
2 coming. Chris sees that. He sits back down and is
3 holding the gun.

4 Doug described the shooting. He stated both hands,
5 not just the one hand -- he understands his limitations.
6 With both hands, he grabbed the gun. Doug didn't
7 describe a confrontation of fight, as Mr. Osborne stated
8 moments ago.

9 Doug stated he reached out, caught Chris not
10 looking at him, as Chris was looking at the SUV, he
11 grabbed the gun with both hands. Doug stated he jumped
12 back 4 feet or so away, and he started pulling the
13 trigger.

14 Doug pulled the trigger to save his life. The
15 shooting -- what does the State's evidence show about
16 the shooting? As Kathy Brisbane said, said she looked
17 up and saw both men standing. She didn't see this
18 confrontation, because she didn't notice anything
19 happening until she heard the gun go off. Rapid, fast,
20 pow, pow, pow.

21 Mr. Osborne had asked her. She responded, bam, bam
22 bam is the correct phrasing that she used. When Mr.
23 Osborne redirected, he clarified it. She stated, I laid
24 on my horn, not honking multiple times. It was just
25 that quick. Not a series of pop, shoot; pop shoot. She

1 said, I laid on my horn and not honking multiple times.

2 It's rapid fire. She doesn't notice until she sees
3 them already standing there. Doug defended himself.

4 In the United States of America, here in South Carolina,
5 you have the absolute right to defend yourself in
6 self-defense. Not only to use deadly to defend
7 yourself, but to keep shooting until the threat is
8 eliminated. That is what Doug stated that he did. Once
9 he started pulling that trigger, he kept shooting. You
10 are allowed to keep shooting until that threat is
11 eliminated.

12 Mr. Osborne described how he believes the shooting
13 happens. He is describing with Mr. Mullen's arms up as
14 he got shot in the arm, shot in the chest. As he said,
15 said, he is turning with his arms up, shot in the back.
16 We don't know how that happened. He even stated that
17 it's possible the arms could have been in that
18 direction. We don't know, but it's a possibility.

19 What I would submit to you, I believe as Chris was
20 raising his arm, as Dr. Schandl said it was consistent,
21 if the arm was being raised, a shot through the arm and
22 out, which would start to spin the body.

23 The next shot would have come in under the right
24 pec. The bullet went through the chest cavity, which
25 would continue to spin him more, exposing his back as he

1 is going away and a shot to the back. Again, Doug is
2 firing the gun until the threat is eliminated.

3 Doug was scared during and after. Doug told you he
4 was a convicted felon for drugs. Despite Mr. Osborne's
5 scoffing at Doug, he couldn't imagine that he possibly
6 could believe he didn't have that right.

7 Is it so absurd and far-fetched to believe that
8 somebody who is a convicted felon wouldn't think they
9 had rights anymore?

10 The past mid-term election, Florida just voted to
11 restore voting rights to convicted felons. So there are
12 rights that people don't have. Is it so far-fetched to
13 think that someone born in Charleston who has lived in
14 the east side would think that think don't have rights
15 of self-defense? If that is what you are thinking,
16 there is nothing that can save you.

17 That is what Doug told you-all on the stand. Go
18 back and listen to his testimony. He did not believe
19 that he had the ability to raise self-defense. If that
20 is what your mindset is, you have to deny, deny, deny,
21 let alone on a jail call that tells you at the beginning
22 of the call that it is being recorded and can be used
23 against you.

24 You have to commit to deny. You have to try to be
25 able to talk to people, to tell them -- when the family

1 is asking what happened, of course you are going to say,
2 I don't know. I don't know, because Doug is scared. He
3 was scared before, and he was scared after.

4 I want to talk a little bit about Chris Mullen. A
5 young, white man hanging out in the east side. Chris is
6 trying to fit in, or he is trying to do what he thinks
7 he needs to do to fit in. He is going to let everybody
8 know how gangster he is. Doesn't like how Gerald
9 responds, shows off the gun. Thinks the group of guys
10 that night might not be respecting him, so he will brag
11 about shootings down in Beaufort.

12 He is acting wild and hyped. He thinks Doug is
13 holding out on him. He takes off his shirt and pulls
14 out a gun. I told you-all at the beginning, you will
15 learn about Chris Mullen. He was drunk, high on meth,
16 ready for a fight, wanted to get that gun back.

17 At the beginning of the trial, I talked about that
18 this trial is about why. The State spent the whole case
19 talking about who and not why. The State opened the
20 whole case, witnesses going on and on about the moments
21 and hours following what happened. They were trying to
22 talk about what Doug is doing and their idea to say that
23 he is a cold-blood murderer and is trying to cover up
24 his crime.

25 You heard witness after witness who tried to tell

1 you who the shooter was, but not about why. The
2 question why is what is important today. The State
3 wants you to believe that beyond a reasonable doubt Doug
4 was not protecting himself in self-defense, but instead
5 committed cold-blooded murder.

6 Why? What is Doug's motive? I understand Mr.
7 Osborne is saying that they do not have to prove or
8 establish what the motive is. It just doesn't make
9 sense. It doesn't make sense with the evidence the
10 State has presented.

11 Why would that happen? Not a single witness from
12 the State can tell you what happened five hours before,
13 five minutes before, five seconds before.

14 I know I have spoken for a while, but I just want
15 to leave you-all with this: This is the most important
16 day in Doug's life. Each of you needs to make this
17 decision. It is your decision alone. No one can
18 convince you of your decision. No one can force you
19 into your decision. You need to arrive at your decision
20 on your own and have that be your own decision.

21 Mr. Osborne again scoffed at Doug when I
22 questioned, why would you use both hands to try to grab
23 a gun away from someone. Someone is sitting there with
24 a gun on you, pointing at you, why would you go to grab
25 that gun from them?

1 Aron Ralston was trapped under that bolder. Aron
2 Ralston is alive today because his human instinct told
3 him to go for it, to make that decision to cut off his
4 own arm. He still had to climb down the rest of that
5 mountain and hike 8 miles back to the base camp.

6 Was he positive that cutting off his arm was going
7 to save him? Probably not, but he knew that it was his
8 best option. Did Doug know when he grabbed with both
9 hands to try to take that gun away that the gun wouldn't
10 go off; that he could get the gun and Chris Mullen might
11 not ultimately not get that gun and kill him? Probably
12 not.

13 Human instinct is to fight, to take that
14 opportunity to protect yourself, to defend your life,
15 that is the law in the United States: Life, liberty,
16 and happiness. That is why Doug is alive today. That
17 is why Doug is not guilty.

18 THE COURT: Thank you, Mr. D'Angelo.

19 Mr. Osborne, anything in reply?

20 MR. OSBORNE: Briefly, Your Honor.

21 * * *

22 FINAL CLOSING ARGUMENT BY MR. OSBORNE

23 MR. OSBORNE: Mr. D'Angelo talked about why, the
24 motive. Why? He is insinuating to you that if there is
25 a senseless murder that makes no sense and no one can

1 justify it, then you have to find him not guilty. That
2 is simply not true. There are senseless murders every
3 single day.

4 No one can come up here and tell you why he did
5 what he did, because there was no justification for it.
6 That doesn't make him not guilty. It's a senseless
7 murder. That is all it is.

8 He said, Mr. D'Angelo said, if you believe it's
9 possible, he is not guilty. That is simply untrue. I
10 couldn't help but object to that. I will clarify it
11 now, and listen to what the Judge instructs you on not
12 guilty. It's a fine nuance, I get it, but anything is
13 possible.

14 If that were the burden, you would never convict
15 anyone of anything. You have to be firmly convinced.
16 That is the law. Mr. D'Angelo said over and over again,
17 fighting an unarmed man. Fighting. This was not a
18 fight. This was an execution. You have heard no
19 evidence of there being a fight. If there had been a
20 fight, then we are talking about a different kind of
21 case here.

22 This is not a fight. This is a, are you going to
23 shoot me? Yes. He is about to shoot you over and over
24 again. At no point did I ever suggest to you that
25 Christopher would not take off his shirt before a

1 fight. I didn't say that. We have a lot of men on this
2 jury -- and women have seen men too. When they start
3 acting stupid and they want to get into a fight, what is
4 the first thing they do? They take off their shirt.

5 Did Chris Mullen take off his shirt to get into a
6 fight? No. You haven't heard any evidence of that,
7 not an iota of that. He could have said that. He could
8 have gotten on the stand and said that. Chris took off
9 his shirt, he wanted to fight me. I have a bad arm. I
10 had to shoot him.

11 That is not what he said. He said, Christopher
12 took off his shirt to rob him. Did I scoff at that?
13 Yeah, you bet. I never heard of a robbery where
14 somebody is taking off their shirt before they are going
15 to do a robbery. It's stupid.

16 All right. Nobody did mention that, yes, there was
17 meth in Christopher's system, sure. Alcohol in
18 Christopher's system. We never mentioned anything about
19 him though. I think we all see movies, and we all know
20 when you use coke, it gives you a little bit of
21 aggression. They get a feeling of superiority and that
22 makes you angry. You mix coke that you have been doing
23 all night with alcohol. On at least two occasions he
24 admitted to snorting coke.

25 Do you think that makes you hyped up a little bit?

1 That was him. Even Kim Rivers told you that. He came
2 by, and he was drunk.

3 We talked about retreating. If you believe that
4 retreating will jeopardize your own safety, you don't
5 have to retreat. That's correct. If you believe that
6 retreating jeopardizes your own safety, you don't have
7 to retreat.

8 Mr. D'Angelo said, if Christopher had came at him,
9 he had to shoot. That is true. If he was in fear for
10 his safety and if Christopher came at him, he might have
11 to shoot. Obviously, that is still not self-defense.
12 But that is not what happened in this case.

13 He didn't say that. Witnesses don't say that.
14 Witnesses say that he was standing there when he was
15 executed. Christopher never came at him.

16 Then Zoe -- yes, it is true. When you are
17 experiencing a traumatized event, things will be
18 happening quickly, and sometimes it may be hard to
19 recollect some things. That is certainly true. We are
20 not talking about recollection. We are talking about
21 action.

22 What Zoe did, what Zoe did was, when she heard that
23 gunshot, she walked from her bathroom to her window.
24 This isn't recollecting what she saw; this is what she
25 did. Something brought her from the bathroom to the

1 window. That is a pause.

2 Of course, she did not identify him. If she had
3 told you this man that she saw who did it and she
4 identified him, you-all should be real suspicious of
5 him. She is looking down from a window to an individual
6 who is wearing a hat. All she can see is him down at
7 the window.

8 She can't see his face. She doesn't know who he
9 is. If she came in here and said, that is the man who
10 did it, I would be real suspicious of Zoe Whittaker.
11 She told you the truth.

12 I mean, they are doing their job by showing the
13 lineup. If they don't show their lineup, he is going to
14 get on them about that.

15 Jail calls. Mr. D'Angelo has told you that he was
16 so scared. He was in so much fear, so much trepidation.
17 You heard that. You heard that when he was on the
18 witness stand. I want you to compare the individual
19 that you saw on that witness stand and go back there and
20 listen to those jail calls. That is who he is.

21 He is not putting on an act to his family and
22 friends the day after he committed the murder. Do you
23 hear fear? Do you hear trepidation in his voice there?

