

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Darlington County

Honorable Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FREDDY RAY HARRIS III,

APPELLANT

APPELLATE CASE NO. 2023-001165

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MELODY J. BROWN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3727

ATTORNEY FOR APPELLANT

WILLIAM B. ROGERS, JR.
Solicitor, Fourth Judicial Circuit
1 Public Square, Room 410
Darlington, SC 29532
(843) 398-4300

ATTORNEYS FOR RESPONDENT

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1 these witnesses is not limited to each crime. So you
2 get to think about everything she's told you. You
3 get to think about why he kicked that door in. And
4 don't forget, don't forget one of the most important
5 elements of burglary is entering a dwelling with the
6 intent to commit a crime there. Nothing was stolen.
7 Nothing was damaged. The door, nothing inside the
8 apartment was damaged. It was not wrecked. There
9 weren't holes in the wall.

10 The judge is also going to charge you on the
11 defense of necessity. That means even though he
12 kicked the door in, even though he went in there, if
13 he was acting out of necessity in this case he
14 thought Mary Beth was hunched over in the sink. He
15 thought there was an immediate medical emergency. He
16 did not have a cell phone with him. And he chose to
17 act. The law protects those who act to the aid of
18 someone who is helpless. That is why the defense of
19 necessity exists within our law. It's there for a
20 reason. Use it.

21 You heard me talk about reasonable doubt. You
22 heard me talk about the standard of beyond a
23 reasonable doubt. If you're like me or any of my
24 friends that I ever explained that concept to they
25 look at me and they say that doesn't make any sense.

1 The only way I know to explain reasonable doubt to
2 you is this way, you've sat here and listened. It's
3 -- it's an odd experience you sitting here watching
4 all of this unfold. If it weren't real live in front
5 of you it would almost feel like you're watching a TV
6 show. But you see in a second the judge is going to
7 charge you on the law and you're going to go back
8 there in that jury room and you're gonna deliberate.
9 And you're going to have to reach a unanimous result.
10 Deep down in your gut when you get back there before
11 when you make a decision as a group, I want you to
12 ask yourselves something, is Freddy Harris guilty of
13 these crimes? Did the State prove beyond a
14 reasonable doubt that he did not act in self-defense?
15 If you say to yourself, you know, I think he did not
16 act self-defense. You can say that. Under the
17 burden of proof beyond a reasonable doubt, that's not
18 enough. You might go back there say to yourself
19 sitting in that room, he probably didn't act in self-
20 defense. That's not a enough. When you go back
21 there and you ask yourself, did he not act in self-
22 defense? You must know beyond a reasonable doubt
23 that he did not act in self-defense. If you could
24 say that, then it's my opinion the law requires you
25 to mark guilty on that verdict form. But if you

1 cannot say that, then the right hand you raised and
2 the solemn vow you took it says you must check not
3 guilty.

4 You may wonder, once all this is over and you're
5 finally able to talk about the case with your friends
6 and family, what are you gonna tell them? What are
7 you gonna tell them you did in that jury room? It
8 could be tough. I recommend you tell them you render
9 a just verdict. You rendered a verdict according to
10 the laws of the Constitution of the United States of
11 America. A country you're proud to live in and a
12 country you serve simply by sitting there listening
13 to me talk. You see, jury trials are a beautiful
14 thing. I looked up the history of the jury trial and
15 they have been doing jury trials in England since the
16 1600's. You see the king declared that there would
17 be a jury trials. But the king got to pick the jury
18 and the King got to tell the judge what verdict he
19 wanted. And it was operated that way until a
20 particular case in 1680 before our country ever came
21 into existence. There was a young guy running around
22 the city causing some mischief. So King's guard
23 gathered him up, pulled him in, and put him on trial.
24 And the king declared, the judge actually charged the
25 jury before they went to deliberate, the king wants

1 this boy convicted. And the jury went and they
2 deliberated for two days. They came back and the
3 judge said Mr. Foreman, have you reached a verdict?
4 He said, yes, judge, I have. And what is that
5 verdict? The foreman said not guilty. He said I
6 don't think you've understood my instructions the
7 first time. Go back and deliberate some more, the
8 king wants a verdict of guilty.

9 So the jury goes out and they deliberated for two
10 more days. They came back, the judge said Mr.
11 Foreman, do you have a verdict? Yes, judge, we have
12 verdict. And what is your verdict? Not guilty. The
13 judge was furious. Out! Deliberate! Return a
14 verdict of guilty! The history says that the jury
15 endured deplorable conditions for the next two days
16 with limited access to water and food. They came
17 back and the judge said, have you reached a verdict?
18 Yes. What is your verdict? Not guilty. And the
19 judge looked at the foreman and said when will your
20 verdict be guilty? The foreman said, never. You see
21 that's the power that you hold as a juror. You hold
22 the power to say not guilty.

23 Now, when we've talked about this evidence, when
24 you look at it, when you the read the medical
25 records, it shows he had 25 shotgun pellets in his

1 foot. You can read them. Read about them. I submit
2 to you that your burden should be not guilty.

3 Thank you.

4 THE COURT: Thank you, counsel. Solicitor?

5 MR. BELL: Thank you, Your Honor. May it please,
6 the Court?

7 THE COURT: Yes, sir.

8 **Closing agruments by Mr. Bell**

9 Ladies and gentlemen of the jury, now is the time
10 that you get to see kind of what you see on TV from
11 the lawyers in a courtroom. And I was thinking about
12 my closing I thought about the conversations I had
13 with Kurt Scholl's mother and father. And then, in
14 fact -- and in these breaks they'll come and talk to
15 me and they will say Mr. Bell, when are you gonna
16 talk about this? When are you gonna talk about that?
17 And I know it's painstaking sometimes when I was
18 getting some of these witnesses up there and I know
19 y'all was kind of wondering where is Mr. Bell going
20 with this. It's kinda of slow. I can't talk about
21 my theory of the case until it's in evidence. And I
22 -- the only way I can get it into evidence is that it
23 has to come from that microphone. So I have to get
24 people to talk about the pieces and in my closing and
25 I get to put them all together. So now let's put

1 some pieces together.

2 But before -- before I do that I do want to
3 respond to some of the things Mr. Godwin just said.
4 They make a big deal about this dog. This dog is
5 important to them. Talking about Ms. Delila not
6 remembering that she went into the camper. I want
7 y'all to remember, did they show this picture to Ms.
8 Dalila? Did they asked her? I mean, they asked her,
9 yes, they did. But did they show her this picture?
10 Did they give an opportunity to address this picture?
11 They did not. That wasn't the only mistake or a
12 misspoken situation in this case. I mean, Mr. Todd
13 he readily admitted he had Scriveners error, error in
14 his report. That's not reasonable doubt, I submit to
15 you. You get to weigh this evidence. When you see
16 Lady Justice and if you notice she is blind. She's
17 blindfolded. She can't see color. She can't see no
18 race, sex, age. She has that scale. And that scale
19 is you weighing the evidence. You're weighing that
20 evidence. And I have the burden of proof beyond a
21 reasonable doubt. I have to prove the guilt of Mr.
22 Harris. But Lady Justice also has a sword. When you
23 go back and you deliberate and you weigh this
24 evidence, when that scale tilts you swing that sword.
25 You return a verdict of guilty.

1 They talk about a phone. They talk about Kurt
2 Scholl's phone. Why didn't they do phone dump? They
3 even mention possibly a scheme between Mary Beth
4 possibly and Freddy to kill Kurt which might be found
5 in Kurt's phone. You didn't lose your common sense
6 when you came into this, this courtroom, okay. You
7 didn't shed that at the door. Take that back there
8 with you. Does that make sense? I mean, you heard
9 SLED talk about there was a great amount of evidence
10 taken. All that evidence don't need to be tested.
11 We don't need to test all that evidence for you to be
12 able to look at all the evidence that's been
13 presented to find this defendant guilty beyond a
14 reasonable doubt.

15 You heard them talk about pellets in Mr. Harris's
16 foot. And you heard Todd, Mr. Todd Shenk testify the
17 he did not believe this to be a gunshot in the car.
18 You get to determine the credibility of a witness.
19 Does this look like a pellet? Would've it did that?
20 Mr. Harris took off his shoe and show his foot. Does
21 that look like pellet? You get to decide.

22 Talked about -- let's talk about the GSR kit and
23 the lack, thereof, Kurt Scholl. Mr. Todd testified
24 as to why he don't do it GSR kit from a gunshot
25 victim. He told you why. Due to the fact they made,

1 they were gonna have GSR on them because they were a
2 victim of gunshot. So there's no need to test for
3 it. Was it a typo? Why was there a typo? I don't
4 know. People make mistakes. Now, I don't know if
5 Mr. Godwin had forgotten to tell you or talk about
6 necessity in his opening, he didn't have to. But now
7 we're hearing about an emergency where Mary Beth was
8 slumped over a sink and he thought something was wrong
9 so that's why he kicked in two doors. You get to
10 judge the testimony and the credibility of the
11 witness. You. The judge will give you the law but
12 you get to -- does that sound like it -- does that
13 make sense?

14 You heard Mary Beth talk about and testify that
15 this dog, she fled from her home with that dog still
16 in possession of Freddy Harris. And this is what I
17 think happened and I submit to you that evidence
18 shows that Freddy Harris is in very controlling
19 person. And even though him and Mary Beth had been,
20 they'd broke up, he wasn't gonna let Mary Beth go.
21 And I'll be honest with you, do I understand why Mr.
22 Scholl allowed her to continue to communicate with
23 Mary Beth (sic), allow it? I don't understand. Do I
24 communicate with any of my ex's like that? I don't.
25 Does it make sense? It doesn't. It doesn't. But

1 that has nothing to do with the death and the murder
2 of Kurt Scholl. Kurt Scholl did not deserve to die.
3 Kurt Scholl did deserve to die on his property. Kurt
4 Scholl did not deserve do die by the hands of Mary
5 Beth's ex-boyfriend.

6 So you heard the testimony. Freddy Harris goes
7 to her job early in the day. He pops up with this
8 Christmas tree that she didn't ask for. She's
9 startled when she sees him. She sends him -- she
10 give him a chore to get rid of him. Sends him to get
11 some sour cream. She comes back and what does she
12 testify to, she locked not just one door but two
13 'cause she didn't want him there. What did he do
14 when he got back? You heard the testimony he kicked
15 in both of those doors and grabbed her and carried
16 her outside. And she was thinking quick enough so
17 let me just get my shoes, sound like she was gonna to
18 comply with him, and after grabbing her shoes, she
19 ran out the door and left. The defense would have
20 you believe she went to Kurk Scholl's house with a
21 dog. I submit to you the reason why they want you to
22 believe that is because they're trying to figure out
23 a way to make it okay for Kurt (sic) to be at that
24 home. Yeah, he knew not to be there, 911 had been
25 called on him before. He done beat on the camper.