24 That is a completely different person on that stand
25 there. He put pure theater up there for you, and his

1 story is pure fiction, too.

2 You have heard testimony that this victim was a
3 barber; that he worked at a barbershop, Top of the Line
4 on Columbus Street. That is what he did for a living.
5 This defendant is guilty of dope dealing by his own
6 admission. That is what he did. He was a dope dealer
7 in one of the most dangerous cities in Charleston, on
8 the east side.

9 Who do you think carries a gun? The barber or the
10 dope dealer? Convict him of murder, because that is
11 exactly what he is. He is a murderer.

12 * * *

13 JURY CHARGE .

14 THE COURT: Ladies and gentlemen, you have heard
15 the evidence and arguments of both parties. I will now
16 explain the law which you will apply in this case.
17 You and I have specific duties to perform. As the trial
18 judge, it is my responsibility to preside over the trial
19 of this case. It is your responsibility to consider the
20 testimony which has been presented from this witness
21 stand and exhibits introduced.

22 I have the duty to charge you on the law applicable
23 in this case. As the Presiding Judge, I am the sole
24 Judge of the law in this case, and it is your duty as
25 jurors to accept and apply the law as I now state it to

1 you. If you already have any idea as to what the law is
2 or what the law ought to be and it does not agree with
3 what I now tell you the law is, you must abandon this
4 idea because you are sworn to accept the law and apply
5 the law exactly as I state it to you.

6 Your duty is to determine facts. In every case,
7 the jury is the sole and exclusive judge of the facts.
8 A trial judge cannot suggest, state, comment on, or make
9 any statement to a trial jury about the facts in a case.
10 Since you, the jury, are the sole judges of the facts,
11 you are not to infer from what I have said during the
12 progress of this trial in ruling upon the admissibility
13 of evidence, or otherwise, or anything that I say now
14 during the course of this instruction to you, that I
15 have any opinion about the facts in this case. The law
16 does not allow me to have an opinion about the facts.
17 This is a matter solely for you, the jury, to determine.

18 As jurors, it is your duty to determine the effect,
19 value, weight, and truth of the evidence presented
20 during this trial.

21 The indictments charge the defendant with murder
22 and possession of a weapon during the commission of a
23 violent crime. The fact that the defendant was
24 arrested, charged, and indicted in this case is not
25 evidence in this case and cannot be considered by you as

1 evidence of guilt in this case, nor does it create any
2 presumption or inference of guilt. This indictment is
3 simply the formal written instrument which contains the
4 charge made against the defendant. It is the formal
5 document by which this case is brought into court.

6 The indictments in this case allege several
7 different offenses against the defendant. The charges
8 are:

9 Indictment No. 1: Murder.

10 Indictment No. 2: Possession of a weapon during
11 the commission of a violent crime.

12 Each indictment charges a separate and distinct
13 offense. You must decide each indictment separately on
14 the evidence and the law applicable to it, uninfluenced
15 by your decision as to any other indictment. The
16 defendant may be convicted or acquitted on any or all of
17 the offenses charged. You will be asked to write a
18 separate verdict of guilty or not guilty for each
19 indictment.

20 The defendant has pled not guilty to these
21 indictments, and that plea puts the burden on the State
22 to prove the defendant guilty beyond a reasonable doubt.
23 A person charged with committing a criminal offense in
24 South Carolina is never required to prove himself
25 innocent.

1 I charge you that it is an important rule of the
2 law that the defendant in a criminal trial, no matter
3 what the seriousness of the charge may be, will always
4 be presumed to be innocent of the crime for which the
5 indictment was issued unless guilt has been proven by
6 evidence satisfying you of that guilt beyond a
7 reasonable doubt. This presumption of innocence does
8 not end when you begin your deliberations, but it
9 accompanies the defendant throughout the trial until you
10 reach a verdict of guilt based on the evidence
11 satisfying you of that guilt beyond a reasonable doubt.

12 The presumption of innocence is like a robe of
13 righteousness placed about the shoulders of the
14 defendant which remains with the defendant until it has
15 been stripped from him by evidence satisfying you of the
16 defendant's guilt beyond a reasonable doubt.

17 The presumption of innocence is not merely a legal
18 theory. It is not just a legal phrase. It is a real
19 and substantial right to which every defendant is
20 entitled unless, you, the jury, are satisfied from the
21 evidence of the defendant's guilt beyond a reasonable
22 doubt.

23 What is reasonable doubt in the law? A reasonable
24 doubt is the kind of doubt that would cause a reasonable
25 person to hesitate to act. The State has the burden of

1 proving the defendant guilty beyond a reasonable doubt.
2 Some of you have served as jurors in civil cases where
3 you were told it is only necessary to prove that a fact
4 is more likely true than not true, such as by the
5 greater weight or preponderance of the evidence.

6 In criminal cases the State's proof must be more
7 powerful than that. It must be beyond a reasonable
8 doubt. Proof beyond a reasonable doubt that leaves you
9 firmly convinced of the defendant's guilt. There are
10 very few things in this world we know with absolute
11 certainty. In criminal cases, the law does not require
12 proof that overcomes every possible doubt.

13 Based on your consideration of the evidence, if you
14 are firmly convinced that the defendant is guilty of the
15 crime charged, you must find the defendant guilty. On
16 the other hand, if you think there is a real possibility
17 that the defendant is not guilty, you must give the
18 defendant the benefit of the doubt and find him not
19 guilty.

20 Necessarily, you must determine the credibility of
21 the witnesses who have testified. Credibility simply
22 means believability. It is your duty as jurors to
23 analyze and to evaluate the evidence and determine which
24 evidence convinces you of its truth.

25 In determining the believability of witnesses who

1 have testified, you may believe one witness over several
2 witnesses, or several witnesses over one witness. You
3 may believe a part of the testimony of a witness and
4 reject the remaining part of the testimony of that same
5 witness. You may believe the testimony in its entirety,
6 or reject the testimony of a witness in its entirety.
7 You may consider whether any witness has exhibited to
8 you any interest, bias, prejudice, or other motive in
9 this case. You may also consider the appearance and
10 manner of a witness while on the witness stand.

11 The rules of evidence ordinarily do not permit
12 witnesses to testify to opinions or conclusions. An
13 exception to this rule exists for witnesses we call
14 expert witnesses. You have heard this before.

15 A witness who by education and experience has
16 become expert in some art, science, profession, or
17 calling may state an opinion as to a relevant and
18 material matter in which the witness claims to be an
19 expert, and they may also state the reasons for that
20 opinion.

21 You should consider any expert opinion like any
22 other evidence and give it the weight that you think it
23 deserves. If you decide that the opinion of an expert
24 witness is not based on sufficient education or
25 experience, or if you conclude that the reasons given in

1 support of the opinion are not sound or that the opinion
2 is outweighed by other evidence, you may disregard the
3 opinion entirely.

4 An expert witness' testimony is to be given no
5 greater weight than that of other witnesses simply
6 because the witness is an expert. Further, you are not
7 required to accept an expert's opinion, even though it
8 is not contradicted. In order to establish criminal
9 liability, criminal intent is required. For example,
10 the mental state requiring to be proven by the State for
11 a particular crime might be purpose, intent, knowledge,
12 recklessness, or criminal negligence.

13 Criminal intent must be proven by the State beyond
14 a reasonable doubt. Criminal intent is always a matter
15 that must be determined by the jury from the
16 circumstances existing at that time.

17 There is no way to prove intent to a mathematical
18 certainty. There is no way medical science can dissect
19 a person's brain and determine what the person had in
20 mind. The law says that criminal intent may be inferred
21 from the circumstances shown to have existed.

22 This is how you make a determination of whether or
23 not the elements requiring intent was present. It is
24 not necessary to establish intent by direct and positive
25 evidence. Intent may be established by inference in the

1 same way as any other fact by taking into consideration
2 the acts of the parties and all the facts and
3 circumstances in the case.

4 Criminal intent is a mental state, a conscious
5 wrongdoing. It is up to you to determine what the
6 defendant intended to do, based on the circumstances
7 shown to exist at that time. Criminal intent can arise
8 from an action, or a failure to act. It may arise from
9 negligence, recklessness, or an indifference to duty or
10 to consequences that is considered by the law to be the
11 equivalent of criminal intent.

12 There are two types of evidence generally presented
13 during a trial, direct evidence and circumstantial
14 evidence. Direct evidence is the testimony of a person
15 who claims to have actual knowledge of a fact, such as
16 an eyewitness. It is evidence which immediately
17 establishes the main fact to be proved.

18 Circumstantial evidence is proof of a chain of
19 facts and circumstances indicating the existence of a
20 fact. It is evidence which immediately establishes
21 collateral facts from which the main fact may be
22 inferred.

23 Circumstantial evidence is based on inference, not
24 on personal knowledge or observation. The law makes
25 absolutely no distinction between the weight or value to

1 be given to either direct or circumstantial evidence,
2 nor is a greater degree of certainty required of
3 circumstantial evidence than of direct evidence.

4 You should weigh all of the evidence in the case.
5 After weighing all the evidence, if you are not
6 convinced of the guilt of the defendant beyond a
7 reasonable doubt, you must find the defendant not
8 guilty.

9 The defendant is charged with murder. The State
10 must prove beyond a reasonable doubt that the defendant
11 killed another person with malice aforethought. Malice
12 is hatred, ill-will, or hostility toward another
13 person. It is the intentional doing of a wrongful act
14 without just cause or excuse and with an intent to
15 inflict an injury, or under circumstances that the law
16 will infer an evil intent.

17 Malice aforethought does not require that the
18 malice exists for any particular time before the act is
19 committed, but malice must exist in the mind of the
20 defendant just before and at the time the act is
21 committed. Therefore, there must be a combination of
22 the previous evil intent and the act.

23 Malice aforethought may be expressed or inferred.
24 These terms, express and inferred, do not mean different
25 kinds of malice but merely the manner in which malice is

1 shown to exist; that is either by direct evidence or by
2 inference from the facts and circumstances which are
3 proven.

4 Malice may be inferred from conduct showing a total
5 disregard for human life. Express malice is shown when
6 a person speaks words which express hatred or ill-will
7 for another or when a person prepared beforehand to do
8 the act which was later accomplished. For example,
9 lying in wait for a person or any other acts of
10 preparation going to show that the deed was within the
11 defendant's mind would be express malice.

12 The defendant is charged with possession of a
13 weapon during the commission of or attempt to commit a
14 violent crime. The State must prove beyond a reasonable
15 doubt that the defendant was in possession of a firearm
16 or visibly displayed what appeared to be a firearm
17 during the commission of a violent crime.

18 A firearm means any machine gun, automatic rifle,
19 revolver, pistol, or any other weapon which is designed
20 to or may be readily converted to expel a projectile.

21 In order to find the defendant guilty of
22 possession of a weapon during the commission of a
23 violent crime, you must first find the defendant guilty
24 of either committing a violent crime or attempting to
25 commit a violent crime. Murder and voluntary

1 manslaughter are violent crimes. The State must prove
2 beyond a reasonable doubt that the weapon further
3 advanced or helped in the commission of the crime.

4 The defendant has raised the defense of
5 self-defense. Self-defense is a complete defense, and
6 if it is established, you must find the defendant not
7 guilty. The State only has to disprove one element of
8 self-defense beyond a reasonable doubt. If you have a
9 reasonable doubt of the defendant's guilt after
10 considering all of the evidence, including the evidence
11 of self-defense, then you must find the defendant not
12 guilty.