1 He wasn't scared of a shotgun racking. He invited
2 himself to a cook out. He said he was gonna bury
3 Kurt and do things to Mary Beth, y'all remember what
4 he said, well, what she testified to. I believe when
5 Mary Beth jumped in that car and got away from him,
6 he was enraged. He was already mad that she locked
7 the door. She was -- and he wanted her to go with
8 him. So he kicked in that door. He grabbed her.
9 When she got away, he said, you know, what I -- the
10 problem is Kurt Scholl and I'm gonna take care of
11 that problem and so he went Kurt Scholl's home. And
12 he got out of that car and a fight ensued. You heard
13 what Jason Felkel told you. Now, Jason Felkel, he's
14 been in trouble with the law plenty of times, but he
15 said he wanted to come forward and tell truth. Tell
16 his version of the truth. And I submit to you it all
17 lines up. Kurt Scholl shot two warning shots at his
18 feet based on what Jason Felke's says that Freddy
19 said. He got the gun away from him after, according
20 to Jason Felkel, the gun jammed. And then he stands
21 over him and shoots him three times with a shotgun,
22 okay. Boom! Ch-chunk, Boom! Ch-chunk, Boom! You
23 heard the pathologist. One shot, one path, three
24 feet feet away approximately. The next two within
25 one foot, is that a person acting in self-defense? I

1 submit to you it is not. Before that he bit off his
2 ear. Remember in my opening I said, before, during,
3 and after. Before, during and after. What have been
4 before, during. What did he do after? Did he call
5 911? Did he ask for help? No. Melissa Row testified
6 that when she wanted to call 911 he said we don't do
7 that. Is that a person acting in self-defense? Ran
8 to Chesterfield County. Didn't even want to go get
9 help, he was bleeding so bad. You've got your common
10 sense.

11 Lastly, make sure you paid close attention to
12 these 911 calls. Look at them. Based on the
13 defense's theory, they're saying that Mary Beth was
14 at that home. I think that dog was with Freddy
15 Harris when he went to Kurt's house. There was no
16 testimony by Todd saying how the dog got into the
17 camper. We don't know how the dog got into the
18 camper. It's just as easily that somebody could have
19 picked the dog up and put the dog in the camper when
20 they got there. But nobody testified that they, the
21 dog was in the camper when they got there. And if
22 you need to come back and listen to Todd's testimony
23 you can do that. You have that power as a jury. Do
24 I know how the dog got in the camper? No, I do not.
25 But if you believe Mary Beth and that, that dog was

1 when she ran out that house in fear that dog was left
2 with Freddy then that's all the facts that you need;
3 8:24, Mary Beth called 911 in regards to her door
4 being kicked in on Home Avenue, okay; 8:30, Mitch
5 Talbert calls 911 about the gunshot saying they are
6 currently fighting; 8:32, Taylor Dudley calls 911.
7 The defense would have you believe that Mary Beth was
8 there when they were fighting but had already called
9 now 911. Mary Beth has a history of calling 911 on
10 Freddy Harris. If, if that was the case and they
11 were out there shooting, don't you think Mary Beth
12 would've, when she called 911 said something about
13 this. It doesn't make sense. Take your common sense
14 with you.

15 Ladies and gentlemen of the jury, I'm not going
16 to belabor you much, much longer. But one thing I
17 did agree with Mr. Godwin about is you have the
18 power. And like I said before justice is blind and
19 he is an innocent man for now. But I think you've
20 heard these facts. You'll see the pictures. You
21 will see the distance. You'll see the blood trail.
22 The dragging of the body. The plastic that Taylor
23 Dudley talked about. You'll have the autopsy report.
24 You'll see pulpification of brain. Read it. What are
25 you going to tell the people about this case? What

1 are you going to tell your family? I implore you to
2 tell your family, your friends that you brought
3 justice to the family of Kurt Scholl and the citizen
4 of Darlington County.

5 Thank you for your attention.

6 THE COURT: Thank you, solicitor. All right. Mr.
7 Foreman, ladies and gentlemen of the jury, the next
8 phase of the case is the judge's charged of the law.
9 You've been sitting there for quite some time. Now,
10 does any juror need a brief recess for restroom?
11 Everybody okay? This charge is probably gonna take 40
12 minutes or so.

13 (Whereupon, there is no response from the jury)

14 All right. Everybody's good. All right. Let's
15 secure the doors please. I don't need people in and
16 out.

17 **Judge's Charge**

18 All right. Mr. Foreman, ladies and gentlemen of
19 the jury, I need your attention. You have very
20 patiently listened and observed the presentation of
21 the evidence in this case and I thank you so much for
22 that patience and for you listening to the evidence
23 and to the presentation by the attorneys.

24 It is now my duty as a trial judge under the
25 Constitution of this State to charge and instruct you

1 and the law applicable to the case and it is your
2 duty as jurors to accept and apply the law as the
3 Court now states it to you. As jurors it's your
4 exclusive duty to decide all the issues of fact in
5 this case. And for that purpose to determine the
6 effect, the value, and the weight of the evidence.
7 Both the State and the defendant have a right to
8 expect that you will conscientiously consider and
9 evaluate the evidence and apply the law of the case
10 thereto. That is to the end that both the State of
11 South Carolina and the defendant will receive and
12 obtain a fair and impartial trial in this case. When
13 I use the word defendant I refer to Mr. Freddy Ray
14 Harris, III. He's charged in the bill of indictments
15 with the offenses of murder, possession of a weapon
16 during a violent crime, kidnapping and burglary first
17 degree. To these charges and to the indictments, the
18 defendant has entered pleas of not guilty plea. The
19 plea of not guilty by a defendant places the burden
20 of proof on the State to prove by evidence the guilt
21 of the defendant beyond a reasonable doubt before
22 you, the jury, can find the defendant guilty.

23 The defendant is presumed in law innocent of the
24 charges contained in indictment. It a cardinal and
25 fundamental rule of the law of evidence a defendant

1 irrespective of the enormity of the charges against
2 him will always be presumed innocent of the crimes of
3 which he is indicted unless and until the guilt of
4 the defendant has been proven by evidence that
5 satisfies you, the jury, of the guilt beyond a
6 reasonable doubt.

7 The presumption of innocence is not a mere legal
8 theory and it's not just a legal phrase. The
9 presumption of innocence is a substantial right to
10 which every accused is entitled. Our Supreme Court
11 has declared that the presumption of innocence is
12 like a robe of righteousness placed about the
13 shoulders of a defendant and it remains with him and
14 assigns him to that class, the innocent, until that
15 presumptive robe of righteousness has been stripped
16 from his person by evidence satisfying you, the jury,
17 of the guilt of the defendant beyond a reasonable
18 doubt. This presumption of innocence accompanies a
19 defendant from the time of his arraignment and
20 appearance in the court and continues with the
21 defendant throughout every stage of the trial. And
22 continues with the defendant after you retire to the
23 jury room to deliberate your verdict. The
24 presumption of innocence continues in existence to
25 the benefit of a defendant until you, the jury,

1 reached the conclusion that the State has proved the
2 guilt of the defendant beyond a reasonable doubt.
3 The State is not required to prove the guilt of a
4 defendant beyond all doubt or beyond every doubt, but
5 beyond a reasonable doubt.

6 The government has the burden of proving the
7 defendant guilty beyond a reasonable doubt. Some of
8 you may have served as jurors in a civil case where
9 you were told that it is only necessary to prove that
10 a fact is more likely true than not true. In
11 criminal cases the government's proof must be more
12 powerful than that, it must be beyond a reasonable
13 doubt. Proof beyond a reasonable doubt is proof that
14 leaves you firmly convinced of the defendant's guilt.
15 There are very few things in this world that we know
16 with absolute certainty and in criminal cases the law
17 does not require proof that overcomes every possible
18 doubt. If based on your consideration of the
19 evidence you are firmly convinced that the defendant
20 is guilty of the crimes charged, you must find him
21 guilty. If on the other hand, you think there's a
22 real possibility that he is not guilty, you must give
23 him the benefit of the doubt and find him not guilty.

24 I charge you the defendant is entitled every
25 reasonable doubt arising in the whole case, arising

1 in any defenses, or accusations that are made by the
2 State or in any defenses. If upon any issue of the
3 fact essential to a conviction and a verdict for
4 guilty you have a reasonable doubt as to how that
5 issue should be resolved. It will, of course, be
6 your duty to resolve that reasonable doubt in favor
7 of the defendant.

8 A defendant, ladies and gentlemen, is not
9 required to prove his innocence but the State is
10 required in law to prove every essential element of
11 the offense charged against the defendant by evidence
12 which satisfies you, the jury, of the guilt of the
13 defendant beyond a reasonable doubt before you can
14 convict the defendant and find him not guilty. Once
15 again, I charge you that the defendant is entitled
16 every reasonable doubt arising in the case.

17 If, then, upon the whole case you have a
18 reasonable doubt as to the guilt or the innocence of
19 the defendant, he is entitled to that reasonable
20 doubt and would be entitled to an acquittal and a
21 verdict of not guilty. But on the other hand if upon
22 the case you find that the State has proved by
23 evidence which satisfies you, the jury, of the guilt
24 of the defendant beyond a reasonable doubt, then in
25 such circumstances it would equally be your duty to

1 convict the defendant and find him guilty.

2 Now, I instruct you that the indictments in this
3 case which I have here on the bench that you will
4 have later on, they are not evidence and cannot be
5 considered by the jury as evidence in the case. The
6 indictment is simply the formal written instrument
7 which contains the charges against the defendant and
8 this serves or these serves as formal documents by
9 which the case is processed into the court.

10 During this trial each of us, you and I, have
11 certain duties to perform. As the trial judge it's
12 my responsibility to preside over the trial of this
13 case and I also had the duty to rule upon or pass
14 upon the admissibility of evidence offered during the
15 progress of the trial. You are to consider only the
16 competent evidence before you and you are to
17 disregard and disabuse from your mind any testimony
18 ordered stricken from the record of this case during
19 the progress of the trial if there be any. And you
20 are to consider only the testimony which has been
21 presented from this witness stand together with any
22 exhibits admitted into the record of this case and
23 any stipulations of counsel made into the record if
24 there be any.

25 Now, I also have the additional duty to charge

1 you the applicable law of the case. As the presiding
2 judge, I am the sole judge of the law of the case and
3 it's your duty to accept and apply the law as I
4 stated to you. If you have a preconceived idea as to
5 what the law is or what the law ought to be in this
6 case and it should not agree with what I tell you the
7 law is, you're obligated under your oath to abandon
8 this preconception on your part because you're sworn
9 to accept the law precisely as I state it to you.

10 In every case tried in this court before a jury,
11 the jury becomes the sole and exclusive judge of the
12 facts of the case. You, the jury, are the judge of
13 the facts in this case and the court is the judge of
14 the law in this case. The Constitution of this State
15 has declared that a trial judge shall not intimate,
16 state, comment upon, or make any statement to a trial
17 jury about the facts in a case. Since you are the
18 sole judge of the fact, you are not to infer from
19 anything that I've said during the progress of this
20 trial in ruling upon the admissibility of evidence or
21 otherwise, or anything that I now say and during the
22 course of this charge to you that I have an opinion
23 about the facts in the case. The law does not permit
24 me to have an opinion about the facts in the case.
25 That is a matter solely for you, the jury, to

1 determine. As jurors, then, it is your duty to
2 determine as I've stated to you the effect, the
3 value, and the weight of the evidence presented
4 during the course of this trial. Necessarily then,
5 you must assess the credibility of the witnesses who
6 have testified in this case.

7 Credibility is simply a legalistic term which
8 means believability. I charge you that in
9 determining the question of the credibility or
10 believability of witnesses, you may believe one
11 witness as against several witnesses or several
12 witnesses against one witness. You may believe a
13 part of the testimony of a witness and reject the
14 remaining part of the testimony of that same witness.
15 You may believe the testimony of a witness and its
16 entirety or reject the testimony of a witness and its
17 entirety. You may consider whether any witness has
18 exhibited any interest, any bias, or any prejudice in
19 the case. You may consider the demeanor of a witness
20 and the appearance of a witness from the witness
21 stand. And you may consider the opportunity the
22 knowledge concerning those things about which a
23 witness testified.