13 On the other hand, if you have no reasonable doubt
14 of the defendant's guilt after considering all of the
15 evidence, including the evidence of self-defense, you
16 must find the defendant guilty.

17 The following elements are required to establish
18 self-defense:

19 First, the defendant must be without fault in
20 bringing on the difficulty. If a defendant's conduct
21 was the type which was reasonably calculated to
22 and did provoke a deadly assault, the defendant would be
23 at fault in bringing on the difficulty, and would not be
24 entitled to acquittal based on self-defense.

25 The second element of self-defense is that the

1 defendant was actually in imminent danger of death or
2 serious bodily injury, or that the defendant actually
3 believed he was in imminent damage of death or serious
4 bodily injury. If the defendant was actually in
5 imminent danger, it must be shown that the
6 circumstances would have warranted a person of ordinary
7 firmness and courage to strike the fatal blow to prevent
8 death or serious bodily injury.

9 If the defendant believed he was in imminent danger
10 of death or serious bodily injury, it must be shown that
11 a reasonably prudent person of ordinary firmness and
12 courage would have had that same belief.

13 In deciding whether the defendant actually was or
14 believed he was in imminent danger of death or serious
15 bodily injury, you should consider all the facts and
16 circumstances surrounding the crime, including the
17 physical condition and characteristics of the defendant
18 and the victim.

19 The defendant does not have to show that he was
20 actually in danger. It is enough if the defendant
21 believed he was in imminent danger, and a reasonably
22 prudent person of ordinary firmness and courage would
23 have had the same belief.

24 The defendant has the right to act on appearances,
25 even though the defendant's beliefs may be mistaken.

1 It is for you to decide whether the defendant's fear of
2 imminent danger or death or serious bodily injury was
3 reasonable and would have been felt by an ordinary
4 person in the same situation. .

5 Words accompanied by hostile acts may, depending on
6 the circumstances, establish self-defense. The relative
7 sizes, ages, and weights of the defendant and of the
8 victim may be considered in deciding the appearance or
9 actual need for force and self-defense and the amount of
10 force needed.

11 Threats made by the victim may be considered in
12 determining whether the defendant actually was or
13 believed he was in imminent danger. Intoxication of the
14 victim may be considered in deciding whether the
15 defendant's fear of death or bodily harm was
16 reasonable.

17 The final element of self-defense is that the
18 defendant had no other probable way to avoid the danger
19 of death or serious bodily injury than to act as the
20 defendant did in this particular instance. The
21 defendant had no duty to retreat if by doing so the
22 danger of being killed or suffering serious bodily
23 injury would increase.

24 A person cannot be required to make an exact
25 calculation as to the degree or amount of force which

1 may be needed to avoid death or serious bodily harm.

2 Therefore, in self-defense, the defendant has the
3 right to use the force needed to avoid death or serious
4 bodily harm. The force used in self-defense does not
5 have to be limited to the degree or amount of force used
6 by the victim.

7 The defendant has the right to use so much force as
8 appeared to be necessary for complete self-protection,
9 and which a person of ordinary reason and firmness would
10 have believed to be needed to prevent death or serious
11 bodily harm.

12 If the defendant is justified in defending himself
13 or others in firing the first shot, the defendant is
14 also justified in continuing to shoot until it is
15 apparent that the danger of death or serious bodily
16 injury has completely ended.

17 If you find that the State has failed to prove
18 beyond a reasonable doubt that the defendant committed
19 murder, you may consider whether the State has proven
20 beyond a reasonable doubt that the defendant committed
21 voluntary manslaughter.

22 Included within the offense of murder is the lesser
23 offense of voluntary manslaughter. To prove voluntary
24 manslaughter, the State must prove beyond a reasonable
25 doubt that the defendant took the life of another person

1 in the sudden heat of passion based on sufficient legal
2 provocation. Both heat of passion and sufficient legal
3 provocation must be present at the time of the killing
4 to constitute voluntary manslaughter.

5 Sudden heat of passion may for a time affect the
6 person's self-control and temporarily disturb a person's
7 reason. The sudden heat of passion must be the type
8 that would make an ordinary person unable to coolly
9 reflect on his actions and would produce an
10 uncontrollable impulse to do violence. Sufficient legal
11 provocation must be the type that would make a person of
12 ordinary reason and caution become enraged and to lose
13 control temporarily.

14 The provocation needed for voluntary manslaughter
15 must come from some act of or related to the victim.
16 Words alone, however vulgar or insulting, are not enough
17 to be legal provocation. Where death is caused by the
18 use of a deadly weapon, the words must be accompanied by
19 some overt threatening act which could have produced the
20 heat of passion.

21 The exercise of a legal right, no matter how
22 offensive it is to another, is never sufficient legal
23 provocation for voluntary manslaughter. If the heat of
24 passion had cooled or if there was enough time between
25 the provocation, if any, and the killing for the passion

1 of a reasonable person to cool, the killing would not be
2 voluntary manslaughter.

3 In deciding whether a reasonable person could have
4 had enough time to cool off, you should consider all the
5 circumstances surrounding the killing. You may consider
6 the nature of the provocation, if any; the defendant's
7 mental and physical state, and the circumstances and
8 relationship between the parties.

9 I have declared the law to you through these
10 instructions to help guide you to a lawful verdict.
11 Whether some of these instructions will apply will
12 depend upon what you find to be the facts. The fact
13 that I have instructed you on various subjects in this
14 case should not be taken as an opinion of this Court as
15 to what you should find to be the facts or what your
16 verdict should be.

17 Your verdict must represent the considered judgment
18 of each one of you. In order to return a verdict, it is
19 necessary that each juror agrees. Your verdict must be
20 unanimous. All 12 of you must agree on the verdict.
21 Your verdict cannot be based on sympathy, passion,
22 prejudice, emotion, or any other consideration not in
23 evidence in this case.

24 Remember, at all times you are not partisans
25 favoring one party over another. You are the judges of

1 the facts. Your sole interest is to determine whether
2 the State has proven the defendant's guilt to these
3 charges beyond a reasonable doubt from the evidence that
4 has been presented to you in this case. .

5 All right. What I am going to do is I will go over
6 the verdict form with you. You need to just sit
7 there.

8 In my courtroom in Orangeburg, I can go out on
9 that side, so I don't have to walk around, but I don't
10 mind.

11 This is the verdict form. It's two pages. Give
12 you a little bit of background. This just tells you
13 where you are.

14 State of South Carolina, County of Charleston, in
15 the Court of General Sessions here in the Ninth Judicial
16 Circuit. This is the way the case is styled. The State
17 of South Carolina v. Douglas Young, defendant. The
18 warrant number and the indictment numbers are just
19 placed on that to identify the case more specifically.

20 These are the directions. Please circle the
21 appropriate verdict below and follow the accompanying
22 instructions carefully.

23 Question Number 1: We the jury unanimously find
24 the defendant, Douglas Young, as to the charge of
25 murder -- you have two choices, guilty or not guilty.

1 Then you have instructions following that first
2 question. If you find the defendant guilty of murder,
3 please continue to Question 3, which is on the second
4 page, and skip Question 2.

5 If you do not find the defendant guilty of murder,
6 please continue to Question Number 2.

7 Question Number 2 reads:

8 We the jury unanimously find the defendant, Douglas
9 Young, as to the charge of voluntary manslaughter,
10 either guilty or not guilty again.

11 Then there are more instructions. If you have
12 found the defendant not guilty of both Question 1 and
13 Question 2, please stop your deliberations and sign the
14 verdict form.

15 If you have found the defendant of either Question
16 1 or Question 2, please continue to Question 3.

17 Question 3 reads:

18 We the jury unanimously find the defendant, Douglas
19 Young, as to the charge of possession of a weapon during
20 the commission of a violent crime either guilty or not
21 guilty.

22 Then you stop your deliberations and notify the
23 bailiff. Then you sign it and date. The date line is
24 blank, so deliberate as long as you want.

25 Now, you are not getting this yet. I have told you

1 all, I think I have told you-all before, that after I
2 give you the mini law course; that is, my charge, I will
3 ask you-all to go back to the jury room. When you-all
4 go back to the jury room, the attorneys have been
5 listening intently to everything I said when I read the
6 law. They will tell me if I passed or if I failed.

7 If I failed in some area of reading this, or if I
8 misspoke or if I need to correct something, they will be
9 more than happy for them to tell me.

10 I have corrected them during the trial, and they
11 will correct me during this, but they don't get to
12 correct me in front of you-all.

13 The way you-all know that I needed to be corrected
14 is you will come back in here, and I don't have to read
15 that. Let me tell you the other good news. I will only
16 read the part that needs to be corrected. It will be a
17 lot shorter, I hope.

18 If they tell me that I have done an accurate job --
19 if they tell me I have done the law correctly, then this
20 verdict form and all this evidence is going to be
21 brought back into the jury room, and you will be told
22 you can begin your deliberations at that time. You are
23 in charge of maintaining order and having everybody have
24 a say-so in this.

25 The only other thing is I am told that lunch is

1 going to be here at noon. You cannot deliberate during
2 lunch. Everyone has to finish eating. One reason, you
3 cannot talk with your mouth full.

4 So you have to complete eating lunch, then you can
5 begin your deliberations at that time. You have that?
6 All right.

7 I will let you-all go back to the jury room. I
8 will get ready on this, and we will find out where we
9 are.

10 If the food is there, I will let you-all finish
11 eating before everything comes back.

12 Thank you-all.

13 (Whereupon, the jury exited the courtroom.)

14 THE COURT: All right, grading time.

15 Anything from the State?

16 MR. OSBORNE: Flawless, Your Honor.

17 THE COURT: Anything from the defense?

18 MR. D'ANGELO: It seems like an A-plus, Judge.

19 THE COURT: Thank you, sir. I appreciate it.

20 The lunch has come for the jury, so it will take
21 them a minute to finish eating before everything goes
22 back.

23 If you-all don't mind, come up and make sure we
24 have all the evidence straight.

25 (Whereupon, the court stood at ease while the jury

1 deliberated upon its verdict in the case.)
2 (Whereupon, the following proceedings were
3 held in open court. The defendant was
4 present with his attorney, along with
5 counsel for the State.)

6 THE COURT: We have a few notes. The first request
7 I have is the request to view of the first responding
8 police officer's bodycam and the view of the second
9 police officer's bodycam.

10 As I recall, there is only one bodycam.

11 MR. OSBORNE: There is one CD that has the bodycam
12 of both.

13 THE COURT: So all they have to do is turn it on to
14 watch it?

15 MR. OSBORNE: Yes, sir.

16 THE COURT: Do we need to send somebody back
17 there?

18 MR. OSBORNE: They should have a computer back
19 there with a big monitor and a computer with wheels.

20 MR. D'ANGELO: Part of the whole issue, what I
21 stated at the beginning was --

22 THE COURT: I will tell them they can't slow it
23 down.

24 MR. OSBORNE: The only thing I would say to that is
25 we had that discussion at the beginning of the trial.

1 The only thing that has changed since then is what
2 happened. It's not who did it anymore. It's what
3 happened.

4 Looking at the crime scene, where that body was, I
5 did in part of my closing, then they get to see where
6 that body was and they can conclude there was quite a
7 distance from where that first blood drop was to where
8 he was. I would argue that was him trying to get away
9 from the aggressor. That is now. Back then, I would
10 agree.

11 MR. D'ANGELO: I would say the same thing again.
12 That is why I suggested the still.

13 THE COURT: This is on the body cam?

14 MR. OSBORNE: Yes, sir. It should be State's 2.

15 THE COURT: So they can play it?

16 MR. OSBORNE: Yes.

17 THE COURT: The next one is -- this is what your
18 interpreter was for, if I recall. This is your
19 interpreter that I didn't let you get in.

20 They want text of all the jail call clips from
21 Exhibit Number 66.

22 MR. OSBORNE: That is interpretation. My closing
23 doesn't go back, and we just don't have that.

24 THE COURT: They can listen to it?

25 MR. OSBORNE: Yeah. That is why I wasn't thrilled

1 about the makeup of our jury. They have it; they can
2 listen to it.

3 THE COURT: They can play it over and over again.
4 Next set of questions.

5 Written definition of all three options of
6 potential verdicts, below. You-all will appreciate that
7 potential verdicts is in parentheses.

8 MR. OSBORNE: I like the option of guilty or not
9 guilty.

10 THE COURT: They want written definition of murder,
11 voluntary manslaughter, and self-defense.

12 MR. OSBORNE: I like what we did before. I don't
13 have a problem with the whole thing going back.

14 MR. D'ANGELO: Okay.

15 THE COURT: What I will do --

16 Let me just tell you what we are doing right now.
17 I am taking the charges that you-all have copies of.
18 The one that we deleted, we are taking it out, whatever
19 it was, I will get you all to look at what I want to
20 send back before I send it back.

21 Let's get the jury back in here.

22 (Whereupon, the jury entered the courtroom.)

23 THE BAILIFF: The jury is present, Your Honor.

24 THE COURT: Thanks for your hard work. Now, I
25 don't know that there is any particular order, I will go

1 through them. The first request I wanted to talk about
2 is the request to view the bodycams, the two bodycams.
3 Apparently, both of those are on State's 12, which is in
4 evidence.

5 The clerk is double-checking to make sure that you
6 do have the computer in the jury room. It's coming in
7 there. One stipulation I need to let you know, you
8 can't slow the bodycam video down. That was part of
9 some stipulations. You can play it over and over, but
10 you can't slow it down. You can view that over and over
11 again in realtime -- and I don't need to get into why,
12 but you can't slow it down, even though I know it can be
13 done.

14 The next was, text of all the jail call clips,
15 Exhibit 66. I am very impressed that you-all are
16 keeping up with that. Again, we don't have any text of
17 that, but you can play it over and over if you want to.

18 Finally, a point of particular pride for me,
19 you-all wanted the written definition of the three
20 options for the verdict form: Murder, voluntary
21 manslaughter, and self-defense.

22 For your reading enjoyment. I have and the
23 attorneys have reviewed it. This is the jury charges.
24 You will have this back there. Somebody from the
25 clerk's office should be setting that computer up, so

1 you-all should be able to listen or view.

2 If you have any problems with it, knock on the
3 door, and we will get somebody back in there to show you
4 how to use it. Hopefully, it's simple enough that I
5 could do it.

6 MR. OSBORNE: None of the programs are proprietary.
7 They should just plug and play.

8 THE COURT: With that, you-all are free to go back
9 into the jury room and continue your deliberations.

10 (Whereupon, the jury exited the courtroom.)

11 THE COURT: Any corrections, additions?

12 MR. OSBORNE: No objections, Your Honor.

13 THE COURT: Any corrections or additions from the
14 defense?

15 MR. D'ANGELO: A-plus.

16 THE COURT: All right.

17 (Whereupon, the court stood at ease while the jury
18 deliberated upon its verdict in the case.)

19 THE COURT: The jury is asking for a transcript of
20 Zoe's testimony and a transcript of Ms. Brisbane's
21 testimony. Obviously, we don't have a transcript. The
22 only thing I can tell them is that they can rely on the
23 testimony. That is all I can think of.

24 Mr. D'Angelo, do you have any other suggestions?

25 MR. D'ANGELO: I can't think of any.

1 THE COURT: Mr. Osborne, do you have any other
2 suggestions?

3 MR. OSBORNE: I do not, except that we can always
4 play it back to them. We can always suggest to them
5 once you hear what you need to hear, you can stop.

6 THE COURT: All right. Let's get them back in
7 here first.

8 (Whereupon, the jury entered the courtroom.)

9 THE BAILIFF: The jury is present, Your Honor.

10 THE COURT: Thank you, sir.

11 The request for the transcript of Zoe Whittaker's
12 testimony and the transcript of Ms. Brisbane's
13 testimony -- we do not have transcript, but we can
14 replay their testimony. The court reporter says she
15 can come back into the jury room. It will take her
16 about five minutes to locate the testimony, then she
17 will come back there and replay it.

18 Is that what you-all want?

19 (Foreman indicating)

20 THE COURT: Then I will let you-all go back in
21 there now, and she will be there as soon as we get
22 everything set up.

23 (Whereupon, a recess was held.)

24 (Whereupon, the court stood at ease while the jury
25 deliberated upon its verdict in the case.)

1 * * *

2 (Whereupon, the following proceedings were
3 held in open court. The defendant was
4 present with his attorney, along with
5 counsel for the State.)

6 * * *

7 READING OF THE VERDICT

8 THE COURT: I have been told that there is a
9 verdict.

10 (Whereupon, the jury entered the courtroom.)

11 THE BAILIFF: All jurors are present, Your Honor.

12 THE COURT: Thank you, Ma'am. Mr. Foreman, has the
13 jury reached a verdict?

14 THE FOREMAN: Yes, we have.

15 THE COURT: Is that verdict unanimous?

16 THE FOREMAN: Yes, it is.

17 THE COURT: Give the bailiff the copy of the
18 verdict form, and she will bring it to me.

19 Madam clerk, please publish the verdict.

20 THE CLERK: Case Number 2018-GS-10-00558 and
21 -00559, State of South Carolina v. Douglas Young,
22 indictment for murder.

23 We the jury unanimously find the defendant, Douglas
24 Young, as to the charge of murder, guilty.

25 Signed by the foreperson. Dated today, December

1 4th, 2019.

2 We the jury unanimously find the defendant, Douglas
3 Young, as to the charge of possession of a weapon during
4 the commission of a violent crime, guilty.

5 Signed by the foreperson, December 4, 2019.

6 THE COURT: Thank you, Madam Clerk. I appreciate
7 it.

8 Anything from the defendant before I excuse the
9 jury?

10 MR. D'ANGELO: Your Honor, I request to poll the
11 jury.

12 THE COURT: Ladies and gentlemen of the jury, we are
13 going to poll you about your verdict.

14 Juror Number 277, is this your verdict?

15 THE JUROR: It is, Your Honor.

16 THE COURT: Is it still your verdict?

17 THE JUROR: Yes, sir.

18 THE COURT: Thank you, Ma'am.

19 Juror Number 277, is this your verdict?

20 THE JUROR: It is, Your Honor.

21 THE COURT: Is it still your verdict?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you, Sir.

24 Juror Number 282, is this your verdict?

25 THE JUROR: It is, Your Honor.

1 THE COURT: Is it still your verdict?
2 THE JUROR: Yes, sir.
3 THE COURT: Thank you, Sir.
4 Juror Number 187, is this your verdict?
5 THE JUROR: Yes, Your Honor.
6 THE COURT: Is it still your verdict?
7 THE JUROR: Yes, Your Honor.
8 THE COURT: Thank you, Sir.
9 Juror Number 54, is this your verdict?
10 THE JUROR: It is, Your Honor.
11 THE COURT: Is it still your verdict?
12 THE JUROR: Yes, sir.
13 THE COURT: Thank you, Sir.
14 Juror Number 233, is this your verdict?
15 THE JUROR: It is, Your Honor.
16 THE COURT: Is it still your verdict?
17 THE JUROR: Yes, sir.
18 THE COURT: Thank you, Ma'am.
19 Juror Number 276, is this your verdict?
20 THE JUROR: It is, Your Honor.
21 THE COURT: Is it still your verdict?
22 THE JUROR: Yes, sir.
23 THE COURT: Thank you, Sir.
24 Juror Number 261, is this your verdict?
25 THE JUROR: It is, Your Honor.

1 THE COURT: Is it still your verdict?
2 THE JUROR: It is indeed. Yes, sir.
3 THE COURT: Thank you, Sir.
4 Juror Number 270, is this your verdict?
5 THE JUROR: It is, Your Honor.
6 THE COURT: Is it still your verdict?
7 THE JUROR: Yes, sir.
8 THE COURT: Thank you, Sir.
9 Juror Number 162, is this your verdict?
10 THE JUROR: It is, Your Honor.
11 THE COURT: Is it still your verdict?
12 THE JUROR: Yes, sir.
13 THE COURT: Thank you, Sir.
14 Juror Number 34, is this your verdict?
15 THE JUROR: It is, Your Honor.
16 THE COURT: Is it still your verdict?
17 THE JUROR: Yes, sir.
18 THE COURT: Thank you, Sir.
19 Finally, Juror Number 44, is this your verdict?
20 THE JUROR: It is, Your Honor.
21 THE COURT: Is it still your verdict?
22 THE JUROR: Yes, sir.
23 THE COURT: Thank you, Sir.
24 Thank you. Anything else?
25 MR. D'ANGELO: I don't believe at this time, Your

1 Honor.

2 THE COURT: Thank you, sir.

3 Ladies and gentlemen, let me tell you that I
4 appreciate you-all's attention during the whole trial.
5 You-all were attentive. You-all listened, and I
6 appreciate your service. You-all are now excused from
7 jury service.

8 Sometimes the attorneys try to talk contact you and
9 talk to you. They are trying to learn from this
10 experience. They may or may not try to do that. You
11 have a right to talk to them or not talk to them,
12 whatever you wish to do. If you feel like you are being
13 harassed, let the Clerk know, and she will let me know,
14 and I will see that that stops.

15 They use it a learning experience. If they do
16 happen to contact you and you want to talk to them about
17 your experience, I would be happy for you to talk to
18 them. If not, that is also your choice as well.

19 Again, thank you for being willing to serve. I do
20 appreciate it. I hope you-all enjoyed your time as
21 jurors in serving on this case.

22 Now, Mr. Foreman, you can say you have done a
23 criminal trial as well; is that correct?

24 THE FOREMAN: That's correct.

25 THE COURT: Thank you-all. You-all have a good

1 evening. I appreciate it. Thank you.

2 (Whereupon, the jury exited the courtroom.)

3 * * *

4 SENTENCING HEARING

5 THE COURT: Mr. D'Angelo, anything since the jury
6 is gone?

7 MR. D'ANGELO: At this point, just for the record,
8 I make a motion for a new trial and renew all previously
9 stated objections.

10 THE COURT: All right, sir. All of your previous
11 objections preserved on the record.

12 I believe the jury heard the full and complete
13 testimony in this case, so I am going to deny your
14 motion for a new trial. You-all did a good job. I
15 thought it was a clean trial. I appreciate how hard
16 you-all worked for Mr. Young.