24 In doing this and exercising your mental
25 processes, the law simply requires that you exercise

1 your good judgment, your common sense, your sense of
2 logic and reason, and your experience in life. You
3 apply these attributes and your abilities to the
4 evidence in determine the weight of the evidence and
5 to these stated facts that's determined by you, the
6 jury, you take and apply the law as I stated to you
7 and thus, arrive at verdicts in this case.

8 Once again, I instruct you, you are decide this
9 case based on the evidence presented in court. This
10 case has nothing to do with any prior research you
11 may have done. Anything that you've seen at the
12 movies, on television. It is to be decided by the
13 evidence that has been properly presented to you in
14 this court.

15 Now, we had expert testimony in the case. In
16 considering the opinion of an expert witness that has
17 been admitted in this case, you should consider the
18 factual evidence first. An expert may base his or
19 her opinion upon the factual evidence presented at
20 trial. Alternatively, the expert may base the
21 opinion upon facts that are not in evidence, you may
22 consider the expert opinion if you find that the
23 testimony is based upon facts that are reasonably
24 relied upon by experts in that particular field. You
25 must consider expert testimony in the same manner as

1 you do any other testimony and give it or give to it
2 such weight as you may believe it is entitled
3 consider with all other evidence in the case. Such
4 testimony is given for the purpose of helping you
5 understand the evidence and not for the purpose of
6 controlling your judgment. The value of it does not
7 depend upon the skill and the knowledge professed by
8 the expert, but rather upon the skill and knowledge
9 he actually possesses. It is for you to judge
10 whether an expert possesses such knowledge. In this
11 regard, you may consider his or her training
12 experience, ability to communicate their ideas, the
13 logic of their opinion, the factual support for their
14 opinion, and all other factors as you would judge and
15 weigh the testimony of other witnesses. The value
16 and effect of expert testimony is a matter solely to
17 be estimated by you, the jury. No mere opinion of an
18 expert can be accepted as in and of itself truthful
19 or reliable, but must be weighed by you and convince
20 your judgments beyond a reasonable doubt and with the
21 same force and effect as any other facts proved in
22 this case before you can rely upon it as the basis of
23 a conviction. You have heard the testimony of
24 witnesses who have special knowledge, skill,
25 experience, training or education in a particular

1 field and who have given their opinion as an expert
2 as to the matters in which they are skilled. In
3 determining the weight to be given such opinion you
4 should consider the qualifications and credibility of
5 the experts and the reasons given for their opinions.
6 You are not bound by such opinions. Give it the
7 weight, if any, to which you deem it entitled.

8 I'll talk with you now about direct and
9 circumstantial evidence. Two types of evidence which
10 can be presented during the trial, that's direct
11 evidence and circumstantial evidence. Direct
12 evidence directly proves the existence of the fact
13 and does not require deduction.

14 Circumstantial evidence is proof of a chain of
15 facts in circumstances indicating the existence of a
16 fact. For example, if on a winter night you look
17 outside and you see brown grass on your lawn, you go
18 to bed, then wake up and see snow and footprints on
19 your lawn, first, you can infer that it snowed.
20 Secondly, you can infer that someone walked on your
21 lawn. These are things that you can infer even
22 though you did not see it snow and even though you
23 did not see someone walking on your lawn.

24 Crimes may be proven by circumstantial evidence.
25 The law makes no distinction between the weight or

1 value to be given to either direct or circumstantial
2 evidence. However, to the extent the State relies on
3 circumstantial evidence. All of the circumstances
4 must be consistent with each other and when taken
5 together, point conclusively to the guilt of the
6 accused beyond a reasonable doubt if the
7 circumstances merely portray each defendant's
8 behavior as suspicious; you know, then the proof has
9 failed.

10 The State has the burden of proving the defendant
11 guilty beyond a reasonable doubt on each charge.
12 This burden rests with the State regardless of
13 whether the State relies on direct evidence,
14 circumstantial evidence or some combination of the
15 two. Now, the Court doesn't get into explaining to
16 you what types of evidence are presented or giving
17 you any type of interpretation about direct and
18 circumstantial evidence. You, the jury, have the
19 authority to determine what might be present in this
20 trial.

21 All right. I'll take them as I come to them.
22 I'll speak with the charge concerning the specific
23 charges in the case. All right. Indictment 2020-GS-
24 16-0193, the State vs. Freddy Ray Harris, III. The
25 indictment is for murder. The indictment alleges

1 that Freddy Ray Harris, III did in Darlington County
2 on our about December 9, 2019 willfully, feloniously
3 and intentionally killed the victim, Kurt Russell
4 Scholl, with malice aforethought either express or
5 implied by means of shooting the victim multiple
6 times and that the victim did die as a proximate
7 result thereon or on about December 9, 2019 in
8 Darlington County, all in violation of 16, the
9 Section 16-3-10 of the South Carolina Code of Laws of
10 1976, as amended.

11 I charge you that murder is the killing of any
12 person with malice aforethought either expressed or
13 implied. I point out to you that the word implied
14 means the same thing as the word inferred.

15 Murder is the unlawful killing of any person with
16 malice aforethought that is either expressed or
17 inferred or some people say implied. Hence, in order
18 to convict one of murder, the State must not only
19 prove the killing of the deceased by the defendant
20 but that it was done with malice aforethought and
21 such proof must be beyond a reasonable doubt. Malice
22 aforethought is an essential element in the crime of
23 murder.

24 Now, what is malice? Malice is defined in the
25 law of homicide as a term of art. Malice does not

1 necessarily mean an actual intent to kill. Malice is
2 a technical term importing wickedness and excluding
3 just cause or legal excuse. It is something which
4 springs from wickedness, from depravity, from a
5 depraved spirit, from a heart devoid on social duty,
6 and fatally bent on mischief. The word express or
7 referred malice do not mean different kinds of
8 malice, but merely the manner in which the only kind
9 of malice known to the law may be shown to exist.
10 That is to say either, by direct evidence or by
11 inference.

12 Malice may be expressed is where previous threats
13 of vengeance or lying in wait or other circumstances
14 showed directly that an intent to kill was entertain.
15 Malice may be inferred where, though no expressed
16 intent to kill is proved by direct evidence, it may
17 be inferred from the facts and circumstances which
18 are proved. Malice may be inferred from the willful,
19 deliberate and intentional doing of an unlawful act
20 without such, without just cause or legal excuse. In
21 other words, in its general signification malice
22 means the doing of a wrongful act intentionally
23 without justification or legal excuse. But even if
24 facts proved are sufficient to raise an inference of
25 malice this inference would be simply an evidentiary

1 fact to be taken into consideration by you, the jury,
2 along with all the other evidence in this case and
3 you may give it such weight as you determine it
4 should receive as to whether or not malice has been
5 proved beyond a reasonable doubt.

6 Ladies and gentlemen, there must be malice
7 aforethought. And while the law does not require
8 that malice shall exist for any particular length of
9 time before the commission of the act it must be
10 aforethought. There must be a combination of the
11 previous evil intent and the act producing the fatal
12 result. I charge you the State is not required to
13 prove a motive for homicide.

14 The next indictment is 2020-GS-16-192, the State
15 versus Freddy Ray Harris, III. Indictment for
16 possession of a weapon during the commission of a
17 violent crime. The indictment alleges that Freddy
18 Ray Harris, III, did in Darlington County on or about
19 December 9, 2019 possessed a firearm or visibly
20 displayed what appeared to be a firearm or visibly
21 displayed a knife during the commission or attempted
22 commission of a crime in violation of Section 16-23-
23 490 of South Carolina Code of Laws of 1976, as
24 amended.

25 Section 16-23-490 makes it illegal to possess a

1 firearm or visibly display what appeared to be a
2 firearm during the commission of a violent crime.
3 Section 16-1-60 provides a violent crime includes the
4 offenses of murder. For you to find the defendant
5 guilty of this separate statutory offense of
6 possessing a firearm during a violent crime, you must
7 first find the defendant guilty of the violent crime.
8 If you find the defendant -- if you find the
9 defendant guilty of the violent crime, then you must
10 determine whether the State has proved beyond a
11 reasonable doubt that the defendant was in possession
12 of a firearm or visibly displayed what appeared to be
13 a firearm during the commission of the violent crime.
14 And in this case, once again, that violent crime
15 alleged is murder. As used in Section 16-23-490 of
16 the South Carolina Code, a firearm is defined as any
17 machine gun, automatic rifle, revolver, pistol or any
18 weapon which will or is designed to or may be readily
19 converted to, to expel a projectile.

20 All right. Indictment 2020-GS-16-0142, it's for
21 kidnapping. That indictment alleges that Freddy Ray
22 Harris, III did in Darlington County on or about
23 December 9, 2019, unlawfully seized, confined,
24 inveigle, decoy, kidnap, abduct or carry away one,
25 Mary Beth Bennett, without authority of law in

1 violation of Section 16-3-910 of the South Carolina
2 Code of Laws of 1976, as amended.

3 Kidnapping is the intentional taking of a person
4 and compelling him or her to be detained against
5 their will. It is the willful and unlawful seizing
6 of a person against their will with an intent to
7 cause him or her to be confined in prison or
8 detained. The essence of the offense of kidnapping
9 is the unlawful secret holding or imprisonment of a
10 person. Kidnapping means the carrying away of a
11 person by unlawful force or by fraud and against
12 their will or seizing and detaining them for the
13 purpose of so carrying them away. The elements of
14 kidnapping are, (1) one unlawfully seized, confined,
15 inveigle, decoy, kidnap, abduct or carry away any
16 other person; (2) by any mean whatsoever; (3) without
17 authority of law. Confined means to shutting in or
18 to imprison. Inveigle means to lure, entice or lead
19 astray by false representations or promises or other
20 deceitful means. The gravamen of the offense of
21 kidnapping is some form of compulsion. But the law
22 says that the requisite force or compulsion need not
23 consist of the use of actual physical force or
24 violence or of expressed threat. An essential
25 element of the offense of kidnapping is that the

1 taking or detention of the person kidnapped is
2 without lawful authority. To support an allegation
3 of unlawful taking or detention of the person, the
4 State must prove beyond a reasonable doubt that the
5 accused had requisite intent to commit the alleged
6 acts.

7 Intent means to act knowingly. The law says it
8 is ordinary reasonable to infer that a person intends
9 the natural necessary and probable consequences of
10 the acts knowingly done. The law infers the intent
11 from the doing of the unlawful act. Kidnapping by
12 the use of fraud and inveiglement or enticing is the
13 obtaining of a false consent by means of deception.

14 Now, the use of fraud is a substitute for force.
15 In effecting kidnapping implies false and fraudulent
16 representations amounting substantially to a
17 concurrent, coercion of the will of the kidnapped
18 person. In determining where a person was coerced
19 by fraud and inveiglement, the nature of the alleged
20 artifice employed the age, education, and condition
21 of mind must be taken into consideration.

22 Ordinarily, under the law, a false statement or
23 representation is not in and of itself sufficient to
24 constitute fraud. Kidnapping by inveiglement may be
25 accomplished by acts of deception whereby the kidnap

1 person is induced to yield assent to the taking.
2 The law says the inveiglement must be adequate to
3 obtain the unlawful purpose. It does not rise from a
4 false representation alone and does not exist where
5 the kidnapped person voluntarily consents to the
6 taking. Kidnapping by decoying or enticing usually
7 refers to suggestions, representations, or
8 solicitations whereby the kidnapped person yields
9 assent. The taking, leading, carrying away, or the
10 transportation of the victim is an essential element
11 of the offense of kidnapping. The offense of
12 kidnapping commences when one is wrongfully and
13 unlawfully deprived of his or her freedom and
14 continues until the freedom is restored.