17 Are you-all prepared to go forward with the
18 sentencing?

19 MR. D'ANGELO: Yes, Your Honor.

20 THE COURT: Thank you, sir.

21 Mr. Osborne, is there anything from the State about
22 sentencing?

23 MR. OSBORNE: I would like to publish his record,
24 and Mr. Mullen's mother, Susan Mullen, would like to
25 speak at the appropriate time.

1 2002, possession of cocaine. These are recent
2 convictions. I won't publish his arrests.

3 2003, possession of cocaine. Also in 2003 is
4 criminal domestic violence, First Degree.

5 Also in 2006, a couple of municipal charges.
6 Public disorderly conduct, open container.

7 2013, he has a distribution of cocaine base, First
8 Degree.

9 2017, possession of cocaine.

10 THE COURT: All right.

11 MS. MULLEN: My name is Susan Mullen. I am the
12 mother of Christopher Mullen. I just wanted to say this
13 man took the life of my only child. He didn't care if
14 he took Chris' life. This man didn't care that Chris'
15 son just turned one-year-old three days before he was
16 murdered.

17 His son will now grow up without a father. He will
18 never get to see his son grow up to be a man. Chris had
19 people who love him very much and will miss him so much.
20 All are devastated from this horrific crime.

21 THE COURT: Thank you, Ms. Mullen. I am sorry you
22 had to go through this.

23 Thank you, ma'am.

24 Anything else?

25 MR. OSBORNE: No, Your Honor.

1 THE COURT: Mr. D'Angelo, anything for the
2 defense?

3 MR. D'ANGELO: Yes, Your Honor. Thank you.

4 Back when I first received this case, our office
5 had recently started representing people who didn't have
6 lawyers at bond court. We received a grant, and we were
7 trying to get people represented right from the very
8 beginning stages.

9 Doug is one of the first clients that I ever
10 represented there. Quite frankly, Doug has been one of
11 my favorite clients. I know it seems probably awkward
12 to be showing emotion like this, but Doug genuinely has
13 been one of my favorite clients. We have bonded. I
14 think we have good respect as we have been working
15 together.

16 Your Honor, he is 41 years old. You have heard,
17 this, obviously. I am not going to go at length into
18 who he is, where he is from. Obviously, the Court has
19 heard that.

20 Your Honor, a sentence of 30 years -- I have
21 explained it to him. Day-for-day puts him at 70 years
22 old. I am asking that the Court would consider a
23 sentence of 30 years.

24 We still maintain, obviously, that more happened
25 there, even than the evidence was able to bring out. I

1 certainly understand -- I am trying to be delicate with
2 my comments. I believe there are more victims, I
3 believe, in here than just Chris.

4 I believe testimony could have come out that would
5 have painted a different picture. I will not get
6 anymore into that. I think Your Honor knows some of
7 that evidence that I was trying to get into.

8 Doug has children as well. The mother of his
9 children was in here. I think she has left now. I
10 don't believe she wanted to give any other
11 comments.

12 Your Honor, I would just ask again if you would
13 consider a sentence of 30 years. That is significant,
14 and it would put him at 70 years old.

15 The only other thing I want to mention with his
16 record, the criminal domestic violence is the first
17 offense. It wasn't first-degree. The law is changed
18 now. This was back in 2003. It's a 30-day misdemeanor,
19 CDV First. That is the last thing to say, Your Honor.

20 MR. OSBORNE: He is absolutely correct, Your
21 Honor.

22 THE COURT: Anything else?

23 MR. D'ANGELO: Nothing further, Your Honor.

24 THE COURT: I just want to make sure the possession
25 is five years?

1 MR. OSBORNE: Yes, Your Honor.

2 THE COURT: Mr. Young, the jury has heard the
3 testimony in your case and found you guilty. It's my
4 duty to sentence you for the charges that you have been
5 found guilty of by the jury.

6 As to the charge of possession of a weapon during
7 the commission of a violent crime, the sentence of this
8 Court is that you be committed to the State Department
9 of Corrections for a period of five years.

10 As to the charge of murder, the sentence of this
11 Court is you are committed to the State Department of
12 Corrections for a period of 35 years. These sentences
13 are concurrent, and I will give you credit for the time
14 you have served. Thank you.

15 (Whereupon, at 4:43 p.m. the proceedings were
16 concluded.)

17 * * *

18 END OF VOLUME III

19 - - -END OF TRANSCRIPT - - -

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, Kymerlee A. Hanson, Certified Shorthand Reporter/Registered Professional Reporter for the Tenth 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 and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 2nd through 4th days of December, 2019.

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

This, the 7th day of May, 2020.



KYMERLEE M. WILLIAMS, CSR/RPR

FORM 5

STATE OF SOUTH CAROLINA

County of

CharlestonDouglas Lawrence Young

#294552

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2023-CP-10-0090
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2023 JAN -6 AM 9:43
JULIE J. ADAMS, CLERK OF COURTINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Department of Corrections (Midgeland Correctional Institution)
2. Name and location of Court which imposed sentence General Court of Justice - Circuit Court Division Charleston, S.C.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) #K740579 - # 2018-GS-10-00558
 - (b) #K740580 - # 2018-GS-16-00559

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Dec. 4 2019 35 years of imprisonment
- (b) Dec. 4, 2019 5 years of imprisonment
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) ☒ after a plea of not guilty on both indictments
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeals denied and dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. February 9, 2022
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Anders v. California
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: See Attached
- (a) _____
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Appeal
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Appeal in Court of Appeals
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? Yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Appeal
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. Court of Appeals Circuit Court
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. Dismissed - Granted Motion to Believe Counsel
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Appeal Counsel found no merit
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Nicholas D'Angelo - Benjamin Lewis
101 Meeting Street, Suite 5, Charleston, SC 29401
 ii. Adam Sinclair Buffin
PO. Box 11589 Columbia, SC 29211-1589
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Trial
 ii. Appeal
 iii. _____

19. State clearly the relief you seek in filing this application:

New trial; Remand to New trial and/or
appeal; Vacate sentence

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, Douglas Young, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Douglas Young

SWORN to and subscribed before me this 4th
 day of October, 2022.

Virginia Robinson (L.S.)
 Notary Public

My Commission Expires: April 21, 2031

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Douglas Young, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Douglas Young
Applicant

SWORN or affirmed to and subscribed before me this
4th day of October, 2022.

Viginia Robinson
Notary Public

My Commission Expires: April 21, 2031

(10) (a) Indictment is obviously defective where there stands no verdict on face of Indictment.

(b) Trial Counsel was ineffective by failing to investigate and/or ~~investigate~~ raise objections in regards to Rule (3) SR CrimP section (C).

(c) Judge erred in allowing Jury to possess evidence not admitted.

(d) Ineffective Appeal Counsel. Failed to investigate face of Indictment, subsequently failing to clarify its deficiency.

(e) Ineffective Counsel. Counsel was ineffective by failing to file a motion for a new trial, due to there being no evidence beyond a reasonable doubt of Self-defense.

(f) Trial Counsel failed to object to extraneous influence of Solicitor calling defendant a murderer and addressing the jury to convict him as such.

(3) Attachment

(G) Judge erred in allowing full CD of bodycam into Jury deliberation, despite earlier Counsel's objection.

(H) Appellate court erred in granting Appeal Counsel's motion to be retried without a proper investigation of merits.

(I) Appeal Counsel was ineffective by not raising Trial Counsel's objections in Appeal.

11) (a) Upon receiving trial transcript, defendant noticed jury foreman did not give verdict on face of True Bill indictment. Defendant is carrying out a sentence ~~that~~ from an undecided verdict.

(b) Indictments, under Rule 3 of SCRIMP gives clear instructions on processing warrants. There are mixed deadlines, which results in a violation of due process rights of defendant.

(C) Jury requested bodycam video not admitted into evidence properly. Defense Counsel's objection was preserved, and agreed to bring bodycam video to certain footage. By allowing entire CD, Judge allowed Jury to view evidence not admitted, successively behind footage objected to.

(D) Appeal Counsel raised no objections to clarify the deficient indictment, which would warrant some attention.

(E) Counsel(s) was ineffective due to jury admitting reason of verdict, which did not lawfully meet the "reasonable doubt" burden to deny self-defense claim.

(F) Solicitor stated defendant was a murderer to law abiding citizens, potentially influencing jury to construe evidence to satisfy Murder conviction as instructed by solicitor.

(G) Second bodycam was admitted to Jury and not placed on record, by admitting on properly, despite Counsel's objection.

(3)(C) Attachment

(H) Appeal Counsel's Anders brief was premature and defendant was not allowed to contest or raise objection. Counsel also failed to file motion to appoint new counsel, as appeal counsel is still Defense Counsel in Appeal.

(I) Appeal Counsel raised no claims to any of trial counsel's objection. Precluding any question of Law from any superior courts.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Douglas Lavance Young, #294552

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS FOR
THE NINTH JUDICIAL CIRCUIT

Case No.: 2023-CP-10-0090

**RETURN AND
PARTIAL MOTION TO DISMISS**
(Counsel already appointed)

2023 MAY -5 PM 3:22

FILED

In response to the application for post-conviction relief (PCR) filed by Douglas Lavance Young (Applicant) on January 6, 2023, Respondent makes the following return and partial motion to dismiss:¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirty-five-year sentence. In February 2018, the Charleston County Grand Jury indicted Applicant for murder (2018-GS-10-558) and possession of a weapon during the commission of a violent crime (2018-GS-10-559). On December 2-4, 2019, Applicant proceeded to a jury trial before the Honorable Edgar W. Dickson. Nicholas D'Angelo and Benjamin Lewis, Esquires, represented Applicant, and Assistant Solicitors David Osborne and Shanon Elliott represented the state. The jury convicted Applicant of burglary, and Judge Dickson sentenced Applicant to concurrent terms

¹ Respondent's return was due to be filed on April 10, 2023. See Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within . . . 90 days if it arises out of a trial."). Having completed the return in this matter, and in light of no demonstrable prejudice to Applicant as a consequence to any delay, Respondent asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond); Guinyard v. State, 260 S.C. 220, 195 S.E.2D 392 (1973) (holding the trial court may extend the time for filing a return and the time limit prescribed by statute is not mandatory, but discretionary, with the trial court).

of thirty-five years for murder and five years for the weapon charge.

Applicant filed a direct appeal, and Appellate Defender Adam Sinclair Ruffin submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The Court of Appeals dismissed Applicant's appeal pursuant to Anders. The remittitur was sent March 11, 2022.

SUMMARY OF TRIAL TESTIMONY

During Applicant's trial, Zoe Whittaker, who lived in the East Side area of Charleston, testified she heard a gunshot as she was getting ready for work. (Tr. 74-75). She looked out the window and saw a man holding a gun. (Tr. 75). Whittaker ran to her room to call 911; during that time, she heard more gunshots. (Tr. 75). She looked outside again and saw the same man holding a gun. (Tr. 76). Thereafter, the man got into a maroon vehicle. (Tr. 76). During Whittaker's testimony, the State entered her 911 call into evidence over objection.