15 Indictment 2020-GS-16-141, it's for burglary,
16 first degree. This indictment alleges that Freddy
17 Ray Harris, III did in Darlington County on or about
18 December 9, 2019, entered the dwelling of Mary Beth
19 Bennett located at [REDACTED] West Home Avenue, Apartment [REDACTED],
20 Hartsville, South Carolina without consent and with
21 the intent to commit a crime therein. And the
22 defendant did so in the nighttime in violation of
23 Section 16-11-0311(a) of the Code of Laws of South
24 Carolina of 1976, as amended.

25 Under 16, sorry, under Section 16-11-311 of the

1 South Carolina Code, burglary in the first degree is
2 defined as the entering of the dwelling house of
3 another without consent and with the intent to commit
4 a crime therein. As I will define for you in which
5 is accompanied by one of the following circumstances.
6 This indictment, as you heard, I read it when I read
7 it, the defendant entered or remained in the house at
8 night. I charge you, at the common law, the
9 nighttime is that period between sunset and sunrise
10 during which the face of a person cannot be discerned
11 by the light of the sun. Now, there are four
12 essential elements to the requirement that the
13 defendant enter into the dwelling house of another
14 without consent and with the intent to commit a
15 crime. They are (1) there must be an entering. The
16 State must prove that there was an entering. That is
17 the defendant actually went inside the house or some
18 part of it. It is not necessary, however, that the
19 entire body of the defendant entered the house. The
20 smallest entry is sufficient and it may be any part
21 of the body as a hand or foot or even an implement
22 such as a hook or other instrument. No force need be
23 used to gain entry; (2) the entry must be without
24 consent. Aside from the usual and normal
25 understanding of the phrase without consent, the term

1 entry also means to enter a building by using
2 deception, artifice, trick or misrepresentation to
3 gain consent to enter from the person in lawful
4 possession; (3) the place entered must be a dwelling
5 house. The term dwelling house means any building
6 inhabited by a person or persons and in which they
7 customarily sleep. A building constructed as a
8 dwelling that has never been occupied cannot be
9 considered as a dwelling within this definition. But
10 a temporary absence of the inhabitants or inhabitants
11 does not affect the building's character as such.

12 The term dwelling also means the living quarters
13 of a building used or normally used for sleeping,
14 living, or lodging by a person. All houses,
15 outhouses, building, shed, and araction that are
16 within 200 yards of the dwelling shall be considered
17 a part of it; (4) the defendant must have an intent
18 to commit a crime. The mere entry into a dwelling
19 house without consent is not a violation of this
20 burglary statute. It is only where there is an
21 intent to commit a crime. Whether it be a felony or
22 a misdemeanor that the crime is completed. Proof of
23 intent necessarily rest on inference from conduct.
24 It is essential that they felonious intent exist at
25 the time of the entry. It is not sufficient that the

1 felonious intent is formed afterwards. On the other
2 hand where the intent exist at the time of entry, it
3 is no defense that the intent was abandoned after the
4 entry. It does not matter that the intended crime
5 was not completed.

6 Let me speak with you about self-defense. The
7 defendant has raised a defensive of self-defense.
8 Self-defense is a complete defense. And if it is
9 established you must find the defendant not guilty.
10 The State has the burden of disproving self-defense
11 by proof beyond a reasonable doubt. If you have a
12 reasonable doubt of the defendant's guilt after
13 considering all the evidence, including the evidence
14 of self-defense, then you must find the defendant not
15 guilty.

16 On the other hand, if you have no reasonable
17 doubt of the defendant's guilt after considering all
18 of the evidence including the evidence of self-
19 defense, then you must find the defendant guilty.
20 The following elements are required to establish
21 self-defense, (1) without fault. First the defendant
22 must be without fault in bringing on the difficulty.
23 If the defendant's conduct was the type which was
24 reasonably calculated to and did provoke deadly
25 assault, the defendant would be at fault in bringing

1 on the difficulty, and would not be entitled to an
2 acquittal based on self-defense; (2) imminent danger.
3 The second element of self-defense is that the
4 defendant was actually in imminent danger of death or
5 serious bodily injury or that the defendant actually
6 believed he was in imminent danger of death or
7 serious bodily injury. If the defendant was actually
8 in imminent danger it must be shown that the
9 circumstances have warranted a person of ordinary
10 firmness and courage to strike the fatal blow to
11 present, prevent death or serious bodily injury. If
12 the defendant believed he was in an imminent danger
13 or imminent danger, let me correct that, imminent
14 danger of death or serious bodily injury, it must be
15 shown that a reasonably prudent person of ordinary
16 firmness and courage would have had the same belief.
17 In deciding whether the defendant actually was or
18 believed he was in imminent danger of death or
19 serious bodily injury, you should consider all the
20 facts and circumstances surrounding the crime
21 including the physical condition and characteristics
22 of the defendant and the victim.

23 Right to act on appearances. The defendant does
24 not have to show that he or she was actually in
25 danger. It is enough if the defendant believed he

1 was in imminent danger and a reasonably prudent
2 person of ordinary firmness and courage would have
3 had the same belief. The defendant has the right to
4 act on appearances. Even though the defendants
5 belief may have been mistaken it is for you to decide
6 whether the defendant's fear of imminent danger of
7 death or serious bodily injury was reasonable and
8 would have been felt by an ordinary person in the
9 same situation. I'll speak with you about words
10 accompanied by hostile acts. Words accompanied by
11 hostile acts may, depending on circumstances,
12 establish self-defense.

13 Prior difficulties. Evidence of prior
14 difficulties between the defendant and the victim may
15 be considered in deciding whether a threat existed,
16 whether the defendant had a reason to believe a
17 threat existed, and how serious that threat was.

18 Side and age. The relative sizes, ages and
19 weight of the defendant and the victim may be
20 considered in deciding the apparent or actual need
21 for force in self-defense and the amount of force
22 needed.

23 Victim's violent reputation. The reputation of a
24 victim as a violent person may be considered in
25 deciding whether there was a need for force, whether

1 the defendant had a reason to believe there was a
2 need for force, and whether deadly force was
3 reasonably necessary.

4 Prior violence by a victim. Prior instances of
5 violence by a victim may be considered in deciding
6 whether the victim, correction, whether the defendant
7 actually believed he was in imminent danger of death
8 or serious bodily injury or was actually in imminent
9 danger.

10 Threats by the victim. Threats made by the
11 victim may be considered in determining whether the
12 defendant actually was or believed he was in imminent
13 danger.

14 Intoxication. The intoxication of the defendant
15 may be considered in deciding whether the defendant's
16 fear of death or bodily harm was reasonable.

17 Number (3) no other way to avoid danger. The
18 final element of self-defense is that the defendant
19 had no other probable way to avoid the danger of
20 death or serious bodily injury than to act as the
21 defendant did in this particular instance.

22 For a duty to retreat and increased risk of harm.
23 The defendant had no duty to retreat, if by doing so
24 the danger of being killed or suffering serious
25 bodily injury would increase.

1 Degree of force. A person cannot be required to
2 make an exact calculation as to the degree or amount
3 of force which may be needed to avoid death or
4 serious bodily injury or harm. Therefore, in self-
5 defense the defendant has the right to use the force
6 needed to avoid death or serious bodily harm. The
7 force used in self-defense does not have to be
8 limited to the degree or amount of force used by the
9 victim. The defendant has a right to use so much
10 force as appeared to be necessary for complete self
11 protection in which a person of ordinary reason and
12 firmness would have believed to be needed and prevent
13 death or serious bodily harm.

14 Continuing until a threat or harm is ended. If
15 the defendant is justified in defending himself or
16 others and in firing the first shot, then the
17 defendant is also justified and continuing to shoot
18 until it is apparent that the danger of death or
19 serious bodily injury has completely ended.

20 Now, as to the charge of burglary in this case,
21 the defendant has raised the defense of necessity.
22 The defense of necessity covers the situation where
23 physical forces beyond the actors control rendered
24 the legal conduct, the lesser of two evils. The
25 rationale behind the defense of necessity is that a

1 person should not be criminally accountable if he
2 engages in illegal conduct to avoid a greater harm.
3 In order to prove necessity, the defendant must show
4 by preponderance of the evidence that there was a
5 present and imminent emergency that arose without
6 fault on the part of the defendant. The emergency
7 was of such a nature as to induce a well grand
8 apprehension of death or serious bodily harm if the
9 act was not done. And (3) there was no other
10 reasonable alternative other than committing the
11 crime to avoid the threat of harm. If you find that
12 defendant has prove the defense of necessity by
13 preponderance of the evidence you would find the
14 defendant not guilty.

15 Ladies and gentlemen, you're not to be partisans
16 or advocates for the State of South Carolina or for
17 the defendant. You do not serve as jurors to reward
18 friends or punish enemies or, obviously, such a
19 perverted system of justice would be intolerable in
20 our society. You have been selected by both the
21 State and the defendant as fair and impartial jurors.
22 It is your duty, then, by your joint deliberations to
23 determine the facts in this case given to the
24 defendant the benefit of every doubt on each and
25 every issue, then to the facts which you determine,

1 you then take and apply the law which has been given
2 to you by this Court and thus, arrive at verdicts.
3 And when you have accomplished these
4 responsibilities, you will have satisfied your oath
5 as jurors and you will have thus charged your duty to
6 the Court.

7 Let me speak with you about the forms of verdict
8 in this case. You've got four different indictments.
9 You will take up each indictment to reach a verdict
10 known. As far as these, each of these indictment if
11 the State has failed to prove the guilt of the
12 defendant beyond a reasonable doubt, your verdict
13 would be two words "not guilty." If the State has
14 proved the guilt of this defendant beyond a
15 reasonable doubt your verdict would be one word
16 "guilty". The verdict that you render in this case
17 must be the verdict of each and every juror. It must
18 be a unanimous verdict. That is all 12 jurors must
19 agree on the verdicts which you authorize, Mr.
20 Foreman, to write for the jury.

21 Here's the verdict form. The State of South
22 Carolina, County of Darlington. The State of South
23 Carolina versus Freddy Ray Harris, III, defendant.
24 The court of General Sessions. Fourth Judicial
25 Circuit. Indictment numbers 2020-193; 192; 142; and,

1 141, verdict form. Mr. Foreman, ladies and
2 gentlemen, you're not to give any weight as to how
3 these are numerically listed. We, the jury, find
4 unanimously as follows on one, the murder, not guilty
5 or guilty. If you find the defendant not guilty of
6 number one, then you will proceed to number three. If
7 you find the defendant guilty of murder, then you may
8 consider number two, and number two is the possession
9 of a weapon during the commission of a violent crime.
10 Either not guilty or guilty. The next indictment is
11 for kidnapping, either not guilty or guilty. If you
12 find the defendant not guilty of number three then,
13 please have the foreperson sign the bottom of this
14 sheet. If you find the defendant guilty of
15 kidnapping, then you may consider number four.
16 Number four is the burglary first degree, not guilty
17 or guilty. A signature line at the bottom of the
18 page. And we don't have a date line on here, Mr.
19 Foreman, but you would need to date it.

20 All right. It is seventeen after four. We've
21 got to check off on all of these exhibits. I'mma ask
22 the 12 jurors to step back. Please do not begin your
23 deliberations until we send the verdict form and the
24 exhibits back to you. We need for the alternate to
25 be placed in another room. At this time, Mr.

1 Foreman, if you begin your deliberations and someone
2 needs to go to the restroom or to leave the room for
3 any reason whatsoever, you would need to stop your
4 deliberations until all 12 are back.

5 Now, we've got two choices, it's seventeen after
6 four now, you can poll the jury to go forward and we
7 turn all of this evidence and verdict form over to
8 you or we can begin deliberations in the morning.