Officer Jacob Bradshaw testified he responded to the 911 call of shots fired in the East Side area. (Tr. 60-61). When he arrived, he noticed a man lying on the sidewalk and requested EMS. (Tr. 61-62). Thereafter, Officer Bradshaw began looking for a maroon SUV; he noticed the vehicle and stopped it. (Tr. 65-66). He testified Kathy Brisbane was driving the vehicle. (Tr. 67).

Brisbane testified she had previously lived in the East Side area of Charleston and was familiar with Applicant's family. (Tr. 158-59). She testified she had dated Applicant's uncle, Gerald Young. (Tr. 159-60). Brisbane testified she was driving to work on the morning of the shooting when she saw Applicant pointing a gun at another man standing on the corner. (Tr. 162-65). She stated she began blowing her horn to distract Applicant from shooting, but Applicant shot the man three times. (Tr. 162-66). Brisbane clarified the other man had his hands up and did not have a gun. (Tr. 164-65). After Applicant shot the man, Brisbane yelled at him and asked what he was doing. (Tr. 174). Brisbane testified Applicant recognized her and asked her to drive

him around the corner. (Tr. 174). Brisbane testified Applicant got in her car and directed her where to go; he later got out of the car. (Tr. 174-75). Brisbane stated Applicant told her, "You didn't see nothing." (Tr. 176). Brisbane testified she did not know Applicant's first name, but she knew he was a Young. (Tr. 183). She later identified him from a photo lineup. (Tr. 186).

Commander Duston Thompson testified he responded to the scene. (Tr. 90-91). He stated the maroon vehicle, which was identified as a GMC Envoy, was located a block or two away from where the shooting occurred; he had it towed for processing. (Tr. 93-94). Nova Grilli, an expert in latent print examination, testified a fingerprint recovered from the GMC's passenger exterior door matched Applicant's left palm. (Tr. 155). Sarah Zapata, an expert in DNA analysis, testified DNA swabbed from a beer can that was located at the scene of the shooting matched Applicant's DNA. (Tr. 105-06, 221-22).

Crime scene investigator Holly Saunders responded to the scene of the shooting and collected four fired .9 Luger shell casings. (Tr. 97, 101, 103). Michelle Eichenmiller, an expert in firearms identification, testified the four casings were .9 Luger cartridge cases fired by the same weapon. (Tr. 213-14). She stated a bullet fragment recovered from the autopsy was consistent with being fired by a .9 caliber bullet. (Tr. 213).

Kim Rivers, who was subpoenaed by the State against her wishes, testified she and Applicant grew up on the same street. (Tr. 141-43). She acknowledged Applicant approached her on the morning of the shooting but claimed she did not recall what he said to her. (Tr. 142-43). Rivers also claimed she could not recall what she told law enforcement about her conversation with Applicant. (Tr. 143-45). Rivers likewise claimed she did not recall telling Brisbane that Applicant approached her after the shooting and asked her to hold a weapon for him. (Tr. 146).

After the State rested, Applicant testified in his defense and claimed he shot the victim in

self-defense. (Tr. 308-15). Applicant also called Gerald Young, who testified he had seen the victim earlier that evening with “what appeared to be a lump of a gun in his pants.” (Tr. 297-99). The State called two rebuttal witnesses to authenticate Applicant’s jail calls. (Tr. 360-68).

CURRENT APPLICATION

Applicant timely commenced this PCR action on January 6, 2023, asserting he is being held in custody unlawfully due to ineffective assistance of counsel. Specifically, he avers:

- a. “Indictment is obviously defective”: “Jury foreman did not give verdict on face of true bill indictment.”
- b. Trial counsel was ineffective in failing to investigate and/or raise objections pursuant to Rule (3), SCRCrimP: Missed deadlines on processing warrants violated Applicant’s due process rights.
- c. “Judge erred in allowing jury to possess evidence not admitted”: “Jury requested bodycam video not admitted into evidence properly. Defense counsel’s objection was preserved, and agreed to bring bodycam video by certain footage. By allowing entire CD, judge allowed jury to view evidence not admitted, successively behind footage objected to.”
- d. Appellate counsel was ineffective in failing to investigate face of indictment and clarify its deficiency: “Appeal counsel raised no objections to clarify the deficient indictment, which would warrant some attention.”
- e. “Counsel was ineffective in failing to file a motion for a new trial due to there being no evidence beyond a reasonable doubt of self-defense.”: “Counsel was ineffective due to jury admitting reason of verdict, which did not lawfully meet the ‘reasonable doubt’ burden to deny self-defense claim.”
- f. “Trial counsel failed to object to extraneous influence of solicitor calling defendant a murderer and addressing the jury to convict him as such.”: “Solicitor stated defendant was a murderer to law abiding citizens, potentially influencing jury to construe evidence to satisfy murder conviction as instructed by solicitor.”
- g. “Judge erred in allowing full CD of bodycam into jury deliberation, despite earlier counsel’s objection.”: “Second bodycam was admitted to jury and not placed on record, by

admitting on properly, despot counsel's objection."

h. "Appellate courts erred in granting Appeal Counsel's motion to be relieved with out a proper investigation of merits.": "Appeal counsel's Anders' brief was premature and defendant was not allowed to contest or raise objection. Counsel also failed to file motion to appoint new counsel, as appeal counsel is still defense counsel in appeal."

i. "Appeal counsel was ineffective by not raising trial counsel's objections in appeal.": "Appeal counsel raised no claims to any of trial counsel's objection. Precluding any question of law from any superior courts.

Attached to this return and incorporated by reference are the Charleston County of Clerk Court records regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the record on appeal (which includes the entire trial transcript), the direct appeal records, and the records of the current PCR action. Respondent reserves the right to amend this return upon receipt of any additional relevant materials.

PARTIAL MOTION TO DISMISS

Respondent moves to summarily dismiss allegations a, c, g, and h of this application because no genuine issue of material fact necessitates an evidentiary hearing on these claims.

Respondent submits allegations e and g, which relate to trial court error, should be summarily dismissed as they are not proper claims for PCR. Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A PCR application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Any issue regarding trial court error could have been raised on appeal. Thus, as currently framed, Respondent submits these allegations should be summarily dismissed.

Respondent likewise moves to dismiss allegation h, which relates to appellate court error.

Respondent submits the circuit court does not have the authority to evaluate whether our State appellate courts committed any type of error.

Finally, Respondent moves to dismiss allegation a, related to the indictment. Respondent submits that pursuant to State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005), the indictment is simply a notice document and does not have any bearing on subject matter jurisdiction. See id. at 102, 610 S.E.2d at 500 (“The indictment is a notice document.”); id. at 101, 610 S.E.2d at 499 (“[S]ubject matter jurisdiction of the circuit court and the sufficiency of the indictment are two distinct concepts and the blending of these concepts serves only to confuse the issue. Circuit courts obviously have subject matter jurisdiction to try criminal matters.”). Respondent further submits this claim cannot survive as a stand-alone claim; rather, it must be framed as either a constitutional violation or a claim of ineffective assistance of counsel.

INEFFECTIVE ASSISTANCE OF COUNSEL

Respondent contends Applicant’s allegations of ineffective assistance of counsel are without merit. In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice because of counsel’s deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have

been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Applicant cannot satisfy either requirement of Strickland. However, the record likely does not refute or disprove Applicant’s allegation of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing on this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Respondent likewise contends Applicant’s allegations of ineffective assistance of appellate counsel are without merit. A criminal defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 398 (1985). The proper standard for evaluating a claim that appellate counsel was ineffective is the standard enunciated in Strickland. Smith v. Robbins, 528 U.S. 259, 263 (2000). The burden of proof is on the applicant to first show appellate counsel’s performance was deficient under prevailing professional norms. Second, the applicant must prove they were prejudiced by counsel’s deficiency and show with a “reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999).

When an applicant contends appellate counsel rendered ineffective assistance for failing to argue a specific issue on appeal, he must show that failure to raise that issue was objectively unreasonable and that, but for this failure, applicant’s conviction or sentence would have been reversed or remanded. Id. An applicant must show that a particular nonfrivolous issue was clearly stronger than issues presented by appellate counsel. Additionally, an applicant must show a reasonable probability that, but for counsel’s failure to raise that particular claim, the applicant

would have prevailed on appeal. Smith, 528 U.S. at 288.

Applicant cannot satisfy either requirement of Strickland. However, the record likely does not refute or disprove Applicant's allegation of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing on this issue. See Sharper, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record").

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney (and not Applicant) is the only individual authorized to file amendments to this applicant. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State or, alternatively, the State will request a continuance. See Love v. State, 428 S.C. 231, 245, 834 S.E.2d 196, 203 (2018) (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon showing of good cause. S.C. Code Ann. § 17-27-150. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue

prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

ALL OTHER CLAIMS

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

CONCLUSION

WHEREFORE, Respondent requests an evidentiary hearing on Applicant's claims of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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Telephone: (803) 734-3737

May 3, 2023

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Douglas L. Young, #294552

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2023-CP-10-0090

Certificate of Service by Mail

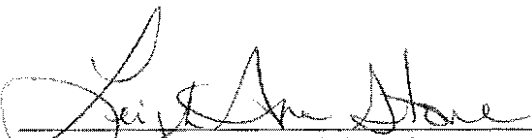
2023 MAY -5 PM 3:22

FILED

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return to the Application for Post-Conviction Relief and Partial Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Christopher L. Murphy, Esquire
Murphy Law Offices, LLC
146 Fairchild Street, Suite 130
Charleston, SC 29492

DATED this 3rd day of May, 2023.



Leigh Ann Stone, Administrative Coordinator
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF COMMON PLEAS
2023-CP-10-00090

Douglas L. Young

)

) TRANSCRIPT OF RECORD

-vs-

)

) August 22, 2023

State of South Carolina)

) Charleston, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge

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

Danielle Dixon, Esquire
Attorney for the State

Christopher L. Murphy, Esquire
Attorney for the Applicant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>

NO EXHIBITS INTRODUCED

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1 THE COURT: Be seated. Good morning,
2 everybody. I know this is the Defendant's motion.
3 I'm going to ask the attorney general, if you could,
4 to summarize the procedural history. Then, I'm going
5 to recognize the defense and ask him to delineate
6 the particular grounds that he's going forward with.

7 MS. DIXON: Yes, Your Honor. May it please
8 the Court. I'm Danielle Dixon, assistant attorney
9 general for the state of South Carolina. This is the
10 case of Douglas Young v. State, Docket No.
11 2023-CP-10-0090. Mr. Young is currently serving
12 a 35-year sentence.

13 In February 2018, he was indicted by the
14 Charleston County Grand Jury for murder and possession
15 of a weapon during the commission of a violent crime.
16 Those are indictment Nos. 2018-GS-10-558 and 559.
17 He proceeded to a jury trial December 2nd through
18 the 4th, 2019; that was before the Honorable Edgar
19 W. Dickson. He was represented by Nicholas D'Angelo
20 and Benjamin Lewis and assistant solicitors David
21 Osborne and Shannon Elliott [sp.] represented the State.

22 The jury convicted him as indicted,
23 and Judge Dickson sentenced him to concurrent terms
24 of 35 years for murder and five years for the weapons
25 charge. He did file a direct appeal, and Mr. Adam

1 Ruffin, who's back here, perfected his appeal by filing
2 a brief, pursuant to Anders v. California.

3 Following a review, the Court of Appeals
4 dismissed it pursuant to Anders, and the remittitur
5 was sent March 11th, 2022. He filed his PCR timely,
6 and it was filed January 6, 2023, asserting various
7 grounds of ineffective assistance of counsel.
8 Your Honor, the State has moved to dismiss some of those
9 grounds. That would be ground A, which deals with the
10 indictment being defective.