9 That's always a decision that the jury can ponder and
10 make a decision on. But like I say, it's just
11 seventeen after four. But you gonna have to give us
12 a few minutes. Don't begin your deliberations until
13 we send all this back to you. You know you can let
14 Mr. Clerk, Mr. Suggs know what your desire may be.

15 All right. If y'all step back, we need the
16 alternate to be in another room.

17 (Whereupon, the jury exits the courtroom at 4:17
18 p.m.)

19 THE COURT: All right. Gentlemen, any exceptions
20 or additions to your charge?

21 MR. BELL: None from the State.

22 MR. GODWIN: None from the defense, Your Honor.

23 THE COURT: All right. I need for y'all to check
24 off on all these exhibits. Let's make sure we've got
25 everything. We will send them back and put them to

1 work if that's what they desire to do. Before we do
2 that I want to thank all of you, all of the attorneys
3 involved for your presentation of this case. It
4 makes my job so much easier when I've got excellent
5 attorneys doing their job and working together and
6 getting this case presented. Thank you very much.

7 MR. BELL: No problem.

8 MR. GODWIN: Thank you, judge.

9 THE COURT: All right. If y'all will check off.
10 Let's make sure we got everything.

11 (Whereupon, the attorneys and court reporter check to
12 make sure all exhibits are all there)

13 THE COURT: All right. Everybody I have -- give
14 me your attention. The foreman has knocked on the
15 door. And they have been told not to begin their
16 deliberations because we're checking on the exhibits,
17 they have told Mr. Suggs, that they want to commence
18 their deliberations in the morning. So we would be
19 back here at 9:30 in the morning.

20 All right. I've got to bring them back in and
21 give them some instructions for overnight. All
22 right. We've got everybody back in, getting all the
23 exhibits lined up here. The foreman knocked and said
24 the jury does not want to begin their deliberations
25 till in the morning. So they I'll bring them back

1 into give them some further instructions about
2 overnight and what time to come back so....

3 (Whereupon, the jury enters the courtroom at 4:27
4 p.m.)

5 THE COURT: Mr. Foreman, ladies and gentlemen of
6 the jury, I appreciate y'all letting us know. You
7 know, when it gets after 4 o'clock during these weeks
8 I know folks have plans and family to look after and
9 that's why I always discuss that with the jury. I
10 can't send you home, though, until I once again
11 instruct you do not allow anybody to approach you in
12 any form or fashion even through third parties and
13 discuss this matter with you. And, of course, do not
14 do any independent research. You have to reach
15 verdicts on the evidence that's been presented to
16 you. Do not even discuss this case as far as
17 deliberating until you begin your deliberations in
18 the morning. Does 9:30 that's been our normal -- we
19 need you back here in the room at 9:30 and we'll have
20 everything checked off and you can begin your
21 deliberations. One other thing, Mr. Foreman, I
22 didn't cover with you. When you begin your
23 deliberations, if you have juror, if you have juror
24 who immediately let you know that they're not going
25 to deliberate, you need to immediately let me know

1 and for those purposes, I'mma ask that Madam
2 Alternate return. Okay.

3 All right. Yeah good point. Don't begin your
4 deliberations back there until he brings that verdict
5 form when I say he, Mr. Scott, brings the verdict
6 form and all those exhibits back to you. Y'all have
7 a good evening. We'll see you in the morning.

8 (Whereupon, the jury exits the courtroom at 4:30
9 p.m.)

10 THE COURT: I need to know when the jury clears
11 that elevator.

12 THE BAILIFF: We'll let you know. All right.
13 We're in recess until 9:30 in the morning.

14 (Whereupon, court is adjourned for the day at 4:33
15 p.m.)

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1 Friday, July 14, 2023

2 (WHEREAS, this matter was scheduled for a trial,
3 all parties have appeared with their respective
4 attorneys of record. The proceedings began at 9:33
5 a.m.)

6 THE CLERK: Let's come to order please.

7 (Whereupon, it was ordered by the Court to begin
8 deliberations)

9 (Whereupon, a note was submitted to the judge)

10 THE COURT: THE COURT: All right. Make that note
11 as a Court Exhibit. So what we will do is have Madam
12 Court Reporter replay that charge. You may be
13 seated.

14 (Whereupon, the Question By The Jury has been marked
15 and entered into evidence as Court's Exhibit No. 4)

16 (Whereupon, the jury enters the courtroom at 10:41
17 a.m.)

18 THE COURT: Good morning. We got your request.
19 Madam Court Report has pulled that. If you have any
20 problem hearing raise your right hand and we'll work
21 on it. (Whereupon, the charge is played back for the
22 jury)

23 THE COURT: All right. That completes the
24 kidnapping charge. If you'll step and continue your
25 deliberations.

1 (Whereupon, the jury exits the courtroom at 10:51
2 a.m.)

3 THE COURT: All right. We're good. Court will
4 stand at ease.

5 (Whereupon, the jury continues deliberations)

6 THE COURT: All right. The jury has informed the
7 bailiff staff that they have reached a verdict. No
8 matter what this verdict is, if you feel like that
9 you cannot control your emotions the last thing we
10 need is any violence or problems in the courtroom.
11 So if you feel like you cannot handle your emotions
12 no matter what that verdict is, as far as the ones
13 that are here observing, you may want to step
14 outside. Now, if you feel like that you can accept
15 what this jury has done, everything will be fine.
16 But we're not gonna have anybody causing any
17 disruption. We're not gonna take a chance of anybody
18 getting hurt.

19 All right. Mr. Buddy, will you bring them in?

20 THE BAILIFF: Yes, sir.

21 (Whereupon, the jury enters the courtroom at 12:14
22 p.m.)

23 THE COURT: Mr. Clerk?

24 THE CLERK: Mr. Foreman, have you reached a
25 unanimous verdict on all four charges?

1 MR. FOREMAN: Yes, we have.

2 THE CLERK: Okay. If you'll pass it up please.

3 THE COURT: Signed and dated. Mr. Clerk, you may
4 publish the verdict. And once that is completed
5 before I forget it, afterwards if you will get Mr.
6 Foreman to conform these verdicts on these
7 indictments.

8 THE CLERK: Yes, sir.

9 THE COURT: And make sure these are the originals
10 which they are and I'll put them right there.

11 **Verdict**

12 THE CLERK: Your Honor, this is the State of South
13 Carolina versus Freddy Ray Harris, III, the defendant
14 and these are indictments 2020-GS-16-01930; 0192;
15 0142; and, 0141. The first question we the jury find
16 unanimously as follows: for count Number 1 which was
17 of murder, find the defendant guilty. If this is
18 your verdict, would you so signify by raising your
19 right hand please?

20 (Whereupon, all jurors comply)

21 THE CLERK: Let the record reflect that all 12
22 jurors their right hand. If you find the defendant
23 not guilty of 1, then proceed to 3. If you find the
24 defendant guilty of murder then you may consider
25 Number 2. So Number 2, possession of a weapon during

1 the commission of a violent crime, the jury has found
2 the
3 defendant guilty. If this your verdict would you so
4 signify by raising your right hand please?

5 (Whereupon, all jurors comply)

6 THE CLERK: Let the record reflect all 12 jurors
7 have raised their right hand. Charge 3, kidnapping.
8 The jury has unanimously found the defendant not
9 guilty. If this is your verdict, would you so signify
10 by raising your right hand please?

11 (Whereupon, all jurors comply)

12 THE CLERK: Let the record reflect all 12 jurors
13 has raised your right hand. And then that stops the
14 deliberations on that. It's just been signed by the
15 foreperson, Mr. Jared Odom, July 14, 2023. The
16 instructions were not to proceed.

17 THE COURT: Thank you, Mr. Clerk.

18 THE CLERK: Yes, sir.

19 THE COURT: If we can get them to do that.

20 (Whereupon, the foreman signs the indictments)

21 THE COURT: Thank you, sir. Mr. Godwin?

22 MR. GODWIN: Judge, we would ask that you poll the
23 jury at this time.

24 THE CLERK: Mr. Clerk, if you'll proceed to poll
25 the jury.

1 THE CLERK: Yes, sir, Your Honor. Mr. Foreman,
2 ladies and gentlemen of the jury, you've asked to be
3 polled. What's going to happen is the verdict I just
4 read was the verdict you reached in the jury room.
5 When I call your name, if you would please stand, I'm
6 gonna ask you two questions. First will be, was it
7 your verdict then and is it your verdict now. Mr.
8 foreperson, Jared Odom, if you'll stand for me. Was
9 that your verdict then?

10 MR. ODOM: Yes.

11 THE CLERK: Is it your verdict now?

12 MR. ODOM: Yes

13 THE CLERK: Alexis Jackson, was it your verdict
14 then?

15 MS. JACKSON: Yes.

16 THE CLERK: Is it your verdict now?

17 MS. JACKSON: Yes.

18 THE CLERK: Alethea Johnson, was it your verdict
19 then?

20 MS. JOHNSON: Yes.

21 THE CLERK: Is it your verdict now?

22 MS. JOHNSON: Yes.

23 THE CLERK: Thank you. Shelby Allen, was it your
24 verdict then?

25 MS. ALLEN: Yes.

1 THE CLERK: And is it your verdict now?

2 MS. ALLEN: Yes.

3 THE CLERK: Thank you. Deanna Lesesne, that's not
4 -- how you say it again?

5 MS. LESESNE: Deanna Lesesne.

6 THE CLERK: Lesesne, I'm sorry, Ms. Lesesne. Was
7 it your verdict then?

8 MS. LESESNE: Yes.

9 THE CLERK: And is it your verdict now?

10 MS. LESESNE: Yes.

11 THE CLERK: Thank you. Caleb Haire, was it your
12 verdict then?

13 MR. HAIRE: Yes.

14 THE CLERK: Is it your verdict now?

15 MR. HAIRE: Yes.

16 THE CLERK: Antwain Jackson, was it your verdict
17 then?

18 MR. JACKSON: Yes.

19 THE CLERK: Is it your verdict now?

20 MR. JACKSON: yes.

21 THE CLERK: Ikeem Hines, was it you verdict then?

22 MR. HINES: Yes.

23 THE CLERK: Is it your verdict now?

24 MR. HINES: Yes.

25 THE CLERK: Lukeya Johnson, was it your verdict

1 then?

2 MS. JOHNSON: Yes.

3 THE CLERK: Is it your verdict now?

4 MS. JOHNSON: Yes.

5 THE CLERK: Thank you. Melissa Smith, was it your
6 verdict then?

7 MS. SMITH: Yes.

8 THE CLERK: Is it your verdict now?

9 MS. SMITH: Yes.

10 THE CLERK: Thank you. Jennifer Taylor, was it
11 your verdict then?

12 MS. TAYLOR: Yes.

13 THE CLERK: Is it your verdict now?

14 MS. TAYLOR: Yes.

15 THE CLERK: Thank you. Stacy Quick, was it your
16 verdict then?

17 MS. QUICK: Yes.

18 THE CLERK: Is it your verdict now?

19 MS. QUICK: Yes.

20 THE CLERK: My record reflect jurors have
21 responded. Anyone whose name was not called.

22 (Whereupon, no one responds)

23 THE CLERK: Thank you.

24 THE COURT: Thank you, Mr. Clerk.

25 THE CLERK: Yes, sir.

1 THE COURT: Anything further of the jury?

2 MR. GODWIN: Nothing further, judge.

3 MR. BELL: Nothing from the State, Your Honor.

4 THE COURT: Thank you. Mr. Foreman, ladies and
5 gentlemen of the jury, I want to sincerely thank you
6 for your willingness to serve on a jury having
7 accomplished your assignment. You have now complete
8 as far as this term of court. Once again, I want to
9 thank y'all for your patience with us. The delay we
10 had I believe Wednesday morning totally caught us off
11 guard and I apologize that y'all had to stay back
12 there to almost, well, lunchtime and we, we strive to
13 try to keep that from happening. But sometimes it
14 happens and it was scheduling and I take
15 responsibility for it. I had no idea that a 30
16 minute normal plea would turn into two hours. So
17 thank you so much for working with us and being
18 patient with us. Now, if you're drawn on the jury in
19 the circuit court during this calendar year, you
20 would not be qualified, but after this year for the
21 next two years it would be your option to exercise
22 and exemption. And even though that may come about,
23 I would encourage you to stay and help if you're
24 drawn.

25 Now, before I release you I'mma let Mr. Clerk

1 explain to you about the jury pay. Please do not
2 hold us responsible for the amount of pay. We are
3 not the county counsel they control the person.

4 (Whereupon, the clerk explains to the jurors)

5 THE COURT: Ladies and gentlemen the next phase of
6 course is mitigation and sentencing which we will go
7 forward with. You're more than welcome to stay and
8 watch. If you're comfortable in the jury box that
9 will be fine. A lot of jurors that decide to stay,
10 we allow them to go out and sit in the back of the
11 courtroom. They're more -- more than welcome --
12 you're more than welcome to do that. And, of course,
13 other jurors would rather go home back to their
14 businesses or to their home. But if you'd like stay,
15 you can sit where you are or if you're more
16 comfortable you can go to the back of the courtroom
17 or you can leave us, okay. The ones that want to
18 stay and you're more comfortable back there, follow
19 Mr. Suggs to the jury room.

20 (Whereupon, the jury exits the courtroom at 12:30
21 p.m.)

22 THE COURT: Sheriff, if you will secure the
23 defendant at this time.

24 (Whereupon, the defendant is placed in handcuffs)

25 THE COURT: Thank you, sheriff. Any motions at

1 this time.

2 MR. BELL: None from the State.

3 MR. GODWIN: Judge, no motions at this time. Can
4 we ask for a couple of days to file post-trial
5 motions if we find something that may be necessary.

6 THE COURT: Certainly. Granted.

7 MR. GODWIN: Thank you, judge.

8 THE COURT: All right. We will move into
9 mitigation. I need to hear, of course, I think I
10 heard some of the record in the trial but, solicitor?

11 MR. BELL: Well, Your Honor, I'mma have a lot of
12 people who will want to speak from the victim's
13 family.

14 THE COURT: All right.

15 MR. BELL: Anybody who think they might want to
16 speak, y'all please come up and stand up here.
17 Anybody else?

18 (Whereupon, a few people come forward)

19 MR. BELL: Yes, Your Honor, in regards to Mr.
20 Harris, again, as he does have a grand larceny and
21 possession of cocaine out of 2013. Outside of that
22 it was just misdemeanors and some driving offenses.
23 Your Honor, you've heard all of the testimony and
24 evidence in this case. So I won't belabor you. This
25 is a tough case. This was a long time coming and a

1 lot of community outraged by this. And as you can
2 understand that Mr. Kurk was at his own home and I
3 think it hits, this case hits different for a lot of
4 people because, you know, Kurt Scholl made it known
5 that Freddy Harris was not welcome at his home. And
6 -- and Freddy went there with malicious intent. The
7 jury believes he did and I believe he did too. And
8 when a man is, is, dies on his own property at the
9 hands of his own gun, I mean, the only reason we're
10 standing here is because, you know, Mr. Kurt, in my
11 opinion, God rest him, he just didn't live the gun a
12 little higher. I mean, he would have been well
13 within his rights standing, standing his ground. But
14 he wasn't. -- he wasn't malicious like that and I
15 think you're gonna hear that from his family. Your
16 Honor, we just ask, the State just ask for a sentence
17 that accomplices and takes into account all that
18 you've heard today. The one thing I will say in
19 preparation for, for this trial as I talked to Kurt's
20 mother as well as his father, one of their biggest
21 concerns because we did have on, on the table of
22 voluntary manslaughter offer of 20 years and one of
23 their biggest concerns was they said Mr. Bell we're
24 concerned that nothing is gonna bring our son back,
25 but we are so concerned that when he gets out he's

1 gonna go after Mary Beth. And in preparation with
2 Mary Beth that was one of the things we talked about
3 and she said, well, you know, Mr. Bell if he takes a
4 plea deal, we just need to know when he gets out
5 because we're leaving Darlington County, leaving the
6 State of South Carolina. I just wanted to make you
7 aware of that, judge. The community is very, very
8 fearful of Mr. Harris. I think you're gonna hear
9 that in some of these sentiments that they make and
10 we just thank you for your consideration, judge.

11 THE COURT: Thank you, solicitor.

12 MR. BELL: Just state your full name for the
13 record?

14 MS. HOUCK: My name is Mary Louise Houck.

15 THE COURT: Yes, ma'am.

16 MS. HOUCK: My name Mary Louise Houck. I am
17 Kurt's mother. I apologize for reading this but I
18 don't think I can speak off the top of my head at the
19 moment but thank you for, for giving me the
20 opportunity.

21 THE COURT: Sure.

22 MS. HOUCK: When -- when Kurt's Dad and I lost our
23 first child to illness nearly 40 years ago now, I
24 thought that was the hardest thing I'd ever have to
25 endure. I couldn't imagine anything worse. It

1 didn't completely break me but it certainly broke my
2 heart and it forever changed me and my outlook on
3 life. But I carried on and then somewhere around the
4 25 year mark, I realized that I was waking up most
5 mornings with things on my mind other than my grief.
6 It was surprising, but also a good thing and that the
7 pain was finally easing. But this, this has broken
8 my soul. No parent should ever have to hear or see
9 what we've heard or seen this week. I'll never be
10 able to purge my mind's eye of the images to have my
11 beautiful boy's life taken by another in the horrible
12 way that, that his was in parts of powerlessness and
13 a despair like no other. I was so proud of Kurt
14 overcoming some pretty big challenges and
15 disappointments in the years before he settled here
16 in South Carolina and built his business and a good
17 life surrounded by good people that he loved and who
18 loved him. Kurt was one of the most laid back, peace
19 loving, and generous souls I've ever known. The
20 stories told by his friends at his funeral here
21 confirmed that in so many ways that we didn't even
22 know about because he was also a quiet soul and never
23 sought credit. And he had plans, he was gonna build
24 a house on that property and build a home and a life
25 with Mary Beth here in Hartsville. My only small

1 consolation so far is that I did tell him how proud I
2 was of him shortly before he died. Given my prior
3 experience I don't think I have enough years left in
4 my life to get over this one. And it seems only
5 right to me that as we suffer the grief and loss for
6 the rest of our lives so should the person who, who
7 did this to us suffer grief and loss of what he holds
8 dear, his freedom. The whole story wasn't told here
9 this week and there's no doubt in any of our minds
10 that there will be no reform happening here. If or
11 when he gets out no good will come of it. He should
12 stay in prison the rest of his life as we'll be in
13 this prison of grief for the rest of ours. I
14 realized the law may not allow that but we implore
15 you to use the power that you still have to the
16 maximum that you can.

17 Thank you.

18 THE COURT: Thank you.

19 MS. SCHOLL: I'm Lara Scholl. Also, Kurt's
20 mother. First of all, I want to thank you, judge,
21 for being here for us and the jurors being so strong
22 and to look at everything and the witnesses that have
23 given up so much. They're -- how they were, had to
24 come forward even at great cost. So we are ever
25 truly grateful for the verdict. But before I want to

1 talk to you about Kurt so that you know and really
2 understand what our loss is, he's more than just a
3 tattoo or a picture of a gun or picture of his
4 camper. There's so much more. He came to Hartsville
5 10 years ago and started from nothing just like Mary
6 Beth said. He was so persistent. I would never say
7 that he was, any of us, are a saint or that we were
8 flawless, we all have struggles. He had struggles.
9 And he overcame every one of them. He learned from
10 lessons in life. He was very persistent. He started
11 his business. He never asked for help. He was the
12 type of person and a lot of people didn't understand
13 this about Kurt, he was renting a shop with three
14 acres. It was a mess. He rented from a landlord.
15 He cleaned up the whole property. He didn't own this
16 property, he rented. He cleaned up all the prior
17 business owners property. Their mess. Their
18 garbage. He cleaned out brush. He did all of this
19 without owning the property because he had a vision
20 of owning that property and he talked to that
21 landlord over and over again about buying the
22 property and that he would always tell him, no. And
23 Kurt kept cleaning that property and making it
24 something to be proud of. And that, that landlord
25 finally sold him that property. Before that he went

1 to the bank to get his affairs in order. It took him
2 a couple years. He did everything the bank said for
3 him to do and he moved out of his rental home and he
4 got a camper to live in because he had a plan. So
5 according to the court, it just looked like he was a
6 guy living in a camper that, that was the best he
7 could do. Well, that was just part of his plan. In
8 June of 2020 he was gonna build this house. He had
9 already gotten his builder's license when he was 19
10 years old and built a house. He was very talented.
11 So he had a plan to build that house in June of 2020.
12 His dad already had vacation time. He was going to
13 sell off vehicles. His vehicles that he had kept.
14 We call it his toys. And he was gonna have a cash
15 home that was debt free. And once that house was
16 built him and Mary Beth were going to start their
17 life together. They were going to start their family
18 together. Mary Beth had saved money to surprise him
19 to complete the kitchen and Kurt was only 36 years
20 old when this all happened. When the house got
21 built, my husband, Dan, he retired in June of this
22 year. We were gonna come down and that was going to
23 be our retirement, but we were gonna winter here in
24 Hartsville with Kurt and Mary Beth. Those dreams are
25 gone. And so Kurt was only 36 years old when this

1 happened. I want to tell you a story about my dad
2 that was 36 years old. He got married at 36 years
3 old. He had three kids, four grandchildren, numerous
4 great, great grandchildren and my dad's life started
5 at 36. His best life started at 36. Kurt lost all
6 of that. That opportunity for that home, that life,
7 that marriage, that family. But the rest of it is
8 just talking about what Kurt soul was about. He was
9 kind. He was the most gentle soul. He fit in the
10 south here. He talked like the southerners. He was
11 slow talking. Slow moving. Laid back. He loved
12 animals. He had two dogs and two pigs. AAnd he was
13 very close with his dad. Every single week,
14 faithfully, they talked and they talked and they
15 talked about cars, about construction, about
16 building, and it was just he was such a good person.
17 He was talented. He was hard working. Like I said
18 when he was 19 he, he built a house with his
19 builder's license that he got then. He was
20 excellent, talented about painting vehicles. His --
21 he painted a motorcycle that was in a magazine.
22 There was magazines that show all these great things,
23 it was his work with his name on that motorcycle that
24 he did. This was years ago. He loved to hunt. He
25 loved to fish. When he died he was teaching himself

1 how to ride a unicycle and we have his unicycle now.
2 He colored our world. He just colored our world.
3 Every vacation we had since he was down here we plan
4 trips around coming down south. Kurt would meet us
5 on vacation and stay with us a day or two. Once we
6 walk out of here, we never want to come back. We --
7 it's just too painful, too painful to be down here.
8 There's people down here we love. People that was
9 his family, his second family. It's just too painful
10 just to be in this state now and to see these people
11 who loved him. The -- the loss of a child is just
12 absolutely devastating. The grief causes medical
13 problems, trips to the emergency room. The stress
14 and the sad -- the grief just causes so many problems
15 in your life. God has blessed us just deeply. He
16 continues to bless us every single day. And no
17 matter how many, how much he blesses us it can't
18 overcome the pain that we feel every day. I'm about
19 the age and the mortality tables, I've got a few
20 years left, just a few years left by my age, and,
21 basically, I don't want to do anything. I don't want
22 to plan vacations anymore. I don't. I have children
23 and grandchildren I want to still have my joy with
24 him which I do, but that sadness always overrides
25 everything we do. Basically, I'm just waiting for