11 THE COURT: Okay. Let's ask the defense
12 which ones he's going forward with.

13 MS. DIXON: Sure, sure, sure.

14 THE COURT: I'll do that and ---

15 MS. DIXON: Absolutely.

16 THE COURT: --- then I'll recognize you
17 again.

18 MS. DIXON: And then one brief thing just
19 for the record, Your Honor. We did hand up a packet
20 to you that contained the records from this PCR hearing,
21 his direct appeal records, and then the transcripts
22 of his trial, and the indictments and sentencing sheets
23 in the clerk of records from the underlying conviction.

24 THE COURT: Yes, sir. How are you doing
25 today?

1 MR. MURPHY: Thank you, Your Honor.
2 May it please the Court. Chris Murphy on behalf
3 of the Applicant. I was appointed on March 22nd of 2023
4 to represent Mr. Young. This was a fairly quick trial,
5 actually it was a very quick trial. It was a shooting
6 case, there were two witnesses, and there was a claim
7 of self-defense. It was a clean trial, and I can tell
8 you I've had trouble finding issues to raise for this
9 PCR application.

10 I spoke with Mr. Young a few months ago,
11 and his jail cell was flooded. I had to resend him
12 the transcript to go over issues. I tried to get
13 another call to talk with him about any issues he wanted
14 to raise. And we were supposed to talk yesterday
15 morning, but I was about ten minutes late talking
16 to him, and he was sent back to the cell.

17 I haven't been able to go over his issues
18 that he would like to raise. He tells me that he feels
19 uncomfortable going forward today, and he does want
20 a continuance. I don't know if he wants to get new
21 counsel or not, but he does have some issues that he's
22 handed up to me, or he has here that we can go forward
23 on. It's just a question of how the Court wants
24 to handle it.

25 THE COURT: What does the State have to say

1 about that?

2 MS. DIXON: Your Honor, we would object
3 to new counsel being appointed. Obviously, he has
4 a right to proceed pro se, but I believe Mr. Murphy
5 is more than competent. He's a great lawyer, and,
6 you know, as you know, in terms of appointment
7 of counsel, of course, Mr. Young can retain someone.

8 THE COURT: I wasn't asking for other
9 counsel at this time. With regards to the continuance,
10 what is your position?

11 MS. DIXON: The continuance, Your Honor,
12 we're ready to proceed. I don't know -- we're ready
13 to go forward today.

14 THE COURT: All right. Mr. Murphy, have
15 you had a chance to review the transcript -- the trial
16 transcript?

17 MR. MURPHY: I have reviewed the transcript
18 and taken a lot of notes on it, Judge. I have it right
19 here; I've got the tab portions of it.

20 THE COURT: Okay. So you feel that you're
21 comfortable with the procedural history, the evidentiary
22 rulings and the jury charge, all objections that were
23 made, and perhaps weren't made?

24 MR. MURPHY: Yes. Yes, Your Honor.
25 And I could walk Mr. Young through those at trial,

1 if he takes the stand.

2 THE COURT: All right. I think given those
3 circumstances, Mr. Murphy is a very capable lawyer.
4 I've seen him looking at the trial transcript. He's
5 spent a great deal of time reviewing that, and I think
6 that there -- he indicates he's familiar with it,
7 he's ready to proceed, and we will indeed go forward.

8 Could you delineate which grounds that
9 you intend -- you, personally, intend to pursue?
10 And then we will delineate what Mr. Young has ---

11 MR. MURPHY: Your Honor, the grounds I would
12 -- this is a hard case because there were no offers
13 made. He -- we had a judge that was trying to get
14 a deal worked out; there was nothing. The solicitor
15 wasn't offering anything. Factually, it was a
16 self-defense issue. So it was whether or not the jury
17 believed him or not.

18 It was a very clean trial. I've spoken
19 with the appellate attorney; I've spoken with the
20 trial attorney. And going through the transcript,
21 I'm at a loss of trying to find anything to even raise,
22 Judge.

23 THE COURT: Okay. All right.

24 MR. MURPHY: So that's where -- that's
25 my issue in this case.

1 THE COURT: All right. Well, I'll tell
2 you what we can do. You can call Mr. Young to the
3 stand, and he can tell us what he thinks the issues
4 are. We'll listen to him, we'll give it some thought
5 and the proper research. And I'll ask you, if you
6 could, come forward and place your left hand on the
7 Bible.

8 MR. MURPHY: Yes, sir. We call Mr. Young,
9 Your Honor.

10 THE COURT: All right. Mr. Young, take
11 your time, bring your paper up here, and I'm going
12 to ask you to approach the clerk, and place your left
13 hand on the Bible, and raise your right hand as she
14 administers the oath. Yes, sir, I'm going to ask
15 you, if you could -- you can take your time and set
16 your paperwork down. Set your paperwork down there.
17 All right. And place -- I want you to face the clerk
18 over there, and place your left hand on the Bible,
19 and raise your right hand as she administers the oath.

20 MR. DOUGLAS YOUNG was called as a witness,
21 being duly sworn, was examined and testified as follows:

22 THE CLERK: You may be seated.

23 THE COURT: I'm going to ask that you pull
24 up real close to that microphone and speak loudly,
25 clearly, and slowly in order to hear everything that

1 you have to say.

2 THE WITNESS: Okay. Your Honor, may I ask
3 a question?

4 THE COURT: Yes.

5 THE WITNESS: If I don't feel comfortable
6 with him right now, because if he can't find an issue,
7 I want to try to get another lawyer, really.

8 THE COURT: All right. You know, one thing
9 that's a beautiful thing about our country is that
10 a person accused of a crime, they're entitled to
11 representation, even if they can't afford it. And this
12 is actually a civil proceeding, but our law recognizes
13 that you're entitled to counsel to represent you in
14 these civil matters postconviction, but you don't get
15 your choice. You have the choice of proceeding forward
16 pro se or Mr. Murphy; those are your choices.

17 THE WITNESS: Okay.

18 THE COURT: Which would you rather?

19 THE WITNESS: Pro se. I mean, me, doing
20 it on my own?

21 THE COURT: Well, do you have an objection
22 to Mr. Murphy asking you questions?

23 THE WITNESS: If I don't want him to --
24 if I don't want him not to? I mean, see, we haven't
25 talked, we haven't communicated. So, I mean -- and

1 my other paperwork got messed up, so I don't understand
2 if he even knows what I'm saying, what I'm ---

3 THE COURT: This is your cause of action,
4 and it's incumbent upon you to make the preparations for
5 it. And you can proceed forward pro se, and Mr. Murphy
6 can have a seat. Tell me what you think went wrong.

7 THE WITNESS: What went wrong with me
8 and the lawyer right there?

9 THE COURT: Tell me what -- why you're
10 entitled to post-conviction relief, the legal issues.

11 THE WITNESS: Okay. I mean, he can ask
12 me that.

13 THE COURT: Okay. Well, all right.
14 Mr. Murphy ---

15 THE WITNESS: I didn't know that's what
16 you were saying.

17 THE COURT: All right.

18 DIRECT EXAMINATION

19 BY MR. MURPHY:

20 Q. Mr. Young, I'm going to ask you some questions
21 about your trial, your criminal trial, okay? And in
22 a post-conviction relief, we're limited to errors that
23 your attorney made, okay?

24 A. Okay.

25 Q. And when I ask you questions, you've got

1 to respond yes or no for the court reporter.

2 A. Yes.

3 Q. And there's going to be other issues that are
4 off bounds. Like, we can't ask about legal issues that
5 were objected to and ruled on. That would be an error
6 of the judge that would have been subject to direct
7 appeal. Do you understand that?

8 A. Yes.

9 Q. Now we also can't question the jury's decision
10 when they made rulings on questions of fact. Do you
11 understand that?

12 A. Yeah.

13 Q. And so what we're looking at is specifically what
14 did your attorney, Mr. D'Angelo, do wrong in your trial.
15 All right. So, first, you got arrested in Charleston
16 County and charged with murder; is that correct?

17 A. Yes.

18 Q. And while you were -- did you get a bond while
19 you were awaiting trial on those charges?

20 A. Yes.

21 Q. Okay. So you were out of jail between the time
22 you were arrested and the time you went to trial?

23 A. Yes.

24 Q. And during that time, did you meet with Mr. Dell
25 Angelo [sic.] -- am I pronouncing that right?

1 MR. D'ANGELO: It's D'Angelo.

2 MR. MURPHY: D'Angelo.

3 BY MR. MURPHY:

4 Q. You met with Mr. D'Angelo ---

5 A. Yes.

6 Q. --- about your case?

7 A. Yeah.

8 Q. And do you recall how many times you met with
9 him?

10 A. Quite a few. I can't really say a number, a lot.

11 Q. And we're not asking for specifics. I'm just
12 trying to get a general idea, okay?

13 A. Yeah.

14 Q. And when you met with him, I assume you discussed
15 your case, correct?

16 A. Yeah.

17 Q. And did you discuss any potential witnesses
18 that you would have?

19 A. Yeah.

20 Q. And what witnesses were they, do you recall?

21 A. It was a lot, but the only one that came was
22 my uncle.

23 Q. And your uncle, was that Mr. Gerald Young?

24 A. Yeah.

25 Q. Okay. So you had your uncle that showed

1 up at court, and he testified for you?

2 A. Yeah.

3 Q. Was there other witnesses that you wanted to call
4 that could have helped you?

5 A. Yes.

6 Q. And who were they?

7 A. It was my two cousins.

8 Q. Okay.

9 A. And there was an officer from the county
10 of the victim.

11 Q. Okay. So we have the two cousins. And did
12 you talk to your attorney about those two cousins
13 testifying?

14 A. Yeah.

15 Q. And tell the Court what would those cousins
16 have said.

17 A. They would have just told you how he was acting,
18 and he's the one that had a gun the night before the
19 incident.

20 Q. Okay. And that was part of your self-defense
21 claim, the victim in this case was acting aggressive
22 towards you?

23 A. Yes.

24 Q. And the next day, when you got into an argument
25 with him, he had a gun in his possession, right?

1 A. Yes.

2 Q. And there was some type of skirmish or
3 altercation, and you were able to wrestle the gun away
4 from him, correct?

5 A. Yes.

6 Q. And during that time, he was continuing
7 to be aggressive, and you ended up shooting him?

8 A. Yeah.

9 Q. Okay. And so that was -- led to your claim
10 of self-defense?

11 A. Yes.

12 Q. Okay. So we understand the two cousins would
13 have been -- your uncle testified that the victim was
14 being aggressive towards you. He saw him with the gun;
15 he saw him being aggressive, right?

16 A. Yes.

17 Q. And so what you're telling the Court is those
18 two cousins would have testified along the same lines;
19 is that correct?

20 A. Yes.

21 Q. Okay. Now, the next witness you have is the
22 officer from where the victim was from?

23 A. Yes.

24 Q. And what would he have testified to?

25 A. He would have -- the same actions and the same

1 aggressiveness.

2 Q. Okay. So he would have, again, said that the
3 victim was being aggressive, which would have supported
4 your claim of self-defense?

5 A. Yes.

6 Q. Now, did you talk to Mr. D'Angelo about calling
7 those witnesses?

8 A. Yes.

9 Q. And what did he say? Why didn't you call them?

10 A. Well, my two cousins wasn't been able to come,
11 and the officer, it was, like, my last day of trial,
12 and him and my solicitor must have said that it was
13 just end of the day, because the officer would have
14 had to come the next day, and said, well, it's just
15 end of the day.

16 Q. All right. So let's talk about the cousins.
17 You said they could not come, they could not make
18 it to trial?

19 A. Yeah, they couldn't have made it.

20 Q. And why couldn't they make it to trial?

21 A. One, girlfriend was going to the hospital
22 with a baby, and the other one, he went out of town
23 or something. Can't remember.

24 Q. All right. And so do you know if any subpoenas
25 were issued for those two individuals?

1 A. No.

2 Q. Okay. No you don't know, or no they were not
3 issued?

4 A. No, they were not issued.

5 Q. Okay. And in terms of the officer, it sounds
6 like your case rested, the trial was over before --
7 and he was not available at the time; is that correct?

8 A. Yeah.

9 Q. And do you know if the officer was under
10 a subpoena?

11 A. No, I don't think he was.

12 Q. All right.

13 THE COURT: Let me ask a point ---

14 MR. MURPHY: Yes, sir.

15 THE COURT: He's indicated that the officer
16 would testify about the victim acting aggressively.
17 Was he there and witnessed it?

18 MR. MURPHY: I don't believe he was.
19 I think what he's saying is he would have -- he knew
20 that the ---

21 THE WITNESS: Yeah, he knew how the ---

22 MR. MURPHY: He knew the Defendant -- the
23 victim's ---

24 THE COURT: Reputation.

25 MR. MURPHY: --- reputation. That's

1 correct.

2 THE COURT: Go ahead.

3 BY MR. MURPHY:

4 Q. And, just to be clear, the officer that we're
5 talking about, he wasn't at the scene, obviously?

6 A. No.

7 Q. But he knew the victim through past dealings,
8 correct?

9 A. Yes.

10 Q. Okay. Now, you believe that those were mistakes
11 that your attorney made?

12 A. Yes.

13 Q. All right. Now, we go back to trial, but
14 we're not -- and we're jumping around a little bit.
15 But before trial, did the solicitor make any offers
16 to try to resolve the case, like, give you a deal
17 beforehand?

18 A. No.

19 Q. And do you know if your attorney tried to get
20 a deal?

21 A. Yeah, I think he did.

22 Q. Okay. And that was the solicitor's call.
23 For whatever reason, he was not going to give you
24 any offers?

25 A. Yes.

1 Q. And so that basically left you with either plead
2 guilty or go to trial?

3 A. Yes.

4 Q. And, ultimately, you did go to trial. But did
5 you discuss with your attorney whether -- what type
6 of sentence you could get if you pled guilty versus
7 going to trial?

8 A. Yes.

9 Q. And what do you recall about those discussions?

10 A. He said he was going to talk to him, but the
11 solicitor wasn't budging on a plea. And then when
12 we got to trial, the judge even asked, and the solicitor
13 told him no, he didn't because we didn't -- and he said
14 -- so the judge was, like, well, I'll give y'all
15 a chance to go out here to try to discuss one, a plea
16 offer, see if y'all can settle this before trial,
17 and he gave us a recess. So when he came back, he said
18 he talked to the boss, and the boss said 25 years
19 and murder still sticks.

20 Q. Okay.

21 A. And it wasn't even murder.

22 Q. So the offer that you remember getting was if you
23 pled guilty, you would have received a 25-year sentence?

24 A. Yeah, and it's still murder; the charge would
25 have still been murder.

1 Q. Okay. And did you discuss that offer with your
2 attorney?

3 A. Yeah.

4 Q. And, ultimately -- let's talk to the judge
5 about those discussions. And this is before you went
6 to trial?

7 A. That was right at trial.

8 Q. That was right at trial?

9 A. Yeah.

10 Q. So the pressure was on right then?

11 A. Yeah.

12 Q. And tell me why did you not take that deal.

13 A. Because it wasn't murder.

14 Q. Okay. So you did not believe the State could
15 prove the elements of murder in your case?

16 A. I mean, that's what he's saying, but I didn't
17 murder -- yeah.

18 Q. Well, let me ask ---

19 A. I was going to speak my part and clear myself,
20 I guess, that's what I'm saying.

21 Q. Let me ask it this way. We had a victim who's
22 deceased, a dead guy, right?

23 A. Yeah.

24 Q. And you're saying it wasn't murder?

25 A. Yeah.

1 Q. Right. And so if it wasn't murder, in your
2 words, what was it?

3 A. Self-defense.

4 Q. Okay. And so did you go over -- do you
5 understand that every crime has elements that the State
6 has to prove?

7 A. Yeah, I guess.

8 Q. Okay. And so murder has certain elements that
9 the State has to prove. And the judge actually would
10 have charged those elements to the jury at the end
11 of trial, right?

12 A. Right.

13 Q. And so self-defense also has elements that
14 you have to prove?

15 A. Right.

16 Q. And the judge charged those elements to the jury
17 at the end of the trial. Do you recall that?

18 A. Right.

19 Q. You also have a lesser-included offense of murder
20 called manslaughter?

21 A. Yes.

22 Q. Right. And that has different elements?

23 A. Yes.

24 Q. And the judge charged those elements at trial
25 as well?

1 A. Yeah.

2 Q. And so in this case, the jury convicted you
3 of murder?

4 A. Yes.

5 Q. And so my question is, and we are hopping around
6 a little bit, but you turned down a 25-year deal because
7 you did not think there was an element of murder
8 involved?

9 A. Yes, yes, okay, yeah.

10 Q. Ultimately, a jury disagreed with you, right?

11 A. Yeah.

12 Q. Okay. So now we're back to the beginning
13 of trial, you have to go through trial, we're looking
14 at errors that your attorney did. We already have
15 that he did not call the two cousins and did not call
16 the officer?

17 A. Yeah.

18 Q. We have that you turned down the offer of 25
19 years. That was your choice, correct?

20 A. Yes.

21 Q. And now we're starting off at trial, and you
22 have to go through the process of an opening argument,
23 cross-examining witnesses, presenting your own case,
24 correct?

25 A. Yeah.

1 Q. And so what I'm asking is, what did your attorney
2 do wrong during that process? And we're looking at
3 errors that he made that would have changed the outcome.

4 A. If I could look at my notes right here.

5 Q. Please. That's why we have all your notes
6 up there.

7 A. Okay. Well, counsel provides ineffective
8 assistance of counsel by failure to conduct a pretrial
9 investigation for a copy of the search warrant that
10 was never provided to the Applicant, which a cell phone
11 was seized by the Charleston County Police Department.
12 They took a cell phone from me that I had when I got
13 arrested.

14 Q. Okay.

15 A. The Applicant contends establishment -- establish
16 counsel was inadequately prepared for trial, and the
17 Applicant must present evidence of what counsel could
18 have discovered, or what other defenses could have been
19 pursued, had counsel been more fully prepared,
20 Jackson v. State, 329 S.C. 345 ---

21 Q. You don't have to go through the case cite.

22 A. The case cite, okay.

23 Q. I just needed the general idea. So right now,
24 you're saying that the cell phone was seized ---

25 A. Yeah.

1 Q. --- and there was no objection to the cell phone?

2 A. Well, they went into the cell phone without
3 my permission.

4 Q. Okay. .

5 A. And they never had a warrant to even go in the
6 cell phone.

7 Q. All right. And the next issue said that your
8 counsel was not prepared and could have offered other
9 defenses?

10 A. Yeah.

11 Q. Okay. And what -- and that's what we're trying
12 to get, is the general ideas that you think your
13 attorney did wrong. And I'm going to ask you about
14 these once we get them established, okay?

15 A. Okay.

16 Q. And what are the next issues that you believe
17 your attorney did wrong?

18 A. All right. Okay. Right here. Counsel provided
19 ineffective assistance of counsel by failing to request
20 for additional jury instruction regarding the
21 Defendant's right to act on reasonable appearance.

22 Q. Okay. So a jury charge on reasonable appearance?

23 A. Yeah.

24 Q. And I assume that what you're talking about
25 is that ties into your self-defense charge?

1 A. Yes.

2 Q. And so what you're alleging is that there
3 was an error with the jury charge on self-defense
4 that the Court made?

5 A. Yeah.

6 Q. All right. So right now, we have -- and
7 I'm looking at the evidence list here, the exhibits.
8 I don't see anything where the cell phone was admitted
9 into evidence, or any evidence was admitted from the
10 cell phone. Am I incorrect with that?

11 A. Hold on. That's on page -- okay, yeah. That's
12 why I have these right here.

13 Q. Okay.

14 A. These from the police reports in evidence.

15 Q. Okay. All right.

16 A. Case supplement report.

17 Q. So, you're talking about the reports?

18 A. Yeah.

19 Q. So what you're alleging ---

20 A. For the cell phone when it was took.

21 Q. Yep.

22 A. And they went into it without permission
23 and didn't even have a warrant.

24 Q. Okay. And then so you're just alleging that
25 the police looked at your cell phone without a warrant,

1 correct?

2 A. Yes.

3 Q. Okay. Now, that's a -- the last issue that
4 you talk about was your counsel was not prepared about
5 presenting other defenses that you had?

6 A. Yes.

7 Q. What other defenses are you talking about?

8 A. That -- I mean, let me know more on -- I don't
9 know, like, explain it to me a little bit more.

10 Q. I'm sorry?

11 A. I'm saying explain it to me a little bit more.

12 Q. Well, these things -- you were able to allege
13 self-defense, the judge allowed you to present that
14 defense and charged the jury on it. You're saying that
15 your attorney was not prepared at trial to offer other
16 defenses. And what I'm asking is what other defenses
17 are out there? And I'm not trying to trick you.

18 A. Oh. No, he said -- he told me lesser charges,
19 that's what we was going for.

20 Q. Okay. And that would be the manslaughter charge,
21 the lesser-included charge?

22 A. Yeah.

23 Q. Okay. And that was presented to the jury,
24 and the judge charged that?

25 A. Yeah.

1 Q. Okay. And so what I'm looking at right now is we
2 have the cousins that didn't testify, the officer that
3 didn't testify, the phone that was acquired and searched
4 without a warrant, and we have an error that you allege
5 with the jury to the self-defense jury charge. Is that
6 fair?

7 A. Yeah.

8 Q. Okay. Now, you ended up taking the stand in this
9 case in your defense, correct?

10 A. Yes.

11 Q. And the judge questioned you about whether
12 you wanted to take the stand. Do you recall that?

13 A. Yes.

14 Q. And did you have a conversation with your
15 attorney about whether or not you should take the stand?

16 A. Yes.

17 Q. And tell me how that conversation went. What
18 was involved?

19 A. He just told me I would have to go out there
20 and tell my part of the story, explain the situation
21 to the jury.

22 Q. And did he make you do that, or was that your
23 own choice?

24 A. No, he didn't make me.

25 Q. Okay. And so you ended up taking the stand.