1 the rest of my life to pass. The worst thing which
2 some people won't be able to -- my friends can't
3 imagine why I would you even try. I believe in God.
4 I believe in forgiveness. But the idea that I have
5 to forgive him for all of the things that he did, I -
6 - it just shatters your soul. You just -- I don't
7 know how I'm gonna be able to forgive him. Ao I
8 gotta decide, is it better just to give up and just
9 go to hell? Or should I just try and forgive him?
10 That's just -- I can't get past that. My friends
11 say, oh, well, you don't have to forgive him. God
12 says I do. So I don't know. He colored our world.
13 But the one last thing I want you to know he was so
14 loving. When we would hug and our last, on our last
15 time we would see each other or anytime, he'd come
16 home for Christmas, he would leave us. He would give
17 us a hug. He was never the first one to break away.
18 If I wanted to stand there and bear hug him for five
19 minutes, ten minutes, two minutes, he was never the
20 first one to break away. He was always there with
21 his love for all of his mother's. there's a mother
22 here, down here named Tammy. He loved her too. He
23 has a family down here. And he was very well loved
24 here. And it's just such a loss. I know you're a
25 judge of mercy. Please have some mercy for Kurt and

1 we appreciate everyone here in this courtroom that
2 has helped with this.

3 Thank you.

4 THE COURT: Thank you for coming forward.

5 MR. FLETCHER: I'm Alan Fletcher.

6 THE COURT: Mr. Fletcher.

7 MR. FLETCHER: Just a friend of Kurt's. We rented
8 him his first house here. I don't mean this to take
9 long. I'm just ---

10 THE COURT: Take your time.

11 MR. FLETCHER: Okay. You know some good people,
12 don't you, judge?

13 THE COURT: Yes, sir, I do.

14 MR. FLETCHER: Okay. In your realm of people you
15 don't know anybody who is better than he was. For
16 them jurors that come back in here and for everybody
17 in here this is your jobs. You're in this courtroom
18 every day and you see things that happen. Somebody
19 gets killed. Somebody happens, you know, you have to
20 just look at all angles and I get that. But he
21 couldn't have took a better person than you know
22 ever. And I want them jurors to know that, I want
23 all these deputies or whoever to know what was lost
24 here. He could -- he could rebuild a motor on your
25 car. He could paint your car better than it was. He

1 never hunted trouble. He never wanted trouble. His
2 version of a date was or for Mary Beth to bring a
3 pizza and come down there and help him sand a car or
4 something. My biggest thing is y'all do this here
5 for a living, this is what you do, but I do want you
6 to know that a lot of times there's two sides to
7 every story and there he is here. He's absolutely
8 probably the best person I've ever known.
9 I'm 60 years old. I know a lot of people. And my
10 problem with, with Freddy Harris is he come to car
11 lot him and a friend to buy a car, needed the hood
12 painted. I said, well, that ain't no problem. Got a
13 man right down the street there that will paint it.
14 He said that old -- who was that? I said, Kurt.
15 Nah, I don't believe I could get him to paint my car.
16 I said, why not? He said, well, you know, he dates my
17 ex. And I said to Freddy, I said Freddy he dates
18 your ex. Yeah. I said Freddy, do you know Kurt?
19 Man what a great guy. Why don't you get to know him?
20 He said, nah, I don't know. Probably a great guy. I
21 said, yeah, he is. I have a lot of fear for, not for
22 myself, I've done about lived all I can, you know, I
23 just had a heart attack, Father's Day so, I mean, how
24 much longer have I got. But I have a lot of fear for
25 the community of Darlington County that what Freddy

1 Harris may do if he ever gets out, whether it be 10
2 years, 5 years, 15 years. He's not really very good
3 for society, Your Honor, just not. I think he showed
4 that a multitude of times. My grandpa always said a
5 man show you what he is. It's your job if you listen.
6 He showed us what he is. Now, it's up to us if we
7 listen. I guess that's all I really want to say.
8 But the last thing I would love to say, I feel
9 really, really sorry for that grey headed lady right
10 there, his grandmother. I feel a lot of sorry for
11 her. She didn't ask for this. And I just hope and
12 pray that in your decision of what he gets or what he
13 don't get or what have you, I hope and pray that you
14 consider what I told you the first thing, nobody in
15 here knows anybody any better than Kurt Scholl was.
16 Nobody.

17 Thank you.

18 THE COURT: Thank you for coming forward.

19 MR. BELL: Judge, I will just say in closing, um,
20 as I've talked to Mr. Scholl's, Kurt Scholl's mom and
21 dad, they're from Michigan and it just breaks my
22 heart. I know that -- I can't imagine how traumatic
23 this is for them, but when they say stuff and they've
24 said it to me before about never wanting to come back
25 and Darlington County, never wanting to come back to

1 South Carolina Fourth Circuit, you know, they, they
2 need to heal and we just asked for a sentence that
3 takes all that into account. At least, they're not
4 going to come back, at least we can give them some
5 kind of closure, judge.

6 THE COURT: Thank you, solicitor. All right. If
7 anybody else as far as the State's side needs to be
8 heard now is the time. All right.

9 MR. BELL: Nothing else from the State, Your
10 Honor.

11 THE COURT: Thank you. Mr. Godwin?

12 MR. GODWIN: Judge, would you like for me to
13 approach or do you want us to stay here.

14 THE COURT: You're fine right there. Wherever
15 you're most
16 Mr. Godwin.

17 COURT REPORTER: If you can speak up for me.

18 MR. GODWIN: I'll try to speak up for Lisa.
19 Judge, I'll start by just getting technicalities out
20 of the way. Since December 10, 2019 by my
21 calculations it has been 1313 days. We asked that he
22 be given credit for the time and he's been housed at
23 the Darlington County on pre-trial detention. The
24 second thing I want to get out the way, judge, Mr.
25 Harris is currently 40 years old. We respect this

1 jury's verdict. I just ask in what I say that you
2 fashion a sentence that allows Mr. Harris to one day
3 to get out of prison and right what's been done here,
4 judge. There's, I think, Mr. Scruggs and I, been
5 talking after the trial, we feel that there's a great
6 sense of resignation and sadness that has surrounded
7 this trial because it is tragic and we understand
8 that. And we don't hide from that. And I hope that
9 the solemn nature of this trial which I do feel there
10 has been a solemn cloud over this courtroom this week
11 reflects that. There's no doubt about that, judge.
12 But you've heard our arguments for what happened and
13 we hope that you will consider that and in fashioning
14 your sentence and, judge, as it speaks to the overall
15 picture of what happened on that day. I don't know
16 if we'll really ever know what happened. But we do
17 ask you to consider the jury did find him not guilty
18 of kidnapping. And we ask you to consider that and
19 how you fashion your sentence on what I know was
20 difficult for deliberations, judge. Mr. Harris's
21 grandmother has, has been here all week diligently.

22 MS. HARRIS: I want to speak.

23 THE COURT: Ma'am?

24 MS. HARRIS: I do want to speak.

25 MR. GODWIN: She is, by all accounts, a wonderful

1 lady. Freddy comes from a well respected family in
2 Hartsville. He's been given an every opportunity
3 with the family he came from and he has a college
4 degree, judge. He is devout religious and I think
5 that he has the tools, if he chooses use them, to
6 still do some good in this world. And I hope that he
7 will find a way to do that whether it be through
8 counseling someone in SCDC on, on the gospel, or
9 whether it be putting his knowledge and charisma to
10 use. I hope that he will find a way to do that. And
11 I asked -- can we ask Ms. Harris to speak.

12 THE COURT: Okay. Ms. Harris?

13 THE CLERK: Ma'am, if you're more comfortable
14 seating, you can sit down. If need to sit you're
15 welcome to sit. Just speak loud enough for the court
16 reporter, so the court reporter can hear you, okay.

17 MS. HARRIS: I will stand here.

18 THE COURT: Ms. Harris?

19 MS. HARRIS: Yes, I'm Vivian Harris and I am the
20 grandmother. And we -- his mother was did -- was the
21 only child in her family. And our son was the only
22 child in our family. My husband said the good Lord
23 came by and blessed us once and kept going. So there
24 was not a large family between their, but we were
25 closed in town because we both in Hartsville. I feel

1 like that part of this is all my fault. And the fact
2 that I allowed Mary Beth to live -- we have an
3 apartment that we built to the side of our yard from
4 my parents and when they both passed the apartment
5 was empty. And so with that in mind, the apartment
6 being empty and etc., my husband passed and then our
7 son and his family moved into our house and then he
8 passed away with cancer and I, at hospice, and I went
9 back to the, went back to Methodist Manor to where we
10 were while hospice was treating him. So I went back
11 to Methodist Manor and stayed a few weeks and then I
12 decided I was going home to the apartment. And when
13 I did, it was fine because then our son and his
14 family were there. But he had a cerebral hemorrhage
15 seven months after his dad and Rosemary, his wife,
16 Fred's mother, felt that she needed to go back home
17 for closure. So she moved back to their house in
18 Kellytown. And with that the house was empty and I
19 was in the apartment. I went back in the house. And
20 so when I went back in the house then, Fred, was
21 finished school and the apartment was empty and I
22 allow Mary Beth to live there like nine years. And
23 with that she has nice cards that she's written me.
24 She did me a birthday cake, Happy Birthday, Granny.
25 Her children, the oldest one is, doesn't have -- is

1 out of wedlock. The second one she was married, but
2 the son, the father, has custody of him. And they,
3 both of children, wrote me a card Mother's Day one
4 year and said, thank you for letting me call you,
5 Granny. And then we come to this today. So Mary
6 Beth and I was in a lot of situations of knowing that
7 they weren't just not happy together. And I
8 suggested that Mary Beth go home for this is the
9 first time I've ever seen her parents. And I have
10 never met them at all. So with that, I just -- it's
11 been a long week and the fact that we get to this of
12 deciding and it was ugly to begin with, but I think
13 I said to both -- of course, her mother did and her
14 father did to begin with, and the fact that they
15 allowed this and allowed that and then I allowed her
16 to go into the apartment and live and we lived on
17 Prestwood Lake at a yard back in the back, the back
18 of the apartment and looked up the hill at the
19 steeple of Lakeview Baptist Church. So when we talk
20 about kidnapping and when we talk about kidnapping
21 and I'm thinking Mary Beth got in the car and drove
22 down Sixth Street, I know where Sixth Street goes.
23 It was on my way to school. I passed it to go into
24 Eighth Street. Sixth Street is one block off a Fifth
25 Street which is where Kurt's place was. I don't --

1 never saw Kurt -- and I'm sorry for his family.
2 Because I've been there losing a son. But then we
3 get to this and his mom, her stroke has been -- she
4 retired what, 32 years teaching and then she and
5 since then and -- in June she retired. In September
6 she had a stroke and a it wiped out her right side
7 totally. She's in a wheelchair in her room to get
8 around and she has motorized one when she comes and
9 goes. So there are lots of people with problems if
10 we look at the whole world and it's a mess. And
11 being in court all this week and seeing how this
12 involve I don't know where we're headed with, with
13 the jury and everything concerned. But I just, again,
14 I love him. I want to hug him and the fact that not
15 letting me hug him or touch just breaks my heart.
16 And I've already lost two. And I think Mary Beth is
17 on the way to someone else because she already has
18 another boyfriend that I had already seen on Facebook
19 of doing things within the last three years while
20 Freddy sat in jail. So someone else is going to be
21 nailed to the wall. And I again, I hope you could
22 hear me because -- and God bless you and God with you
23 and I love you, Fred.

24 MR. HARRIS: I love you too, Granny.

25 THE COURT: Thank you. All right. Be glad to hear

1 from

2 Mr. Harris if he would like to address the Court
3 about mitigation and sentencing.

4 MR. HARRIS: Nah, I mean, what is there to say?

5 MR. GODWIN: Do you want to say anything to the
6 Court?

7 THE COURT: And I fully understand if you would
8 rather not say anything.

9 MR. HARRIS: I mean, I don't that there's a whole
10 lot to say other than Mary Beth, you know what you
11 did. And you're sitting here and lying.

12 THE COURT: No. You address me. Address me now.
13 You don't -- talk to me.

14 MR. HARRIS: I have nothing to say. I have
15 nothing to be sorry for I can tell you that.

16 (Whereupon, there is disruption of the courtroom)

17 MR. HARRIS: I have nothing to be sorry for.
18 Nothing. Period. To be sorry for. Do you
19 understand? Not a damn thing to be sorry for. Just
20 ready for the sentencing, judge.

21 MR. GODWIN: Nothing further, judge.

22 MR. HARRIS: God bless y'all, though.

23 THE COURT: About wished he hadn't said anything.

24 MR. HARRIS: Did I want to kill the man? No. But
25 he left me no choice.

1 **Sentencing**

2 THE COURT: All right. First of all, I heard his
3 record. Grand larceny is a felony. It's not a
4 violent felony. Yes, the drug charge gives so
5 concern. What's troubling about this case is you
6 went on another person's property when you knew
7 better than to go there. There's an old saying when
8 you go on somebody
9 else's property looking for trouble you're most
10 likely gonna find trouble. Unfortunately, Kurt
11 Scholl, found the worst end of that trouble that
12 night. Common sense tells me he fired two warning
13 shots in the ground and that shot following a normal
14 pattern bounced up and hit you in the leg. It's a
15 bird shot. I looked at that picture of the damage to
16 the car and that, obviously, was not bird shot. I
17 don't where that came from. Common sense tell me a
18 fight broke out and you took that gun, that shot gun
19 away from Kurt Scholl and he turned to run once you
20 got control of it and you shot him in the back. And
21 after you shot him in the back, you walked right up
22 to him and you shot him twice in the head and blew
23 most of his head off. Now, how can you come in and
24 claim self-defense when you had control of that
25 shotgun and shot a man in the back.

1 MR. HARRIS: "Cause he had shot me twice already.

2 THE COURT: Doesn't make any difference you were
3 on his property.

4 MR. HARRIS: She shouldn't have took my dog away.

5 THE COURT: See where you had a problem, I
6 imagine, I don't know what the judgment of the jurors
7 were, but you had a chance to let him run on back and
8 then you just executed him right there most likely on
9 the ground. Why would anyone have a fear for their
10 life after they have a shotgun in their control on
11 somebody else's property it's ---

12 MR. HARRIS: I can't explain that until you've
13 been shot.

14 THE COURT: And then your comment -- and those
15 statements and the testimony I heard, you're still
16 threatening people.

17 MS. HARRIS: Sir?

18 THE COURT: Yes.

19 MS. HARRIS: May I say something else?

20 THE COURT: Sure.

21 MS. HARRIS: I feel that Mary Beth should have
22 been involved all along because I think she set it up
23 to -- because she knew where she was going. She took
24 the dog and went.

25 THE COURT: At this point in time, I can comment

1 about the sentence but after I've sentenced and this
2 matter is brought to a conclusion I don't talk with
3 anybody. It wouldn't be, especially, with any media
4 about sentencing. There's certain controls we have
5 on us but some people don't say, why wasn't I a
6 little bit more, I guess, we'll just be fair about
7 it, more severe about the sentence. The one thing
8 that does give some mitigation to Mr. Harris, he did
9 not go to Mr. Scholl's property armed. And whatever
10 the reason he went there tragedy unfolded and a man
11 lost his life in a very violent act. You know,
12 malice aforethought can be created over a matter of
13 time when you're lying in wait. Malice aforethought
14 can be developed in split seconds. I have great
15 problem with the fact that the shots were fired into
16 Mr. Scholl's back. But Mr. Harris didn't go there
17 armed. So that indicates to me that any malicious
18 intent did not occur before Mr. Harris went over
19 there.

20 All right. Mr. Harris, I hope you understand with
21 all the threats and the violence of this particular
22 homicide, I've got to make sure that you are never
23 back in this community in a long, long time to
24 protect the community, the individuals here and those
25 individuals that you have threatened. So what I'm

1 gonna do with you, on the murder case is I'mma
2 sentence you to the State Department of Corrections
3 for a period of 45 years. You get credit for your
4 jail time. I think that was quoted at 1013 days. If
5 that's incorrect I want counsel to correct that with
6 me. And concurrent to on the firearms charge, as I
7 normally would do in my sentencing, that's 5 years
8 concurrent. So you will not, as far as this Court is
9 concerned, ever be a dangerous to society. I know
10 your outlook right now is bleak, but there are a lot
11 of good things that you can do in serving your
12 sentence. I'm not -- I'm not in a position to say
13 how long you will live, but you may not ever see the
14 light of day. But as far as a life sentence, I'm
15 telling all of you, he did not go over there armed
16 and that gives me some reservation.

17 All right. What's done is done. There's enough
18 people been hurt. And what we're gonna do, I
19 expected the sheriff, he knows his protocol and how
20 to handle the this, but we will let the defense side
21 leave first. Then everybody else remain seated. And
22 we will let this go.

23 THE CLERK: Let the jury out first.

24 THE COURT: And that's right, the jury is back
25 there, they can go out that way.

1 MR. HARRIS: Get behind me. Shoot! Fire! Shoot!
2 Fire! Shoot! Fire!

3 (Whereupon, there is disruption in the courtroom by
4 the defendant)

5 THE COURT: All right. Madam Clerk, prepared me
6 another sentencing sheet. Mr. Harris just caught a
7 contempt charge for threatening everybody in this
8 courtroom with that behavior so he gets 6 more months
9 consecutively. Now, Mr. Harris, if you want to pull
10 something like that again, by the time you get
11 through with contempt charges, you might just get
12 that life sentence.

13 MR. HARRIS: Shoot! Fire! Shoot! Fire! Shoot!
14 fire!

15 THE COURT: Okay.

16 MR. FLETCHER: He's trying to tell you, Your
17 Honor, exactly what he is. I'll imagine you'll gonna
18 listen.

19 MS. HARRIS: This is because of something that
20 went on Facebook.

21 THE COURT: The jury should be clear. Get him out
22 of him.

23 MR. HARRIS: Shoot fire! Shoot fire!

24 (Whereupon, there is disruption in the courtroom and
25 the defendant is lead out)

1 THE COURT: You need to keep him back there till
2 we get everybody clear. All right. Everybody on
3 this side of the court, it's time to leave, except
4 for the counsel. Are we still on the record?

5 MR. GODWIN: We can be, judge.

6 THE COURT: Because of the volatility of the
7 defendant on that contempt charge, Mr. Godwin, I will
8 be glad to hear from you on that before I sign off on
9 it.

10 MR. GODWIN: Judge, I don't know if I can say
11 anything to help the situation.

12 THE COURT: Let the record reflect that I did
13 recognize counsel about the contempt which was very
14 obvious.

15 THE CLERK: I thought you said 1333.

16 MR. GODWIN: That is what I said.

17 THE COURT: Did you say thrity-three?

18 MR. GODWIN: No, sir.

19 COURT REPORTER: 1313.

20 THE COURT: On the record I'm correcting it. I'm
21 hard of hearing, apparently, 1313, I got.

22 MR. GODWIN: Thank you, judge.

23 THE COURT: All right. To the family, Ms. Mary
24 Beth, I'm sorry y'all had to go through this. I
25 think everybody will be safe for the rest of our

1 lives, okay.

2 (CONCLUSION OF THE TRIAL ON JULY 14, 2023)

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CERTIFICATE

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I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Darlington County, South Carolina, on the 10th-14th day of July, 2023.

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

Lisa S. Carter

Circuit Court Reporter

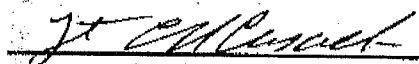
November 12, 2023

WITNESSES

Bobby R Driggers Jr

Darlington County Sheriff

Law Enforcement Case #: 201912-0148
652



WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant


I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2019A1610100153

ARRESTED ON: 2019-12-11

ACTION OF GRAND JURY


Grand Jury Foreperson

Date FEB 20 2020

VERDICT

TRUE BILL

Petit Jury Foreperson

Date

DOCKET NUMBER:
2020-GS-16-0192

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
February 2020

THE STATE

vs.

Freddy Ray Harris III

INDICTMENT FOR

Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DARLINGTON) Weapons / Poss. weapon during violent crime, if not
) also sentenced to life without parole or death

§16-23-0490

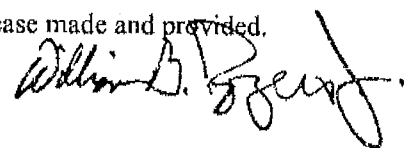
At a Court of General Sessions, convened on February 20, 2020, the Grand Jurors of Darlington County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Freddy Ray Harris III did in Darlington County, on or about December 9, 2019, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

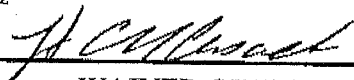


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Bobby R Driggers Jr

Darlington County Sheriff

Law Enforcement Case #: 201912-0148
652

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

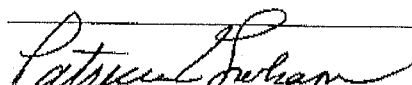
I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2019A1610100154

ARRESTED ON: 2019-12-11

ACTION OF GRAND JURY


Grand Jury Foreperson

Date FEB 20 2020

VERDICT

TRUE BILL

Petit Jury Foreperson

Date

DOCKET NUMBER:
2020-GS-16-0193

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
February 2020

THE STATE

vs.

Freddy Ray Harris III

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020


At a Court of General Sessions, convened on February 20, 2020, the Grand Jurors of Darlington County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Freddy Ray Harris III did in Darlington County, on or about December 9, 2019, willfully, feloniously, and intentionally kill the victim, Kurt Russell Scholl, with malice aforethought, either express or implied, by means of shooting the victim multiple times, and the victim did die as a proximate result thereof on or about Decembr 9, 2019 in Darlington County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

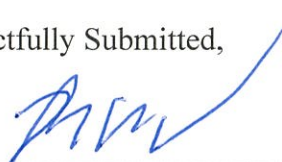
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

May 09 2024

SC Court of Appeals

This 9th day of May, 2024.

RECEIVED

May 09 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Darlington County

Honorable Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

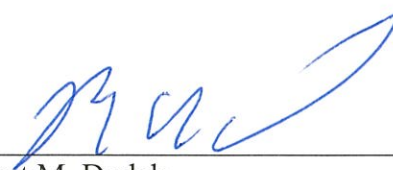
FREDDY RAY HARRIS III,

APPELLANT

APPELLATE CASE NO. 2023-001165

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary email address listed within the Attorney Information System (AIS) this 9th day of May, 2024.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT