

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI-PCR
APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Robert J. Bonds, Circuit Court Judge

Appellate Case No. 2024-000078
Lower Case ¹ 2020-CP-07-01099

RECEIVED

May 16 2024

S.C. SUPREME COURT

Aaron Scott Young, Sr. #288580,..... Petitioner,
vs.

State of South Carolina..... Respondent.

APPENDIX
VOLUME II

DANIELLE DIXON
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
danielledixon@scag.gov
(803) 734-3737
S.C. Bar No. 73999

C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
rauchwise@gmail.com
(864) 229-5010
S.C. Bar No. 6188

Attorney for Respondent

Attorney for Petitioner

APPENDIX INDEX

Court Records

Record on Appeal Volume I filed August 30, 2017	1
Record on Appeal Volume II filed August 30, 2017	507
Final Brief of Appellant filed September 20, 2019	892
Final Brief of Respondent filed September 20, 2019	910
Appendix filed September 20, 2019	967
Petition for Writ of Certiorari filed September 20, 2019	989
Return to Petition for A Writ of Certiorari filed October 21, 2019	1011
Order denying Petition for A Writ of Certiorari dated March 12, 2020	1039
Application for Post-conviction relief filed May 14, 2020	1041
Return to Application for Post-Conviction Relief filed October 20, 2020	1089
Amended Application for Post-Conviction Relief filed March 16, 2023	1113
Transcript of Post Conviction Relief Hearing dated March 16, 2023	1122
Memo in support of dismissal filed April 3, 2023	1215
Order denying PCR filed April 5, 2023	1221
Order of Dismissal filed October 2, 2023	1222
Rule 59 Motion to Alter or Amend Judgment filed November 27, 2023	1243
Respondent's Return to Applicant's Motion to Reconsider filed December 11, 2023	1246
Order denying the Motion to Reconsider filed December 21, 2023	1255
Notice of Appeal filed January 18, 2024	1256

CROSS EXAMINATION OF SALAS BY THORNTON

1 Robinson's at Oak View Road. And at some point Jontu said,
2 give me the gun, when Jontu was with them, which puts it
3 some time in proximity as to when a gun was retrieved,
4 because I don't know exactly when that happened.

5 But there was a time when there was a gun
6 and Jontu was present with the party of the Youngs because
7 Jontu said, Give me the gun.

8 Q And that's according to Aaron Young, Senior,
9 correct?

10 A That's from my interview with him, yes.

11 Q And did he -- did they tell you, when, if at all,
12 Senior dropped Jontu off? Was that before or after they
13 went out to Allen Road, according to him?

14 A Went back to house, Jontu got out. I think that's
15 after Oak View and before Allen Road.

16 Q So he does tell you that they dropped Jontu off
17 at the house and then go back out to Allen Road?

18 A He told me, But if we leave to go to work, maybe
19 he'll come back in fear of safety of his family.

20 Q Gotcha.

21 Did he also tell you that his son, when all
22 this happened said, Let's just go to work, or I got to go
23 to work, and he said, No, I have to finish this, or we have
24 to finish this.

25 And maybe that's a poorly phrased question.

CROSS EXAMINATION OF SALAS BY THORNTON

1 What I'm getting at is --

2 A What I have written down is telling AJ, which in
3 my notes is Aaron, Junior, Let's get ready for work, Jontu
4 egging on for confrontation, saying, You know he's just
5 going to be unprotected, your son going to be in the house.

6 Q Okay. So now he's -- so according to what he
7 tells you, he just wants to go to work, but Jontu is egging
8 him on, according to what your notes say he told you?

9 A What my notes say is that telling AJ, Let's get
10 ready for work, Jontu egging on for confrontation. You know
11 he's just going to be unprotected -- this is where Jontu --
12 you know he's just going to be unprotected, your son going
13 to be in the house.

14 And what was explained to me from Mr. Young,
15 Senior is that there had been an event pre-dating all of
16 this a long time ago, I don't know how much remote it was
17 from the events that bring us here today, but that Tyrone
18 Robinson had come into the home of the Young family and had
19 a confrontation with, I believe it was, Aaron Young, Junior
20 at that time.

21 I don't think it had anything to do with
22 guns, I think it was a physical fight, rummaging around,
23 looking for stuff. But there was an event that he related
24 to me that made what Jontu was alleged to have said
25 register in his mind.

CROSS EXAMINATION OF SALAS BY THORNTON

1 Q And -- well, so far, what you've indicated based
2 on the videos that we watched is that there's not -- that
3 there's not a shootout, is what you think is false based on
4 the information provided to you by Mr. Young, Senior?

5 A It's not limited to the information that's
6 provided to me by Mr. Young, Senior, it's the elements of
7 coercion as well as the contaminants that are put into place
8 that bring rise to the false confession. There's nothing
9 that you go back to review that says when the defendant says
10 a different story, you believe that over something
11 different.

12 And so I reviewed all these tapes and was
13 very concerned about there being the tapes from April of
14 2014 before I ever spoke with Mr. Young, Senior.

15 Q And you spoke --

16 A And I was still concerned before I spoke with him
17 about the elements being present that lead to a false
18 confession.

19 Q And you keep saying "false confession," and
20 that's a -- I want to make sure we're very careful. You're
21 not saying that everything he confessed to is not true, are
22 you?

23 A As far as the nature --

24 Q Because so far the only thing you --

25 THE COURT: You asked a question, give her a

CROSS EXAMINATION OF SALAS BY THORNTON

1 chance to answer.

2 MR. FERGUSON: Yes, sir.

3 THE COURT: Go ahead.

4 THE WITNESS: I don't know where the truth is in
5 this.

6 THE COURT: Well, the truth is really the jury's
7 concern. Voluntariness is your concern and my concern,
8 the truth is the jury's concern.

9 THE WITNESS: Thank goodness. I feel for them.

10 MR. FERGUSON: Thank you. That's it, Judge, I
11 think that's all I need.

12 THE COURT: All right. Dr. Salas, one thing that
13 you mentioned is that Aaron Senior had mentioned to you
14 was, you would not think that they would harm Mr.
15 Robinson, they just wanted to get a message to him by
16 shooting up his car.

17 Did I not hear him say on the tape today that if
18 they were able to find him that day that he would blow
19 his brains out because Mr. Robinson was trying to shoot
20 them?

21 THE WITNESS: There was some statements something
22 like that, that I think were made. But what was
23 conveyed to me in the interview with him is that that
24 was not accurate with what he intended to do as far as
25 sending a message.

CROSS EXAMINATION OF SALAS BY THORNTON

1 THE COURT: Other than the characterization of
2 what happened as being a shootout, to the facts as you
3 understand them to be from him and from the statements
4 made, perhaps what you may know otherwise about this
5 case, that Robinson came to their house and started --
6 and pulled a gun. He testified that he had a gun on
7 his hip, and that's where his son was. And then the
8 tussle that ensued, according to him, four or five
9 shots fired and then Robinson leaves. They get in the
10 car and follow him, try tried to find him. Oak View is
11 one of these places where they go by, and you're right,
12 he testified about him brandishing -- Robinson
13 brandishing a weapon.

14 The testimony in other trials has been that they
15 had a weapon -- we know they had one because it was
16 eventually produced -- but they couldn't get it all
17 together so they couldn't shoot back.

18 Eventually they track him down to the Allen Road
19 place and shoot up his car, and then they leave. And
20 it's after that, of course, that Robinson shoots the
21 shots, one of which is the fatal shot that kills Khalil.

22 But -- and I think I heard him say that -- on the
23 screen today, he didn't know that anybody was shot.
24 They did what they did and they left.

25 Do those facts seem to be borne out by what he told

CROSS EXAMINATION OF SALAS BY THORNTON

1 you?

2 THE WITNESS: What you just described, yes.

3 THE COURT: Okay. But he kept calling that a
4 shootout, of course, is a mischaracterization because
5 it's not the gun fight at the O.K. Corral. It's, you
6 know, when he shoots at me, it ain't a shootout unless
7 I'm shooting back, essentially. I understand that.

8 Is that fatal -- excuse me. Is that
9 mischaracterization fatal to the interview process when
10 we hear the admissions of what are largely
11 uncontradicted even by him?

12 THE WITNESS: In my opinion, it is fatal to the
13 interview process because he knew he was giving a lie
14 when he was giving statements, but he was giving an
15 untruthful statement because he thought that's what he
16 was supposed to do to be exonerated and to not be
17 charged, and to pin Tyrone Robinson, then he would be
18 made a star witness at the Robinson trial.

19 THE COURT: Was it a lie that he said that
20 Robinson came to his house and they had a tussle and
21 shooting in the yard?

22 THE WITNESS: I don't think that was a lie, but,
23 again, I can tell you he told me a very similar story
24 that I have heard. And so parts of what you hear, I
25 think there's a thread of truth that goes through it,

CROSS EXAMINATION OF SALAS BY THORNTON

1 but there's a lot of deviation from someone who was
2 being interrogated, these elements of coercion, the
3 contaminants were present, the confirmatory bias is
4 present, and raises to the magnitude of being a false
5 confession. And when you're looking at the elements of
6 coercion being present, you're speaking on whether or
7 not a statement is voluntary.

8 THE COURT: Right.

9 THE WITNESS: It's really hard for me to answer
10 the prosecution's question, at what point do you deem
11 voluntary from involuntary. It's a steep slope, it's
12 very slippery. And I don't even know that I am able to
13 pinpoint exactly with precision, without the benefit of
14 more than one dimension being present, where that comes
15 from.

16 THE COURT: Okay. Thank you, ma'am.

17 Mr. Ferguson, she's your witness. I'll give you
18 the last word.

19 MR. FERGUSON: Thank you. Nothing further, Your
20 Honor.

21 THE COURT: Dr. Salas, thank you for coming. You
22 can step down and be excused for the afternoon. I'm
23 sure they'll want you back to testify. Thank you,
24 ma'am.

25 Mr. Ferguson, you can call your next witness.

CROSS EXAMINATION OF SALAS BY THORNTON

1 MR. FERGUSON: Thank you, Your Honor. I had a
2 fellow, Deputy Evans, former Deputy Evans subpoenaed
3 and was here. I told him to be here at three. And so
4 I'm not sure if he's still here or not. But he would
5 be the only other person I would offer at this point.

6 THE COURT: Okay. Let's see if you can find him.
7 Come forward, sir, and be sworn.

8 Thereupon,

9 CURTIS D. EVANS
10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows:

12 THE CLERK: State your name for the record,
13 please.

14 THE WITNESS: Curtis D. Evans.

15 THE CLERK: And spell your last name.

16 THE WITNESS: E-V-A-N-S.

17 DIRECT EXAMINATION

18 BY MR. FERGUSON:

19 Q Officer Evans, who do you work for?

20 A Port Royal Police Department.

21 Q And who did you work for back on September the
22 1st of 2012?

23 A Beaufort County Sheriff's Office.

24 Q And do you recall your involvement that day into
25 the investigation and interrogation of Aaron Young, Senior?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A Oh, yes.

2 Q Okay. And do you recall what your first contact
3 with Mr. Aaron Young, Senior was?

4 A I believe it was a traffic stop.

5 Q Do you know approximately what time that was?

6 A Somewhere between five and 6:30.

7 Q Okay. Would it benefit you to see a copy of your
8 incident report?

9 A Yes, it would.

10 MR. FERGUSON: May I approach the witness, Your
11 Honor?

12 THE COURT: Yes, you may.

13 MR. FERGUSON: Thank you.

14 BY MR. FERGUSON:

15 Q Officer Evans, if you'll take a look at that and
16 see if it refreshes your recollection as to what time the
17 traffic stop was.

18 A 1658.

19 Q And what's that in normal people time?

20 A 6:58 -- I'm sorry, 4:58.

21 Q Thank you.

22 Would you like to hold onto that?

23 A If I could.

24 Q Sure. And do you recall how long you were at the
25 roadside?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A It was over an hour.

2 Q Okay. What -- do you recall what your call sign
3 was back then?

4 A I do not.

5 Q Was it B38?

6 A That's possible.

7 Q Does that sound familiar?

8 A Yes.

9 Q Okay.

10 Are you familiar with the CAD system,
11 Officer Evans?

12 A I am.

13 Q Okay. May I approach Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. FERGUSON:

16 Q Officer Evans, I'm going to hand you two sheets
17 of paper that are a CAD run report, and essentially what it
18 is, is listing out the units and identifying who that unit
19 number belongs to. And I'll ask you to review that and I
20 have highlighted it for your benefit.

21 A Okay.

22 THE COURT: He's seen it.

23 BY MR. FERGUSON:

24 Q And so does that refresh your recollection as to
25 what your call sign was at the time?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A Yes, it does.

2 Q What was it?

3 A Bravo 38.

4 Q Okay. And now, what did you do after you left
5 the traffic stop?

6 A I transported -- I believe it was Ebony Campbell
7 to the sheriff's office -- the substation on Hilton Head.
8 The office on Hilton Head.

9 Q Okay. And what did you do with her once you got
10 there?

11 A I released her to someone in investigations.

12 Q Okay. And from your recollection, what did you
13 do next?

14 A I left the office for a while and then I was
15 called back to guard Mr. Young.

16 Q Okay. And do you recall what time that was?

17 A Somewhere between seven and 8:30 or 9:00.

18 Q Okay. Now, you no longer work for Beaufort
19 County Sheriff's Office, and essentially was that a result
20 of events that occurred that day?

21 A Could you repeat the question?

22 Q Sure. Now, you currently work for Port Royal
23 Police Department, and you formerly worked for the Beaufort
24 County Sheriff's Office. Is that as a result of the events
25 that occurred on September the 1st of 2012?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A Are you asking me if I was fired, basically?

2 Q I am.

3 A That is correct.

4 Q Okay. And specifically, you know, you had
5 certain recordings that were subsequently produced; is that
6 correct?

7 A That's correct.

8 Q Okay. Do you recall initiating those recordings?

9 A Initiating them?

10 Q Yes.

11 A I do.

12 Q Okay. And do you recall speaking to supervisors
13 about that initiation?

14 A I do.

15 Q Okay. And would that have commenced at the time
16 that you were directed to guard Mr. Young, Senior?

17 A Yes.

18 Q Okay. And so -- in what room of the Hilton Head
19 substation was that in?

20 A The deputies' room.

21 Q Okay. Was Mr. Young, Senior ever taken out of
22 the deputies' room during your -- while you were watching
23 him?

24 A I believe so.

25 Q Who was he taken out of there by?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A I don't recall.

2 Q Okay. Was anybody else brought into the
3 deputies' room while you were watching Aaron Young, Senior?

4 A There were numerous people in and out.

5 Q Mostly law enforcement?

6 A It was all law enforcement, if I recall.

7 Q Okay. Was there ever a period of time that you
8 were watching Aaron Young, Senior that you did not have
9 your body microphone activated?

10 A I don't believe so.

11 Q Okay. So it's your recollection that those
12 things occurred simultaneously?

13 A Yes.

14 Q Okay. But there was some point where you did
15 discuss it with your supervisor, and that was outside of
16 the presence of Mr. Young, Senior?

17 A That was before I started it, before I started
18 recording it.

19 Q Okay. And, again, to the best of your
20 recollection, what time was that?

21 A Somewhere between seven and 8:30, I'd say.

22 Q Okay. Thank you.

23 MR. FERGUSON: No further questions. Please
24 answer any question that the State may have. I am
25 going to get my documents back from you though.

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 THE COURT: Mr. Thornton, cross-examine?

2 CROSS EXAMINATION

3 BY MR. THORNTON:

4 Q Officer Evans, you indicated earlier that one of
5 the things you did was you turned on your mic, and those
6 are the recordings that obviously we had a lot of hubbub
7 over, and got turned over, and those have time stamps on
8 them, correct?

9 A That's correct.

10 Q All right. So I know you're going by memory, but
11 if your time stamp on there shows that you started your
12 first -- the first time your mic comes on, as far as being
13 in a room with Aaron Young, Senior, was 10:00, would that
14 time stamp be accurate?

15 A Yes.

16 Q Okay. So if there is an interview where Doug
17 Seifert says, it's 9:18 p.m., and you wouldn't have been
18 with him then at 9:18 because you didn't do an interview
19 with Aaron Young, Senior and Doug Seifert in an interview
20 room, did you?

21 A No, I did not.

22 Q All right. And if you -- we know from another
23 time stamp that he was delivered, there was testimony
24 earlier, I believe it was actually elicited by Defense
25 counsel, that Mr. Young, Senior didn't even get to law

CROSS EXAMINATION OF EVANS BY THORNTON

1 enforcement with Kaminski until 7:20, who then guarded him
2 for some time until the interview and your first time is
3 10:00, then 10:00 would be more accurate than your memory,
4 if that was what was time stamped on your recording; is
5 that right?

6 A That's correct.

7 MR. THORNTON: Your Honor, Court's indulgence,
8 please.

9 THE COURT: Okay.

10 BY MR. THORNTON:

11 Q And other than that, do you have any independent
12 recollection other than what you've already talked about
13 with Mr. Ferguson?

14 A I do not.

15 MR. THORNTON: Thank you. I have nothing further,
16 Judge.

17 THE COURT: Mr. Ferguson, redirect?

18 MR. FERGUSON: No, sir, Your Honor.

19 THE COURT: Thank you.

20 Office, you can step down. Thanks for coming.

21 Mr. Ferguson, any further witnesses or evidentiary
22 issues before we get to argument?

23 MR. FERGUSON: No, sir, Your Honor.

24 THE COURT: Okay. Anything from the State in
25 reply?

CROSS EXAMINATION OF EVANS BY THORNTON

1 MR. THORNTON: Nothing, Judge, other than
2 argument.

3 THE COURT: All right. Mr. Ferguson, I'll be glad
4 to hear from you.

5 MR. FERGUSON: Thank you, Your Honor. What we
6 have essentially are periods of undocumented time with
7 Aaron Young, Senior, of which he has previously
8 testified that he was subjected to various forms of
9 coercion, promises, threats, threats of lengthy jail
10 time, both by Seifert on the roadside and once he
11 arrived at the Hilton Head substation.

12 And so we know that he spent approximately from
13 5:00 to 7:00 on the roadside. We know that according to
14 deputy -- or Detective Seifert, that there was
15 information in his report that was not contained on
16 his -- on the actual audio recordings, and we know that
17 there was a period of time where no audio is being
18 captured at the back of the patrol car.

19 Subsequent to that, you know, I find it a bit
20 telling that they want to rely on time stamps in certain
21 situations, but don't want to rely on time stamps from
22 the exact same system in other situations, because we
23 have a conflict.

24 We have Doug Seifert's interview with Aaron Young,
25 Senior commencing by time stamp at 9:44 p.m. and ending

CROSS EXAMINATION OF EVANS BY THORNTON

1 at 10:37 p.m.

2 However, you know, the Deputy Solicitor is correct.
3 Evidence time stamped at 10:00 p.m. and lasts until
4 12:01 a.m.

5 Well, we know Aaron Young, Senior cannot be in two
6 places at one time. And so, you know, it is difficult
7 to rely on discovery that has been given to the Defense
8 in determining which came first, the coercion or the
9 statement, you know, because we have an overlapping
10 period of time that nobody seems to be able to account
11 for other than Doug Seifert's wristwatch saying -- you
12 know, being reported to be 9:18.

13 You have that saying it could be anytime from seven
14 to eight. You know, if we're not going to believe the
15 time stamps from Seifert's interviews, then, you know, I
16 find it difficult that we would then be bound by the
17 time stamps on evidence reported interviews.

18 So essentially we have two hours and 44 minutes of
19 which Aaron Young, Senior is not documented by audio or
20 video. We have -- during the documented time, we have
21 statements that indicate that there were previous
22 conversations with law enforcement officers of which the
23 summary of those statements, or those statements
24 themselves have not been produced.

25 Again, Mr. Young has testified that he was promised

CROSS EXAMINATION OF EVANS BY THORNTON

1 certain things and he was threatened with certain
2 things, and we have statements that we do not know the
3 substance of.

4 They -- you know, Captain Bromage says that it's
5 two minutes. Well, you know, a lot can occur in two
6 minutes, and it's not our position that with any
7 conversation that occurred was limited to that
8 two-minute time period.

9 If that's, like I pointed out, he states, like I
10 told Officer Bromage, and that's to Detective Seifert,
11 indicates a previous conversation. Like I told you,
12 Senior to Bromage, again indicates a previous
13 conversation.

14 We have the exoneration comment, which at the time
15 that it was originally brought up that that was said to
16 Aaron Young, Senior, it wasn't as important as it is
17 after you step back and receive the additional
18 materials. You know, but it is on the tape at that
19 point that, you know, where's the gun that will
20 exonerate that situation? Exonerate. Tell us where the
21 gun is, so we can eliminate him, your son, as possibly
22 hitting that kid. That's huge.

23 We have Dr. Salas, who in a -- in terms of
24 voluntariness, testified it is her medical, you know, or
25 her expert opinion to a reasonable degree of medical

CROSS EXAMINATION OF EVANS BY THORNTON

1 certainty that Aaron Young, Senior's statements, at
2 least to Seifert, is not from the GSR administration
3 forward are involuntary. And that her initial opinion
4 wasn't changed as much as it was reinforced by the
5 additional materials that were discovered back in April
6 of 2014.

7 You know, she spent a lot of time on what Aaron
8 Young, Senior's belief system was, what he believed to
9 be, you know, required of him in exchange for this
10 exoneration and becoming a star witness against Tyrone
11 Robinson. And he, when he previously testified, he went
12 into that a good bit.

13 And also to the fact that he would be able to talk
14 to his father, be able to talk to his son, if he only
15 cooperated and gave them what they wanted.

16 We have his father corroborating that, Your Honor,
17 that essentially, when brought out there, that the
18 coercion was relayed and essentially told the father
19 that, you know, the guy is cooperating, the law should
20 go easy on him. Now, you guys, just because you're
21 cooperating, law enforcement would be easy on them for
22 cooperating.

23 And so, you know, it is unfortunately Aaron Young,
24 Senior's word versus the State of South Carolina. And
25 unfortunately, we don't have the recordings from the

CROSS EXAMINATION OF EVANS BY THORNTON

1 periods of time that Aaron Young, Senior is alleging
2 that this coercion occurred. But what we do have still
3 indicates coercion. And so, you know, when he first
4 brings the issue, you know, it was solidified and I
5 believe the State -- well, they obviously agreed because
6 they've agreed not to put in certain things, that it was
7 present.

8 And so the difficulty as Dr. Salas expressed is
9 that defining line, and where that slippery slope begins
10 and where it ends. And so, you know, our argument is
11 consistent with our experts, that it begins like Aaron
12 Young, Senior testified to, at the back of the patrol
13 car, on the side of the road, while the GSR kit was
14 being administered. It continued until he was booked in
15 at 4:00 a.m. in the morning.

16 And so, you know, we're asking that his statements
17 from that period on are suppressed, and that's what
18 we're asking for.

19 THE COURT: Thank you.

20 Mr. Thornton.

21 MR. THORNTON: Thank you, Your Honor.

22 Your Honor, I point the Court, although I know you
23 already know it, to State versus Miller, which is 375
24 South Carolina 370. And I'll pass that up to Your
25 Honor.

CROSS EXAMINATION OF EVANS BY THORNTON

1 Your Honor, coercion, without stipulating that
2 there was any coercion is simply one of the elements
3 that are supposed to be looked at. What the test is, is
4 based on the totality of the circumstances, is the
5 Defendant's will overborne.

6 I would point out the following, Judge, and I'll
7 try to be brief. Even their expert, who couldn't really
8 tell me what was and was not false said that even in her
9 opinion it didn't start until after the GSR kit.

10 Well, what does Aaron Young, Senior say on the side
11 of the road before the GSR kit? He says, when asked by
12 Seifert, Seifert says, where was the gun that your son
13 had?

14 Now, Judge, logic would indicate to you that if
15 your son didn't have a gun, the response to that is,
16 what gun, what are you talking about? That's not what
17 he said. He said, I don't know where the gun is.

18 His next question was, why was your son hanging out
19 the window, or something to that effect, shooting the
20 gun? His response wasn't, I don't know what you're
21 talking about, we never shot a gun, we shot his car, and
22 that's all we shot. What he says is, We were shooting
23 at him because he was shooting at us, which is
24 consistent with the thing that he says all throughout
25 the interview, that we took parts of it, we would

CROSS EXAMINATION OF EVANS BY THORNTON

1 introduce, which is, we were shooting at him because he
2 was shooting at us.

3 There's a couple times where he says, Well, we were
4 shooting up in the air. But then he always comes back
5 to, we were shooting at him because he was shooting at
6 us.

7 Here's the other thing, Judge, how can his will be
8 overborne if he's still not telling where the gun is?
9 And we know that he knows where the gun is, because
10 eventually he does take them to it.

11 But at this point, at the point that all these
12 statements are made we're introducing, how can his will
13 be overborne when he is, in fact, A, at some places in
14 there, trying to deny that they shot and deny that they
15 had a gun, and then admitting that they had a gun. You
16 will remember, Judge, one of the things he says in there
17 was -- and forgive me, I'm going use the quote was,,
18 yeah, that was bullshit.

19 After he had said that they didn't have a gun when
20 they left the house.

21 And, again, I keep going back to the same thing,
22 Judge. How can his will be overborne when he never
23 gives them the gun? He says the whole time, Well, my
24 son, you know, we separated. I don't know where the gun
25 is, I'm not -- and he does know where the gun is.

CROSS EXAMINATION OF EVANS BY THORNTON

1 His will is not overborne, if at all, until much
2 later, Judge, which is, as you know, you've been the
3 judge on this case now for the third time, and you were
4 the original judge. But that's the test, Your Honor.

5 The test is, was his will so overborne? You take
6 into account his age, his prior history, which we've
7 already talked about, his -- Mr. Ferguson's expert
8 talked about the fact he's a convicted felon. He
9 tells -- he calls Detective Bromage, Bob. He says, You
10 know my history, you know I'm not violent like that.

11 Clearly this is not his first encounter with law
12 enforcement. He is not a teenager, Judge. You know,
13 he's born in '76. This is somebody who knows their way
14 around, for lack of a better word.

15 And, again, he tells a consistent story, granted
16 it's a short story on the side of the road, but from the
17 side of the road, and throughout the interview, which
18 is, he's shooting at us because -- we were shooting at
19 him because he's shooting at us.

20 His will's never overborne, at least not in the
21 part we're using, because he never tells them where the
22 gun is. And that's the test, Judge.

23 Is his will overborne? Not does Dr. Salas think
24 there was a coercive element used? You know, anytime
25 you try to get somebody to tell you something they don't

CROSS EXAMINATION OF EVANS BY THORNTON

1 want to tell you, there can be an allegation of
2 coercion. But that's not the test.

3 Was his will overborne? The State's position is
4 it's really an impossibility because he never gives them
5 the gun, at least not during that portion.

6 Thank you, Your Honor.

7 THE COURT: Thank you, Mr. Thornton.

8 Mr. Ferguson, you have the last word.

9 MR. FERGUSON: Thank you, Your Honor.

10 And essentially he is correct, and it's not the
11 only element, but it's defined in State V Miller as the
12 crucial element of police coercion.

13 Again, the length of interrogation, his
14 interrogation started at 5:00 p.m. and ended with him
15 being booked in at 4:00 a.m. in the morning. That's his
16 custodial period of time, where this was occurring. His
17 location is in the Hilton Head substation on the side of
18 the road. He's shirtless, he is handcuffed, he is
19 uncomfortable. It's continuity. Again, the time period
20 that passes.

21 His maturity, his education, physical condition,
22 and mental health. It's not just that we are alleging
23 that his will was overborne when he gave the gun. His
24 will was overborne when he had this -- you know, these
25 promises made to him of exoneration. That overborne his

CROSS EXAMINATION OF EVANS BY THORNTON

1 will.

2 And so that's why we are alleging that the
3 statements are involuntary. Not only -- the only thing
4 that comes out of the coercion is not just the
5 production of the gun, it's also the giving of the
6 statements in general that we're arguing for.

7 THE COURT: I'll give you the last word.

8 MR. THORNTON: I apologize, Judge. I just want to
9 correct something I think is factually inaccurate, and
10 I don't want that to be the record.

11 Doug Seifert says it's 9:18. I understand Mr.
12 Ferguson takes some -- but it's clearly, you know, even
13 by his estimation, even if the other time stamp was
14 right, it would be 9:40.

15 He didn't even get to the substation until 7:20.
16 This is an interrogation where we're trying to introduce
17 things at 4:00 in the morning. This is a much tighter
18 time frame than that.

19 And I just -- you know, I don't want that to be the
20 record that I'm trying to put in statements he makes at
21 3:45, because I'm not.

22 THE COURT: All right. Mr. Ferguson, you do have
23 the last word.

24 MR. FERGUSON: Thank you, Your Honor.

25 You know, it's admitted to being present; however,

CROSS EXAMINATION OF EVANS BY THORNTON

1 you know, they want to compartmentalize it. I think
2 that's the difficulty.

3 You know, first, it was, there's none of that
4 present. Then, oh, wait, we've discovered evidence, it
5 is present.

6 But we're not worried about that because we're just
7 going to compartmentalize that. And we think the rest
8 is clean. We just won't introduce that part, and then
9 the jury won't hear about the, you know, improper
10 conduct of law enforcement, the improper conduct, you
11 know, of investigators and actual roadside officers.
12 And so, you know, I think in the totality of the
13 circumstances, you know, that it must be considered.

14 What we have actual proof of, you know, and what
15 we're alleging, you know, that they are is the same
16 here, and if we had the recordings, we don't know, you
17 know, what would be present on those. And, you know, we
18 have what Mr. Aaron Young, Senior has testified to.

19 THE COURT: All right. Thank you.

20 Folks, I think I understand the facts as well as I
21 can understand them. I don't have the transcripts of
22 the statements that were made here. I don't think that
23 I necessarily need them for my purposes.

24 I did ask for the transcript of the earlier record.
25 And since I asked for it, I guess I'm going to have to

CROSS EXAMINATION OF EVANS BY THORNTON

1 read it. And so I'm going to take this home. I will be
2 back here tomorrow between 8:45 and 9:00 tomorrow. And
3 I will let you all know at that point in time how I'm
4 going to rule on the issue of voluntariness.

5 We still have a motion to quash issue. I'm not
6 inclined to start that at this time of day.

7 How long will it take to argue that, Mr. Ferguson?

8 MR. FERGUSON: Very briefly, Your Honor.

9 THE COURT: Oh, okay. All right.

10 We'll be able to handle both of those in the
11 morning. I'll probably take the Bench around 9:15, I'll
12 let you know when I get here. Off the record, so that
13 nobody can figure out how to tail your opening
14 statements, and then we'll put it on the record around
15 -- or at 9:15 tomorrow. I'll take the Bench and put the
16 results of my nighttime reading on the record.

17 Okay.

18 MR. FERGUSON: Thank you, Your Honor.

19 THE COURT: Anything further before we break, from
20 the State, now?

21 MR. STONE: No, sir, not from the State.

22 THE COURT: Mr. Ferguson.

23 MR. FERGUSON: No, sir, Your Honor.

24 THE COURT: All right. I'll see you all, we'll
25 resume at 9:15 tomorrow morning for purposes of

CROSS EXAMINATION OF EVANS BY THORNTON

1 memorializing these rules.

2 (Whereupon, the Court recessed for the day.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CROSS EXAMINATION OF EVANS BY THORNTON

1 AUGUST 11, 2015 PROCEEDINGS

2 THE COURT: The motion before the Court that was
3 argued yesterday as to admissibility or lack of
4 admissibility to the statements made by Mr. Aaron Young
5 Senior, which were played on the record yesterday,
6 which the State intends to offer, I believe, as proof
7 in this case. The State has cited a similar case of
8 State versus Miller, which is a compilation of the law,
9 generally, of admissibility and voluntariness, Judge
10 Anderson's opinion.

11 Good thing about Judge Anderson's opinions, if you
12 read one of them, you don't have to do any research
13 because he includes all the research in his opinions and
14 so it is a full continuum, as it were, to use his words,
15 of the law in that regard.

16 The Miller case was -- had certain parallels with
17 this case but not many. Mr. Miller was involved in
18 methamphetamine, conspiracies and trafficking, and he
19 made three statements over a period. And he alleged
20 that all those statements were made in the face of the
21 promises of a plea deal. One testimony said it was
22 15 years, another testimony, including the testimony of
23 his lawyer at the hearing, said that he was promised a
24 plea agreement of 8 to 12 years. He cooperated, he
25 said, in the face of the 8 to 12-year promise, and then

COLLOQUY

1 the testimony was that there was no such agreement in
2 the first place. The statements were admitted into
3 evidence as being voluntary.

4 The Miller court made the distinction, which had
5 been made in cases before and since, that there is a
6 difference between law enforcement extending hope to a
7 defendant and promise to a defendant. Now, here we know
8 that subsequent to the testimony offered on the screen
9 yesterday, promises were made. Not exoneration, as I
10 understand exoneration to be. My recollection of those
11 statements from prior proceedings was that you might be
12 charged with something but certainly not with murder if
13 you'll give up the gun. He gave up the gun; he's
14 charged with murder.

15 From that point on, obviously, from the time of
16 that promise on, then everything is inadmissible. It's
17 the fruit of the poisonous tree. It's not unlike
18 officers who engage in a search under a warrant or,
19 perhaps, they have a right to be in a place and they
20 collect evidence in accordance with a warrant or within
21 plain view, and that's fine.

22 But if they go beyond the warrant or if they go
23 beyond what is in plain view without reason to do so,
24 then from that point on it is not okay. But the fact
25 that they might go beyond the warrant at some point or

COLLOQUY

1 go beyond the plain view, does not exclude those things
2 that were lawfully obtained beforehand.

3 And that's the situation that we have here.
4 Clearly he was Mirandised. Clearly he was in custody.
5 And so the question is whether or not he was promised or
6 coerced into making certain statements which Dr. Salas
7 said were false.

8 As I read the transcript from the prior proceeding,
9 I -- it was over a year ago and, frankly, I'd forgotten
10 the questions that I asked at that point in time -- but
11 they were not unlike the questions that I asked
12 yesterday. And exactly what statements were false. If
13 he made false statements, what statements were false.
14 And she gave pretty much the same answers as before.
15 She, obviously, is a credible witness and certainly is
16 well-versed in what she's talking about and --

17 But she talks about the error of coercion. And she
18 said to some folks that might -- something might happen
19 that somebody might be coerced and others might not be.
20 She used the sexual harassment analogy as a comparison
21 in that regard. And I suppose we all are aware of the
22 fact that some folks look at the same thing and see
23 different things. And that's inherent in our human
24 psyche and our human perceptions, we see things through
25 our own eyes, and we say things from our own experience.

COLLOQUY

1 And that's true of the word "shootout." That's a
2 word that seemed to come back again and again as having
3 been a suggestion and coercion, an error of coercion, if
4 you will, that suggested that the shootout was going.
5 And so Mr. Young then felt compelled to go along with
6 that story and add to it. For the most part, Mr. Young
7 was persistent. He said, you know, he shot at us. But
8 we know that the shooting was going back in the other
9 direction, because when he testified at the original
10 trial back in April of '14, he had testified that his
11 son had shot at the car. And there never was any doubt
12 about that, I don't think really, once things got on the
13 ground and fully developed.

14 What we know happened is that Mr. Robinson came to
15 their yard and started some -- or somebody started a
16 fight, and Mr. Robinson shot a gun. We know that. And
17 that we know that, and that Mr. Robinson left and that
18 the Youngs got in their car with a bag that contained
19 the parts of a weapon and they followed him.

20 And they passed on the road, somewhat being like
21 two knights, which is not a real good analogy to use,
22 but charging toward each other like two steeds going at
23 each other. Mr. Young said that Robinson was
24 brandishing his gun. And we know that Young, Jr. was
25 trying to put the gun together so he could shoot hanging

COLLOQUY

1 out the windows, as testified, but couldn't get all the
2 pieces together.

3 Now, at some other point in time, apparently,
4 according to prior testimony, the clear suggestion was
5 that Robinson's car was shot before the Allen Road Swiss
6 cheese incident. The expert testimony in the last trial
7 was that the elements of -- or the trajectory of some of
8 those bullets indicated that they came from a different
9 angle and that would -- which would have been consistent
10 with shooting at the home into the unoccupied car.
11 Whether that's true or not we don't know. But we do
12 know that eventually they've located the car and they
13 shot up the car. I say "they," Aaron Young, Jr. shot it
14 up.

15 Now, out West that might not be much of a shootout,
16 but on Hilton Head Island that's a shootout. I mean,
17 that's -- it's a -- it's an imperfect description,
18 obviously, it goes far beyond that. Shootouts, I
19 suppose, more correctly are defined as the O.K. Corral,
20 you know, you meet in the street and everybody pulls out
21 a gun and starts shooting at each other. That didn't
22 happen in this case. But the parties were shooting in
23 the general direction of each other or the direction of
24 the cars of each other, although not necessarily at the
25 same time.

COLLOQUY

1 So far as the real testimony is concerned,
2 apparently, the only time that anybody actually shot at
3 somebody else, with the possible exception of Robinson's
4 car down the road somewhere, was when Robinson shot at
5 their fleeing car and missed and hit Khalil S.

6 Now, does that mean that the rest of this shooting
7 was just shooting up in the air, just trying to make
8 statements, I don't know what it means. But I know that
9 the fact that it's been characterized as a shootout,
10 although, maybe not specifically and maybe not
11 completely accurate if you define a shootout as a mutual
12 combat where everybody is shooting at each other at the
13 same time, it certainly is not so inaccurate, so
14 coercive as to render statements that were made in the
15 face of that characterization as involuntary.

16 And as Dr. Salas said, sometimes these coercive
17 elements they're not intended to be there. The officers
18 don't intend them to be there. The person doesn't
19 intend for it to be there. But to the person who's
20 hearing it perceives it as such. That's the testimony
21 in this particular case, that that's how he perceived
22 it, and as a result of that he made false statements.

23 Once, again, I'm not satisfied that the statements
24 which are sought to be admitted in this case are false.
25 They seem to be supported by other evidence in the case,

COLLOQUY

1 and independent evidence, some forensic evidence, some
2 ballistics and things of that nature.

3 The State has wisely chosen not to admit those
4 statements which are questionable. And they have pared
5 these that we've heard down to those that it would
6 infringe. Of course, the Defense is entitled to
7 admissibility of all of these things if it chooses to
8 bear on the issue of voluntariness. The State has the
9 burden of proving involuntariness to a jury beyond
10 reasonable doubt. At this juncture it's probably
11 preponderance of the evidence. And, certainly, if the
12 totality of the circumstances would be such as to create
13 an different inference for the jury, Mr. Young is
14 entitled to submit that evidence.

15 The length of the questioning and things of that
16 nature, those are obvious the sorts of things that would
17 be taken into account. But the questions which were
18 asked and answered in this particular setting, of
19 course, were done within a reasonable time frame. The
20 longer time frame of 4:00 in the morning a jury might
21 determine to be unreasonable. I don't know.

22 The fact that there were one, two or three officers
23 in the room sometimes questioning him and sometimes
24 asking questions themselves one right after the other,
25 while it certainly doesn't clarify the evidence in the

COLLOQUY

1 case from the standpoint of having it presented, most of
2 the time -- sometimes the same officer will answer --
3 will ask a question, before it can be answered they ask
4 another question. And while he's trying to answer that
5 one somebody else will ask another question. Doesn't
6 have anything to do with that.

7 And, frankly, it's frustrating for those of us who
8 are trying to hear the answers, who are trying to hear
9 the answers, to have those answers interrupted. It
10 might be a good technique. It might be the way that
11 through the years police have determined that they can
12 get at the truth. But it is difficult for us to try to
13 hear those answers and find them interrupted from time
14 to time to be able to separate the question from the
15 answers themselves.

16 All of that being said, I do not find that the
17 conduct of the police in this regard, the questions of
18 the police, the statements made by the police, were so
19 coercive, or if they were coercive at all, certainly do
20 not render his statement involuntary. So the motion to
21 the suppress the statements which I heard yesterday are
22 respectfully denied.

23 There is still a motion to quash the indictment.
24 And, of course, that has been ruled on in prior cases
25 before, but every one of these cases has to stand on its

COLLOQUY

1 own. And so, Mr. Ferguson, I'll be glad to hear from
2 you in that regard.

3 MR. FERGUSON: Thank you, Your Honor.

4 And that is correct. I do understand your previous
5 rulings, you know, essentially this motion is made on
6 behalf Aaron Young, Sr. as well as Aaron Young, Jr.
7 And, essentially, it challenges the language of the
8 indictment, and, specifically, that it admits what is
9 statutorily required which is that defendant actually
10 feloniously, willfully and is with his malice and
11 forethought killed and murdered the deceased.

12 Here the indictment states that defendant willfully
13 and unlawfully and with malice and forethought engaged
14 in mutual combat with Tyrone Robinson and did thereby
15 cause the victim to be shot and killed. Victim dying as
16 a proximate result thereof. What's lacking in the
17 indictment is the physical act.

18 You know, they're not alleging what acts constitute
19 mutual combat or outlining the elements of mutual combat
20 as determined by the common law. In the felony murder
21 doctrine malice is inferred by the inherently dangerous
22 felony. But there's still the requirement of a physical
23 act of commission of a felony. And so, you know,
24 drawing an inference from that, you know, I guess malice
25 can be inferred from mutual combat. But there's still

COLLOQUY

1 the physical act of engaging in mutual combat and what
2 those physical actions are. And that's absent from this
3 indictment.

4 Other than that, Your Honor, there is an issue that
5 I'd like to bring to the court. I don't know whether
6 it's proper within the bounds of the motion to quash the
7 indictment or whether it's another issue, but it relates
8 to positions taken by the State in subsequent
9 proceedings versus what I anticipate their position
10 being in this proceeding.

11 THE COURT: All right.

12 MR. FERGUSON: And whether or not those two things
13 are different. And whether or not, you know, they
14 should be bound by previous factual statements that
15 they have adopted and given to juries as their own.

16 And so, you know, I will yield to Your Honor's
17 discretion as to how best address that issue. I just
18 wanted to bring it up that I do have that issue.

19 THE COURT: Right. Thank you.

20 And in the words of the Apostle right this minute
21 I'm looking through a glass dimly. I'm not exactly
22 sure, specifically, what you are talking about. But,
23 certainly, in a normal setting when the one side takes a
24 position on controversy and one part of that
25 controversy, that position should be consistent

COLLOQUY

1 throughout the entire controversy.

2 The fact that, as in this case, a particular
3 defendant does not change the facts of what happened.
4 And so I would suggest that when that's -- when that
5 becomes an issue, if you'll let me know, I'll be glad to
6 deal with it and we'll flush it out entirely. All
7 right. I would not inspect either side in this case to
8 have said in a prior proceeding, it's a cat and then
9 today to say that it's a dog. And I trust that we won't
10 run into that situation.

11 You have something specific in mind, I know, and
12 I'll be glad for you to flush it out. But if at the
13 same time you wish -- if you choose to wish to object
14 when it's actually brought up, I'll deal with it then.

15 MR. FERGUSON:- Thank you, Your Honor.

16 THE COURT: All right. Anything further before we
17 bring the jury in, folks?

18 MR. STONE: Other than the indictment motion, we
19 are -- the State's ready.

20 THE COURT: Okay. The motion to quash the
21 indictment is respectfully denied. The reading of
22 the -- of the indictment -- the wording of the
23 indictment and the normal language that goes into an
24 indictment does not talk about what happens in the
25 case, for example, transferred intent. And,

COLLOQUY

1 certainly -- and especially in the context of mutual
2 combat. Mutual combat is alleged in the indictment.

3 And we know that the law is, or at least I think
4 that the law is, that in the context of mutual combat
5 the cases indicate that whoever is shot on either side,
6 all who are involved can be guilty of the crime of
7 murder if the person who is shot dies.

8 And we dealt last time with the case of Aaron
9 Young, Jr. with whether or not that transferred intent
10 that would go from one combatant to another combatant in
11 mutual combat also transfers to an innocent victim.
12 That matter is yet to be decided by an appellate court.
13 It's on appeal now. But it is that particular factual
14 distinction, I think, or that factual anomaly in this
15 case that does not render the indictment invalid,
16 because the facts in this case indicate that there was
17 mutual combat. Suggested there was mutual combat, and
18 that an innocent person was killed in the course of
19 that.

20 I'm not sure how you say that other than the way
21 that it was said. I suppose you could lay out a more
22 complete factual description of what was going on. But
23 it's clear from the indictment as noticed. Mr. Young,
24 Sr. is on notice of what he's charged with and as to who
25 the victim is and as to the date and time of the

COLLOQUY

1 occurrence, so that he can specifically mount, as he has
2 in the past and which he's intending to do, a Defense to
3 these charges. The motion to quash is denied.

4 MR. FERGUSON: Thank you, Your Honor.

5 The only remaining issue that I have intended to
6 address before the jury is present are objections to one
7 of the 9-1-1 calls that I believe they intend to
8 introduce. Specifically, it is the fifth call in a list
9 of calls. And, essentially, we object to it because
10 it's unidentifiable. It's not identified who is
11 speaking. It seems as if someone is reciting what is
12 being told to them in a calm manner. It is not apparent
13 from the tape it is a present sense of impression or
14 that it's an excited utterance.

15 Additionally, there's a second speaker in that
16 9-1-1 call that then comes -- that then gets on the
17 line. And that person, you know, makes statements about
18 Lexus was part of the shootout. There's no -- well, and
19 then the first speaker says, a gray truck and is
20 green -- and gray Lexus, two vehicles were shooting at
21 each other.

22 Well, I know of no female witness that observed two
23 cars shooting at one another. And so, you know, I have
24 a difficulty believing that this was observed rather
25 what they were told. And so we object to it on the

COLLOQUY

1 grounds of hearsay.

2 THE COURT: All right. Let me hear from the State
3 in that regard, my memory be refreshed.

4 MR. STONE: Well, mine had too as well. I went
5 back and looked at that. I know Defense had made a
6 motion or discussed this with me earlier, and I went
7 back and listened to it. And what you have is you have
8 a 9-1-1 operator speaking to someone or getting
9 information from someone who is speaking in a very calm
10 voice.

11 She is on the phone or you hear another voice in
12 the background that is without a doubt hysterical. The
13 excitement clearly is going on at the event. The person
14 that is -- they're screaming, they're yelling. In fact,
15 the operator has numerous times to say, I need you to
16 calm down, I can't understand what you're saying. I
17 think that from the standpoint of a person who is
18 obviously in hysterics, that is clearly 803, an
19 exception under the excited utterance.

20 The question, though, is who the calm person is.
21 And when I went back and listened it to yesterday, I was
22 concerned about that, because they clearly are not under
23 that excitement. I talked to Melanie Smith, she is
24 going to be our first witness today. She is the
25 9-1-1 -- she's in charge of the 9-1-1 system and has

COLLOQUY

1 testified before you twice. That is another 9-1-1
2 operator. So what you're hearing are two 9-1-1
3 operators, and then you have the excited utterance on
4 the other lines.

5 So what I was concerned about was that there was
6 somebody else at the scene that seemed to be calm,
7 that's not the case. It's just all -- every voice you
8 hear that is calm are the 9-1-1 operators getting
9 information from this person who is obviously excited.
10 So from that standpoint, I was concerned about that as
11 well. I went back and listened to it yesterday and then
12 I talked to Melanie Smith, she will testify that that
13 is -- what happens is you get calls into the -- the
14 Hilton Head Island as well as Beaufort County, and these
15 operators are constantly patching with information going
16 back and forth in the ordinary course of their business.
17 But the excited utterance is coming from the person who
18 is on the scene, and that is very obvious from the
19 recording itself.

20 THE COURT: In the face of that foundation which
21 she will lay, then, before the testimony is offered, I
22 will allow it. Given that explanation.

23 MR. STONE: All right. Thank you.

24 THE COURT: Okay. Are we ready for the jury now?

25 MR. STONE: We will be momentarily, Judge. I need

COLLOQUY

1 one minute to speak with Mr. Ferguson to try to head
2 something off.

3 THE COURT: Okay. I understand that the witnesses
4 have to be downstairs today because of the other.

5 MR. STONE: Yes, sir.

6 THE COURT: So if you'll go ahead and call your
7 first witness in and up here, get her ready, so she
8 won't have to be sent downstairs and brought up.

9 MR. STONE: Okay. Thank you, sir.

10 ())))Jury is brought in)

11 BAILIFF: The jury is entering the courtroom, Your
12 Honor.

13 THE COURT: Good morning, ladies and gentlemen.
14 Thank you for your prompt return. We appreciate the
15 fact that the jury service is more than an
16 inconvenience to some of you. We're mindful of the
17 demands that we make on you, and we appreciate so much
18 the fact that you're willing to bear up under those
19 demands and to offer yourself to jury service. We're
20 going to begin the trial of this case momentarily. I
21 had some housekeeping matters to do.

22 First of all, Mr. Polk is it?

23 JUROR: Yes.

24 THE COURT: Mr. Polk, you're seated in that chair
25 fortuitously, I had your name circled in any event. I

OPENING REMARKS BY THE COURT

1 But the short of it is, right at this minute you're
2 allowed to take notes if you wish to, but you don't have
3 to. You can rely on your memory, if you have a good
4 memory. You can rely on notes. But the collective
5 memory of all of you will control in the jury room. And
6 so if one person says, my notes say this and everybody
7 else says, my mind remembers this, and you go with the
8 collective memory and not any one person's notes. Thank
9 you.

10 Now, you're going to listen throughout the trial of
11 this case and when all is said and done, you're going to
12 go back into your jury room and talk about this case
13 among yourselves. And when all that is said and done,
14 you're going to write a verdict, and the verdict will
15 say, we find the defendant guilty if the State has met
16 its burden of proof, or we find the defendant not guilty
17 if the State has failed in its burden of proof. That's
18 your task.

19 Thank you ladies and gentlemen. Now listen to the
20 lawyers as they make their opening statements.

21 Mr. Stone?

OPENING STATEMENT BY THE STATE

22 MR. STONE: May it please the Court, Your Honor.

23 Khalil S. on September the 1st, 2012 died in
24 a shootout. Wasn't a shootout that he was a part of.
25

OPENING STATEMENT BY THE STATE

1 He didn't have a gun. He didn't, for any evidence that
2 we know, even knew the people involved. He didn't
3 harbor any ill will towards anybody. He wasn't angry at
4 anyone. And he, certainly, didn't have a gun and didn't
5 want to kill anybody, because Khalil S. was
6 8-years-old. Khalil S. was on a Labor Day
7 Saturday playing in his front yard on the trampoline
8 with some friends.

9 The shootout, however, involved two groups of
10 people, Tyrone Robinson and the Youngs. This man over
11 here (indicating), Aaron Young, Sr. and his son, Aaron
12 Young, Jr. They didn't like each other very much. They
13 had had a long going feud and on that Labor Day Saturday
14 Tyrone Robinson had gone over to the Young's house and
15 they argued and they fought.

16 Robinson brought out a gun. Young knocked it out
17 of his hand. The gun went off. There was shooting, and
18 then Tyrone Robinson fled. Aaron Young, Sr. goes into
19 his house and gets a 9-millimeter handgun. He and his
20 son then go after Robinson who had already left. They
21 chase him over Highway 278 on Hilton Head. They chase
22 him down Spanish Wells Road. They chase him through
23 Oakview, a road going off of Spanish Wells.

24 At some point they even go back home, turn around,
25 and go back out looking for Robinson. They chase him

OPENING STATEMENT BY THE STATE

1 down Marshland Road. They go looking for him and
2 finally find him at Allen Road. And Allen Road is not
3 the Young's neighborhood, it's Khalil S. 's
4 neighborhood.

5 There is shooting. The Youngs are armed with a
6 9-millimeter. Robinson's armed with a .38. And as
7 Robinson goes to shoot back at the Youngs, Robinson hits
8 Khalil S. . The bullet goes through the little
9 boy, severs his heart and he dies right where he was
10 playing.

11 The facts of this case are pretty simple. Tyrone
12 Robinson shot Khalil S. , or at least he fired the
13 bullet that killed him. But the law in this case is
14 simple too. Tyrone Robinson didn't mean to kill Khalil
15 S. . Tyrone Robinson meant to kill the Youngs,
16 just like when the Youngs got their guns and went after
17 Tyrone Robinson, they meant to kill him. Nobody meant
18 for a child to die. But a child died nonetheless.

19 And that brings us to law in South Carolina and why
20 you're here -- the facts are simple. That's the
21 evidence that you'll hear. Those are the facts that
22 you'll hear. But the law in South Carolina is this,
23 everyone, everyone involved in a mutual combat in which
24 guns are used is responsible when someone dies.
25 Everyone. Not just the person who fired the fatal

OPENING STATEMENT BY THE STATE

1 bullet, but everyone who knows there's guns involved and
2 is engaged in it. Even if they themselves are not
3 armed.

4 So what does that mean? Every witness that you're
5 going to hear over the next day or so is going to take
6 this witness stand. They're going to put their hand on
7 the Bible and they're going to raise their other hand,
8 and they're going to say the following. I promise to
9 tell you the truth, the whole truth and nothing but the
10 truth. That's what I'm going to ask you to do.

11 I will come back here after you hear all of the
12 evidence that you heard, and I'm going to ask you for a
13 verdict that says exactly what it's supposed to say, the
14 truth. The truth is Tyrone Robinson fired a bullet that
15 killed Khalil S. But that's not the whole
16 truth, that's just part of it. The rest of it is he's
17 not the only one responsible. Under South Carolina law
18 and under what we know is right, the whole truth
19 includes the Youngs as well. Thank you.

20 THE COURT: Thank you, Mr. Stone.

21 Mr. Ferguson?

22 MR. FERGUSON: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Yes, sir.

25 OPENING STATEMENT BY THE Defense

OPENING STATEMENT BY THE Defense

1 MR. FERGUSON: Ladies and gentlemen, Aaron Young,
2 Sr. is not guilty of murder. Aaron Young, Sr. is not
3 guilty of attempted murder. Aaron Young, Sr. did not
4 kill Khalil S. Tyrone Robinson killed Khalil
5 S. Aaron Young, Sr. never fired a gun. No,
6 Khalil S. was killed while the Youngs were
7 driving down Marshland Road.

8 There was nobody shooting back at Tyrone when
9 Khalil S. was killed. There was no shootout when
10 Tyrone Robinson killed Khalil S. There was no
11 crossfire when Tyrone Robinson killed Khalil S.
12 There was no mutual combat when Tyrone Robinson killed
13 Khalil S. No, there was just Tyrone Robinson
14 and his .38.

15 The same .38 that Tyrone Robinson had used to try
16 and kill Aaron Young, Sr. earlier that day when Tyrone
17 Robinson came to the Young's house uninvited,
18 unprovoked, started a fight, ended up firing at least
19 three times with his .38 revolver at Aaron Young, Sr.
20 and his family. There was nobody shooting back at Wild
21 Horse Road at Tyrone Robinson. There was no shootout at
22 Wild Horse Road. There was no crossfire at Wild Horse
23 Road. There was no mutual combat on Wild Horse Road.

24 Now, Aaron Young, Sr. was upset after Tyrone
25 Robinson had tried to kill him at his own house, and he

OPENING STATEMENT BY THE Defense

1 should have called the police. He should have called
2 the police. But he didn't. Instead they went looking
3 for Tyrone Robinson. And they may have wanted to kill
4 him, after all, he just tried to kill them. But wanting
5 to kill somebody is not murder. Wanting to kill
6 somebody is not attempted murder.

7 Now, they did cross paths on Oakview Road. And,
8 again, Tyrone Robinson takes that .38 and fires at Aaron
9 Young, Sr. and Aaron Young, Jr. in their truck. There's
10 nobody shooting back at Tyrone Robinson. There's no
11 shootout on Oakview Road. There's no crossfire on
12 Oakview. There's no mutual combat on Oakview Road. No,
13 there's just Tyrone Robinson and his .38.

14 Now, after that they did go to Allen Road. But
15 they didn't find Tyrone Robinson. They found his car,
16 and Aaron Young, Jr. shot up Tyrone Robinson's car to
17 send a message. But shooting an empty car is not
18 attempted murder. Shooting an empty car is not murder.
19 Aaron Young, Sr. and Aaron Young, Jr. were stopped
20 shortly thereafter. They left. They left on Marshland
21 Road. They heard gunshots as they were driving away.
22 They didn't see who fired them. They didn't know if
23 anybody was hit.

24 It was about 5:00 p.m. when traffic stops started.
25 Aaron Young, Sr. was, ultimately, booked in at 5:00 a.m.

OPENING STATEMENT BY THE Defense

1 the next day. During that 12-hour period he made
2 certain statements. Certain statements that he made
3 that he thought would keep his son from being charged
4 for murder. Because on the side of the road Aaron
5 Young, Sr., number one, didn't know anybody had been
6 shot. Because he didn't shoot anybody. Aaron Young,
7 Jr. didn't shoot anybody, they shot a car.

8 So the police officer tells them, somebody got
9 shot. And Aaron Young, Sr. starts thinking, I wonder if
10 somebody got shot in that house behind the car that we
11 shot up. I wonder if one of those bullets that was for
12 the car went in the house and hit somebody. So once he
13 started thinking that, he started giving them a
14 statement that denied them shooting up that car, because
15 he didn't know that Khalil S. had been killed in
16 the front of a house farther down Marshland Road. They
17 weren't telling him that detail. They just told him
18 that someone got shot.

19 So under the mistaken belief that his son could
20 have possibly shot somebody in that house on Allen Road
21 behind of which the car was shot up, he made statements
22 denying shooting up the car. But that's not what
23 happened. That's not what the evidence is going to show
24 happened. That's not what the witnesses are going to
25 say they observed.

OPENING STATEMENT BY THE Defense

1 No, Aaron Young, Sr. was driving down Marshland
2 Road when Tyrone Robinson shot and killed Khalil
3 S. . Nobody was shooting back from the Youngs'
4 truck at Tyrone Robinson. There was no shootout when
5 Tyrone Robinson killed Khalil S. . There was no
6 crossfire when Tyrone Robinson killed Khalil S. .
7 There was no mutual combat when Tyrone Robinson killed
8 Khalil S. . There was just Tyrone Robinson and
9 his .38.

10 Now, let me be very clear that there, ultimately,
11 are no witnesses in this case, because Khalil S.
12 is dead. But he did not deserve to be murdered by
13 Tyrone Robinson. He was a little boy playing on a
14 trampoline.

15 But the State wants to win. They want you to
16 convict Aaron Young, Sr. of a murder that Tyrone
17 Robinson committed. They want you to convict Aaron
18 Young, Sr. of attempted murder for wanting to kill
19 somebody. Now, they've worked hard on this case,
20 they've tried this case twice. They have teams of
21 attorneys. They have teams of investigators. They have
22 all of the resources of the Beaufort County Sheriff's
23 Office. They have all of the resources of the South
24 Carolina Law Enforcement Division. They even have the
25 FBI making demonstrative exhibits in this case.

OPENING STATEMENT BY THE Defense

1 What does Aaron Young, Sr. have. Well, he has me.
2 He has the presumption of innocence, and he has the fact
3 that he didn't kill anybody. Aaron Young, Sr. did not
4 kill Khalil S. . Tyrone Robinson killed Khalil
5 S. . Aaron Young, Sr. is not guilty of murder.
6 Aaron Young, Sr. is not guilty of attempted murder.
7 Thank you.

8 THE COURT: Thank you, Mr. Ferguson.

9. Solicitor, you can call your first witness.

10 MR. STONE: The State calls Melanie Smith to the
11 stand.

12 THE COURT: Come forward, please, Ms. Smith, and
13 be sworn.

14 Thereupon,

15 MELANIE SMITH

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows.

18 DIRECT EXAMINATION

19 BY MR. STONE:

20 Q Ms. Smith, what do you do, ma'am?

21 A Currently I'm the training officer for 9-1-1. But
22 I was the records custodian for 9-1-1, Beaufort County.

23 Q All right. And as a record custodian for 9-1-1,
24 what does that mean, exactly?

25 A I respond to the request for recordings or CAD

DIRECT EXAMINATION SMITH BY STONE

1 reports, which is computer aided dispatch which is a
2 computer report, from the public or agencies that we work
3 with.

4 Q Tell me how the 9-1-1 systems works. When
5 someone calls in to 9-1-1 from Hilton Head or somewhere in
6 Beaufort County, how does that work?

7 A It's gone -- the calls come in the electronic
8 recording system first, so they're recorded as soon as we
9 pick up. All incoming/outgoing calls are recorded. When we
10 receive a call, the dispatcher would take that information
11 and put it in the CAD, which is a computer aided dispatch
12 program. And that's, basically, our recordkeeping program.

13 Q Yeah. And all of this --

14 A And documented.

15 Q I apologize, didn't mean to interrupt you.

16 And all of that is documented, which is what
17 you were about to say?

18 A Right.

19 Q All of that is documented and kept in the
20 ordinary course of the business in the 9-1-1 control
21 center?

22 A Yes, sir.

23 Q And that's done contemporaneous. In other words,
24 as that call is coming in it's all being recorded?

25 A Yes, sir.

DIRECT EXAMINATION SMITH BY STONE

1 Q Okay. Now, you've been doing this and you've
2 been actually with the, I guess, sheriff's office for how
3 long now?

4 A Eighteen years.

5 Q All right. So not only are you familiar with the
6 9-1-1, I'm assuming you're familiar with Beaufort County
7 and the neighborhoods and various things like that as well?

8 A Yes, sir.

9 Q All right. Would that be part of, actually, your
10 job in knowing where you're sending these people and
11 various things like that?

12 A Yes, sir.

13 Q All right. Let me first, if I could -- if I
14 could, have you step down.

15 MR. STONE: Your Honor, we've got a microphone and
16 if I know how to turn it on.

17 THE COURT: Okay.

18 BY MR. STONE:

19 Q Let me hand you that. So that everybody on the
20 jury can see. The first thing I'm going to show you is
21 State's Exhibit 1, which we are going to use as an exhibit.

22 And can you identify that?

23 A Yes.

24 Q Tell me what that is?

25 A That's the north end of Hilton Head.

DIRECT EXAMINATION SMITH BY STONE

1 MR. STONE: And, Your Honor, again, we're not
2 going to introduce this to evidence, but we would like
3 to use it as an exhibit at this point.

4 BY MR. STONE:

5 Q If you could come around here and show the jury.

6 THE COURT: Ms. Smith, don't be afraid to hold
7 that microphone close to your mouth.

8 BY MR. STONE:

9 Q All right. Now, this is overview of what section
10 of Hilton Head?

11 A The north end of Hilton Head, 278 and coming on to
12 the Cross Island toll plaza.

13 Q Okay. So this up here on the very top of this --

14 A That's 278 or William Hilton Parkway.

15 Q Okay. Now, what is this where it says No.1?

16 What is this right here (indicating)?

17 A This is Old Wild Horse Road.

18 Q All right. And then this cross -- this road
19 crosses over. What is this road here (indicating), which
20 is -- the only thing I can say for the record is it's
21 crossing 278 here.

22 A Yeah, this is 278. This is -- I'm sorry, this is
23 Spanish Wells Road and this is also Sol Blatt, Jr., which is
24 also known as 278, running parallel.

25 Q All right. That's what a lot of people know as

VOL. II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

AUG 30 2017

SC Court of Appeals

Appeal from Beaufort County

Honorable G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AARON YOUNG, SR.,

APPELLANT

APPELLATE CASE NO 2016-000873

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

ANTHONY MABRY
Senior Assistant Attorney General
S.C. Bar No. 11973
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-3665

ISAAC MCDUFFIE STONE
Solicitor, 14th Judicial Circuit
P.O. Box 1880
Bluffton, SC 29201

ATTORNEYS FOR RESPONDENT

Pages 501-879

INDEX

INDEX	i
SEVERANCE HEARING TRANSCRIPT DATED FEBRUARY 27, 2014.....	1
HEARING TRANSCRIPT DATED APRIL 21-23, 2014.....	53
TESTIMONY	
MARTIN THOMAS	
Direct examination by Mr. Stone.....	173
Cross-examination by Mr. Vaux.....	180
Cross-examination by Mr. Robinson	189
WENDY CONANT	
Direct examination by Mr. Stone.....	192
CURTIS EVANS	
Direct examination by Mr. Stone.....	202
Cross-examination by Mr. Vaux.....	205
DOUG SEIFERT	
Direct examination by Mr. Stone.....	206
Cross-examination by Mr. Ferguson.....	224
Cross-examination by Mr. Robinson.....	225
SERGEANT JOHN ADAMS	
Direct examination by Mr. Stone.....	229
Cross-examination by Mr. Vaux.....	237
LAUREL ALBERTIN	
Direct examination by Mr. Stone.....	241
Cross-examination by Mr. Vaux.....	245
Cross-examination by Mr. Ferguson.....	250
CAPTAIN ROBERT E. BROMAGE	
Direct examination by Mr. Stone.....	254
Cross-examination by Mr. Vaux.....	258
Cross-examination by Mr. Ferguson.....	261
AMANDA SALAS	
Direct examination by Mr. Ferguson.....	266
Voir Dire examination by Mr. Stone	269

Direct examination continued by Mr. Ferguson	272
Cross-examination by Mr. Stone	285
Cross-examination by Mr. Vaux.....	291
Cross-examination by Mr. Robinson	295
Cross-examination by Mr. Vaux.....	305
Cross-examination by Mr. Stone	306
AARON YOUNG SR.	
Direct examination by Mr. Ferguson	309
Cross-examination by Mr. Stone	312
Cross-examination by Mr. Vaux.....	316
Cross-examination by Mr. Robinson	318
BENNIE YOUNG	
Direct examination by Mr. Ferguson	320
Cross-examination by Mr. Stone	321
Cross-examination by Mr. Vaux.....	322
TRIAL TRANSCRIPT DATED AUGUST 10-12, 2015	354
TESTIMONY	
TODD KAMINSKI	
Direct examination by Mr. Thornton.....	367
Cross-examination by Mr. Ferguson.....	375
DOUG SEIFERT	
Direct examination by Mr. Thornton.....	379
Cross-examination by Mr. Ferguson.....	393
CAPTAIN BOB BROMAGE	
Direct examination by Mr. Thornton.....	405
Cross-examination by Mr. Ferguson.....	410
AMANDA SALAS, M.D.	
Direct examination by Mr. Thornton.....	418
Cross-examination by Mr. Ferguson.....	431
CURTIS D. EVANS	
Direct examination by Mr. Thornton.....	452
Cross-examination by Mr. Ferguson.....	458
MELANIE SMITH	
Direct examination by Mr. Stone.....	497

ZACHARY TAYLOR	
Direct examination by Mr. Stone.....	505
CHARLESE MITCHELL	
Direct examination by Mr. Stone.....	508
Cross-examination by Mr. Ferguson.....	530
Redirect examination by Mr. Stone	534
Re-cross examination by Mr. Ferguson	535
Redirect examination by Mr. Stone	535
TYRONE DELANEY	
Direct examination by Mr. Stone.....	538
Cross-examination by Mr. Ferguson.....	547
Redirect examination by Mr. Stone	549
DOMINIQUE GRIFFIN	
Direct examination by Mr. Stone.....	550
Cross-examination by Mr. Ferguson.....	559
JONTU SINGLETON, SR.	
Direct examination by Mr. Thornton.....	566
Cross-examination by Mr. Ferguson.....	580
DOUG SEIFERT	
Direct examination by Mr. Thornton.....	582
Cross-examination by Mr. Ferguson.....	594
CAPTAIN BOB BROMAGE	
Direct examination by Mr. Thornton.....	597
Cross-examination by Mr. Ferguson.....	603
DERRICK NELSON	
Direct examination by Mr. Stone.....	613
Cross-examination by Mr. Ferguson.....	621
WENDY CONANT	
Direct examination by Mr. Stone.....	623
Cross-examination by Mr. Ferguson.....	626
FRANK DAN DEFREESE	
Direct examination by Mr. Stone.....	627
Cross-examination by Mr. Ferguson.....	643
Redirect examination by Mr. Stone	645
LEE MARIE TORMOS, M.D.	
Direct examination by Mr. Stone.....	647

AMANDA SALAS, M.D.	
Direct examination by Mr. Ferguson	674
Cross-examination by Mr. Stone	691
Redirect examination by Mr. Ferguson	708
AARON YOUNG, SR.	
Direct examination by Mr. Ferguson	711
Cross-examination by Mr. Stone	724
Redirect examination by Mr. Ferguson	731
CURTIS D. EVANS	
Direct examination by Mr. Ferguson	737
Cross-examination by Mr. Thornton.....	743
BENNY YOUNG	
Direct examination by Mr. Ferguson	745
MOTIONS	749
CLOSING ARGUMENT BY MR. FERGUSON.....	759
CLOSING ARGUMENT BY MR. STONE.....	778
VERDICT	844
SENTENCING	861
COURT'S EXHIBIT NO. 1 (MIRANDA WARNING FORM)	863
COURT'S EXHIBIT NO. 2 (DEFENSE REQUEST)	864
COURT'S EXHIBIT NO. 3 (JURY QUESTION).....	870
INDICTMENTS AND SENTENCING SHEETS.....	871
CERTIFICATE OF COUNSEL	879

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NO. 3 (911 CALL CD)
 STATE'S EXHIBIT NO. 4 (YARD PHOTO BOARD)
 STATE'S EXHIBIT NO. 5-6 (TRUCK PHOTOS)
 STATE'S EXHIBIT NO. 7 (SENIOR PHOTO BOARD)
 STATE'S EXHIBIT NO. 8 (ROBINSON PHOTO)
 STATE'S EXHIBIT NO. 9-10 (CAR PHOTOS)

STATE'S EXHIBIT NO. 11 (SHED PHOTOBOARD)
STATE'S EXHIBIT NO. 12-14 (CASINGS)
STATE'S EXHIBIT NO. 15 (CASINGS)
STATE'S EXHIBIT NO. 16 (MIRANDA FORM)
STATE'S EXHIBIT NO. 17 (INTERVIEW CD)
STATE'S EXHIBIT NO. 18-22 (PHOTO BOARDS)
STATE'S EXHIBIT NO. 23-27 (EVIDENCE BAGS)
STATE'S EXHIBIT NO. 28-29 (X-RAYS)
STATE'S EXHIBIT NO. 30 (911 CALL CD)

DIRECT EXAMINATION SMITH BY STONE

1 the Cross Island Parkway?

2 A Correct.

3 Q So Spanish Wells is running, basically, parallel
4 to the Cross Island; is that right?

5 A Yes, sir.

6 Q All right. Area No. 2, tell me what this
7 neighborhood is here (indicating).

8 A That's Oakview and the Spanish Wells area. But
9 that's Oakview Road.

10 Q Okay. So in the bottom corner of this would be
11 the Spanish Wells neighborhood. A little bit taller than
12 that, higher than that, would be the Oakview area; is that
13 correct?

14 A Correct.

15 Q And then this road (indicating) I think after it
16 makes this turn this goes in what --

17 A This road here (indicating) is Marshland Road.

18 Q Okay. And that gets us No. 3.

19 What is No. 3?

20 A That's Allen Road.

21 Q All right. Now, let me show you what we've also
22 marked as State's Exhibit 2.

23 MR. STONE: This also, Your Honor, is an exhibit.

24 BY MR. STONE:

25 Q Ask if you can explain what that is for the jury?

DIRECT EXAMINATION SMITH BY STONE

1 A This is Oakview Road here. Again, this is 278 --
2 or, I'm sorry, this is Spanish Wells. This is Oakview here.
3 This is Spanish Wells running parallel to Sol Blatt,
4 Oakview, and then there was that Marshland Road we talked
5 about earlier, running this way (indicating).

6 Q All right. And this road up here (indicating)
7 that's going beside these houses and apartments, that's
8 Oakview there?

9 A Yes. It goes from here (indicating), and then
10 curves down --

11 Q Okay.

12 A -- Oakview.

13 Q All right. Go ahead and ask you to take the
14 stand. Thank you, ma'am.

15 Let me show you what's been marked as
16 State's Exhibit 3. Have you reviewed that disc?

17 A Yes, sir.

18 Q And have you also reviewed the transcript that
19 goes along with that disc?

20 A Yes, sir.

21 Q Now, there are, I believe, four 9-1-1 calls on
22 that disc; is that correct?

23 A Correct.

24 Q Let me ask you, on the fourth one there are two
25 voices on that. One is relatively excited, another one is

DIRECT EXAMINATION SMITH BY STONE

1 a calmer voice. The other calm voice on that, do you
2 recognize that?

3 A Yes, that's a dispatcher from our Hilton Head
4 dispatch. They originally received the call and then
5 transferred it to us.

6 Q Okay. So in the ordinary course of business this
7 transcript -- this 9-1-1 operator would actually be
8 contacting Beaufort County and you guys would be working
9 together, basically, on this; is that correct?

10 A Correct.

11 Q So y'all were in two different buildings,
12 basically?

13 A Correct. That's -- that's the dispatch number for
14 the Hilton Head Fire Rescue, they receive some of the 9-1-1
15 calls on Hilton Head. If it's law enforcement involved,
16 they'll transfer it to our facility.

17 Q Okay. Those recordings, are those fair and
18 accurate as to the records that you keep in the ordinary
19 course of business at the 9-1-1 center?

20 A Yes.

21 MR. STONE: Your Honor, at this time we move those
22 into evidence. That is State's Exhibit Number 3.

23 THE COURT: Subject to that foundation, they're in
24 evidence.

25 *(Whereupon, State's Exhibit No(s). 3 marked for*

DIRECT EXAMINATION SMITH BY STONE

1 *identification and received in evidence.)*

2 MR. STONE: We'd ask to publish, Your Honor. We
3 have loaded this with the transcript.

4 THE COURT: All right.

5 MR. STONE: I know you had an instruction to the
6 jury as to the transcript itself.

7 THE COURT: Right. Ladies and gentlemen, the
8 transcripts of what you will be seeing and some of the
9 statements that are being offered are offered as an aid
10 to you in your understanding of what the recorded word
11 actually is. Sometimes because of background noise and
12 because of excitement and other factors that impact the
13 statement being given, we have some difficulty picking
14 those things up.

15 And so in this particular case, to aid you in your
16 learning -- hearing, they have prepared a transcript.
17 I'll tell you that it is just that. It's an aid. Now,
18 if you hear one thing and you read something else, you
19 go with what you heard. Because the person who's typed
20 that transcript up, they're just like you, they were
21 listening just like you. And so keep in mind that if
22 your hearing is sufficient that you can understand what
23 is said, rely on your hearing and not the transcript.
24 Thank you.

25 MR. STONE: I move to publish at this time, Your

DIRECT EXAMINATION SMITH BY STONE

1 Honor.

2 THE COURT: Yes.

3 MR. STONE: Thank you.

4 (Audio recording being played and transcript shown
5 on TV screen.)

6 MR. STONE: Okay. Please answer any questions
7 that Defense may have.

8 THE COURT: Mr. Ferguson?

9 MR. FERGUSON: No questions, Your Honor.

10 THE COURT: Thank you. You may step down.

11 MR. STONE: The State calls Zachary Taylor.

12 THE COURT: Mr. Taylor, come forward, please, be
13 sworn.

14 Thereupon,

15 ZACHARY TAYLOR

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 THE WITNESS: My name is Zachary William Taylor,

19 Z-A-C-H-A-R-Y, W-I-L-L-I-A-M, T-A-Y-L-O-R.

20 DIRECT EXAMINATION

21 BY MR. STONE:

22 Q Mr. Taylor, you're obviously with Hilton Head
23 Fire & Rescue; is that correct?

24 A Yes, sir.

25 Q And what do you do with them, sir?

DIRECT EXAMINATION OF TAYLOR BY STONE

1 A I'm a firefighter/paramedic.

2 Q And on September the 1st, 2012, you were a
3 paramedic/firefighter at that point as well?

4 A Yes, sir.

5 Q Now, were you one of the people dispatched to
6 Allen Road on September the 1st?

7 A Yes, sir.

8 Q Tell me what you found once you arrived.

9 A Once I arrived there was a child laying on the
10 ground with a woman beside her -- or beside him. And she
11 was saying that, you know, he was shot. And so we went and
12 took -- took initial vitals to see what was going on.

13 Q All right. When you say "initial vitals," what
14 are you talking about?

15 A To see if he was breathing, if he had a pulse, if
16 there was any -- what the medical emergency was.

17 Q And we -- I kind of skipped over. You're a
18 paramedic, does that allow you to give vitals and to
19 determine somebody's condition?

20 A Yes, sir.

21 Q And is that an additional training that you've
22 received?

23 A That's part of my basic paramedic training, yes,
24 sir.

25 Q Okay. And the child that you saw on Allen Road,

DIRECT EXAMINATION OF TAYLOR BY STONE

1 the -- did you test him? Did you do the vitals and take
2 the vitals of this child?

3 A I checked to see if he had a pulse, if he was
4 breathing. And then we did the initial freely and
5 voluntarily given EKG to see if he had a heartbeat.

6 Q And did he?

7 A He did not.

8 Q Okay. So were you in a position of declaring
9 whether or not he was dead at this point?

10 A At that point, yes, sir.

11 Q Okay.

12 MR. STONE: Thank you. I don't have any further
13 questions.

14 MR. FERGUSON: No questions.

15 THE COURT: Thank you.

16 Mr. Taylor, you may step down. Thank you, sir.

17 MR. STONE: The State calls Charlese Mitchell.

18 THE COURT: Ms. Mitchell, come forward, please,
19 ma'am, be sworn.

20 Thereupon,

21 CHARLESE MITCHELL

22 was called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 WITNESS: My name is Charlese Mitchell Jackson.

25 MR. STONE: We're going to bring this around, Your

DIRECT EXAMINATION OF TAYLOR BY STONE

1 Honor.

2 THE COURT: All right.

3 MR. STONE: Thank you. Just slide it up against
4 the table. Thank you.

5 DIRECT EXAMINATION

6 BY MR. STONE:

7 Q Now, I called you Charlese Mitchell, but your
8 last name is actually Jackson now; is that correct?

9 A That's correct.

10 Q Okay. I'd like to ask you -- first, let me go
11 back with you. First of all, September the 1st, 2012,
12 where were you living at that time?

13 A [REDACTED] Marshland Road.

14 Q All right. And who were you living with at that
15 time?

16 A Me, my son, Calvin Murray and my boyfriend Tyrone
17 Delaney.

18 Q And where is this address? It's on Marshland
19 Road?

20 A That is correct.

21 Q Is that in the Allen Road vicinity as well?

22 A That is correct.

23 Q Now, you're familiar with the model that we have
24 in front of the jury; are you not?

25 A That is correct.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Q Would that help in explaining the neighborhood
2 and where you were that day?

3 A That is correct.

4 Q Okay. Let me ask you, if you can, come off of
5 the stand. I've got a microphone here. Well, first of
6 all, Ms. Jackson, let me start by telling -- asking you
7 where -- on this model, where did you live?

8 A This is my house right here (indicating).

9 Q All right. And "this," for purposes of the court
10 reporter, I guess is on the far left of the model; is that
11 correct?

12 A That is correct.

13 Q All right. Who else lives in these houses
14 throughout this neighborhood?

15 A This house here (indicating), is my uncle Eddie
16 Allen's trailer. This house here (indicating) is Aunt
17 Shirley's -- I'm sorry, it's Aunt Margarite's trailer. This
18 house here (indicating) is -- oh, God, I'm shaking here.

19 Q That's okay. Take your time.

20 A This is my other cousin's trailer right here
21 (indicating).

22 Q Okay.

23 A (Indicating) This is Margarite's trailer, this is
24 Aunt Mary's trailer, and this is my Aunt Shirley's trailer.

25 Q Okay. So Shirley's trailer is here (indicating).

DIRECT EXAMINATION OF MITCHELL BY STONE

1 And I'll go this way so they can see you, so back up a
2 little bit.

3 This is -- whose is this (indicating)?

4 A That's my Aunt Shirley's trailer right there.

5 Q And this over here (indicating)?

6 A That's Aunt Mary's.

7 Q And here (indicating)?

8 A That is Aunt Margarite's.

9 Q Okay. And then I think you said you have a
10 relative here (indicating)?

11 A This is my Aunt Margarite's other trailer where
12 she was running to go, right here (indicating).

13 Q And this one (indicating)?

14 A This Aunt -- Eddie Allen's trailer.

15 Q All right. And this one (indicating)?

16 A Oh, that's my cousin Ernie's trailer.

17 Q All right. So all of this -- your family,
18 basically, owns all of this property, correct?

19 A That is correct.

20 Q Thank you, ma'am. I appreciate that.

21 Would this help you a little bit?

22 A That's fine.

23 Q Great. We also have in this area right here
24 (indicating), what are these items here?

25 A This is the trampoline that my stepson and Xavie

DIRECT EXAMINATION OF MITCHELL BY STONE

1 and Khalil was playing on. And this right here (indicating)
2 is Khalil's 4-wheeler.

3 Q Okay. Now, let me ask you first, and I want to
4 start from the very beginning, September the 1st, 2012,
5 what was the -- you were at your house?

6 A That is correct.

7 Q And let's say it's sometime in the afternoon,
8 around 4:00 or so?

9 A That is correct.

10 Q Who was with you at the house?

11 A Me, Calvin, Xavie and that's it.

12 Q All right. Calvin and Xavie are children?

13 A They are.

14 Q How old are they?

15 A Calvin is now 28, and Xavie should be no more than
16 nine or ten.

17 Q Okay. They are with you in the house?

18 A That is correct.

19 Q What is the first thing that you hear that's
20 unusual?

21 A While we were in the house, we heard a round/sets
22 of shots. We were in the house.

23 Q All right. When you say "round/sets of shots,"
24 what do you mean by that?

25 A They were a pow pow pow pow pow pow, were the

DIRECT EXAMINATION OF MITCHELL BY STONE

1 sounds of shots that we heard while we were in the house.

2 Q Quick shots?

3 A The were quick shots.

4 Q And how many did you hear, do you remember?

5 A They were pretty rapid. So give or take maybe ten
6 or more shots.

7 Q What did you do when you heard those shots?

8 A After I heard those shots, after the shots had
9 ended, I wound up coming to my front door, which is right
10 here (indicating), and I was looking out the front door.

11 Q Okay. And what did you see at that point when
12 you looked out the front door?

13 A At that time when I was looking through the front
14 door, this gray truck that was right -- that's right here
15 (indicating) came passing by my house.

16 Q All right. Did you recognize the person in the
17 gray truck?

18 A Yes, sir.

19 Q Now, how many people were in the gray truck?

20 A I only seen two at that time.

21 Q Okay. Did you recognize the passenger?

22 A I didn't recognize the passenger.

23 Q Did you recognize the driver?

24 A That is correct.

25 Q All right. And who was the driver of that truck?

DIRECT EXAMINATION OF MITCHELL BY STONE

1 A That was my cousin Aaron.

2 Q All right. And what is Aaron's last name?

3 A Young.

4 Q And that is your cousin?

5 A That is correct.

6 MR. STONE: Excuse me just a moment, Your Honor.

7 BY MR. STONE:

8 Q Now, I'm going to ask you just to stay there, if
9 I can. I'm going to first show you what's marked as
10 State's Exhibit 4. /

11 Ask if you can first identify that if I can?

12 A Yes, sir. That's my trailer. That's my -- those
13 are my car and Tyrone's truck, my son's car. This is the
14 trampoline that the kids were playing on. This is Jontu's
15 bike and this is a -- Khalil's 4-wheeler.

16 Q And is this a fair and accurate depiction of the
17 scene --

18 A That is correct.

19 Q -- as it looked that afternoon?

20 A That is correct.

21 MR. STONE: Okay. Your Honor, at this time I'll
22 move State's 4 into evidence.

23 THE COURT: Any objection?

24 MR. FERGUSON: No objection, Your Honor.

25 THE COURT: It is admitted.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 *(Whereupon, State Exhibit No(s). 4 marked for*
2 *identification and received in evidence.)*

3 BY MR. STONE:

4 Q All right. And what I'm going to do is ask you
5 if you could, please, ma'am, show the jury -- I think they
6 can see this, come over here -- show them what you just
7 showed me, please.

8 A This is my trailer. This is my car and Tyrone's
9 truck, my son's car. This right here is a trampoline that's
10 right next to my house. This is Jontu's bike, and this is
11 Khalil's 4-wheeler.

12 Q Now, Jontu is who?

13 A Jontu is also my cousin.

14 Q Okay. And what's his last name?

15 A S. .

16 Q And how old is he?

17 A Maybe, give or take, maybe around 9 -- between 9
18 and 12.

19 Q Okay.

20 A He's the same age as Xavie.

21 Q All right. And how old is Khalil -- how old is
22 Khalil at the time?

23 A If I'm not mistaken, Khalil was about 8.

24 THE COURT: She said Tyrone's truck, which Tyrone
25 is that you're talking about?

DIRECT EXAMINATION OF MITCHELL BY STONE

1 MR. STONE: Oh, I apologize, you're right.

2 BY MR. STONE:

3 Q I'm sorry you have two Tyrone's.

4 A Sorry.

5 Q This truck --

6 A This is Tyrone's -- Delaney, the green truck.

7 Q Okay. Delaney.

8 A Yes, sir.

9 Q Well, we're going to call him Delaney from
10 here --

11 A Okay.

12 Q -- just to make sure we're --

13 A All right.

14 MR. STONE: Thank you, Your Honor.

15 BY MR. STONE:

16 Q I will show you State's Exhibit 5 and State's
17 Exhibit 6.

18 Can you identify those, please, ma'am?

19 A Yes, sir. That is the gray truck that passed by
20 my house.

21 Q And State's Exhibit 6, the gray truck?

22 A That is correct.

23 MR. STONE: Your Honor, at this time we move
24 State's Exhibit Number 5 and Number 6 into evidence.

25 MR. FERGUSON: No objection, Your Honor.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 THE COURT: Okay. They are admitted.

2 *(Whereupon, State's Exhibit No(s). 5-6 marked for*
3 *identification and received in evidence.)*

4 BY MR. STONE:

5 Q And I would publish to the jury, this is the gray
6 truck that you saw come by after the multiple shots?

7 A That is correct.

8 Q Okay. Let me show you what's marked as State's
9 Exhibit 7.

10 Can you identify the person in that
11 photograph?

12 A Yes, sir, that's my cousin Aaron Young.

13 Q Okay. And I know there was a Young, Jr. and
14 Young, Sr., is that --

15 A That is correct. This is senior.

16 MR. STONE: Okay. Your Honor, at this time we
17 move State's Exhibit 7 into evidence.

18 MR. FERGUSON: No objection, Your Honor.

19 THE COURT: Thank you. Admitted.

20 *(Whereupon, State's Exhibit No(s). 7 marked for*
21 *identification and received in evidence.)*

22 BY MR. STONE:

23 Q This is Aaron Young, Sr.?

24 A That is correct.

25 Q And this is the man you saw driving the gray

DIRECT EXAMINATION OF MITCHELL BY STONE

1 truck?

2 A That is correct.

3 Q Okay. Let me go ahead and ask you to just take
4 the stand again.

5 A Okay.

6 Q Now, after the truck -- after you heard the rapid
7 fire, after you saw the truck leave with Aaron Young, Sr.
8 driving it, what was the next thing that happened?

9 A The next thing that happened is Tyrone Delaney --
10 no, I'm sorry, Tyrone came to the house after that first
11 sets of shots, Tyrone came to the house.

12 Q All right. Let me stop you.

13 A Tyrone Robinson.

14 Q First of all, slow down a little bit. Pull the
15 microphone to you, so I can understand you.

16 A Okay.

17 Q All right. When you say "Tyrone," what -- Tyrone
18 who? What is his last name?

19 A Tyrone Robinson came to the house.

20 Q All right. Do you know Tyrone Robinson?

21 A He's also my cousin.

22 Q Okay. Let me show you what's been -- we are
23 going to mark this -- let me show you what's been marked as
24 State's Exhibit 8.

25 Can you identify the person in that

DIRECT EXAMINATION OF MITCHELL BY STONE

1 photograph?

2 A That's my cousin Tyrone Robinson.

3 MR. STONE: Okay. Your Honor, at this time we
4 move State's Exhibit 8 into evidence.

5 MR. FERGUSON: No objection, Your Honor.

6 THE COURT: Thank you. Without objection.

7 *(Whereupon, State's Exhibit No(s) 8 marked for*
8 *identification and received in evidence.)*

9 BY MR. STONE:

10 Q Tyrone Robinson comes to your house. Is he -- is
11 he in that same outfit that you see him in there, by the
12 way?

13 A That is correct.

14 Q Okay. And what does he -- in what condition is
15 he in when he comes to your house?

16 A He is hyper, like he was on cloud nine. He was
17 just really amped up --

18 Q Okay.

19 A -- to me.

20 Q When he comes in, what does he want?

21 A When he came to my house, he asked me if my
22 cousin --

23 MR. FERGUSON: Objection, Your Honor.

24 THE COURT: All right. I think -- how do you
25 avoid the hearsay objection?

DIRECT EXAMINATION OF MITCHELL BY STONE

1 MR. STONE: It would be an excited utterance.

2 He's amped up. I can go further, explain the
3 excitement if necessary.

4 THE COURT: Okay. She's testified that he was
5 hyper and that he -- I think she said cloud nine or
6 ramped up, I can't remember that. That would appear to
7 be the -- the basis of the excited utterance. I'll
8 allow it.

9 BY MR. STONE:

10 Q Okay. So Robinson comes to your house. He's
11 amped up.

12 What does he want from you? Why does he
13 come to your house?

14 A He came to my house to look for my cousin, Patrick
15 Young. I told him Patrick was not home. He then applied to
16 me that those MFs was out there shooting at him. And after
17 he say the MF was shooting at him that's when I noticed
18 something in Tyrone's pocket with a black handle on the
19 outside.

20 Q Okay. Now, he didn't say who the MFs were that
21 were shooting at him, he just said they were shooting at
22 him.

23 A Those MFs. That's correct.

24 Q What did you see on Tyrone Robinson? What did
25 you see?

DIRECT EXAMINATION OF MITCHELL BY STONE

1 A He had a -- well, there's red shorts, he had a
2 black handle sticking out of his red shorts.

3 Q Okay. What was the next thing that Robinson
4 said?

5 A The next thing Robinson said, he went out -- he
6 asked me could he use my phone. After he used my phone --
7 he went outside to use my phone.

8 Q Okay. After he goes outside -- you stay inside;
9 is that correct?

10 A I stay inside, yes, sir.

11 Q And are the kids staying inside as well?

12 A That is correct.

13 Q All right. What's the next thing that happens,
14 then?

15 A After that happened Tyrone Delaney pulled up in
16 his green truck. And when Tyrone Delaney pulled up in his
17 green truck, then Tyrone Robinson and Tyrone Delaney was
18 outside talking.

19 Q Okay. And this is right outside of your house
20 over here, which is the bottom of this; is that correct?

21 A That is correct.

22 Q All right. Now, Tyrone Delaney, he was staying
23 with you. He is -- Delaney is -- was at that time your
24 boyfriend. He was staying with you; is that correct?

25 A That is correct.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Q So was he coming back from work or something?

2 A He was coming from work.

3 Q Okay. When he gets there, do you have any more
4 interaction with Tyrone Robinson or Delaney?

5 A I did not until after I told Tyrone that it was
6 time for Tyrone Robinson to leave.

7 Q Okay. You told Tyrone Delaney to get Tyrone --

8 A That is correct.

9 Q -- it was time for him to go?

10 A That is correct.

11 Q So at some point, then, did Tyrone Robinson
12 leave?

13 A He did leave.

14 Q Tell me about the kids. Did they stay in the
15 house. What did they do?

16 A The kids were still -- the kids were still in the
17 house.

18 Q When Tyrone Robinson left?

19 A When Tyrone Robinson left.

20 Q Okay. At some point did the kids leave and go
21 outside?

22 A The kids left and went outside after Tyrone
23 Delaney came home.

24 Q All right. Now, you told me earlier, but I want
25 to make sure I've got this right.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 A Okay.

2 Q Which kids were with you and who --

3 A The only child that was with me at that time was
4 Xavie. Khalil and Jontu was not at the house at that
5 particular time. They came to the house after the second --
6 after the first sets of shots went off.

7 Q Right.

8 A And that's when the two boys came to the house and
9 asked for Xavie to come outside and play.

10 Q Okay. At that point Tyrone Robinson had already
11 left; is that right?

12 A That is correct.

13 Q Okay. They go outside to play, I'm assuming?

14 A That is correct.

15 Q All right. And you stay in the house.

16 Does Delaney come in with you after that?

17 A That is correct.

18 Q What is the next thing that you hear?

19 A After that we heard -- the same shots as the first
20 shots went off again.

21 Q And tell me -- describe those shots to me, if you
22 would?

23 A Those shots were pow pow, pow pow pow, were the
24 shots that we heard. They were pretty rapid, like the
25 first.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Q And where were they coming from, could you tell?

2 A You could tell that they -- can I show them?

3 Q Absolutely, I'm sorry.

4 A Well, I live right here (indicating). Pretty much
5 you could hear the rapid shots mainly on this side from my
6 house, on the left, is where you could hear the rapid shots
7 at, the same as the first.

8 Q Okay. Somewhere along in this area here
9 (indicating)?

10 A Somewhere around this area were rapid shots like
11 the first.

12 Q Okay. What did you do after you heard those
13 rapid shots?

14 A That's when I opened the door and yelled for the
15 kids who were playing on the trampoline at that time, for
16 them to come inside the house.

17 Q Did the kids come inside the house?

18 A The only person that came in the house was Xavie
19 D. Khalil and Jontu took off and went this direction
20 (indicating).

21 Q Went back through this neighborhood.

22 A Went back this way (indicating).

23 Q Now, do they live in this neighborhood --

24 A Yes.

25 Q -- or the stay in this neighborhood?

DIRECT EXAMINATION OF MITCHELL BY STONE

1 A Khalil stays like right behind my Aunt Mary with
2 my Aunt Aveena.

3 Q And Jontu S. --

4 A Jontu lives right here (indicating).

5 Q Right here in this house (indicating)?

6 A That is correct.

7 Q Okay. So they take off somewhere --

8 A They took off --

9 Q -- around here (indicating)?

10 A That is correct.

11 Q And you see them, basically, leave the
12 trampoline; is that --

13 A That is correct.

14 Q Okay. They take off. Xavie is yours, comes into
15 your house?

16 A That's right.

17 Q And what is the next thing that you hear?

18 A The next thing after we heard that, a few minutes
19 later we heard, up in this area (indicating), pow pow pow.
20 That was the last three shots that came out.

21 Q Did they sound -- did these last three shots
22 sound the same as the rapid fire that you heard?

23 A No, sir, they were different.

24 Q All right. I'm sorry, what?

25 A They were different.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Q Okay. And where from the -- could you tell where
2 those shots were coming from?

3 A Those shots appeared to be coming like right out
4 in this area right over here (indicating).

5 Q Okay. What is the next thing that you see after
6 the three shots?

7 A After the last three shots, I seen -- well, before
8 that I heard this truck --

9 Q And I didn't mean to break you up. If you need
10 to explain it, go ahead.

11 A Okay. This truck, this gray truck, came squealing
12 out of Allen Road. And as this truck came by, that's when
13 the last three shots came by.

14 Q Give me the time frame from when the truck
15 squeals out here (indicating), you're, obviously, already
16 outside; is that right?

17 A That is correct. We're to the door.

18 Q You've already heard the rapid shots?

19 A That is correct.

20 Q And the kids -- one kid is coming inside, right?

21 A Xavie is in the house.

22 Q All right. And is that pretty close in time or a
23 long time after you hear the --

24 A It wasn't that much after the kids came in that we
25 heard the rapid shots.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Q Okay. You heard the rapid shots. The truck
2 is --

3 A The truck was coming --

4 Q -- going here?

5 A That's right. And when the truck squealed out and
6 was coming, we heard the last three shots.

7 Q So you're already outside when the truck squeals
8 here (indicating)?

9 A I was standing right here at my front door.

10 Q Okay. And you came out after the rapid shots?

11 A That is correct.

12 Q Okay. And the last three shots, those were
13 different than the rapid shots?

14 A That is correct.

15 Q Again, were you able to see who was driving that
16 truck?

17 A That is correct. My cousin, Aaron Young, Sr.

18 Q And that is -- that's the same truck that came by
19 earlier that day?

20 A That is correct.

21 Q And I think we have it marked as State's
22 Exhibit 6; is that correct?

23 A Five.

24 Q Or five, excuse me.

25 Okay. Did you see any other cars out there

DIRECT EXAMINATION OF MITCHELL BY STONE

1 after this?

2 A Yes, my cousin Tyrone Robinson, the windows was
3 shattered in the back, that's when he came flying by also.
4 And when this truck passed and when Tyrone passed, we was --
5 I was still standing in the front of the door.

6 Q Excuse me just a moment.

7 Let me show you what's been marked as
8 State's Exhibit 9 and State's Exhibit 10. Can you identify
9 the car in those photographs?

10 A Yes, sir. That's my cousin Tyrone Robinson's car.

11 Q And is that a fair and accurate depiction of how
12 the car looked when it passed you?

13 A That is correct.

14 MR. STONE: All right. Your Honor, at this time
15 we move State's Exhibit 9 and State's Exhibit 10 into
16 evidence.

17 MR. FERGUSON: No objection, Your Honor.

18 THE COURT: Without objection.

19 *(Whereupon, State's Exhibit No(s). 9-10 marked for*
20 *identification and received in evidence.)*

21 BY MR. STONE:

22 Q First let me publish to State's Exhibit 9. This
23 is the second car that you saw come by, basically, after
24 the truck; is that correct?

25 A That is correct.

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Q And this is -- who was driving this truck?

2 A Tyrone Robinson was driving that vehicle.

3 Q Okay. And then let me show you State's

4 Exhibit 10. Is that what the back window --

5 A That's what I seen when he passed by.

6 Q Okay. Go ahead and take the stand again.

7 After you heard the last three shots, did
8 you go outside?

9 A I went out after -- I was in my restroom and
10 that's when I heard yelling from my bathroom. I went
11 outside to find out what was going on after I heard, you
12 know, somebody yelling.

13 Q And when you got out there, what did you find?

14 A I found my cousin Khalil and Brittany outside.

15 Q Okay. And at that point Khalil was already dead?

16 A At that time she was working on him. You know, we
17 seen blood and all of that. And that's when I called --
18 made a call into 9-1-1.

19 Q Okay. The truck -- and I think I may have
20 confused you -- but I think you actually cleared this up.
21 The time sequence on this, the first time you heard the
22 rapid fire, the truck goes by, Aaron Young, Sr. is driving;
23 is that correct?

24 A That is correct.

25 Q Then couldn't get a good look at the person in

DIRECT EXAMINATION OF MITCHELL BY STONE

1 the passenger seat; is that right?

2 A I couldn't get a good look of who was in the
3 passenger seat, no, sir.

4 Q That's fine.

5 And this was the same truck that came by the
6 second rapid set shots?

7 A That is correct.

8 Q And that was the one you saw -- actually, you
9 were standing outside when that --

10 A I was standing --

11 Q -- or when the truck peeled away?

12 A Yes, I was standing in the doorway.

13 Q Okay. And, again, Aaron Young, Sr. was the same
14 person driving?

15 A That is correct.

16 Q Okay. Do you see Aaron Young, Sr. in the
17 courtroom today?

18 A Yes, sir.

19 Q And could you point him out for me, please?

20 A Yes, sir, right here (indicating).

21 Q And that is your cousin?

22 A That is correct.

23 MR. STONE: I don't have any further questions,

24 Your Honor.

25 Thank you. If you'll answer any questions

DIRECT EXAMINATION OF MITCHELL BY STONE

1 Mr. Ferguson has.

2 CROSS EXAMINATION

3 BY MR. FERGUSON:

4 Q Ms. Mitchell, how are you doing?

5 A I'm fine, how are you?

6 Q Good to see you again.

7 A Good to see you too.

8 Q Now, when you saw this gray truck that Aaron

9 Young, Sr. was driving, were the windows up or down?

10 A Windows was up.

11 Q They were up?

12 A That is correct.

13 Q Okay. And so is it correct that you didn't see
14 anybody in the bed of that pickup truck, did you?

15 A I didn't see anybody in the bed. I just seen them
16 on the -- somebody on the passenger side.

17 Q Okay. And you didn't see anybody hanging out of
18 that pickup truck, did you?

19 A I did not.

20 Q Okay. And when you heard the truck squeal, could
21 you tell if the windows were up or down at that point?

22 A The window -- when the truck came by the first
23 time or the second?

24 Q Well, both.

25 A Well, both times that the truck came by the

CROSS EXAMINATION OF MITCHELL BY FERGUSON

1 windows were up.

2 Q Okay. Nobody was hanging up out of that truck?

3 A No, sir.

4 Q Okay. And so nobody was firing any weapons out
5 of that car?

6 A I didn't see any weapons.

7 Q Okay. And, you know, you've heard -- do you
8 recall when you originally spoke to a Detective Angela
9 Viens that you had only heard two sets of shots? Do you
10 ever remember telling her that?

11 A No, because there was a total of three altogether.

12 Q Okay. And the first two shots are --
13 essentially, sound the same?

14 A That is correct.

15 Q Okay. And the second are different. But you
16 didn't see where any of the shots came from, did you?

17 A I didn't know where the shots were coming from.
18 They are just -- I know they were in the area close by me.

19 Q Okay. And, you know, the first set of shots you
20 heard, you were inside your residence?

21 A I was inside when the first sets of shots came
22 out, that is correct.

23 Q Okay. And they were pretty distant, weren't
24 they?

25 A They were -- they seemed to be pretty close to me.

CROSS EXAMINATION OF MITCHELL BY FERGUSON

1 Because the first sets of shots, like I said, they were
2 pretty rapid when the first sets of shot came out.

3 Q And I ask that question, because after you heard
4 that first set, the kids went out and played, right?

5 A The kids did go outside and play.

6 Q Okay.

7 A They did.

8 Q Okay. Now, to be fair, when you saw Tyrone
9 Robinson driving by, did you see him firing out of the car?

10 A No, I did not.

11 Q But you hadn't heard any additional shots by that
12 point, had you?

13 A When Tyrone came by the last time, there -- no
14 more shots came out after the last three sets of shots.

15 Q It was the last three shots and then Tyrone came
16 by?

17 A That is correct.

18 Q And about how much time passed between the last
19 three shots and Tyrone's car?

20 A Give or take maybe 10. Give or take.

21 Q Ten minutes?

22 A Maybe, give or take.

23 Q Okay. And the black handle that you saw, can you
24 describe it?

25 A Me personally, from the way how the pants was, you

CROSS EXAMINATION OF MITCHELL BY FERGUSON

1 could tell that it was a gun handle from -- by the pants.
2 But the rest of the item was inside the pants. You could
3 only see the handle leaning out of his pants.

4 Q And is it fair to say that's why you ultimately
5 told him he had to leave?

6 A Yes, sir.

7 Q Yes, ma'am.

8 MR. FERGUSON: I beg the Court's indulgence for
9 just one moment.

10 THE COURT: Yes, sir.

11 (Pause.)

12 MR. FERGUSON: No more questions, Your Honor.

13 THE COURT: Thank you.

14 Ms. Jackson --

15 THE WITNESS: Yes, sir.

16 THE COURT: Can you give us some idea about how
17 much time passed between the first set of the rapid
18 shots and the second set of the rapid shots?

19 THE WITNESS: When I heard the first sets of
20 shots, within ten or 15 minutes, that's when I heard
21 the second sets of rapid shots.

22 THE COURT: Ten or 15 minutes between the first
23 set of rapid shots and the second set of rapid shots?

24 THE WITNESS: That is correct.

25 THE COURT: How much time, then, expired between,

CROSS EXAMINATION OF MITCHELL BY FERGUSON

1 if you can recall, between the second set of rapid
2 shots and the three shots?

3 THE WITNESS: Ten minutes.

4 THE COURT: Ma'am?

5 THE WITNESS: Give or take -- about ten minutes.

6 THE COURT: Ten minutes. And then another ten
7 minutes Tyrone's car comes by?

8 THE WITNESS: Tyrone car comes by.

9 THE COURT: Thank you, ma'am.

10 THE WITNESS: Yes, sir.

11 THE COURT: Mr. Stone?

12 MR. STONE: Nothing further, thank you -- one
13 other thing.

14 REDIRECT EXAMINATION

15 BY MR. STONE:

16 Q When you were talking about the truck, you didn't
17 get a good view of the passenger side; is that correct?

18 A I did not.

19 Q So the window that you see up is the driver's
20 window?

21 A That is correct.

22 Q Did you get a view, at all, of the passenger
23 window?

24 A You couldn't see the passenger window.

25 Q Because that's on the other side?

REDIRECT EXAMINATION OF MITCHELL BY STONE

1 A Yes, sir.

2 MR. STONE: Okay. Nothing further, Your Honor.

3 Thank you.

4 THE COURT: Mr. Ferguson, I have some questions
5 about time sequence. You've got a right to cross. You
6 can recross if you wish to.

7 MR. FERGUSON: Just to confirm, Your Honor.

8 RE-CROSS EXAMINATION

9 BY MR. FERGUSON:

10 Q Ms. Mitchell, I believe it was your testimony
11 that ten minutes passed between when you heard the second
12 set of rapid fire shots and the third set of shots; is that
13 correct?

14 A That is -- that seems about right, yes, sir.

15 Q Okay.

16 A Because they were about ten minutes -- ten to
17 15 minutes apart.

18 MR. FERGUSON: Okay. Thank you, Your Honor, no
19 further questions.

20 MR. STONE: Now I may be confused.

21 REDIRECT EXAMINATION

22 BY MR. STONE:

23 Q So let me just clarify.

24 First thing -- the first time you hear
25 shots, the very first time, let's go back to the very

REDIRECT EXAMINATION OF MITCHELL BY STONE

1 first, those were rapid shots?

2 A That's correct.

3 Q That's when you see the truck go by?

4 A That is correct.

5 Q So you're telling us, then, ten to 15 minutes,
6 and I don't want to put words, some decent period of time
7 between that set and then when you hear the second?

8 A When Tyrone Delaney came home, that's when we
9 actually heard the second round of shots.

10 Q Okay. And that's the ten to 15-minute range?

11 A I thought then 15 -- ten or 15 minutes.

12 Q All right. Now, let's go directly to the next
13 set of shots, your kids are outside?

14 A That is correct.

15 Q You hear rapid shots?

16 A Again, yes, sir.

17 Q You walk outside?

18 A I stand to the door and yell for the kids to come
19 inside the house.

20 Q I'm assuming because you heard these rapid shots?

21 A Because I heard the last sets of rapid shots, yes,
22 sir.

23 Q The kids are coming in the house. How quick
24 after that do you see the truck? You don't have to give me
25 time or minutes, but is it --

REDIRECT EXAMINATION OF MITCHELL BY STONE

1 A When I heard the last sets of shots and I yelled
2 for the kids to come inside the house, that's when I say
3 within five minutes we see the gray truck sped out coming
4 from Allen Road.

5 Q And when it speeds out coming from Allen Road, it
6 is going in the direction of your house or --

7 A Toward Spanish Wells.

8 Q And that's going to be this direction
9 (indicating); is that correct?

10 A That is correct.

11 Q Going by your house?

12 A That is correct.

13 Q So it spins out, I'm assuming it's going pretty
14 quickly?

15 A Yes, sir.

16 Q And as it goes by, that's when you hear the
17 second -- the three shots?

18 A The last three shots, that is correct.

19 MR. STONE: Okay. That's fine, Your Honor.

20 Thank you.

21 THE COURT: Ms. Mitchell, you may step down.

22 THE WITNESS: Thank you.

23 MR. STONE: State calls Tyrone Delaney.

24 THE COURT: Come forward, please, and be sworn.

25 Thereupon,

DIRECT EXAMINATION OF DELANEY BY STONE

1 TYRONE DELANEY

2 was called as a witness, having been first duly sworn,
3 was examined and testified as follows:

4

5 THE WITNESS: Tyrone Delaney, T-Y-R-O-N-E
6 D-E-L-A-N-E-Y.

7 DIRECT EXAMINATION

8 BY MR. STONE:

9 Q All right. Mr. Delaney, what do you do, sir?

10 A I'm a technician at OC Welch.

11 Q And as a technician at OC Welch, what do you do,
12 exactly? What's your job?

13 A Change oil, rotate tires.

14 Q How long have you been doing that job?

15 A Oh, I worked the company 13 years.

16 Q You've been with OC Welch for 13 years?

17 A Yes, sir.

18 Q So September the 1st, 2012, you were with
19 OC Welch then as well, right?

20 A Yes, sir.

21 Q Were you working that day on September the 1st?

22 A Yes, sir.

23 Q OC Welch at that point, that was -- were you out
24 in the Okatie area or -- off of 278 or over in Beaufort at
25 that point?

DIRECT EXAMINATION OF DELANEY BY STONE

- 1 A Okatie area.
- 2 Q Okay. So about what time were you coming home?
- 3 A About 4:30.
- 4 Q How do you get home from there? Obviously, you
- 5 get onto the island with 278, how do you get over -- by the
- 6 way, where were you living at that point?
- 7 A Marshland.
- 8 Q Marshland Road?
- 9 A Yes, sir.
- 10 Q Do you recall the exact address?',
- 11 A █.
- 12 Q And I know that you've seen this model before; is
- 13 that correct?
- 14 A Yes, sir.
- 15 Q Could you tell me of these houses, which are the
- 16 houses you were staying in?
- 17 A Right there (indicating).
- 18 Q Okay. You were here, and that is with Charlese
- 19 Mitchell; is that correct?
- 20 A Yes, sir.
- 21 Q All right. Good, thank you.
- 22 Sometime after 4:00 -- how do you get to
- 23 Marshland Road from OC Welch?
- 24 A 278 to Spanish Wells.
- 25 Q To Spanish wells?

DIRECT EXAMINATION OF DELANEY BY STONE

- 1 A Yes, sir.
- 2 Q Spanish Wells then goes parallel to the Cross
- 3 Island; is that correct?
- 4 A Yes, sir.
- 5 Q As you were coming home, did you see anything?
- 6 A Yeah, a gray truck almost hit me head-on.
- 7 Q And on what road?
- 8 A Spanish Wells.
- 9 Q Coming in which direction?
- 10 A It was coming towards me, and I was going on to
- 11 Marshland.
- 12 Q All right. So there's a -- I know when you get
- 13 to the end of Spanish --
- 14 A There's a fork in the road.
- 15 Q -- there's a fork there, right?
- 16 A Yes, sir.
- 17 Q So you are, I take it -- at that fork you're
- 18 taking a left; is that correct?
- 19 A Yes, sir.
- 20 Q And the truck is coming in your general
- 21 direction?
- 22 A Yes, sir.
- 23 Q And it's turning onto Spanish Road?
- 24 A Yes, sir.
- 25 Q Where is it coming from, is it coming off of

DIRECT EXAMINATION OF DELANEY BY STONE

1 Marshland as well?

2 A Yes, sir.

3 Q I see. It's coming from where you're going?

4 A Yes, sir.

5 Q All right. Let me show you what's been marked as
6 State's Exhibit 5, and ask is that the truck that you saw
7 that almost ran you off the road there?

8 A Yes, sir.

9 Q And this is as you are coming home, correct?

10 A Yes, sir.

11 Q I don't know if I have shown you this before, but
12 let me -- in fact, this (indicating) might be a better one.
13 I'll show you what's been marked as State's Exhibit 2. You
14 recognize these roads? This would be Spanish Wells and
15 this would be, I guess, Marshland here (indicating)?

16 A Yes.

17 Q All right. Let me ask you to come off the stand.
18 I'll hand you that microphone and ask you to speak into it.
19 I'm just going to hold this up. And if you could come over
20 here, I'll give you this.

21 Can you tell from this -- and this, again,
22 is State's Exhibit 2 -- in what direction are you coming
23 from?

24 A I'm coming down here on Spanish Wells, and this
25 truck is coming from this way (indicating).

DIRECT EXAMINATION OF DELANEY BY STONE

1 Q All right. So this (indicating) is the
2 intersection you just described?

3 A Yes, sir.

4 Q And you are taking a left and that goes down to
5 Allen Road; is that correct?

6 A Yes, sir.

7 Q And the truck is coming in this (indicating)
8 direction?

9 A Yes, sir.

10 Q Okay. I don't know my distances very well, but
11 it's making this turn as you're making the turn, but it's
12 going back toward Highway 278; is that correct?

13 A Yes, sir.

14 Q Okay. Thank you.

15 When you get to your house on Marshland Road
16 in the Allen Road neighborhood, what do you find once you
17 pull up?

18 A Once I got there I saw Tyrone Robinson in my yard
19 and he pretty excited.

20 Q "Pretty excited"?

21 A Yes, sir.

22 Q I will show you what's been marked as State's
23 Exhibit 8. Is that a photograph of Tyrone Robinson?

24 A Yes, sir.

25 Q Is that the condition that he was in, or is that

DIRECT EXAMINATION OF DELANEY BY STONE

1 what he was wearing that day?

2 A Yes, sir.

3 Q And he is -- where about in this house is he --
4 is he inside or outside?

5 A He's outside.

6 Q And what is he doing?

7 A Standing in the yard with a phone.

8 Q Pardon me?

9 A Standing in the front yard with a phone.

10 Q On the telephone?

11 A Yes, sir.

12 Q Is it a cell phone? Is it a phone that goes
13 inside the house that comes out --

14 A Inside the house, cordless.

15 Q Okay. It's a cordless phone that can go outside?

16 A Yes, sir.

17 Q Okay. And what do you do when you go up -- and
18 I'm assuming that you know Tyrone.

19 How long have you known him?

20 A I want to say about two weeks.

21 Q Okay. You walk up to him, what happens then?

22 A He asked me if I seen a gray truck. I told him,
23 yeah, he almost hit me head-on. He told me, said, That
24 mother was shooting at me, so I shot at them.

25 Q And did he identify who those people were in the

DIRECT EXAMINATION OF DELANEY BY STONE

1 truck?

2 A He never said.

3 Q He just said those people in the truck were
4 shooting at me?

5 A Yes, sir.

6 Q All right. And he used some -- obviously other
7 language; is that fair?

8 A Yes, sir.

9 Q Okay. How long do you talk to Tyrone Robinson?
10 How long are you out there with him?

11 A I want to say five minutes.

12 Q Is Robinson armed?

13 A Yes, sir.

14 Q What is he carrying?

15 A He showed me a .38 revolver.

16 Q Describe for me a .38 revolver. Tell me what it
17 looks like.

18 A It's black with a wood handle and got five -- five
19 rounds in it.

20 Q Does it have a clip, or does it have a cylinder?

21 A A cylinder.

22 Q So this is the kind of gun that when you shoot
23 it, it rolls. It doesn't kick out the shells -- or the
24 casing it just rolls, right?

25 A Yes, sir.

DIRECT EXAMINATION OF DELANEY BY STONE

- 1 Q And it holds about five shots?
- 2 A Yes, sir.
- 3 Q And he has this with him when he's outside?
- 4 A Yes, sir, in his waistline.
- 5 Q All right. What happens after that?
- 6 A I went in the house and tell Charlese to tell her
- 7 cousin he had to leave.
- 8 Q And that's -- and Tyrone Robinson is her cousin?
- 9 A Yes, sir.
- 10 Q And does Robinson leave?
- 11 A Yes, sir.
- 12 Q What happens after Robinson leaves?
- 13 A We heard a rapid fire, then we heard another set
- 14 of shots.
- 15 Q All right. Describe the rapid fire to me.
- 16 A It was constant pow pow.
- 17 Q Do you remember how many?
- 18 A No, not exactly.
- 19 Q Okay. And then you heard another round. What
- 20 did the second round sound like?
- 21 A Three pops.
- 22 Q Pardon me?
- 23 A Three pops.
- 24 Q Was the second round the same or different from
- 25 the first round?

DIRECT EXAMINATION OF DELANEY BY STONE

1 A Totally different.

2 Q Why was it totally different?

3 A The first shot was rapid and the second shot was
4 just a constant pow pow pow.

5 Q Okay. And are they close in time together or are
6 they separated or what?

7 A Close in time.

8 Q Okay. So you hear the rapid fire, and then do
9 you go outside or do you stay inside?

10 A I'm in the house.

11 Q You're in the house?

12 A Yes, sir.

13 Q All right. So you do not go outside; is that
14 correct?

15 A No.

16 MR. STONE: Excuse me just a moment, Your Honor.

17 THE COURT: Okay.

18 BY MR. STONE:

19 Q After you hear -- after you hear the rapid fire,
20 do you -- where are the kids, by the way, when all of this
21 was going on?

22 A They're on the trampoline.

23 Q And who are the kids out there?

24 A My son, Jontu and Khalil?

25 Q Okay. And it's Khalil S. , Jontu

DIRECT EXAMINATION OF DELANEY BY STONE

1 S. , I think --

2 A And Xavier.

3 Q And Xavier is your son, Xavier D. ?

4 A Yes, sir.

5 Q All right. And you hear the first rapid fire
6 shots, what happens then?

7 A That's when I told Charlese to tell them to come
8 in the house.

9 Q Okay. And do they?

10 A Yes, sir. Well, my son came in, and the other two
11 went the other way.

12 Q All right. And then after that, I'm assuming,
13 you hear the three separate shots?

14 A Yes, sir.

15 Q Okay. What happens after that?

16 A Then we heard a scream. Charlese went outside,
17 I'm still in the house.

18 MR. STONE: Okay. Thank you. I don't have any
19 further questions. Answer any questions from --

20 THE COURT: Okay. Mr. Ferguson, cross examine?

21 MR. FERGUSON: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. FERGUSON:

24 Q Mr. Delaney, how are you doing this afternoon?

25 A I'm doing good, how are you?

CROSS EXAMINATION OF DELANEY BY FERGUSON

1 Q Doing fine, thank you.

2 After you saw the gray truck on the road,
3 did you ever see that gray truck on Allen Road?

4 A No, sir.

5 Q Did you ever see that gray truck on Marshland
6 Road?

7 A No, sir.

8 Q Okay. Now, two sets of shots total, that's
9 correct?

10 A Yes, sir.

11 Q Okay. And how long would you say those sets were
12 apart from each other?

13 A Not that far apart.

14 Q Okay. Do you recall previously testifying about
15 five to ten minutes apart?

16 A No, sir.

17 Q Okay. So your recollection today would be that
18 they were closer together than five to ten minutes?

19 A Yes, sir.

20 Q Okay. Now, when you saw the .38 revolver on
21 Tyrone Robinson, what was he doing with it?

22 A Whipping it around.

23 Q Waving it around?

24 A Yes, sir.

25 Q And this was inside the house or outside the

CROSS EXAMINATION OF DELANEY BY FERGUSON

1 house?

2 A Outside.

3 Q Outside.

4 MR. FERGUSON: Beg the Court's indulgence for just
5 one moment, Your Honor.

6 THE COURT: Yes, sir.

7 BY MR. FERGUSON:

8 Q Mr. Delaney, you previously or just testified
9 that you didn't see the gray truck anywhere on Marshland
10 Road or Allen Road, correct?

11 A Yes, sir.

12 Q Did you see any other vehicles on the road at the
13 time you heard the shots that the shots could have been
14 coming from?

15 A No, sir.

16 Q Okay. And then where did the shots sound like
17 they came from?

18 A Right by my house.

19 MR. FERGUSON: Again, Your Honor, just beg the
20 Court's indulgence for just one moment.

21 THE COURT: All right.

22 MR. FERGUSON: No further questions, Your Honor.

23 THE COURT: All right. Mr. Stone?

24 REDIRECT EXAMINATION

25

REDIRECT EXAMINATION OF DELANEY BY STONE

1 BY MR. STONE:

2 Q You may have said this. But you stayed inside
3 the house, Charlese was the one that went outside; is that
4 correct?

5 A Yes, sir.

6 MR. STONE: Okay. Nothing further, Your Honor.

7 THE COURT: Thank you. Mr. Delaney, you can step
8 down.

9 MR. STONE: The State calls Dominique Griffin.

10 Thereupon,

11 DOMINIQUE GRIFFIN

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 THE CLERK: Dominique Griffin, D-O-M-I-N-I-Q-U-E
15 G-R-I-F-F-I-N.

16 DIRECT EXAMINATION

17 BY MR. STONE:

18 Q You can go ahead and have a seat. Mr. Griffin,
19 if you would pull that microphone to you so I can hear you.
20 I'm going to ask you about September the 1st, 2012.

21 Where were you living at that time?

22 A [REDACTED] Marshland Road.

23 Q And I know that you have seen this model before,
24 I believe. This (indicating) is the house down here on the
25 end; is that correct? Let me -- I'll go ahead and ask you

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 to step down. That wasn't fair of me, I asked you a
2 question after you sat down.

3 MR. STONE: If I could, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. STONE:

6 Q Now, what was the address, again, I'm sorry?

7 A [REDACTED] Marshland Road.

8 Q And which house are you staying in? If you could
9 turn so the -- you're blocking -- you're fine.

10 A I was staying in this house right here,
11 [REDACTED] Marshland Road.

12 Q And who were you staying with?

13 A Me and my fiance and my two kids.

14 Q And what are your two kids -- at that point I
15 know they've gotten older now, obviously, but how old were
16 they then?

17 A Eight and three weeks.

18 Q Eight and three weeks?

19 A Almost three weeks to the date.

20 Q All right. Say that again, we had a jet fly
21 over.

22 A 8-years-old and one three weeks, my baby son.

23 Q Okay. And your baby son is with you at the house
24 and going sometime around 4:00 in the afternoon.

25 Who's with you then?

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 A My three-week and 8-year old -- my three-week old
2 son.

3 Q Your three-week-old. Okay.

4 Savoah; is that correct? She was not with
5 you at the time?

6 A Yes.

7 Q Okay. And your other child was not with you at
8 the time; is that right?

9 A No, he was outside playing.

10 Q Okay. And that is who?

11 A Jontu S. , Jr.

12 Q Jontu S. .

13 How old is Jontu?

14 A He's 9 now.

15 Q Okay. What do you hear -- and, first of all, are
16 you -- obviously, we can't see inside this house
17 (indicating).

18 Is the house separated into sections, or how
19 does that work?

20 A Yes. I was in this front bedroom here
21 (indicating) as you access on the front porch.

22 Q All right.

23 A Me and my three-week-old son.

24 Q And your three-week-old son is here in this room?

25 A Yes, sir.

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 Q What are you doing?

2 A Watching TV.

3 Q All right. And hold that microphone up to you so
4 I can hear you.

5 A Watching TV.

6 Q Okay. What do you hear?

7 A A machine gun.

8 Q Where?

9 A From here (indicating) to riding down, as it
10 sounded. It sounded machine gun riding down towards Indigo
11 Plantation.

12 Q Okay. And Indigo Plantation, I assuming, is, on
13 this model, somewhere down toward this end (indicating) --

14 A Yes.

15 Q -- is that right?

16 A It probably would come up to the end right here
17 (indicating).

18 Q Okay.

19 A Yeah, right there to the end.

20 Q So you heard what you're describing as machine
21 gun fire going on somewhere along this road out front?

22 A Yes.

23 Q And describe that for me. You say a "machine
24 gun," why do say it sounds like that?

25 A Because it was actually a -- it was continuous.

DIRECT-EXAMINATION OF GRIFFIN BY STONE

1 It was pow pow pow.

2 Q Okay. Do you know how many shots you heard?

3 A No, sir.

4 Q What did you do when you heard that sound?

5 A I got on top of my son on the floor in this room.

6 Q When the shots stopped, what did you do after
7 that?

8 A I ran to the back door to check for my stepson to
9 see if he was all right. And as I came out the back door he
10 was already to the porch.

11 Q And that is Jontu S. --

12 A Junior.

13 Q -- little Jontu S. ?

14 A Yes, sir.

15 Q What does Jontu tell you? How does he look when
16 you see him?

17 A He was crying and he was pointing at Mr. Robinson
18 saying, he shot Khalil, he shot Khalil.

19 Q Okay. Now, let me show you, this has been marked
20 as State's Exhibit 8.

21 Is that Tyrone Robinson?

22 A Yes, sir.

23 Q And is that how he looked that day when you saw
24 him?

25 A No.

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 Q Or did you see him?

2 A Yeah, I saw him.

3 Q Okay. Where did you see him?

4 A Right here (indicating) coming between -- we have
5 a utility shed right here, he was coming between there. And
6 my stepson was actually already to the back porch --

7 Q Okay.

8 A -- pointing at him.

9 Q Now, in this model -- and I don't know if
10 everybody can see -- but there was a car back here
11 (indicating).

12 Okay. Was this car somewhere back in here
13 when you went outside?

14 A Yes. It was right here parked in front of a pine
15 tree.

16 Q Okay. And what did you watch after that? You
17 said, Jontu comes up, he points at Tyrone Robinson and
18 said, he shot my friend -- or he shot Khalil, however he
19 put it.

20 A And I looked at the car. It was bullet holes in
21 the back of the window and Mr. Robinson was walking towards
22 his vehicle, and was -- I mean, he looked like he was in a
23 rush to actually leave. So he got in his vehicle and backed
24 up into my -- a four-by-four was holding my fig tree up in
25 my yard --

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 Q Yes.

2 A -- and he backed up into it and actually it was
3 pieces.

4 Q Okay. When he backed into the pole, what
5 happened?

6 A Window was falling in in the car.

7 Q The back glass?

8 A Yes.

9 Q This is marked and already been put in as State's
10 Exhibit 10.

11 Is that how his car looked after he pulled
12 out?

13 A Yes.

14 Q All right. And this -- the window actually falls
15 out when he backs into the back of the post; is that
16 correct?

17 A Yes, sir.

18 Q Let me show you what's marked as State's
19 Exhibit 11.

20 Can you identify that photograph?

21 A Yes. That's -- this is the shed right here
22 (indicating).

23 Q Okay.

24 A And that's where Mr. Robinson was actually walking
25 towards his vehicle that was parked in front of this pine

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 tree.

2 Q Is this a fair and accurate depiction of how the
3 scene looked that day?

4 A Yes.

5 Q Okay. I'm assuming without that blue car in it?

6 A Yeah.

7 MR. STONE: All right. Your Honor, at this time
8 we move State's Exhibit 11 into evidence and ask if we
9 can publish that to the jury, please?

10 MR. FERGUSON: No objection, Your Honor.

11 THE COURT: Without objection.

12 *(Whereupon, State's Exhibit No(s). 11 marked for*
13 *identification and received in evidence.)*

14 BY MR. STONE:

15 Q Okay. I'm going to turn around -- I know you
16 just told me that, but I need you to hold the microphone
17 and show the jury what you just told me.

18 A This is the pump house, the shed right here
19 (indicating). And his vehicle was parked in front of this
20 pine tree right here facing towards that way -- facing this
21 way (indicating).

22 Q All right.

23 A It was facing this way (indicating).

24 Q I can roll this around here, maybe everybody can
25 see it.

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 A Yes, his vehicle was facing this way (indicating).

2 Q All right. Keep the microphone up for me,
3 please.

4 A The vehicle was facing this way (indicating) in
5 front of this pine tree, which is in that picture you see.

6 Q Got it.

7 A This vehicle was parked in front of this pine
8 tree, which is this pine tree right here (indicating) faced
9 this way.

10 Q Okay. And when the car pulls back, I don't know
11 that you can see it in here, but there's some posts back
12 here somewhere?

13 A Yes.

14 Q Show me just in the general --

15 A It's the four-by-four that's knocked down right
16 here (indicating).

17 Q Okay. Right in here, back in this area here
18 (indicating)?

19 A Exactly right here (indicating). You can see it
20 still sticking out of the ground.

21 Q Okay. And that's what Mr. Robinson hit his car
22 against when the window fell out?

23 A Yes, sir.

24 Q Okay. And after Robinson gets in his car, he
25 backs out, where does he go after that?

DIRECT EXAMINATION OF GRIFFIN BY STONE

1 A He left out this driveway (indicating).

2 Q Okay. And did you see which way he went?

3 A Yeah, he left that way (indicating).

4 Q Okay. Back towards, I guess, Spanish Wells and
5 that area?

6 A Yes, sir.

7 Q Okay. All right. When you were in this section
8 of the house, though, the rapid fire, the machine guns,
9 where did you hear them coming from?

10 A I heard them from the Marshland Road.

11 Q From right here (indicating)?

12 A Yes.

13 Q Okay.

14 A And it sounded like it was going that way
15 (indicating).

16 Q Gotcha. Okay. Go ahead and take the stand, if
17 you could, please, and I'll get the microphone back from
18 you. Thank you.

19 MR. STONE: No further questions at this time,
20 Your Honor.

21 THE COURT: Thank you.

22 Cross examine, Mr. Ferguson?

23 MR. FERGUSON: Yes, Your Honor.

24 CROSS EXAMINATION

25

CROSS EXAMINATION OF GRIFFIN BY FERGUSON

1 BY MR. FERGUSON:

2 Q Do you know Aaron Young, Sr.?

3 A No, I do not.

4 Q Okay. Well, I guess it's safe to assume you
5 didn't see him that day then, did you?

6 A Yes, you can say that. I didn't see him.

7 Q Okay. Thank you.

8 Now, was your house hit, at all, with any
9 bullets?

10 A No, that's the good thing that's blessed me.

11 Q I agree.

12 A I'm here talking to you.

13 Q Yes, sir. And I guess it's safe to say as well
14 that you never saw a gray F150 at any point while you heard
15 these gunshots?

16 A No, I was not even outside that long.

17 Q Okay. How long have you known Tyrone Robinson?

18 A I don't know him at all.

19 Q Really?

20 A Nope.

21 Q Okay. And Jontu, when he came up to you, he
22 didn't say anything about a shootout, did he?

23 A He told me as we were stepping out -- I was on the
24 back porch checking to see if he was all right, and he was
25 pointing at Mr. Tyrone saying he shot Khalil, he shot

CROSS EXAMINATION OF GRIFFIN BY FERGUSON

1 Khalil. So I picked him up and put him in the house.

2 Q Gotcha. Thank you.

3 MR. FERGUSON: I beg the Court's indulgence for
4 just one moment.

5 THE COURT: Yes, sir.

6 (Pause.)

7 MR. FERGUSON: No further questions, Your Honor.

8 THE COURT: Thank you.

9 Redirect?

10 MR. STONE: No, sir, no further questions.

11 THE COURT: Thank you.

12 Mr. Griffin, you may step down. Thank you, sir.

13 This is a good time for morning break?

14 MR. STONE: Yes, sir.

15 THE COURT: Ladies and gentlemen, we're going to
16 take a morning recess at this point in time. We'll
17 send you back to the jury room for about 15 minutes.
18 We'll try to get you out here at quarter of the hour.
19 I'll remind you, you are not to discuss this case among
20 yourselves while you're out of the room. Thank you.

21 (Jury exits the courtroom at 11:30 a.m.)

22 (Whereupon, a brief recess was taken.)

23 THE COURT: Folks, during the break one of the
24 jurors approached the bailiffs, Juror 192, Ms. Wendy
25 Kelley, and says, having heard some of the statements

COLLOQUY

1 she recalls that she did read something about this at
2 the time, but she had forgotten about it and hadn't put
3 it -- all the pieces together, but her memory's been
4 jogged by the recitation of facts here today. And she
5 recalled that she did read about it at the time that it
6 occurred. The fact that she had forgotten about it
7 would seem to indicate to me that she had not formed or
8 expressed any opinion about the case. Nevertheless,
9 since she shared that, I'll be glad to bring her out
10 and conduct an individual voir dire to see if, in fact,
11 what she read or heard has caused her to form any
12 opinions.

13 MR. STONE: I think that would be best from the
14 State's standpoint.

15 THE COURT: Okay.

16 MR. FERGUSON: Agreed.

17 THE COURT: Okay. If you will ask Ms. Kelley to
18 step out, first of all.

19 (Juror brought in.)

20 THE COURT: Good morning, Ms. Kelley. Thank you
21 for sharing with the bailiffs that fact that you
22 recall -- after you've been sitting through part of the
23 trial your memory was jogged and you recall reading or
24 hearing something about this case at the time that it
25 occurred; is that right?

JUROR QUESTIONED

1 JUROR: Yes.

2 THE COURT: Did you form in your own mind or
3 express to anybody else based on what you heard or read
4 that you have an opinion as to the guilt or the
5 innocence of Mr. Young?

6 JUROR: No.

7 THE COURT: Would you be able to set aside what
8 you have heard or read about this case and base your
9 verdict as a juror on what you hear in court without
10 regard to what you heard or read?

11 JUROR: Yes.

12 THE COURT: And you'll do that?

13 JUROR: Yes.

14 THE COURT: Thank you, ma'am. You can go back to
15 the jury room now, and I appreciate you sharing that
16 with us.

17 JUROR: Thank you.

18 THE COURT: Mr. Stone?

19 MR. STONE: Yes, sir, I think that's sufficient.

20 THE COURT: Mr. Ferguson?

21 MR. FERGUSON: Yes, sir, Your Honor.

22 THE COURT: All right. Thank you. All right.
23 You can bring us the jury then.

24 MR. FERGUSON: And Your Honor, just one second
25 before the jury comes in. The next witness is, I

JUROR QUESTIONED

1 believe, Jontu Singleton, Sr.; is that correct?

2 MR. THORNTON: Yes.

3 MR. FERGUSON: And so prior to me commenting on
4 his convictions of crimes, I just wanted to state what
5 I read from his rap sheet as being relevant.

6 THE COURT: Okay.

7 MR. FERGUSON: And it looks like in 2005 he had an
8 assault and battery high and aggravated nature where he
9 was convicted and received one year. And he had a
10 burglary, second degree, nonviolent where he was
11 convicted, same offense date. And then in 2010 he has
12 another assault and battery of high and aggravated
13 nature where he was convicted. And I think that's the
14 extent of what we would seek to ask him about.

15 THE COURT: The date first conviction, the ABHAN,
16 what is the date on it?

17 MR. FERGUSON: 2005, Your Honor.

18 THE COURT: Okay. And how much time did he serve?
19 What sentence did he get, do you know?

20 MR. THORNTON: I think it was a year.

21 MR. FERGUSON: I think that it was a year, Your
22 Honor, but let me look back to it. It was one year to
23 serve, Your Honor.

24 MR. THORNTON: The State will concede, Judge, that
25 he can ask about those two. However, I would ask that,

JUROR QUESTIONED

1 obviously, they be limited normally as they normally
2 are to just the fact that he was convicted of those
3 things without going into any details thereof.

4 THE COURT: All right. And there will be a
5 limited instruction at the end. So we got two ABHANS
6 and one burglary second?

7 MR. FERGUSON: Yes, Your Honor.

8 MR. THORNTON: Yes, sir.

9 THE COURT: All right. Good, thank you.
10 Bring us the jury.

11 THE BAILIFF: The jury is entering the courtroom,
12 Your Honor.

13 THE COURT: Thank you, ma'am.

14 Folks, we will continue now as the state is
15 offering evidence and testimony to support the charges.

16 Mr. Thornton?

17 MR. THORNTON: Thank you, Your Honor. Jontu
18 Singleton, please.

19 THE COURT: Thank you. Come forward, please, and
20 be sworn.

21 Thereupon,

22 JONTU SINGLETON, SR.

23 was called as a witness, having been first duly sworn,
24 was examined and testified as follows:

25 THE CLERK: Please have a seat and state your full

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 name and spell your last name for the record.

2 WITNESS: My name is Jontu Virgil Singleton, Sr.

3 J-O-N-T-U V-I-R-G-I-L S-I-N-G-L-E-T-O-N S-R.

4 DIRECT EXAMINATION

5 BY MR. THORNTON:

6 Q Mr. Singleton, let me ask you a quick question
7 first. Obviously, you haven't been in here, but there was
8 testimony earlier about an incident that occurred out on
9 Allen Road where Khalil was killed. And there was mention
10 of Jontu S. , Jr.

11 Are you related to Jontu S. , Jr.?

12 A Yes, sir, I'm the father, sir.

13 Q You're his father?

14 A Yes, sir.

15 Q Mr. Singleton, let me ask you this. On September
16 the 1st of 2012, did you have a chance to see anyone in
17 particular -- or what were you doing that day?

18 A That day I left my house and I went to [REDACTED] Wild
19 Horse Road, to a family member's, Darryl Ferguson's house,
20 and that's when I seen Tyronne's car back up and --

21 Q All right. And let me stop you for a second.

22 Tyronne who? There's been testimony
23 about -- we heard testimony earlier from Tyrone Delaney.
24 What Tyronne are you referring to?

25 A Tyronne Robinson, sir.

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Q All right. And let me ask you -- show you a
2 photograph, sir, already introduced into evidence as
3 State's Exhibit Number 8. Do you recognize who's in that
4 picture?

5 A Yes, sir, that's Tyronne Robinson.

6 Q Is that the person that you saw at your, I
7 believe, you said, cousin Darryl Ferguson's house?

8 A Yes, sir.

9 Q All right. And what happened when you got there?
10 What did you see? You were -- and I hate that I
11 interrupted you, but you said that you saw Tyronne
12 Robinson. What was Tyronne doing?

13 A Yeah, he was being loud as usual, and his car
14 music was playing very loud.

15 Q All right. And so he had a car there, and his
16 car was playing music loud?

17 A Yes, sir.

18 Q I realize it may look a little bit different now
19 that the back glass had been shot out, but I'm going to
20 show you State's Exhibit 10 that's been introduced into
21 evidence.

22 Is that the car that Tyronne Robinson was in
23 on September the 1st of 2012?

24 A Yes, sir.

25 Q All right. So he's in his car that you've

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 identified as State's 10, and he's playing his music really
2 loud.

3 What happens next?

4 A I approached Darryl and asked him what is he doing
5 here at his house, and I asked him if he came to see me, and
6 he was, like, No. So Tyronne came to me, offered me a beer.

7 Q Okay. And had you known -- I don't know whether
8 or not you were friends with him -- did you know who
9 Tyronne was when you saw him, and you've known him at least
10 well enough that you knew what he looked like and who he
11 was?

12 A Yes, sir.

13 Q All right. Had you had beer with him before?

14 A Yes, sir.

15 Q And did you take a beer from him on September
16 the 1st of 2012?

17 A Yes, sir.

18 Q And what did you do then?

19 A We sat there and talked for a few, and he wanted
20 to go to the store. So that's when we got his car -- we got
21 in his car and left from [REDACTED] Wild Horse Road.

22 Q All right. And when you left from [REDACTED] Wild Horse
23 to -- for he said that he wanted to go to the store, did
24 you go somewhere other than the store?

25 A On the way to the store I asked him to stop by the

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Young's house so I could get a few dollars so I can get
2 cigarettes, from Aaron Young, Sr.

3 Q Aaron Young, Sr.

4 Do you see Aaron Young, Sr. in the
5 courtroom?

6 A Yes, sir.

7 Q Where is he?

8 A Right there (indicating).

9 Q You asked Tyronne Robinson to stop by Aaron
10 Young, Sr.'s house?

11 A Yes, sir.

12 Q And did you go over there with Tyronne Robinson
13 in his car?

14 A Yes, sir.

15 Q And who was driving?

16 A Tyronne, sir, Robinson.

17 Q And when you got there, what happened?

18 A I got out of the car and I walked to Mr. Aaron
19 Young, Sr. to speak with him about giving me a few dollars.
20 And we was talking and Tyronne was in the car, and I noticed
21 that Aaron Young, Sr., the expression on his face was
22 something -- I mean, you know, I seen -- I heard the car
23 door slam, and that's when I noticed that Aaron Young, Sr.
24 walked off and Tyronne all of sudden got out of the car and
25 pointed the gun at Aaron Young, Jr.

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Q All right. Now let's back up for a second. A
2 whole lot has just happened. So at some point while you're
3 at Aaron Young, Sr.'s house, Tyronne Robinson, you see him
4 get out of his car that you rode with him in; is that
5 right?

6 A Yes, sir.

7 Q And you just testified that he has a gun; what
8 kind of gun?

9 A It looked like it was a .38 revolver, sir.

10 Q All right. So he -- you see him with what
11 appears to be a .38 revolver, and he is pointing it at
12 Aaron Young, you said Junior?

13 A Junior.

14 Q All right. What happens then? What does Aaron
15 Young, Sr. do, if anything?

16 A He went over there and tried, you know, asked him
17 why he was, you know, they was just -- had a little struggle
18 over the gun.

19 Q All right. So let me -- and I hate that I keep
20 interrupting you, Mr. Singleton, but I need to make sure
21 the jury understands what you're saying.

22 So you said that they have a struggle over
23 the gun. Who do you see struggling over the gun that
24 Tyronne Robinson has?

25 A Tyronne Robinson and Aaron Young, Sr.

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Q All right. And they're struggling over the gun.

2 And then what happens?

3 A Tyronne Robinson took, like, a couple of steps
4 back and shot down -- shot in the air two times, and then
5 shot at Aaron Young, Sr.'s feet once.

6 Q All right. And what happened after that? What
7 did Aaron Young, Sr. do at that point?

8 A He backed up and Tyronne Robinson left.

9 Q Left?

10 A He left.

11 Q All right. Now, did he leave on foot or did he
12 leave in his car? How did he leave?

13 A He left in his car.

14 Q And did you leave with him?

15 A No, sir.

16 Q So you stayed at the Young's house?

17 A Yes, sir.

18 Q And what happened after Tyronne drives off in his
19 car?

20 A Aaron Young, Sr. and Aaron Young, Jr. went in the
21 house and they came back out with a duffle bag.

22 Q All right. And who came out with the bag?

23 A Aaron Young, Sr.

24 Q All right. And at that time, did you -- right
25 when they came out, did you know what was in the bag?

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 A No, sir.

2 Q All right. Does Aaron Young, Sr. keep the bag or
3 does he give it to anybody?

4 A He got in the truck.

5 Q All right. And let me -- you said "in the
6 truck," in whose truck?

7 A Aaron Young, Sr.'s truck.

8 Q I'm going to show you what's been introduced into
9 evidence as State's Exhibit 5.

10 Is that the gray pickup truck that you're
11 talking about?

12 A Yes, sir.

13 Q So you get into Aaron Young, Sr.'s pickup truck.

14 And who's in the truck with you?

15 A Aaron Young, Sr. and Aaron Young, Jr.

16 Q All right. And who's driving the truck?

17 A Aaron Young, Sr. sir.

18 Q Okay. So we've talked about the black bag that
19 Aaron Young, Sr. brings out of the house.

20 What, if anything, does he do with it when
21 you all get in the truck?

22 A Once we left the house, Aaron Young, Sr.'s house,
23 I seen Junior took the gun out of the bag.

24 Q All right. Back up.

25 Now, if Senior's got the bag, does he then

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 give it to Junior?

2 A Yes, sir.

3 Q Okay. And you said that he took the gun out. So
4 as Junior opens the bag, is there a gun in it?

5 A Yes, sir.

6 Q All right. And can you describe for me what the
7 gun looks like?

8 A It looked like a TEC-9, like a little machine gun,
9 sir.

10 Q All right. And did it have a short magazine or
11 clip where the bullets go, or did it have a long one?

12 A You know, it looked like about a 30-round clip or
13 so.

14 Q A 30 round clip.

15 All right. So it looks like some type of
16 sub machine gun like a TEC-9 or something like that with a
17 30-round clip on it?

18 A Yes, sir.

19 Q All right. And so you said that Aaron Young, Jr.
20 is taking that out of the bag.

21 What does he do with the gun at that point,
22 or what's going on as you're leaving?

23 A Okay. He was trying to put the gun together as
24 Aaron Young, Sr. was driving down the road.

25 Q Okay. And was he able -- was he having trouble

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 with it?

2 A Yes, sir.

3 Q And what happened after that?

4 A He never got the gun together at that time.

5 Q All right. And when -- let me back you up for a
6 second.

7 When you left, did you understand why you
8 all were getting in Aaron Young, Sr.'s truck to go
9 anywhere? I mean, what was the purpose of y'all leaving
10 and getting the gun and all that stuff?

11 A At that time I did not really know what they had
12 in mind.

13 Q All right. Did you figure out what they had in
14 mind at some point during the ride?

15 A Yes, sir. After the bag was open.

16 Q All right. And what did you figure out then?

17 A I say shit it's -- I don't know, man, I just said
18 there's something ain't going to be right, you know, you got
19 a gun.

20 Q Were they looking for anybody in particular?

21 A At that time, yes, they was looking for Tyronne.

22 Q All right. And --

23 A Robinson.

24 Q -- they were looking for Tyronne Robinson. So
25 did -- at some point did Aaron Young, Sr. believe he saw

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Tyronne Robinson or his car?

2 A No, he seen a taillight. He never seen the car
3 itself.

4 Q Okay. Did he believe that was Tyronne Robinson's
5 car or could be the car?

6 A It could be the car, yes, sir.

7 Q And where was that at?

8 A Off of Oakview, sir.

9 Q Off of Oakview Road?

10 A Yes, sir.

11 Q And did he attempt to follow that car that he
12 thought might be Tyronne Robinson?

13 A Yes, sir.

14 Q And were you all able to catch up to the car?

15 A No, sir.

16 Q All right. What happened after that?

17 A We turned off of Oakview Road onto Spanish Wells
18 Road to go to Marshland Road.

19 Q And what did you do then?

20 A What did I do?

21 Q Well, I'm sorry. Where did the truck go after
22 that?

23 A From Oakview Road to Marshland Road to Allen Road.

24 Q All right. So you went down Marshland Road into
25 Allen Road?

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 A Yes, sir.

2 Q Did you ever see Tyronne Robinson?

3 A No, sir.

4 Q Did you ever see his car?

5 A No, sir.

6 Q And when I say "ever," that's a very poorly
7 phrased question, I apologize.

8 Did you see it -- when you and the Youngs
9 were driving in Aaron Young, Sr.'s truck going down
10 Marshland and Allen Road, did you see Tyronne Robinson or
11 his car?

12 A No, sir.

13 Q All right. What did you do after you got to
14 Allen Road, if anything? And when I say "you," I mean,
15 what did Aaron Young, Sr. do?

16 A We didn't -- we just were driving down Allen Road.

17 Q Were they still looking for Tyronne Robinson?

18 A Yes, sir.

19 Q What happened after that?

20 A I went to my son house to see him, but no one
21 answered the door. I got back in the truck and we left.

22 Q All right. And where did you go or where did
23 Aaron Young, Sr. drive to after that?

24 A Back down Marshland Road to Spanish Well Road to
25 Wild Horse Road where he lives at.

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Q And did you stay in the truck with him at that
2 time, or did you get out?

3 A I got out once we got on Wild Horse Road, sir.

4 Q At some point, did they -- did Aaron Young, Sr.
5 and Aaron Young, Jr. leave again in the gray truck?

6 A Yes, sir.

7 Q And were you with them at that time?

8 A No, sir.

9 MR. THORNTON: Your Honor, the Court's indulgence,
10 please?

11 THE COURT: Okay.

12 (Pause.)

13 BY MR. THORNTON:

14 Q At some point during that initial ride, was Aaron
15 Young, Jr. able to get the clip in the gun and the gun
16 together?

17 A Not while I was with them, sir.

18 Q All right. And was anybody helping him or trying
19 to help him?

20 A No, sir.

21 Q Now, when you were going down, you said you went
22 Marshland Road and Allen Road and then you went back to
23 Wild Horse; is that correct?

24 A From Marshland Road to Spanish Well Road -- no,
25 from Marshland Road to Spanish Wells to Wild Horse, yes,

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 sir.

2 Q All right. And did you also mention that you
3 went down Allen Road at some point?

4 A Yes, sir.

5 Q Is that where you said your son stays at but no
6 one answered the door?

7 A Yes, sir.

8 Q All right. Now, and I may have asked this
9 question poorly, Jontu, so I'll try to ask it a different
10 way.

11 Was there any discussion between Aaron
12 Young, Sr. and Aaron Young, Jr. about the gun or putting
13 the gun together?

14 A Well, Aaron Young, Sr. was explaining to Junior
15 how to put the gun together.

16 Q Okay. And I'm sorry, I phrased that poorly.
17 When I said was anybody helping him, that's what I meant.

18 So Aaron Young, Sr. is telling Aaron Young,
19 Jr. how to put the gun together?

20 A Yes, sir.

21 Q At any time during this ride were you paying
22 attention -- obviously, the people that were sitting in the
23 truck with you, you were sitting right in the middle of
24 them; is that right?

25 A Yes, sir.

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 Q All right. So they're very close to you?

2 A Yes, sir.

3 Q Did they appear to be happy? Sad? Angry? What
4 were they?

5 A Angry, sir.

6 Q And were they angry at anybody in particular?

7 A Yes, sir.

8 Q Who?

9 A Tyronne Robinson.

10 Q They still seem angry when they left after they
11 dropped you off?

12 A Yes, sir.

13 MR. THORNTON: Thank you, Your Honor. I have
14 nothing further. Oh, let me -- I take that back,
15 Judge, I do have just a quick question.

16 BY MR. THORNTON:

17 Q Mr. Singleton, you were convicted in 2005 for an
18 assault and battery of high and aggravated nature and
19 burglary second degree, and you also have a conviction from
20 2010 for another assault and battery of a high and
21 aggravated nature; is that right?

22 A Yes, sir.

23 Q Okay. Thank you.

24 MR. THORNTON: I have nothing further. Please
25 answer any questions Mr. Ferguson has.

DIRECT EXAMINATION JONTU SINGLETON, SR. BY THORNTON

1 THE COURT: Mr. Ferguson, cross examine?

2 MR. FERGUSON: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. FERGUSON:

5 Q So Mr. Singleton, I believe it's your testimony
6 that you never saw anybody fire a gun; is that correct?

7 A That's correct.

8 Q Okay. And did you ever hear any gun shots?

9 A No, sir.

10 Q Okay. Do you remember what time of day it was
11 when you all went down to Allen Road?

12 A It was just before dark, sir.

13 Q Okay. So it was pretty late in the day?

14 A Yes, sir.

15 Q All right. Now, how well did you know Tyronne
16 Robinson?

17 A I knew him pretty well, sir.

18 Q How many times do you think y'all had hung out
19 together?

20 A Like five times.

21 Q Okay. And on Wild Horse Road nobody shot back at
22 Tyronne, did they?

23 A No, sir.

24 Q Tyronne was the only one shooting?

25 A Yes, sir.

CROSS EXAMINATION OF JONTU SINGLETON SR. BY FERGUSON

1 Q Okay. Did you ever handle the gun in the gray
2 truck?

3 A No, sir.

4 Q Okay.

5 MR. FERGUSON: Beg the Court's indulgence just for
6 one moment, Your Honor.

7 THE COURT: Yes, sir.

8 MR. FERGUSON: No further questions, Your Honor.
9 Thank you.

10 THE COURT: All right. Thank you.

11 Any redirect?

12 MR. THORNTON: None, Your Honor. Ask that he be
13 excused.

14 THE COURT: Thank you.

15 Mr. Singleton, you may step down and be excused.

16 Thank you, sir.

17 THE WITNESS: Thank you, sir.

18 MR. THORNTON: Doug Seifert.

19 THE COURT: Ladies and gentlemen, the witnesses
20 are in sequestration. That means they are ordered to
21 stay out of the courtroom until they testify. So they
22 are in a holding room and it takes a few minutes to get
23 them, sometimes, up here.

24 Thereupon,

25 DOUG SEIFERT

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 WITNESS: My name is Doug, last name is Seifert,
4 S-E-I-F-E-R-T.

5 DIRECT EXAMINATION

6 BY MR. THORNTON:

7 Q Detective Seifert, who do you work for?

8 A Beaufort County Sheriff's Office, sir.

9 Q And did you work for the Beaufort County
10 Sheriff's Office on or about September the 1st of 2012?

11 A Yes, sir.

12 Q And did you respond out to any particular scene
13 on that day?

14 A Yes, sir.

15 Q And are you one of the officers involved in the
16 murder of Khalil S. ?

17 A Yes, sir.

18 Q Did you, at some point, respond out to, I
19 believe, it's Highway 278 to where Aaron Young, Sr. was
20 stopped?

21 A Yes, sir.

22 Q And do you see Aaron Young, Sr. in the courtroom?

23 A I do.

24 Q Could you point him out, please?

25 A (Witness indicating by pointing.)

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q I'm going to show you, Detective, what's been
2 marked as State's Exhibit 6 and entered into evidence.

3 Do you recognize that vehicle?

4 A I do, sir.

5 Q And whose vehicle is that?

6 A That would be Aaron Young, Sr.'s vehicle.

7 Q Is that the vehicle he was driving on September
8 the 1st, 2012 when he was stopped?

9 A Yes, sir.

10 Q When you got to that scene on 278, who -- who was
11 there as far as the occupants of the truck?

12 A There was Ebony Campbell, Aaron Young, Sr. and
13 Aaron Young, Jr.

14 Q And had they -- by the time you got there, had
15 they been detained and separated into different vehicles?

16 A Yes, sir.

17 Q And was Aaron Young, Sr. in the back seat, at
18 that time, of a patrol car, secured?

19 A Yes, sir.

20 Q Did you at some point -- actually, just tell me
21 what you did in relation to the truck, did you examine it
22 at all or look in it?

23 A I did. I processed the -- as far as what the
24 vehicle looked in plain view, of the pickup truck, which is
25 actually the truck bed, doors were open of the pickup truck,

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 and also took digital photos.

2 Q All right. And did you take digital photos or
3 take notice of anything in particular in the bed of the
4 truck?

5 A Yes, sir.

6 Q And what was that?

7 A There were casings from -- from the shell of
8 bullets.

9 Q I'm going to show you what's been marked for
10 identification as State's 12, 13 and 14, and ask you if you
11 can identify these three photographs.

12 A (Witness reviews documents.) Yes, sir.

13 Q And what are those photographs of?

14 A The casings of the shells of the bullets.

15 Q All right. Just so you -- when you say "casings
16 of the shells of the bullets," that's a very long
17 description.

18 Are they basically the piece of material
19 that is left when the bullet leaves -- or when the
20 projectile leaves the bullet?

21 A Yes, sir.

22 Q In other words, they're spent rounds?

23 A That is correct, sir.

24 Q Now, are these photographs accurate as to the
25 scene on that day and accurate as to where you found the

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 casings when you looked in the back of the -- Aaron Young,
2 Sr.'s pickup?

3 A Yes, sir.

4 Q Have they been altered or changed in any way?

5 A No, sir.

6 MR. THORNTON: Your Honor, I ask that State's 12,
7 13 and 14 be moved into evidence.

8 MR. FERGUSON: No objection, Your Honor.

9 THE COURT: Thank you. Without objection.

10 *(Whereupon, State's Exhibit No(s). 12-14 marked for*
11 *identification and received in evidence.)*

12 BY MR. THORNTON:

13 Q Did you, in fact, collect those three spent
14 rounds or three casings?

15 A Yes, sir.

16 Q And what, if anything, did you do with them?

17 A I sent them over to, at the time, it was Corporal
18 Wendy Conant.

19 MR. THORNTON: And Your Honor, just for the record
20 purposes. I've shown this already to Mr. Ferguson.
21 Obviously, from the two previous trials, they have
22 additional exhibit stickers on them. However, today's
23 exhibit, this is Exhibit 15, so we have it marked as
24 8/11/15. So, basically, today's date is how it can be
25 differentiated for record purposes.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 THE COURT: All right. Thank you.

2 BY MR. THORNTON:

3 Q So I'm going to show you now that's been marked
4 up here (indicating) as State's Exhibit 15, ask if you can
5 identify what's in that plastic bag.

6 A These are the three 9-millimeter empty casings.

7 Q Is that a particular type of bag that you use?

8 A Yes, sir.

9 Q And what's it called?

10 A Our -- it's our evidence BC -- Beaufort County
11 Sheriff's Office evidence bag that we submit.

12 Q All right. And do you make some notation on the
13 bag and -- case number or other things, some identifying
14 marks, so you can identify it?

15 A Yes. We actually put the case number and the
16 information on the front of it. And on the seal where the
17 evidence tape is, that's where I sign my name.

18 Q And I don't know, did you notate -- and I don't
19 know if you notate it on the bag, but did you ever look at
20 the casings to determine if you could find out what caliber
21 they were?

22 A Yes, sir.

23 Q And what caliber are they?

24 A It's 9-millimeter.

25 Q And you said you turned those over to them -- was

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 it corporal at that time or sergeant?

2 A It was, at that time, Corporal Wendy Conant.

3 Q All right. At that time, did she also work for
4 Beaufort County Sheriff's Office?

5 A She did.

6 Q And while in your custody, care and control did
7 you alter or modify those in any way or make any changes or
8 alterations to them?

9 A No, sir.

10 Q Thank you.

11 And do they appear to be in the same
12 condition now as they were when you gave them over to Wendy
13 Conant?

14 A Yes, sir.

15 Q At some point on the side of the road on 278, did
16 you have occasion to speak with Aaron Young, Sr.?

17 A Yes, sir.

18 Q And at my request, have you viewed a videotape
19 of -- or a video recording, an audio recording, of
20 statements made to you by Aaron Young, Sr.?

21 A Yes, sir.

22 Q All right. Now, on that tape, do you give him
23 what's called a Miranda warning?

24 A Yes, sir.

25 Q All right. And is that what everybody hears

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 about when you see television, you have the right to remain
2 silent and all those types of things?

3 A Yes, sir.

4 Q All right. And is that recorded, actually, on
5 the video?

6 A Yes, sir.

7 Q Did you at that time threaten or promise Aaron
8 Young, Sr. anything to try to get him to talk to you?

9 A No, sir.

10 Q Did you read him all of his rights?

11 A Yes, sir.

12 Q And did he appear, based on your talking to him,
13 that he understood his rights?

14 A Yes, sir.

15 Q And did he appear to be under the influence of
16 any alcohol or drugs, at all?

17 A No, sir.

18 Q Did he have any trouble communicating with you?

19 A No, sir.

20 Q And after you read him his rights, did he agree
21 to talk to you?

22 A Yes, sir.

23 Q Detective Seifert, at some point -- I'm going to
24 grab the paperwork here in just a second -- at some point
25 after this conversation, did you talk to or have an

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 opportunity to talk to Aaron Young, Sr. again?

2 A Yes, sir.

3 Q And where was that at?

4 A That was at the Hilton Head office, which we call
5 our substation for Beaufort County Sheriff's Office.

6 Q And did you do a formal interview with him at
7 that time?

8 A I did, sir.

9 Q And did you, in fact, re-Mirandize him at that
10 time?

11 A I did.

12 Q Now, Detective Seifert, at my request, did you
13 view video, for lack of a better word, clips of your
14 conversation with Aaron Young, Sr.?

15 A Yes, sir.

16 Q And are those accurate as to what they were, and
17 they have not been changed or altered by me in any way?

18 A No, sir.

19 Q All right.

20 MR. THORNTON: Your Honor, may we approach?

21 THE COURT: Yes, sir.

22 (Off-the-record discussion held.)

23 Folks, sometimes we whisper over here behind your
24 back to keep from having to send you out of the
25 courtroom. A lot of times I can't tell you what we're

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 whispering about during the trial. But I always tell
2 jurors if you are curious about what we were whispering
3 about, if you ask me after the trial is over what we're
4 whispering about and if I can remember what we're
5 whispering about, I'll tell you. I can remember what we
6 were whispering about a minute ago, and I can tell you.

7 You're going to be seeing clips of interviews that
8 are going to be shown to you that were recorded both by
9 video and audio recordings. You will notice that
10 there's certain gaps in there. I remind you that I told
11 you earlier today that I'm the judge of the law, and I'm
12 the one who decides whether you can hear somebody tell
13 you something or not. And that's true with these sorts
14 of witnesses as well.

15 And so in my capacity as judge of the law, some of
16 the things are not relevant to your consideration. Some
17 gaps exist there because there are long pauses or long
18 delays in the conversation, but you are to concern
19 yourself only with what you see or hear on the videotape
20 itself, and give it the weight that you think that it
21 should receive. You're not to concern yourself at all
22 with the fact that some of these things are not
23 included. As a matter of fact, you should be glad that
24 they're not. You'd be sitting there a lot longer if
25 they were. Thank you, ladies and gentlemen.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 MR. THORNTON: Thank you, Your Honor.

2 Your Honor, at this time we would publish to the
3 jury the statements that have been played previously for
4 the Court.

5 THE COURT: All right. Subject to previous
6 objections.

7 (Audio with transcript shown on the screen being
8 played.)

9 BY MR. THORNTON:

10 Q Now, Detective, let me ask you this. I asked you
11 earlier about a statement or an interview that you
12 conducted with Aaron Young, Sr., and you indicated it was
13 at the Hilton Head substation; is that right?

14 A That is correct, sir.

15 Q And was there anybody else in the room with
16 you --

17 A Yes, sir.

18 Q -- other -- obviously, Aaron Young, Sr. who
19 you're talking to -- who else was there?

20 A At the time, Sergeant Albertin.

21 Q And did anyone else come in and out of the room
22 and was obviously observing while this was going on?

23 A Yes, sir.

24 Q And who in particular would that have been?

25 A That would be Captain Bromage.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q And is it Captain Bromage that's seated at the
2 table, Counsel table?

3 A Yes, sir.

4 Q I'm going to show you what's been marked for
5 identification as State's Exhibit 16 and ask if you can
6 identify that.

7 A Yes, sir.

8 Q And what is State's Exhibit 16?

9 A It is the Beaufort County Sheriff's Office Miranda
10 warning form.

11 Q And is this the Miranda rights form that was used
12 on September the 1st of 2012 with Aaron Young, Sr.?

13 A Yes, sir.

14 Q And is that the second time you actually
15 Mirandized him that day?

16 A Yes, sir.

17 Q And did you go through all of the rights with
18 him?

19 A I did, sir.

20 Q All right. Would you please read for me what the
21 rights are on that form?

22 A "You have the right to remain silent. Anything
23 you say can and will be used against you in a court of law.
24 You have the right to have an attorney present before any
25 questions. And if you can't afford an attorney, one will be

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 appointed for you before any questioning, if you wish."

2 Q And did Aaron Young, Sr. -- is there a space next
3 to each one of those rights where you can initial it?

4 A Yes, sir.

5 Q And did Aaron Young, Sr. initial each of those in
6 your presence?

7 A Yes, sir.

8 Q Did you, then, sign and did he sign the bottom of
9 the form?

10 A Yes, sir.

11 Q And did he agree to talk to you?

12 A Yes, sir.

13 Q All right. And did you have a conversation with
14 him, then, and talk about the events that occurred on
15 September the 1st of 2012 at both, his home, Oakview and
16 then Allen Road/Marshland Road area?

17 A Yes, sir.

18 Q And you indicated that Bob Bromage was in and out
19 of the room also?

20 A That is correct, sir.

21 Q All right, sir.

22 MR. THORNTON: The Court's indulgence please, Your
23 Honor?

24 THE COURT: Okay.

25 (Pause.)

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 BY MR. THORNTON:

2 Q And just -- I don't know if you said this or not,
3 Detective Seifert, but just to ask you real quick. Do you
4 know whose car Aaron Young, Sr. was in during the traffic
5 stop?

6 A Yes, sir.

7 Q All right. And who is that?

8 A It was Aaron Young, Sr., Aaron Young, Jr., and it
9 was Ebony Campbell.

10 Q All right. And which car was Aaron -- whose
11 vehicle was Aaron Young, Sr.'s placed in while he was being
12 talked to by you?

13 A At that time it was Corporal Todd Kaminski.

14 Q All right. And is Corporal Kaminski the one that
15 then transported him to Hilton Head substation?

16 A Yes, sir.

17 MR. THORNTON: I have no further questions.

18 Please answer any questions that Mr. Ferguson has.

19 THE COURT: Okay.

20 MR. THORNTON: Your Honor, with one caveat. I did
21 not -- have put the physical disk in because the jury
22 would have to come back in here to view it anyway, but
23 we will put that into evidence at the appropriate time.

24 THE COURT: All right. Thank you.

25 Mr. Ferguson, cross examine?

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 MR. FERGUSON: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. FERGUSON:

4 Q Deputy Seifert, how are you?

5 A Good, how are you, sir?

6 Q Doing fine, thank you.

7 Do you remember what time the traffic stop
8 was conducted on Mr. Aaron Young, Sr.?

9 A If I had to, I would say around 5:00 in the
10 evening.

11 Q Thank you.

12 And we watched an excerpt of the
13 conversation that y'all had on the roadside. And,
14 essentially, you know, Aaron Young, Sr. never says that his
15 son was shooting out the window, does he?

16 A No, sir.

17 Q Okay. Because those are your words, aren't they?

18 A Yes, sir.

19 Q Okay. And, essentially, you know, when he says
20 "because he was shooting at us," does he tell you who "he"
21 was?

22 A No, sir.

23 Q Okay. Does he tell you where that shooting took
24 place?

25 A No, sir.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Q Okay. Because you understand from your
2 investigation that they had been shot at earlier that day,
3 correct?

4 A Correct, sir.

5 Q Okay. And that was at Wild Horse Road?

6 A Yes.

7 Q At their house?

8 A Yes, sir.

9 Q Okay. And, you know, through your investigation,
10 there was no shootout on Wild Horse Road, was there?

11 A Not a shootout, no, sir.

12 Q Okay.

13 MR. FERGUSON: Beg the Court's indulgence for just
14 one moment, Your Honor?

15 THE COURT: Yes, sir.

16 (Pause.)

17 BY MR. FERGUSON:

18 Q Detective Seifert, how much time would you
19 estimate you spent with Aaron Young, Sr. on September
20 the 1st?

21 A Four to five hours, if I had to guess, sir.

22 Q Okay. And were you the one that transported him
23 to the detention center?

24 A No, sir.

25 Q Okay. Do you recall what time you left the

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Hilton Head substation that evening?

2 A Approximately, I would say, 11:30, 12:00, sir.

3 Q Okay.

4 MR. FERGUSON: Thank you. No further questions.

5 THE COURT: Thank you. Redirect, Mr. Thornton?

6 MR. THORNTON: None, Your Honor. We ask that he
7 be excused.

8 THE COURT: You are excused.

9 MR. THORNTON: Captain Bob Bromage.

10 THE COURT: Captain, come forward, please, and be
11 sworn.

12 Thereupon,

13 CAPTAIN BOB BROMAGE

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 WITNESS: Bob Bromage, B-R-O-M-A-G-E.

17 DIRECT EXAMINATION

18 BY MR. THORNTON:

19 Q Captain Bromage, who do you work for, sir?

20 A Beaufort County Sheriff's Office.

21 MR. THORNTON: I think our microphone has gone out
22 again, Judge.

23 THE COURT: Okay.

24 BY MR. THORNTON:

25 Q And did you work for the Beaufort County

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 Sheriff's Office on or about September the 1st of 2012?

2 A I did.

3 Q And did you participate in an interview with an
4 Aaron Young, Sr. who's been identified as the defendant
5 anything?

6 A I did.

7 Q And were you, if not present, did you observe --
8 what Detective Seifert talked about earlier about his
9 Miranda rights being read to him?

10 A I did.

11 Q And is that the Miranda rights form, I believe
12 it's still up there, State's Exhibit -- I think that's 16?

13 A 16, yes, sir.

14 Q And is that, in fact, the Miranda rights form
15 that was used with Aaron Young, Sr. that day?

16 A It was.

17 Q And does it appear to you to have been altered or
18 changed in any way?

19 A No, sir.

20 MR. THORNTON: And forgive me, Your Honor, I don't
21 know if I moved that into evidence or not. But if I
22 did not, I would ask that it be moved in at this time.

23 THE COURT: I think it's in without objection.

24 *(Whereupon, State's Exhibit No(s). 16 marked for*
25 *identification and received in evidence.)*

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 BY MR. THORNTON:

2 Q Captain, have you reviewed, for lack of a better
3 term, some clips of an interview conducted by Lieutenant
4 Seifert? I believe there's a former sheriff's office
5 person in there, Laurel Albertin and yourself?

6 A Yes, sir.

7 Q And is it accurate as to the contents that are
8 being shown? In other words, have those clips been altered
9 or changed in any way?

10 A It is accurate, sir.

11 Q All right. And did you review those within the
12 last day at my request?

13 A Yes, sir.

14 MR. THORNTON: Your Honor --

15 BY MR. THORNTON:

16 Q And what are those clips of? Is that the
17 interview itself with Aaron Young, Sr.?

18 A It is the formal interview at the Hilton Head
19 Sheriff's Office substation.

20 Q And is that the interview that was referenced,
21 that you see the Miranda rights form being done?

22 A Yes, sir.

23 Q All right. And was that conducted on September
24 the 1st of 2012?

25 A September 1st, 2012.

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 MR. THORNTON: Your Honor, at this time I'd ask
2 that that interview, subject to prior objection,
3 obviously, be entered into evidence and published to
4 the jury?

5 THE COURT: All right. Subject to prior
6 objections.

7 *(Whereupon, State's Exhibit No(s). 17 marked for*
8 *identification and received in evidence.)*

9 BY MR. THORNTON:

10 Q All right. Captain Bromage, let me stop for a
11 second. In the very first clip, was that Detective Seifert
12 that he's talking to?

13 A It was.

14 Q All right. And -- let me walk back over here for
15 a second.

16 It's fairly clear he's describing the
17 incident with Tyronne based on things, obviously, that have
18 been testified to, which you heard today.

19 Who is Tyronne?

20 A Tyronne Robinson.

21 Q All right. And -- but he does say -- he
22 specifically says, when he was asked about coming out of
23 the house with anything, clearly in the very beginning of
24 this interview he claims that he didn't have anything,
25 didn't come out with anything?

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 A That's correct. He denied having a gun at that
2 point.

3 Q All right. However, in the clip that we just
4 saw, he has changed that.

5 Would that be accurate?

6 A It would.

7 Q All right. So during the course of the
8 interview, does he, then, admit to shooting?

9 A He admits to --

10 Q Or I'm sorry. Let me -- that's probably poorly
11 phrased.

12 A His son shooting.

13 Q Okay.

14 A Yes, he does.

15 Q And was that a change from his very initial
16 discussions with y'all?

17 A It was.

18 Q All right. And does this interview, then,
19 continue on?

20 A It does.

21 BY MR. THORNTON:

22 Q Captain Bromage, during the process of this
23 interview, was that probably the most significant change as
24 far as from the very first few minutes we saw until when
25 you came in the room?

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 A Yes, sir.

2 Q And that change being the fact that he denied, at
3 first, even having a gun and then admits that his son was
4 shooting back at Tyronne because he was shooting at us?

5 A Yes, sir.

6 Q While you were having your conversations that we
7 have seen and during this interview, did you make any
8 promises or threats to Aaron Young, Sr. to try to get him
9 to make a statement to you?

10 A No, sir.

11 Q Did he seem, in fact, eager to talk to you?

12 A He was, sir.

13 Q And did -- did you or anybody in your presence
14 during this formal interview threaten him in any way to get
15 him to talk to you?

16 A No, sir.

17 Q Did he appear to be aware of what was going on --
18 and, obviously, the jury has seen it -- but while you were
19 talking to him, did he appear to be aware of what was going
20 on?

21 A He was very aware of what was going on.

22 Q Did he understand your questions?

23 A He did.

24 Q And did he seem to have any trouble, at all,
25 communicating with you?

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 A No, sir.

2 Q And, again, the Miranda form that you've already
3 testified to, as did Doug Seifert, is the second time he
4 was Mirandized that late afternoon/early evening; is that
5 correct?

6 A That is correct.

7 Q And just to clarify. I believe that that was at
8 9:18, is what Doug Seifert said according to his watch?

9 A Right. That was 9:18 formal interview.

10 Q And is that time recorded on State's Exhibit 16?

11 A It is.

12 MR. THORNTON: All right. Your Honor, the Court's
13 indulgence, please?

14 THE COURT: All right.

15 (Pause.)

16 MR. THORNTON: Thank you very much, Captain
17 Bromage. I have no further questions. Please answer
18 any questions Mr. Ferguson has.

19 THE COURT: Mr. Ferguson, cross examine?

20 MR. FERGUSON: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. FERGUSON:

23 Q Captain Bromage, you knew Aaron Young, Sr. before
24 this?

25 A I had known him for years.

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 Q Okay. And his father as well?

2 A I know his father well.

3 Q Okay. And did you travel to the roadside
4 incident location on Marshland Road -- of not Marshland
5 Road, excuse me, on 278 where Aaron Young, Sr. was pulled
6 over?

7 A I did.

8 Q Okay. And did you speak to Aaron Young, Sr. at
9 that time?

10 A I don't recall speaking to him at that point.

11 Q When is the first time you do recall speaking to
12 him?

13 A The first time I spoke with Aaron Young, Sr. was
14 at the Hilton Head office. I gave Corporal Kaminski a
15 bathroom break, briefly, he had been watching him for maybe
16 an hour or so. And it was prior to the formal interview.

17 Q Okay. And so you had a conversation with Aaron
18 Young, Sr. prior to the formal interview?

19 A I did.

20 Q Okay. Now, with the time stamp, does the
21 Sheriff's Department video system have its own internal
22 time stamps?

23 A It would appear so on the video, yes, sir.

24 Q And do you recall from your review of that what
25 the actual time stamp said the time was in the video?

CROSS EXAMINATION OF BROMAGE BY FERGUSON

- 1 A It was off.
- 2 Q By about how much?
- 3 A By about 20 minutes or so, I think.
- 4 Q Okay. So, you know, essentially, 9:18 is what is
- 5 heard on that recording, but what is actually documented on
- 6 the video is something different?
- 7 A It shows a little different, I believe.
- 8 Q Okay. And about 20 minutes is what your
- 9 recollection is?
- 10 A About 20 minutes sounds right.
- 11 Q All right. Now, did you also go to Allen Road?
- 12 A I did.
- 13 Q Were you supervising this investigation?
- 14 A I was supervising this investigation.
- 15 Q Okay. Well, through your investigation, did you
- 16 review the crime scene evidence from Allen Road?
- 17 A I did, you know, I read the reports and that.
- 18 Q Okay. Well, was a dog search performed on
- 19 Marshland Road?
- 20 A I'm certain it was.
- 21 Q Okay.
- 22 A My recollection. I'd have to look at the reports,
- 23 but I can distinctly recall a canine search for, in
- 24 particularly, Tyronne's gun.
- 25 Q Okay. And was anything recovered?

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 A No.

2 Q How about any of the shell casings on Marshland
3 Road?

4 A Shell casings were behind the residence of -- on
5 the first residence on Allen Road, I'm not sure what the
6 address is, but we found where Tyronne's car got shot up.

7 Q And that's the only place that shell casings were
8 found, correct?

9 A That's where we found them, correct.

10 Q Okay. So -- and that's this first house here
11 (indicating). And I know that you can't see it from up
12 there, but there's a small car parked behind it and that's
13 alleged to have been Tyronne's car, the location of it.

14 A Right.

15 Q And so those are the only shell casings that are
16 found on the scene. And your testimony is that they also
17 searched up and down Marshland Road?

18 A We did.

19 Q Okay. And no shell casings were recovered?

20 A We were looking for Tyronne's gun at that point,
21 or any other shell casings that may have flown out of the
22 truck. There was some found in the truck bed, as you know.

23 Q Sure. And that was three shell casings?

24 A 9-millimeter shell casings, correct.

25 Q Okay. Now, were there any 9-millimeter casings

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 found by where Khalil S. was killed?

2 A He was shot with a .38.

3 Q Okay.

4 A Which the revolver, which does not eject the
5 shells, it stays in the cylinder itself.

6 MR. FERGUSON: I beg the Court's indulgence just
7 one moment, Your Honor?

8 THE COURT: Sure.

9 (Pause.)

10 BY MR. FERGUSON:

11 Q All right. Just briefly, Captain Bromage, do you
12 ever recall using the word "exoneration" in your
13 discussions with Aaron Young, Sr.?

14 A A poorly -- poor word use, yes.

15 Q Okay. And, essentially, what was said is where's
16 the gun that will exonerate the situation?

17 A Essentially, I remember saying exonerate that
18 situation --

19 Q Okay.

20 A -- which was later remedied.

21 Q Okay. And "tell us where the gun is, so that we
22 can eliminate him as possibly hitting that kid. That is
23 huge."

24 A Yes, that sounds correct.

25 Q Okay.

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 MR. FERGUSON: Thank you, Your Honor, no further
2 questions.

3 THE COURT: Thank you.

4 Redirect, Mr. Thornton?

5 MR. THORNTON: The Court's indulgence, Your Honor.

6

7 (Pause.)

8 MR. THORNTON: Nothing further at this time, Your
9 Honor. Thank you very much. I ask that Captain
10 Bromage be allowed to step down.

11 THE COURT: Thank you. You may step down.

12 Ladies and gentlemen, the timing could not be more
13 perfect for the lunch hour to start. If you have a
14 1:00 lunch hour, you're right on time. If you have a
15 12:00 lunch hour, you are starving.

16 Please be back in the jury room at 2:15, that's an
17 hour and 15 minutes. And I think that'll give you
18 enough time to get a lunch. And we will see you at
19 2:15.

20 I'll remind you all not to talk about this case
21 with yourselves or with anybody else while you're out of
22 the courtroom. Have a nice lunch, folks.

23 THE BAILIFF: Jury is clear, Your Honor.

24 (Jury exits the courtroom at 1:02 p.m.)

25 THE COURT: Folks, what's the schedule look like

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 from -- how are you all looking?

2 MR. STONE: We have everybody lined up for this
3 afternoon. And we should probably get through all of
4 our witnesses by this afternoon.

5 THE COURT: Okay. That tells me what I need to
6 know. I don't need to start worrying about charges or
7 verdict forms until tomorrow.

8 MR. STONE: I think that's correct.

9 THE COURT: All right.

10 Anything further, Mr. Stone?

11 MR. STONE: No, sir, not from the State.

12 THE COURT: Mr. Ferguson?

13 MR. FERGUSON: No, sir, none.

14 THE COURT: All right. Thank you. Folks, we will
15 be back at 2:15. Thank you.

16 (Lunch recess.)

17 THE COURT: Thank you, ladies and gentlemen.

18 Please be seated. Good afternoon.

19 All right. Are both sides ready for the jury?

20 MR. FERGUSON: Yes, sir, Your Honor.

21 MR. STONE: The State's ready, Your Honor, but I
22 want to cover something, if I could before we get --
23 we're in a stage where I know we're going to get to
24 these witnesses fairly quickly. And so I want to make
25 sure, going -- bring this up. And I don't think it's

COLLOQUY

1 an issue, but I want to make sure the Court was aware
2 of it.

3 Obviously we're not seeking to introduce the gun
4 itself.

5 THE COURT: Right.

6 MR. STONE: The gun, however, was taken to SLED,
7 it was tested by Dan DeFreese. So while we are not
8 seeking to introduce the gun itself, Dan DeFreese is
9 here and will testify that the shell casings that were
10 found in the back of the truck were fired from the same
11 gun as the projectiles, which were taken out of the
12 car.

13 Now, obviously, I will get both of those -- those
14 are both admissible and we plan on introducing that.
15 The underlying gun itself, obviously at this point we're
16 not seeking to introduce. But I believe under 704, the
17 way I'm reading the rule, is that Dan DeFreese, as an
18 expert, can testify to inadmissible evidence as long as
19 the underlying science is reliable. And, of course, I
20 will take it upon myself as the burden to establish Dan
21 DeFreese's expertise and underlying science.

22 But that is the way that I seek to introduce that.
23 He's not my next witness, but he's pretty close. And so
24 I wanted to put that in front of the Judge if there was
25 any issue that we needed to cover beforehand. And

COLLOQUY

1 that's 703. I apologize, I said 704, but this rule is
2 703.

3 THE COURT: The last sentence of the rule says,
4 upon facts normally relied upon by the expert, the
5 facts themselves or the incident themselves might not
6 be necessarily admissible.

7 MR. STONE: Yes, sir.

8 MR. FERGUSON: Well, and -- yes, sir, Your Honor.
9 You know, obviously, I hadn't considered it until just
10 now. You know, I got a lot going on.

11 However, you know, I guess I'm unclear as to what
12 they're actually trying to elicit from Dan DeFreese,
13 that he tested a gun without --

14 THE COURT: I'm not sure how they're going to go
15 about it.

16 MR. STONE: No, sir, I would not do that. I think
17 that would be -- I think -- because of -- I don't think
18 it was proper that he actually tested the gun.

19 What Dan DeFreese was saying, it will be a very
20 carefully worded question is, the -- taking the shell
21 casings that we found in the back of the truck, and the
22 projectiles coming out of Tyrone Robinson's car, Dan
23 DeFreese will say that those came from the same gun.
24 Period. I'm not going to pursue and ask the underlying
25 basis for that because then I think it gets into the

COLLOQUY

1 inadmissible evidence.

2 MR. FERGUSON: I understand.

3 MR. STONE: Now, the rule and the case law that
4 I've read says that if -- if he's cross-examined and
5 the Defense wants to get into the underlying basis,
6 that's perfectly proper. But I'm not going to put that
7 in, it says the underlying basis. I think that's the
8 proper way to do it.

9 THE COURT: All right. Thanks for the heads up.
10 The proper wording and interpretation of the rule,
11 we'll see how it plays out in the real world.

12 All right. Now, bring us the jury.

13 MR. FERGUSON: Can we go ahead and mark these
14 while we're waiting? Now, these already had marks on
15 them from the previous trial, so I guess we need to
16 date these.

17 THE CLERK: The Jury is entering the Courtroom,
18 Your Honor.

19 THE COURT: Thank you, ma'am.

20 THE CLERK: The Jury is seated, Your Honor.

21 THE COURT: Thank you.

22 Folks, we'll continue now where we left off before
23 we went to lunch. The State is continuing proffering
24 evidence and testimony.

25 MR. STONE: The State calls Derrick Nelson to the

COLLOQUY

1 stand.

2 THE COURT: Come forward, please, and be sworn.

3 Thereupon,

4 DERRICK NELSON

5 was called as a witness, having been first duly sworn,

6 was examined and testified as follows:.

7 THE CLERK: Would you please state your name for
8 the record.

9 THE WITNESS: My name's Sergeant Derrick Nelson.

10 THE CLERK: Would you spell your last name.

11 THE WITNESS: N-E-L-S-O-N.

12 DIRECT EXAMINATION

13 BY MR. STONE:

14 Q Okay. Sergeant, if you will, pull that mike to
15 you.

16 You are with the Beaufort County Sheriff's
17 Office; is that correct?

18 A Yes, sir.

19 Q How long have you been with the sheriff's office?

20 A I've been with the sheriff's office five years,
21 six years now.

22 Q And what do -- you're a sergeant; what does that
23 mean in the layman's term?

24 A I work for the criminal investigation division on
25 the south side of our county, which incorporates Bluffton

DIRECT EXAMINATION OF NELSON BY STONE

1 and Hilton Head.

2 Q And is that part of the time you spent with the
3 sheriff's office? How many years have you been doing that?

4 A I've been doing that for four years now.

5 Q In 2012, September the 1st, for instance, 2012,
6 were you working in the investigative division at that
7 point?

8 A I was.

9 Q And at some point, did you process -- and I'll
10 ask you to explain that. But at some point, did you
11 process Tyrone Robinson's car?

12 A I did.

13 Q And in the way I mean "processing," did you take
14 bullets out of the car, projectiles out of the car? Did
15 you check those bullet holes with dowels, things like that?

16 A I did.

17 Q Let me show you what has been marked State's
18 Exhibit -- I'm going to hand you what's been marked as
19 State's Exhibit 23, 24, 25, 26, and 27, ask if you can
20 identify those, sir?

21 A These are five projectiles that were taken out of
22 Tyrone Robinson's car.

23 Q When we're talking about projectiles, what do you
24 mean?

25 A Bullets, spent bullets that have been fired.

DIRECT EXAMINATION OF NELSON BY STONE

1 Q Are those -- those were taken out of Tyrone
2 Robinson's car in your presence?

3 A Yes.

4 Q And what did you do with them once you retrieved
5 them?

6 A Once retrieved, they were put into evidence
7 baggies, then each evidence baggy was labeled and submitted
8 to our evidence division.

9 Q Is this -- is this plastic the evidence bag
10 you're talking about, or is it this manila --

11 A No. Inside is a manila envelope that is
12 individually labeled with projectile numbers, and then they
13 were placed in the evidence bag and then turned in to our
14 evidence division.

15 Q The writing on the back, some of that writing is
16 your writing?

17 A Yes.

18 Q And then this is sealed, put in and placed into
19 evidence; what happens to it then?

20 A It's turned over to the evidence technicians, and
21 then further processing would be whatever is deemed
22 necessary.

23 Q Do you seal those and initial them, or how does
24 that work?

25 A Absolutely. The bags are sealed at the time that

DIRECT EXAMINATION OF NELSON BY STONE

1 they are placed into the baggies. Sealed and then labeled,
2 initialed to -- for any possible -- make sure that there's
3 no possibility of any tampering.

4 Q Got it.

5 These items, when you took them from, or
6 when they were retrieved from Tyrone Robinson's car, you
7 put them in these manila baggies, sealed them, initialed
8 them, and then and put them into evidence, did you change /
9 or alter them in any way when you did that?

10 A No, sir.

11 Q These are -- so when they left your possession,
12 they were in the same condition as they were when they were
13 retrieved?

14 A That's correct.

15 Q I'm going to show you what's been marked as
16 State's Exhibit 18, 19, 20, 21, and 22, ask if you can
17 identify those photographs, please?

18 A Yes. These are all photographs taken of Tyrone
19 Robinson's car at the time that we were processing it.

20 Q In fact, I think in State's Exhibit 19, who is in
21 that?

22 A That is a picture of my supervisor, Staff Sergeant
23 Chapman.

24 Q He was out there with you at the time?

25 A He was.

DIRECT EXAMINATION OF NELSON BY STONE

1 Q And the stakes that are inside the car, what are
2 those?

3 A These are wooden dowels that we used to help plot
4 the trajectory of a bullet as it passes through, such as in
5 this case, the exterior of the vehicle.

6 Q Are these fair and accurate depictions of the
7 scene after you placed the dowels in there?

8 A That's correct, yes.

9 MR. STONE: Your Honor, at this time we move
10 State's Exhibit 18, 19, 20, 21, and 22 into evidence.

11 THE COURT: Mr. Ferguson?

12 MR. FERGUSON: If I could just have those numbers
13 again, Your Honor.

14 MR. STONE: I'm sorry, 18, 19, 20, 21, and 22.

15 MR. FERGUSON: Thank you. No objection, Your
16 Honor.

17 THE COURT: Thank you. Without objection.

18 *(Whereupon, State's Exhibit No(s). 18-22 marked for*
19 *identification and received in evidence.)*

20 MR. STONE: If I could ask you to come down off
21 the stand.

22 Your Honor, at this time I'd publish to the jury my

23 ...

24 THE COURT: Okay.

25 MR. STONE: Copy of this -- You can use this

DIRECT EXAMINATION OF NELSON BY STONE

1 microphone here.

2 BY MR. STONE:

3 Q Let me show you first what has been put into
4 evidence now as State's Exhibit 18.

5 All right. And if you could, please, tell
6 the jury what's in that photograph.

7 A This is a picture of the driver's side of Tyrone
8 Robinson's vehicle. These wood dowels here, here, and here
9 are all the pictures of the trajectories the bullets as they
10 passed through the exterior of the vehicle.

11 Q Now, how did you -- how do you determine that
12 trajectory, how do you get those dowels placed like that?

13 A We have had the inside point in the interior of
14 the door and the exterior of the door, where we can put the
15 dowel through, and it plots a straight line and the similar
16 pattern the bullet took as it falls through the door itself.

17 Q Put up State's Exhibit No. 19. What's in that
18 picture?

19 A This is a larger scale picture just from the
20 entire backside, so you can see the multiple shots from
21 different angles of where the bullets were coming in on the
22 different sides of the vehicle.

23 Q Again, I'm assuming you have to have at least two
24 points in order to --

25 A At least two points to plot a trajectory.

DIRECT EXAMINATION OF NELSON BY STONE

1 Q And State's Exhibit 20?

2 A Again, this is just a closer shot of the rear of
3 the vehicle that shows these trajectories here. There's one
4 here going into the trunk area, one here coming into the
5 trunk. This one's going into the side, this back of the
6 frame here, the back window, and then there's one on the
7 back window going into the driver -- or rear quarter panel
8 of the vehicle.

9 Q Now, and again, all of these dowels were placed
10 with two connecting points. In other words, it's got to be
11 a hole here, and then there's got to be another point on
12 this in order to --

13 A Yes. The dowels also locate a potential landing
14 point for the projectiles themselves.

15 Q Gotcha.

16 State's Exhibit 21?

17 A And this is a -- other side angle of this
18 particular photo is the same, the driver's side of the
19 vehicle, showing the trajectories -- trajectory rods, a
20 close-up.

21 Q Now, I'm assuming this, I believe this is sticky
22 here, this is State's Exhibit 22. Is this a close-up of
23 what that is?

24 A Yeah. This particular mark here, and it would be
25 right here on this one, this is a ricochet, where a

DIRECT EXAMINATION OF NELSON BY STONE

1 projectile hit the door and then skipped off.

2 Q Okay. Now, State's Exhibit 27, could you tell me
3 where that was located?

4 A Rear -- this is the projectile on this particular
5 one, this one here, that entered the -- went actually
6 through the window framing and it came to rest inside the
7 rear passenger head rest of the vehicle where we retrieved
8 it from inside that head rest.

9 Q And then State's Exhibit 26.

10 A This one is -- this is -- this one right here that
11 came in at a very bit of angle to where it went directly
12 through the trunk, and then it came to rest in the partition
13 of the back seat just underneath the brake light here.

14 Q Okay. State's Exhibit 24.

15 A This one is the round that came in at a steeper
16 angle. This one appeared to have ricocheted on the interior
17 of the vehicle, because it ended at rest, simply laying down
18 here by the rear tire.

19 Q And State's Exhibit 23.

20 A This is -- this shot right here that came in at a
21 lower angle and landed. This one penetrated the outer
22 exterior of the door, but then it got caught in the door
23 framing, just where the step area is in the driver door.

24 Q That did not go all the way through the door?

25 A No, it did not. It was -- just as we open the

DIRECT EXAMINATION OF NELSON BY STONE

1 inside of -- open the door here, the little -- the framing
2 for the car was right -- sitting right there.

3 Q And it doesn't look -- I want to make sure -- any
4 of these shots actually going into the driver side area
5 here.

6 A Not in the upper area, no.

7 Q All right. And then State's Exhibit 25. I don't
8 know, how many's that?

9 A This one is -- this particular round right here,
10 and it entered and went through, and its trajectory carried
11 it. It bounced it, ricocheted off the interior portion of
12 one of the doors, and then went across the passenger
13 compartment in the rear of the vehicle, and it came to rest
14 in the rear driver -- or, excuse me, rear passenger arm
15 rest, where we removed the entire arm rest.

16 Q The rear passenger's arm rest?

17 A Yes.

18 Q Okay. Go ahead and take the stand.

19 MR. STONE: I don't have any further questions at
20 this time, Your Honor.

21 THE COURT: Thank you. Cross-examine,
22 Mr. Ferguson?

23 MR. FERGUSON: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. FERGUSON:

CROSS EXAMINATION OF NELSON BY FERGUSON

1 Q Deputy Nelson, did you also process the gray F150
2 in this case?

3 A I did.

4 Q And specifically, did you perform a GSR kit on
5 the F150?

6 A We did.

7 Q And how did you do that?

8 A We simply adapted the GSR kit, which is the
9 gunshot residue kit, for -- to check areas where people
10 would have touched on the inside of the vehicle and use the
11 components which we would normally test on someone's hand
12 for gunshot residue. But we processed the driver's -- the
13 steering wheel, the passenger arm -- or the door rest, where
14 someone would normally grab it.

15 Q And do you know the results of that analysis?

16 A I do not.

17 MR. FERGUSON: Beg the Court's indulgence just one
18 moment.

19 THE COURT: Yes, sir.

20 MR. FERGUSON: No further questions, Your Honor.

21 THE COURT: Thank you. Any redirect?

22 MR. STONE: No, sir, Your Honor.

23 THE COURT: Thank you.

24 MR. STONE: Sergeant Wendy Conant.

25 THE COURT: You may step down.

CROSS EXAMINATION OF NELSON BY FERGUSON

1 Sergeant Conant, come forward, please and be sworn.

2 Thereupon,

3 WENDY CONANT

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: Please state your name for the record.

7 THE WITNESS: Wendy Conant.

8 THE CLERK: Would you spell your last name.

9 THE WITNESS: C-O-N-A-N-T.

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q Ms. Conant, I want to get your -- what is your
13 rank now? I apologize.

14 A I am currently a sergeant.

15 Q And you are currently at the Sea Pines --

16 A I'm a Sea Pines security.

17 Q Okay. And previous to that employment, you were
18 with Beaufort County Sheriff's Office?

19 A That's correct. I was a corporal in
20 investigations.

21 Q Let me show you what's been marked as -- first of
22 all, start with what was originally marked State's Exhibit
23 No. 15. And there are a number of stickers, but this top
24 is what I want to talk to you about, and ask, during your
25 time with the sheriff's office, if you received this

DIRECT EXAMINATION OF CONANT BY STONE

1 evidence and transferred it?

2 A Yes, I did. This is evidence that was presented
3 to me on this case, and it was presented to me by Sergeant
4 Doug Seifert. And on the actual evidence envelope, you can
5 see where Doug Seifert signed that he had received it and
6 turned it over to me, because I've initialed it. And then I
7 signed it over to an evidence technician.

8 Q At some point in time, did you transfer that to
9 SLED, or did you take it to SLED?

10 A At another point in time, I took other items up to
11 SLED and transferred it over to SLED.

12 Q During the time that you had majority -- you
13 actually put it in this bag; is that correct?

14 A Doug Seifert would have put it in this bag, and he
15 would have sealed it.

16 Q So did you unseal it at any time when it was in
17 your possession?

18 A I did not.

19 Q Did you change it or alter it in any way?

20 A I did not.

21 Q Let me show you what's marked as State's Exhibit
22 23, 24, 25, 26, and 27. Ask if you at some point in time
23 took custody of those items as well?

24 A These are all items that were collected by then
25 corporal, now sergeant, Derrick Nelson. And you can see on

DIRECT EXAMINATION OF CONANT BY STONE

1 the envelopes he signed for them and transferred them over
2 to -- all went to Jimmy Pageant in evidence.

3 My contact with this evidence came when I
4 picked it up from the evidence division and transferred it
5 up to SLED.

6 Q And was it sealed when you received it?

7 A Yes, it was.

8 Q With, I think it was, Derrick Nelson's signature
9 on it, initials on it?

10 A That's correct.

11 Q Did you unseal it or did you change it or alter
12 it in any way?

13 A I did not.

14 Q And that is for all of those items that I handed
15 you?

16 A That is correct.

17 Q Let me go back through and make sure that I've
18 got them.

19 Items 23, 24, 25, 26, and 27.

20 A Correct.

21 Q You did not change or alter those in any way?

22 A I did not.

23 Q And you delivered those to the State Law
24 Enforcement Division for testing?

25 A Correct.

DIRECT EXAMINATION OF CONANT BY STONE

1 MR. STONE: No further questions of this witness,
2 Your Honor.

3 THE COURT: Thank you. Mr. Ferguson.

4 MR. FERGUSON: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FERGUSON:

7 Q Ms. Conant, did you take a GSR kit from Aaron
8 Young, Senior also to SLED for analysis?

9 A Yes, I did.

10 Q Okay. Are you aware of the results of that GSR
11 test?

12 A No, I'm not.

13 Q Okay.

14 MR. FERGUSON: Thank you. No further questions,
15 Your Honor.

16 THE COURT: Thank you. Any redirect?

17 MR. STONE: No, sir, Your Honor.

18 THE COURT: Thank you.

19 Sergeant Conant, you may step down.

20 MR. STONE: The State calls Dan DeFreeze to the
21 stand.

22 THE COURT: Come forward, please, sir, and be
23 sworn.

24 Thereupon,

25 FRANK DAN DEFREESE

DIRECT EXAMINATION OF DEFREESE BY STONE

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 THE CLERK: Would you please state your name for
4 the record.

5 THE WITNESS: It's Frank Dan DeFreese. It's D-E,
6 capital F-R-E-E-S-E.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q Mr. DeFreese, who do you work with, sir?

11 A I work for the South Carolina Law Enforcement
12 Division, in the forensic services laboratory in Columbia.

13 Q In the context of the forensic services, what
14 particular area do you work?

15 A I work for the department within the laboratory,
16 where we do the analysis of firearm and tool mark evidence.

17 Q How long have you been in that particular
18 department?

19 A I began in 1967, and with the exception of about
20 five years that I was doing other duties, the entire time
21 between then and now.

22 Q In the area of firearms and tool marks, is that
23 what I guess -- I've heard the term "ballistics." Is that
24 the same kind of thing, or is that something different?

25 A It's referred to in the press sometimes as

DIRECT EXAMINATION OF DEFREESE BY STONE

1 ballistics. Ballistics being the study of projectiles in
2 flight.

3 We generally refer to it as firearms
4 identification, because what we're most frequently asked to
5 do is to identify bullets and cartridge cases as being
6 fired by the same firearm, or as being fired by a
7 particular firearm.

8 Q The tool marks, is that the same kind of concept?

9 A It's the same kind of test, but the firearm is the
10 tool that marks a bullet or a cartridge case, whereas there
11 are various different tools that usually mark locks or safes
12 or other physical security devices. And the principals
13 involved in the identification are the same, but the objects
14 are different.

15 Q Now, in your years of working with firearms and
16 tool mark identifications, what type of -- what type of
17 experience did you get in order to allow you to do these
18 tests?

19 A Well, my -- it partly comes from my training,
20 which I principally received at SLED. Upon my employment, I
21 began a course of instruction in firearm and tool mark
22 identification. I studied the techniques under Lieutenant
23 Miller Kate and Lieutenant Carl Stokes. Lieutenant Kate
24 established the SLED laboratory window, the modern SLED was
25 established in 1947.

DIRECT EXAMINATION OF DEFREESE BY STONE

1 So after a period of about nearly three
2 years of studying under his direct supervision, I began
3 accepting cases on my own and testifying as to my results.

4 Q Have you been found -- held to be an expert in
5 the field of firearm identifications and tool marks?

6 A I have.

7 Q Do you have any idea how many times?

8 A Not exactly. I estimated between 600 and 700
9 times.

10 Q And start in 1967, you've been pretty much in
11 this field most of that time?

12 A Yes. I've been testifying since 1969.

13 Q And during that same type of period, I'm assuming
14 you've been doing your own testing as well?

15 A Yes.

16 MR. STONE: Your Honor, at this time we'd offer
17 Dan DeFreese as an expert in the field of firearms as
18 well as tool mark identifications.

19 THE COURT: Mr. Ferguson, voir dire?

20 MR. FERGUSON: No, sir, Your Honor.

21 THE COURT: Thank you. Without objection, Mr.

22 DeFreese is so qualified. Thank you.

23 BY MR. STONE:

24 Q This particular case, let me first start by
25 showing you some exhibits that have been testified to as

DIRECT EXAMINATION OF DEFREESE BY STONE

1 being taken to SLED for testing.

2 First is, we have three stickers, but I'm
3 going to refer you to the top one, State's Exhibit 15, and
4 ask you if you received that item and made any tests on it?

5 A I did.

6 Q And other than -- the condition that you received
7 it in, I'm assuming you get it from your SLED evidence
8 room; is that correct?

9 A Yes.

10 Q And is it sealed and packaged in a way which
11 you're the one that actually unseals them and tested them?

12 A That's correct. It was sealed at the time I
13 received it.

14 Q Now, I know it's unsealed now. Have you had an
15 opportunity to review that today before testifying?

16 A I did.

17 Q So it's unsealed and you've actually inspected
18 it?

19 A I've inspected the 30 fired cartridge cases in
20 State's Exhibit 15, and they all bear my case number, item
21 number, and my initials.

22 MR. STONE: Your Honor, at this time we move
23 State's 15 into evidence.

24 MR. FERGUSON: No objection, Your Honor.

25 THE COURT: Thank you.

DIRECT EXAMINATION OF DEFREESE BY STONE

1 *(Whereupon, State's Exhibit No(s). 15 marked for*
2 *identification and received in evidence.)*

3 BY MR. STONE:

4 Q I now show you State's Exhibit 23, 24, 25, 26,
5 and 27, and ask if you can identify those, sir?

6 A Yes, sir, I can.

7 Q And are those items that you tested as well?

8 A They are.

9 Q You received them, I'm assuming, from your
10 evidence room?

11 A I did.

12 Q And they were sealed when you received them?

13 A That's correct.

14 Q And I know that they are open today, but you've
15 have had an opportunity to open them and review them?

16 A I did immediately before resuming after the lunch
17 break. I inspected all of them. These each contain one
18 fired .9 millimeter Luger caliber bullet, and one of them
19 contains a metal fragment.

20 It's item 25 also contains a sheet metal
21 fragment.

22 Q And somewhere on that packaging, I'm assuming you
23 have your initials as well?

24 A I do. And on the individual bullets, I have my
25 case number and item number and initials.

DIRECT EXAMINATION OF DEFREESE BY STONE

1 MR. STONE: At this time, Your Honor, we move
2 State's Exhibit 23, 24, 25, 26, and 27 into evidence.

3 THE COURT: Mr. Ferguson.

4 MR. FERGUSON: No objection, Your Honor.

5 THE COURT: Thank you.

6 *(Whereupon, State's Exhibit No(s). 23-27 marked for*
7 *identification and received in evidence.)*

8 BY MR. STONE:

9 Q The first thing I want to ask you is, and I'll
10 refer to them just generally as -- I'll tell you what.
11 You're the expert, let me get you to come down from the
12 stand, if you could, please, sir.

13 (Witness complies.)

14 BY MR. STONE:

15 Q I'll going to first give you State's Exhibit 15.
16 If you could, show the jury what that is, explain to us
17 what that item is.

18 A Within State's Exhibit 15, there are three fired
19 .9 millimeter Luger caliber cartridge cases. I'm holding up
20 one of the three now.

21 As an unfired cartridge, this would have had
22 a bullet in the open end, propellant powder in the cavity
23 within the cartridge case, and it has a fired primer at the
24 rear, which would have been unfired when it was assembled.

25 Q So that has been fired, and the projectile is

DIRECT EXAMINATION OF DEFREESE BY STONE

1 out?

2 A Yes, sir. As well as the other two contained in
3 State's Exhibit 15, which are essentially the same.

4 Q Now, what type of testing can you do on a casing
5 basically?

6 And that's what that's referring to, is a
7 casing; is that correct?

8 A It's a cartridge case, a fired cartridge case.
9 And fired cartridge cases can be identified with each other,
10 if they're fired by the same gun, and they can be identified
11 back to the firearm which fired them.

12 So by looking at these three fired cartridge
13 cases, I could tell that they were fired by one, two, or
14 three different firearms, if that were the case.

15 Q And there are marks and grooves, I'm assuming, on
16 this, or is there a pin -- how do you tell that?

17 A They -- the cartridge cases are marked in a number
18 of different ways. The firing pin marks the primer, when
19 the primer is detonated. When the pressure builds withing
20 the cartridge case, it is pressed against the back of this
21 bolt or slide or breach face. And the imperfections on the
22 on the breach face are transferred to the cartridge case.

23 In some cases, an extractor that's used to
24 the pull the cartridge case out after firing may leave a
25 mark on the cartridge case. The ejector which expels the

DIRECT EXAMINATION OF DEFRESE BY STONE

1 cartridge case when the gun could leave a mark, and then
2 sometimes there are marks left on the side walls of the
3 cartridge case by the chamber.

4 All of these are potential marks that may or
5 may not be present, and could be used for identification
6 purposes.

7 Q And I'm assuming most of that is done
8 microscopically, from your standpoint?

9 A It is. It's done in a side-by-side microscopic
10 comparison where you get to view two objects at the same
11 time and manipulate them so you can see if there are
12 matching individual characteristics on both.

13 Q Okay. Now, I'm going to show you, and I'm just
14 going to pick one of these, I'm assuming this is item No.
15 24.

16 A State's Exhibit 24 contains a fired, jacketed
17 bullet. In this case you'll see the outside of the bullet
18 is copper in color, and the core is a more silver color, a
19 gray color. There's a center of the bullet is made of lead,
20 and the outside is made of a copper plated steel.

21 Q And if you do similar testings on these, these
22 would be the actual, I guess, what we would call bullets,
23 the actual projectile that comes out of what I handed you
24 earlier as No. 15?

25 A Right. The bullet is what leaves the gun from the

DIRECT EXAMINATION OF DEFREESE BY STONE

1 cartridge. And in this case, in order to identify either
2 the bullets with each other or bullets back to the gun
3 barrel in which they were fired, we would be looking at the
4 land and groove impressions that are present on the cylinder
5 portion of the bullet. It would not be on the nose or the
6 face of the bullet, but it would be on the sides.

7 Q Now, what causes that, what causes those lands
8 and grooves?

9 A Lands and grooves. The land and groove
10 impressions in the bullet are caused by grooves that are
11 placed in the barrel. And they're placed in the barrel for
12 the purpose of gripping the bullet and imparting a spin on
13 the bullet as the bullet is expelled from the firearm. The
14 spin is to make the bullet stable in flight, and keep the
15 bullet from tumbling end over end. It's to make the whole
16 system more accurate.

17 But we've found by looking at the individual
18 marks that are present in the land and groove impressions,
19 that it's possible when the bullets are not too badly
20 damaged to identify bullets back to the gun barrels in
21 which they were fired, or to identify bullets to each
22 other.

23 Q Okay. Go ahead and take the stand, if you will.
24 Thank you, sir.

25 (Witness complies.)

DIRECT EXAMINATION OF DEFREESE BY STONE

1 BY MR. STONE:

2 Q All right, sir. And having already testified to
3 this, item No. 15, and that has also been previously
4 testified as shell casings. You called them something
5 else.

6 A Cartridge cases.

7 Q Cartridge cases. The cartridge cases that were
8 retrieved from the back of the Ford F150, these bullets or
9 trajectories that have been testified as being taken out of
10 Tyrone Robinson's car, can you tell me and tell the jury,
11 after the testings that you did, whether or not these
12 casings or these cartridge casings and these bullets were
13 fired by the same weapon?

14 A I can, and they were.

15 Q Did you -- and I think you did this at my
16 request -- did you assemble a number of guns that could
17 have fired that -- those bullets, a list of guns?

18 A I did. Based on the general rifling
19 characteristics that were present on the fired bullets, I
20 prepared a list of makes of firearms that use rifling
21 specifications like those found on the fired bullets.

22 Q Now -- and you had referred to this before as .9
23 millimeters; is that correct?

24 A Yes.

25 Q Both the shells and the bullets are .9 millimeter

DIRECT EXAMINATION OF DEFREESE BY STONE

1 bullets and shells -- or casings?

2 A Correct.

3 Q That is somewhat different from a .38 revolver,
4 I'm assuming?

5 A It is. It's actually a different caliber of
6 ammunition, but it is about the same diameter. But they're
7 different cartridges.

8 Q But those -- that shell -- those casings and
9 those bullets were not fired from a .38, I'm assuming?

10 A No, they're not .38 special or .357 Magnum
11 caliber, they're .9 millimeter Luger caliber.

12 Q Let me ask you one other thing, too, while I have
13 you. The .38 -- the revolver, the revolver -- I'm assuming
14 that's a gun that doesn't have a clip, it has some type of
15 a circular process of getting the bullet in the chambers;
16 is that correct?

17 A It does. A revolver is a kind of handgun that
18 uses a revolving cylinder. In that revolving cylinder,
19 there are a number of individual chambers, each one of which
20 holds an unfired cartridge.

21 It has one barrel, and in the firing
22 sequence on a revolver, the cylinder is rotated to bring a
23 chamber into alignment with the barrel for firing, and then
24 the bullet jumps out of the cylinder a short gap into the
25 barrel and out of the gun.

DIRECT EXAMINATION OF DEFREESE BY STONE

1 Whereas, in a semiautomatic pistol, the
2 barrel and the chamber are all one unit.

3 Q So when it comes to the casing itself in a
4 revolver, what happens to the casing after it's fired?

5 A It remains in the cylinder. And, of course, as
6 subsequent shots fired, it rotates away from alignment in
7 the barrel. And when the gun finally -- when you shoot all
8 the cartridges that are present in a revolver, the
9 cartridges, the cartridge cases are manually removed so that
10 the gun can be reloaded.

11 Whereas, with a semiautomatic firearm, each
12 time the gun is fired, a cartridge case is extracted and
13 ejected so that the gun can be prepared to fire the next
14 round.

15 Q Gotcha. So the casings don't get kicked out of
16 the revolver, but they do get kicked of the semiautomatic?

17 A Correct.

18 Q Okay. The guns that you took a look at, and let
19 me make sure that I get this right, are the guns that you
20 prepared that could or maybe could have shot those .9
21 millimeter shells or bullets that all were shot from the
22 same gun.

23 Were any of the guns that you studied, did
24 any of them look like a little machine gun?

25 A There are a number of semiautomatic pistols that

DIRECT EXAMINATION OF DEFREESE BY STONE

1 have the general appearance of a sub machine gun with no
2 butt stock on it that were on the list of possible makes of
3 firearms that could have fired the bullets in this case.

4 Q The -- these guns that you're talking about,
5 these little sub machine guns or whatever, they come with
6 clips. Do any of them come with clips that carry somewhere
7 around 30 or 34 bullets?

8 A Yes, some of them do. They have relatively high
9 capacity magazines.

10 Q If you had a gun that had that type of -- I guess
11 they're called clips, magazines, clips?

12 A Magazines.

13 Q And it was a semiautomatic, is that capable of
14 rapid fire?

15 A Uh-huh (indicating affirmatively.)

16 Q Multiple fast shots?

17 A Yes, sir, it's capable of firing as fast as you
18 can pull the trigger and release it and pull it again.

19 Q Now, I'm going to ask you, if I could, to get
20 you -- I'm going to give you the microphone one more time
21 and ask you to come down.

22 (Witness complies.)

23 BY MR. STONE:

24 Q I'm going to show you what's been marked as
25 State's Exhibit -- and it's been placed in evidence -- 18,

DIRECT EXAMINATION OF DEFREESE BY STONE

1 19, 20, 21, and 22. There's also been testimony, I know
2 you were not in here, of the dowels or the stakes that have
3 actually been placed in these holes.

4 Are you familiar with these photographs, and
5 have you taken a look at them and studied them?

6 A I have. I've seen them before.

7 Q What can you tell me about it from the standpoint
8 of these dowel shots?

9 A Well, the dowels are placed there to represent the
10 orientation of the bullet hole in the outside of the
11 vehicle, and whatever structures the bullet penetrated
12 immediately after it got into the vehicle. So that they're
13 portrayed, the trajectory of the bullet, when the bullet
14 entered the car.

15 Q All right. And when we say "trajectory," you
16 mean the angle, the path or what --

17 A The bullet's path as it entered through the car.

18 Q First of all, let me go down to State's
19 Exhibit 22. Obviously that does not penetrate into the
20 metal and I believe that's also marked up here in State's
21 Exhibit 19, with a piece of evidence taken. What can you
22 tell me about this?

23 A That's a blank -- a defect caused in the door by a
24 glancing strike of the bullet. The bullet struck from the
25 rear, dented the door, and then ricocheted off the car.

DIRECT EXAMINATION OF DEFREESE BY STONE

1 Q So basically going in -- it seems that this has
2 some copper here, and what does that tell us, if anything?

3 A I'm not sure what it does. That may be a
4 reflection of some other object in the paint.

5 Q Can you tell us from the glancing here on this
6 which direction the bullet was traveling?

7 A From what I -- I can tell it from having inspected
8 it, it came from the rear.

9 Q Okay. You inspected this personally?

10 A Yes.

11 Q These other trajectories, and what I'm
12 particularly interested in, if I go to State's Exhibit No.
13 18, this bottom dowel, in comparison with the top dowel --
14 and I use "dowel" as some type of stick; is that the right
15 term?

16 A It is.

17 Q What can you tell me about these two?

18 A Just that they're occurring at different angles.
19 The majority of the shots to the car were from the rear, and
20 have a slight down angle. This is from the side and there's
21 a difference in the angle of approach of the bullet. The
22 bullet was going more nearly straight on that shot than it
23 was on the others.

24 Q Okay. So this shot basically is taken from a
25 different position than this one?

DIRECT EXAMINATION OF DEFREESE BY STONE

1 A The path of the bullet is different, yes, sir.

2 Q Now, this bullet, I think, was testified
3 previously, that it got caught in the base -- jamb, I
4 guess, of the door. It did not go all the way through?

5 A Right. It penetrated the door, the door skin, and
6 part of the inner door structure. And it came to rest where
7 the body, the inner door frame sort of tapers up.

8 Q Now, this again, on State's Exhibit 18, this shot
9 here appears to have penetrated to the last inside realm,
10 and I believe this other one on the door also goes all the
11 way through; is that correct?

12 A It does.

13 Q This one, however, does not go through. Does
14 that tell us anything as far as the distance that it was
15 shot?

16 A Not really because the structure of the car's door
17 frame there is very, very robust. It's -- this lower shot
18 in the bottom of the door, or near the bottom of the door,
19 had a lot more steel to contend with than the others did.

20 Q So you can't really tell seeing it from a
21 distance, but from an angle, can you tell us -- and I guess
22 this is another shot of this same dowel; is that correct?

23 A It's another shot, yes, sir. But it's at a much
24 lower angle than the other shots.

25 Q Okay. What does that mean?

DIRECT EXAMINATION OF DEFREESE BY STONE

1 A Either the shooter or the vehicle was in a
2 different orientation with respect to the gun at the time of
3 discharge.

4 Q These shots here, there's a shot here, as well as
5 one appears -- and I'm sorry, I'm going to State's Exhibit
6 20 now.

7 This one right back, and this, I think, from
8 the right window, and then one into the trunk. Can you
9 tell us anything about those shots?

10 A Yeah. They're both oriented as coming from the
11 rear, but they have a slightly different up and down tilt to
12 them.

13 Q And what does that mean; what can we take from
14 that?

15 A Either the position of the shooter or the vehicle
16 were slightly altered between the shots.

17 Q Okay. All right. Thank you, sir.

18 MR. STONE: Your Honor, I don't have anything else
19 from this witness, Your Honor.

20 THE COURT: Thank you. Mr. Ferguson,
21 cross-examine.

22 MR. FERGUSON: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. FERGUSON:

25 Q Mr. DeFreese, did you also examine a fired bullet

CROSS EXAMINATION OF DEFREESE BY FERGUSON

1 that was removed from the victim, Khalil S. , in this
2 case?

3 A I did.

4 Q Okay. And what were your results of that
5 examination?

6 A That bullet was a plain lead bullet that was
7 consistent with round nose plain lead bullets loaded into a
8 .38 special caliber cartridges and .38 special caliber
9 cartridges can be fired in a .38 special caliber cartridges.
10 And .38 special caliber cartridges can be fired either in
11 .38 special caliber firearms or in .357 Magnum caliber
12 firearms.

13 { That bullet, which rifled with eight grooves
14 with right-hand twist, whereas the .9 millimeter bullets we
15 have in evidence were rifled with six grooves with a
16 right-hand twist. So they use different rifling
17 specifications.

18 And they were -- the gun that fired our .9
19 millimeter bullets into evidence did not fire the .38
20 caliber bullet removed from Khalil S.

21 Q Thank you.

22 And in terms of the trajectory and in the
23 dowels that have been discussed, you know, your testimony
24 essentially is that the position of the shooter or the
25 position of the vehicle must have changed. And so could it

CROSS EXAMINATION OF DEFREESE BY FERGUSON

1 not be also that the position of the gun had changed, the
2 actual, --

3 A Yes, it could. In essence, the position of the
4 gun, or when I say the "position of the shooter," it really
5 refers to the position of the firearm or the location of the
6 firearm at the time of discharge.

7 Q Okay. So it's more accurately stated that it has
8 to do with the position of the firearm versus the position
9 of the person?

10 A Well, if the person were higher, of course, the
11 firearm itself would be higher. But, you know, for
12 instance, if I were to hold the gun all the way up here to
13 try to shoot at you, it would create a different bullet path
14 on entry than if I held it here.

15 Q Yes, sir.

16 MR. FERGUSON: Thank you. Beg the Court's
17 indulgence just one moment.

18 No further questions.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MR. STONE:

22 Q I just want to be clear then, so from State's
23 Exhibit -- I think it's 18 and 19, and I'm pointing right
24 now at 19, that appears to be that the gun would be
25 actually held lower, with the shot going up; is that right?

REDIRECT EXAMINATION OF DEFREESE BY STONE

1 A. Yes.

2 Q And that is somewhat different from also in 19,
3 this trajectory that's going down into the car; is that
4 correct?

5 A Yes, sir, it is.

6 Q And the .38, and I think we've put that in
7 evidence before, but the .38 that kills Khalil S. is
8 not fired by the same gun that shot Tyrone Robinson's car;
9 is that correct?

10 A That's correct.

11 Q But the .38 is consistent with what we call a
12 revolver, what we talked about earlier as a revolver?

13 A The overwhelming majority of .38 special caliber
14 firearms are revolvers.

15 Q And those .38 revolvers, how many do they -- how
16 many shells do those hold? How many bullets do those hold?

17 A Generally between five and seven. Probably six is
18 the most popular available one, but most .38 special caliber
19 revolvers hold five, six, and a few of them hold seven
20 shots.

21 MR. STONE: Thank you, sir.

22 MR. FERGUSON: Nothing further, Your Honor.

23 THE COURT: Thank you.

24 Mr. DeFreese, you can step down. Thank you for
25 coming.

REDIRECT EXAMINATION OF DEFREESE BY STONE

1 MR. STONE: The State calls Dr. Marie Tormos.

2 Thereupon,

3 LEE MARIE TORMOS, M.D.

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: Please state your name for the record.

7 THE WITNESS: My name is Dr. Lee Marie Tormos,

8 T-O-R-M-O-S.

9 THE CLERK: Thank you.

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q All right. Dr. Tormos, what do you do, ma'am?

13 A I'm a forensic pathologist at MUSC.

14 Q At MUSC, Medical University of South Carolina.

15 That's in Charleston, correct?

16 A Yes, sir.

17 Q As a forensic pathologist, what is your job, what
18 exactly is forensic pathology?

19 A Forensic pathology is the study -- it's a medical
20 field, and it is the study of how disease and injury brings
21 about the death.

22 Q How long have you been doing that?

23 A Uh --

24 Q All right. Well, let me back up and rephrase it
25 then. Sorry.

DIRECT EXAMINATION OF DR. TORMOS BY STONE

1 What type of education do you have to allow
2 you to work in the field of forensic pathology?

3 A All right. After completing high school I went
4 through four years of college with a bachelor's degree in
5 science. Then I went for four years to medical school.
6 Then I did a subspecialty, which was pathology, anatomic and
7 clinical pathology, which is an additional four years. And
8 then I came to South Carolina and completed my subspecialty
9 degree in forensic pathology, which is an additional year.
10 So, a total of 13 years after high school.

11 Q And you are currently performing pathologies --
12 autopsies, I guess, would be the word.

13 A I am. I am currently performing autopsies. I
14 also am fellowship director for the forensic pathology
15 program at MUSC.

16 Q You testified to your findings in autopsies
17 before; have you not?

18 A Yes.

19 Q And you've actually testified in this courtroom
20 before; is that correct?

21 A Yes, sir.

22 Q And when you have done so, you've been deemed as
23 an expert in forensic pathology; is that correct?

24 A Yes, sir.

25 MR. STONE: Your Honor, at this time, we move Dr.

DIRECT EXAMINATION OF DR. TORMOS BY STONE

1 Tormos be considered an expert in the field of forensic
2 pathology.

3 THE COURT: Voir dire, Mr. Ferguson?

4 MR. FERGUSON: No, sir, Your Honor.

5 THE COURT: Thank you. Without objection, Dr.
6 Tormos is so qualified. Thank you.

7 BY MR. STONE:

8 Q Dr. Tormos, did you perform an autopsy on Khalil

9 S. ?

10 A Yes, I did.

11 Q And you did that at Medical University in
12 Charleston?

13 A Yes, I did.

14 Q From a general standpoint, what can you tell us
15 about the autopsy?

16 A Okay. Khalil S. was an eight-year-old boy.
17 He was just over 4 feet tall, weighed 55 pounds, and on the
18 afternoon of September 1st he sustained a single gunshot
19 wound to the chest.

20 It came on the lateral left side of his
21 body, right at the maxillary line. It crossed through his
22 chest, it perforated in both high lungs or both
23 attachments, where the vessels and the bronchi are, in both
24 lungs. It also perforated the heart. And the projectile
25 then exited the chest cavity and traveled through the soft

DIRECT EXAMINATION OF DR. TORMOS BY STONE

1 tissues in the armpit and was recovered in the posterior
2 right arm.

3 Q All right. Let me stop you there, if I could.

4 MR. STONE: I've got to mark these two in.

5 BY MR. STONE:

6 Q First of all, let me just ask you if you can
7 identify what's been marked State's Exhibit 28 and 29? And
8 if you'd just identify those for me, and then I'll get you
9 to explain to the jury.

10 A Okay. State's Exhibit 28 is a chest x-ray that I
11 took during the course of the autopsy. And State Exhibit 29
12 is an x-ray of the right arm, which I took during the course
13 of the autopsy.

14 MR. STONE: Your Honor, at this time we move
15 State's 28 and 29 into evidence.

16 MR. FERGUSON: No objection, Your Honor.

17 THE COURT: Thank you. Without objection.

18 *(Whereupon, State's Exhibit No(s). 28-29 marked for*
19 *identification and received in evidence.)*

20 BY MR. STONE:

21 Q If I could get you to come up here first.

22 (Witness complies.)

23 BY MR. STONE:

24 Q All right. First of all, let me hand you the
25 microphone.

DIRECT EXAMINATION OF DR. TORMOS BY STONE

1 All right. Let me first show you what's
2 been marked as State's Exhibit 28. I know you testified
3 earlier as to this; could you show us on 28 what that is?

4 A Okay. This is a chest -- this is a chest x-ray of
5 Khalil. As you can see here, this is the right side of the
6 body, this is the left side of the body. This is the spinal
7 column, that's the liver, that's the cardiac silhouette.

8 The gunshot entered the body right around
9 this dark spot. It crosses the chest right where the lungs
10 and the heart, which are all very closely related to each
11 other in terms of vasculature. It crosses through the left
12 lung, the heart, the right lung. It travels the soft
13 tissues of the armpit. And you can see the bullet, which
14 is this white spot right here. It's actually in the
15 posterior aspect of the arm, so back here.

16 Q And what type of damage does the bullet cause
17 when it goes through?

18 A When it goes through the right lung, high lung,
19 the left lung, high lung, where this lacerates the vessels
20 that bring the blood in and out of the lung. It also
21 perforates the bronchi. So now the blood is going from the
22 vessels into the airways. He is aspirating blood into his
23 lungs. He's also bleeding out of his chest cavity. It
24 lacerates the right auricle, which is a teeny tiny portion
25 of the heart. So the heart is also bleeding out into the

DIRECT EXAMINATION OF DR. TORMOS BY STONE

1 chest cavity.

2 Q And then, State's Exhibit 29 I think is just a
3 close-up of the bullet itself; is that correct?

4 A That is correct. So, again, you see the right
5 side of the chest, this is the shoulder, and that is the
6 bullet, which is on the posterior aspect of the right arm.
7 And we recovered the bullet during the course of the
8 autopsy. Just a single bullet.

9 Q Thank you, ma'am. You can take the stand.

10 (Witness complies.)

11 BY MR. STONE:

12 Q Your findings, Dr. Tormos, as to the -- I think
13 we refer to it as the cause of death and the manner of
14 death, what -- first of all, what is the difference between
15 those two?

16 A The cause of death is the derangement or injury or
17 illness that brings about the death. And manner of death is
18 the circumstances surrounding the death.

19 Q What was the cause of death in this case?

20 A The cause of death is a gunshot wound to the left
21 lateral chest.

22 Q The manner of death?

23 A The manner of death is homicide.

24 Q And as the bullet traversed, I think we've
25 already had testimony it was a .38 caliber bullet. As the

DIRECT EXAMINATION OF DR. TORMOS BY STONE

1 bullet went through the body and severed those arteries,
2 the bleeding is going into his lungs; is that right?

3 A Part of the blood is going into the airways and
4 into the lungs, and part of the blood is spilling out into
5 the chest cavities.

6 Q And what is the cause of that? I mean, what's
7 the effect of that?

8 A That Khalil would have become very short of breath
9 very quickly. He would have passed out, and after the
10 oxygen demand is greater than the oxygen supply, he would
11 have died.

12 Q Thank you, Doctor. Please answer any questions
13 that Mr. Ferguson has.

14 THE COURT: Mr. Ferguson.

15 MR. FERGUSON: No questions, Your Honor.

16 THE COURT: Thank you, Dr. Tormos. You can step
17 down.

18 MR. STONE: Thank you, Dr. Tormos.

19 With that, Your Honor, the State rests.

20 THE COURT: Thank you.

21 Ladies and gentlemen, you have now heard all the
22 evidence that you will hear from the State in the
23 presentation of its case-in-chief. Necessarily, at this
24 juncture of every trial of this nature, I have to take
25 up some matters alone outside of your presence.

MOTIONS

1 So the decision can be yours, and it's a little
2 early for the afternoon break, but it's a good time for
3 it in any event because of the status of the trial.
4 We'll get you out shortly to advise you of the balance
5 of the work for the day.

6 Please remember, as always, not to discuss this
7 case among yourselves while you're in the jury room.

8 Thank you.

9 (The Jury exits the Courtroom.)

10 THE BAILIFF: The Jury is clear, Your Honor.

11 THE COURT: Thank you.

12 Mr. Ferguson, I'll be glad now to hear motions.

13 MR. FERGUSON: Yes, sir, Your Honor.

14 Thank you, Your Honor. At this point, we would
15 make a motion for a directed verdict. Essentially, it
16 is our contention that the elements of murder have not
17 been met.

18 What we have is essentially Tyrone Robinson
19 admittedly committing murder. Aaron Young, Senior is
20 not aiding, abetting, or assisting Tyrone Robinson.
21 He's not conspiring with Tyrone Robinson. In fact,
22 under the State's theory, he is opposing Tyrone
23 Robinson.

24 There is no indication that Aaron Young, Senior
25 ever fired a weapon. There is no testimony that

MOTIONS

1 Khalil's death was a natural consequence of the actions
2 that we allege were conducted by Mr. Young, and that
3 being the shooting up of a car.

4 Natural consequences, trying to predict what Tyrone
5 Robinson is going to do is a difficult task, to say the
6 least. He is an unpredictable individual. You know,
7 the theory of the State that the Youngs shot the car to
8 draw him out of hiding, I think is just their theory.

9 Your Honor, you know, we would ask that you direct
10 the verdict at this point just based on the fact that
11 the elements of murder have not been satisfied, that
12 mutual combat has not been proven, and that if Your
13 Honor finds that mutual combat, there is evidence for
14 that, that they haven't shown that the death of Khalil
15 S. was a natural consequence thereof.

16 THE COURT: All right. Thank you.

17 Mr. Stone.

18 MR. STONE: Just briefly, Your Honor. I would
19 agree that I do not believe that, nor have I argued
20 that Tyrone Robinson and the Youngs were working in
21 concert. It is not a theory that the hand of one is
22 the hand of all, in that context.

23 I do, however, believe that there's been ample
24 testimony that this was a shootout. I think you have
25 heard it from witnesses describing the rapid fire shots

MOTIONS

1 compared to the three -- the three other shots to
2 definite sets of shots at Allen Road. You have
3 testimony as to different trajectories of the, which
4 also, I think, indicates that the car may have been shot
5 in two different locations.

6 Even taking Aaron Young's statement, he makes the
7 statement that he shot back at them because they shot at
8 -- because Tyrone Robinson was shooting at him. The son
9 is clearly the shooter in the truck, we do not argue
10 that Aaron Young, Senior is the shooter. However, I
11 think that is where the hand of one is the hand of all
12 comes into play.

13 I think this is a mutual combat situation. I think
14 under a number of people's testimony, it is. And I
15 don't think -- I think from that standpoint, that is the
16 State's -- that's the State's theory on this.

17 THE COURT: Mr. Ferguson, it is, in fact, in my
18 view a factor of the law rather than the narrow facts
19 themselves, which impose liability -- a potential
20 liability on Mr. Aaron Young, Senior.

21 The law that we've already talked about, the law of
22 mutual combat, the law of transferred intent are the
23 sort of things that come together in a legal scenario,
24 and they create responsibility. And, of course, laws
25 can do that and do that quite often.

MOTIONS

1 And so for that reason I feel that the elements of
2 murder as they apply in this particular case of mutual
3 combat, along with the transferred intent aspect of that
4 as well, that the State has satisfied its burden in that
5 regard sufficient to sustain the motion for directed
6 verdict at this juncture. That's respectfully denied.

7 MR. STONE: Thank you, Your Honor.

8 THE COURT: All right.

9 Mr. Ferguson, do you want me to inquire of
10 Mr. Young regarding his understanding of his rights to
11 testify or not to testify?

12 MR. FERGUSON: Yes, Your Honor. I would, you
13 know, request -- it's something that we need to talk
14 about a little bit more, quite frankly.

15 THE COURT: Okay.

16 MR. FERGUSON: But I don't think that Your Honor
17 advising him of his rights, you know, as long as we
18 don't have to make a decision right now, I think it
19 would be just fine.

20 THE COURT: Okay. Well, certainly we've got some
21 time during the break. I'm sure it's probably been out
22 there somewhere, but certainly you need to talk about
23 it more completely. We understand that. And I'll give
24 you some time to discuss that so that a reasoned
25 decision can be made in that regard. Okay?

MOTIONS

1 Mr. Young, would you please stand where you are and
2 raise your right hand.

3 Thereupon,

4 AARON YOUNG SR.

5 was called as a witness, having been first duly sworn,
6 was examined and testified as follows.

7 THE COURT: Mr. Young, under our law, nobody can
8 be forced in a criminal case to testify against
9 themselves. You probably know that the fifth amendment
10 of the United States Constitution says that no one can
11 be required to testify against himself or to
12 incriminate himself in any proceeding whatsoever.

13 That means that you have a right not to testify.
14 And if you choose to exercise that right, the jury will
15 be instructed they cannot take that into account in
16 their discussions. They will not even be allowed to
17 mention that during the discussions.

18 Because when somebody exercises their
19 Constitutional right, that cannot and will not be held
20 against them. The jury will be instructed in that
21 regard.

22 On the other hand, if you give up your right not to
23 testify, and choose to testify, then you would be
24 subject to cross examination by State's attorneys, and
25 can be impeached on any issue that's relevant to this

COLLOQUY WITH AARON YOUNG, SR.

1 particular case.

2 Do you understand what your rights are concerning
3 testifying and not testifying?

4 THE WITNESS: Yes, sir.

5 THE COURT: Do you have any questions that you
6 want to ask me about it, about your rights?

7 THE WITNESS: The only question that I have is
8 will I still be able to testify during the entrances of
9 witnesses on my behalf, the Defendant's behalf?

10 THE COURT: I'm sorry, sir?

11 THE WITNESS: The only questions that I have is
12 will I still be able to testify during the entrances of
13 my witnesses underneath the Defendant's side, my
14 behalf?

15 THE COURT: I didn't understand that. You can
16 certainly call other witnesses, if that's what you're
17 talking about.

18 THE WITNESS: Yes, sir.

19 THE COURT: Yes, sir, you can do that. Whether
20 you testify or not, you can present a Defense of your
21 own witnesses, if you choose to. Was that your
22 question?

23 THE WITNESS: The other question, Your Honor, is
24 we're not closing today, so I have a chance to prepare
25 for testimony when I leave here?

COLLOQUY WITH AARON YOUNG, SR.

1 THE COURT: In other words, can you make an
2 argument to the jury?

3 THE WITNESS: Yes, sir.

4 THE COURT: No, sir.

5 MR. FERGUSON: No, sir. I believe what he's
6 intending to say is that we didn't expect the State to
7 be done right now.

8 THE COURT: Right.

9 MR. FERGUSON: Now, we don't have our witnesses
10 lined up to proceed this afternoon. We have them on
11 standby for tomorrow. And that was intention with
12 Mr. Young, Senior as well, that we would have at least
13 tonight to kind of go over that in depth before he had
14 to make a decision. So I think that's really the gist
15 of what he's getting to, Your Honor.

16 THE COURT: I understand. Okay.

17 I'll give you that time, until tomorrow morning, to
18 get those things together.

19 Assuming that you choose to offer a Defense, either
20 through Mr. Young or other witnesses, do you have any
21 idea how long it might take? How many witnesses you
22 might have? I don't even know who they are, I'm just
23 trying to calculate how to plan tomorrow.

24 MR. FERGUSON: Approximately four, Your Honor.

25 THE COURT: Okay. And if Mr. Young chooses to

COLLOQUY WITH AARON YOUNG, SR.

1 testify, it might be five. Or if he chooses not to
2 testify, it might be three. But three to five
3 witnesses tomorrow. Okay. That's fine.

4 As you know, we don't put a time clock on anybody's
5 witness in this case, I was just trying to get some idea
6 of the number. All right.

7 All right, I will advise the jury that we will
8 recess today until 9:30 tomorrow morning and proceed
9 from this point on.

10 I don't want to be presumptuous in my instructions
11 to the jury at this point in time. Unless you tell me
12 that you're going to put some witnesses up tomorrow, and
13 want me to let the jury know that none of us realized
14 the State was going to rest this quickly, and you have
15 witnesses that are not available until in the morning.
16 I can tell them that. I don't want to tell them that if
17 somewhere you decide not to present a Defense.

18 MR. FERGUSON: Yes, Your Honor. It would be our
19 preference that we just inform them that we have
20 matters of law that would take up the remainder of the
21 day.

22 THE COURT: Okay. I'll do that. Thank you.

23 Any problem with that, Mr. Stone?

24 MR. STONE: No, sir, I agree. Thank you, sir.

25 THE COURT: Okay. All right.

COLLOQUY WITH AARON YOUNG, SR.

1 Bring us the jury, please.

2 THE BAILIFF: The jury is entering the courtroom,
3 Your Honor.

4 (Jury enters the courtroom at 3:33 p.m.)

5 THE COURT: Ladies and gentlemen, as I indicated
6 to you a few moments before you left the courtroom, the
7 State has rested its case-in-chief. That means you
8 will not hear any more evidence from the State, at
9 least in the presentation of its case-in-chief.

10 We have dealt with some of the matters of law that
11 we always have to deal with at this juncture of a trial
12 of this nature. There are other matters yet undone that
13 yet have to be resolved. And so we're not going to be
14 in a position this afternoon to continue with the trial
15 of this case. We will be in a position tomorrow morning
16 at 9:30, however, to pick it back up where we left off
17 today.

18 And I can tell you, barring some delay or some
19 unforeseen interruption in this process, we should be
20 able to finish this case tomorrow. And so you can -- I
21 give you that, even though you're -- well, we're not
22 making use of the other hour and a half that we still
23 have left today, we will make use of that time tomorrow,
24 and you should be out of here at the end of the day
25 tomorrow.

COLLOQUY WITH AARON YOUNG, SR.

1 And so if that's any consolation to you, I offer it
2 for whatever it's worth.

3 I remind you, please, as always, not to talk about
4 this case overnight with anybody or among yourselves
5 when you get to the jury room tomorrow morning. And
6 please be back in the jury room at 9:30 tomorrow
7 morning, and we'll bring you out to continue the work of
8 the case at that time.

9 Thank you, ladies and gentlemen.

10 (The Jury exits the Courtroom.)

11 THE BAILIFF: The jury is clear, Your Honor.

12 THE COURT: Thank you. Anything further from the
13 State before we break today?

14 MR. STONE: No, sir, not from the State.

15 THE COURT: Mr. Ferguson, Defense?

16 MR. FERGUSON: No, sir.

17 THE COURT: All right. Gentlemen, I would like
18 for you to present to me your proposed request for
19 charge tomorrow morning, if you would, please.

20 MR. STONE: Yes, sir.

21 THE COURT: If you have them today, I'll take them
22 today, but if I could have them on my desk by tomorrow
23 morning.

24 And also any proposed verdict forms in regard to
25 lesser included. Legally there are lesser included

COLLOQUY WITH AARON YOUNG, SR.

1 charges as a matter of law, which can be encompassed by
2 the charges in these indictments. As to whether or not
3 either of you wishes to have those or think you should
4 not have them, if you will let me know that as well.

5 MR. STONE: Yes, sir, Your Honor.

6 THE COURT: So that we can be prepared to go from
7 that point on.

8 MR. FERGUSON: Yes, Your Honor.

9 MR. STONE: Thank you, Your Honor.

10 THE COURT: Thank you, folks. 9:30 tomorrow
11 morning.

12 (Whereupon, the Court recessed
13 for the day.)

14

15

16

17

18

19

20

21

22

23

24

25

COLLOQUY WITH AARON YOUNG, SR.

1 AUGUST 12, 2015 PROCEEDINGS

2 THE COURT: Folks, I've asked you to assemble a
3 little early this morning to deal with an issue that
4 was brought to my attention.

5 Mr. Jason Clint, Juror No. 70, was the first
6 alternate selected on Tuesday -- or Monday, I'm sorry.
7 And he does not have his own transportation. He has to
8 wait on people to bring him, pick him up, and for folks
9 to bring him in the morning.

10 Yesterday, after everyone was dismissed, he was
11 waiting on his ride, and through no fault of his or no
12 fault of Mr. Young's, while Mr. Clint was sitting on the
13 steps out there, Mr. Young and some of his family was
14 standing, I assume, I don't know, 20 feet maybe or more
15 away, talking. And Mr. Clint could hear them talking,
16 or at least the bailiff who saw what was happening, went
17 to Mr. Clint, and she could hear them talking.

18 And so I thought it best to inquire of Mr. Clint
19 this morning as to what, if anything, he did overhear
20 and if it would impact his ability to be fair and
21 impartial. Or if both sides agree, I'll simply dismiss
22 him. He's an alternate.

23 So, what says the State?

24 MR. STONE: I think I'd rather you dismiss him,
25 Judge. I'm afraid -- I don't know obviously what he

COLLOQUY

1 heard. If it was a conversation or something
2 concerning strategy that he was -- especially at this
3 particular phase, where there was a question when we
4 left yesterday whether or not there would be a Defense
5 case be put up. Whether there was any type of strategy
6 that he and his Defense attorney had discussed that the
7 juror could have overheard, that would concern me, and
8 I don't want that published out here in the courtroom
9 for anybody. I don't even want to hear that. I think
10 my preference would be just to dismiss him.

11 THE COURT: All right. Mr. Ferguson?

12 MR. FERGUSON: Fine by me, Your Honor.

13 THE COURT: All right. Okay. If you'll bring
14 Mr. Jason Clint, Juror No. 70. Thank you.

15 MR. STONE: Your Honor, I'm assuming you're going
16 to ask him if he had discussed anything with anybody
17 else?

18 THE COURT: He's been separated this morning.

19 MR. STONE: Thank you.

20 (Juror No. 70 enters the
21 courtroom.)

22 THE COURT: Good morning, Mr. Clint. How you
23 doing?

24 JUROR: Very good.

25 THE COURT: It was brought to our attention that

DISMISSAL OF A JUROR

1 yesterday afternoon out there, when everyone was
2 separated, while you were waiting on your ride, that
3 Mr. Young and some of his family members were moving,
4 going to the parking lot as well. And they were
5 talking among themselves, and we don't know what they
6 were talking about, but they were talking in a loud
7 enough voice for you to hear.

8 And, of course, you were not at fault, obviously,
9 you were sitting there waiting on your ride, doing what
10 you were supposed to do, and then they were walking to
11 the car, parking lot, talking as they have a right to
12 do. So nobody's accusing anybody of any wrongdoing.

13 But because the conversation was such that you
14 could have overheard, whether you paid attention to it
15 or not, you could have overheard it, and that could bear
16 on Mr. Young's right to a fair trial. Because they may
17 have been talking about some things that were strategy
18 or whatever they could have been talking about, or
19 talking about his view of the case. Whatever it happens
20 to be, it would be best if we simply excused you at this
21 time -- it's probably going to break your heart. I
22 appreciate your promptness and your attention throughout
23 this trial. You were paying as good attention as
24 anybody else, and you would have been perfectly able to
25 render a verdict if we had needed you to, but you're not

DISMISSAL OF A JUROR

1 going to be able to do it. And since you were an
2 alternate, and the other alternate, I think, is here --

3 THE BAILIFF: Yes. Yes, Your Honor.

4 THE COURT: -- we'll be able to complete the trial
5 without you.

6 JUROR: Sure.

7 THE COURT: If you need some help in getting your
8 ride here or something ...

9 JUROR: Just if I could use the phone.

10 THE COURT: Thank you, Mr. Clint. You're free to
11 go. And you don't have to call back.

12 JUROR: Cool. Thanks.

13 THE COURT: All right. We still have a few
14 minutes. Is all the jurors here?

15 THE BAILIFF: We were missing one, but I'll go
16 check and see.

17 THE COURT: Okay. Mr. Ferguson, I see Dr. Salas
18 is back. Are you ready to proceed if the jury is all
19 here?

20 MR. FERGUSON: Yes, Your Honor. She's not the
21 first witness I'll be calling.

22 THE COURT: Right.

23 MR. FERGUSON: And Mr. Stone, Solicitor Stone, and
24 I did have a brief conversation about potential
25 witnesses, and I think he might have an issue with my

DISMISSAL OF A JUROR

1 first one. So we might want to take that up outside
2 the presence of the jury.

3 THE COURT: Okay. Right now's a good time.

4 MR. FERGUSON: Okay. Your Honor, it's
5 Investigator John Adams took a statement from Aaron
6 Young, Senior on September the 6th of 2012, and the
7 Solicitor has indicated to me that he may have some
8 objection to, I guess, the contents of that statement.

9 THE COURT: Okay. What was the date of service
10 again?

11 MR. FERGUSON: It was September the 6th of 2012.

12 THE COURT: And where did the statement -- where
13 was the statement taken?

14 MR. FERGUSON: It was at the detention center,
15 Your Honor.

16 THE COURT: Okay. Was he re-Mirandised before the
17 statement was made?

18 MR. FERGUSON: Yes, sir, he was.

19 THE COURT: All right. Mr. Solicitor, I'm glad to
20 hear from you.

21 MR. STONE: And I also believe that he actually
22 initiated the conversation himself. I'll let the
23 Defense attorney correct me if I'm wrong about that. I
24 think that's the case.

25 It's not admissible. It's a five day -- it's a

COLLOQUY

1 statement five days later. He calls the police back to
2 basically change his statement. There is no hearsay
3 exception that covers it, and there is a Supreme Court
4 case directly on point. The name of the case is State
5 versus Gary Terry. I am, unfortunately, intimately
6 familiar with it. But that case specifically said --
7 and I'll hand you up the opinion.

8 THE COURT: It's a self-serving statement.

9 MR. STONE: It is. It is a self-serving
10 statement, the Defense in that case sought to introduce
11 it, even after they had a Jackson Denno hearing. So it
12 already cleared all of those hurdles. The trial judge,
13 I think, was Judge Clary. He said that's not
14 admissible. It went up on the Supreme Court, and it
15 was affirmed by -- Judge Clary's decision not to allow
16 it in was affirmed by the Supreme Court.

17 THE COURT: All right. I'm familiar with Terry
18 and with the principal. It says -- how do you deal
19 with that or distinguish your situation from that,
20 Mr. Ferguson?

21 MR. FERGUSON: Well, Your Honor, I'm rapidly
22 trying to absorb the facts of the case that was handed
23 to me.

24 THE COURT: Okay.

25 MR. FERGUSON: And unfortunately, they seem pretty

COLLOQUY

1 similar, Your Honor. I guess the only difference would
2 be that at this point, you know, we have not had a
3 decision by Mr. Young to not to testify.

4 THE COURT: Right.

5 MR. FERGUSON: And so certainly, you know, I guess
6 he could attest to what was said that day.

7 THE COURT: I think if Mr. Young testifies, then
8 the calculus may be somewhat different from Terry, but
9 -- as the rule applies. I haven't read Terry from that
10 perspective or not, but the -- the rationale behind the
11 ruling, as I understood it at the time, and so there
12 are other cases on point, or that if a defendant has
13 offered a statement which appears to be self-serving,
14 and then chooses to substitute the statement for his
15 own testimony at trial, then that was the ruling in
16 Terry, as I recall.

17 MR. STONE: It was. It was -- the Defense in that
18 case came up with a number of angles, but there was no
19 exception to the hearsay rule basically, as the
20 fundamental basis of it.

21 THE COURT: Right.

22 MR. STONE: There wasn't any conflicting evidence
23 that they were offering for any type of impeachment.
24 There wasn't anything in the context.

25 In fact, again, what -- even if you read Chief

COLLOQUY

1 Justice Finney's descent in that case, he talks about
2 how the concern he had was that it appeared that the
3 State sandbagged the Defense, because the State had a
4 Jackson versus Denno hearing, basically telling the
5 Defense we think we're going to put that statement in.
6 And then when the time came, they just did not offer it.

7 So there wasn't any -- there wasn't basically any
8 hearsay exception, and there was no other way for it to
9 come in.

10 THE COURT: When you read the whole of the
11 opinion, and then part of the sentence itself that I'm
12 reading, I can't see any rule that would allow this to
13 come in. And so I'll be glad to hear from you by way
14 of arguments, Mr. Ferguson, but it appears that the
15 interpretation and the ruling of 403 is much
16 dispositive of it.

17 MR. FERGUSON: Understand, Your Honor.

18 THE COURT: All right. Thank you.

19 Investigator Adams then will not be allowed to
20 testify as to the statement itself.

21 Now, if Mr. Young testifies, then we'll revisit
22 that, but we will drive over that bridge when we get to
23 it.

24 MR. FERGUSON: Yes, sir.

25 THE COURT: All right. Thank you.

COLLOQUY

1 All right. Other than that, is there anything else
2 before the jury comes in?

3 MR. STONE: Not from the State, Your Honor, except
4 we don't have any of the evidence out, and I'm ...

5 THE COURT: Okay. Y'all done with all that?

6 MR. FERGUSON: Yeah. I don't -- I think that's
7 the clerk. At this point, it's been admitted so I
8 think we have that in the ...

9 THE COURT: Okay. All right. Since your first
10 witness has been disallowed, do you need some time to
11 get your next witness ready?

12 MR. FERGUSON: Just a little bit, Your Honor.

13 THE COURT: All right. Okay.

14 All right. Let's take a -- why don't y'all get the
15 evidence out while he's doing that. And then let's tell
16 the jury we'll be ready for them in about ten minutes.
17 Is that okay?

18 MR. FERGUSON: Thank your Honor.

19 (Whereupon, a brief recess was
20 taken.)

21 THE COURT: All right. Mr. Ferguson, is the
22 Defense ready for the jury?

23 MR. FERGUSON: Yes, sir.

24 THE COURT: Is the State ready?

25 MR. STONE: The State's ready, Your Honor.

COLLOQUY

1 THE COURT: All right. Please bring us the jury.

2 (The Jury enters the courtroom.)

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

4 THE COURT: Thank you.

5 Mr. Foreman, ladies and gentlemen, good morning and

6 thank you again for your prompt return this morning.

7 You'll recall that before we let you all go yesterday,

8 the State had rested its case-in-chief.

9 The Defense now has the opportunity to offer
10 evidence and testimony, but as you know, is under no
11 obligation to do that.

12 Mr. Ferguson.

13 MR. FERGUSON: Thank you, Your Honor. The Defense
14 calls Dr. Amanda Salas.

15 THE COURT: Dr. Salas, come forward, please,
16 ma'am. You've already been sworn.

17 Yes, sir, Mr. Ferguson.

18 MR. FERGUSON: Thank you, Your Honor.

19 Thereupon,

20 AMANDA SALAS, MD

21 was called as a witness, having been previously sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FERGUSON:

25 Q Dr. Salas, what do you do for a living?

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 A I'm a psychiatrist.

2 Q And where do you work?

3 A In several different places. My primary job is
4 currently at South Regional Healthcare in Greenwood, South
5 Carolina, where I'm the medical director of an inpatient
6 adult and geriatric facility -- inpatient adult and
7 geriatric unit.

8 I also have a small private practice here in
9 Beaufort, South Carolina, and I also practice forensic
10 psychiatry through my private practice.

11 I also work two days a month at Post Trauma
12 Resources in Columbia.

13 Q What is forensic psychology?

14 A Forensic psychiatry.

15 Q Psychiatry.

16 A Forensic psychiatry is the interface, where
17 there's an overlap of mental health and psychological
18 issues, and they come into roles and realms of legal
19 aspects. And so the study of forensic psychiatry is really
20 studying the psychological factors in the overlap of our
21 mental illness, or psychological understanding has an impact
22 on legal aspects that may go on in a courtroom, whether it's
23 criminal, civil, or anything like that.

24 Q What kind of education did you have to obtain in
25 order to become a forensic psychiatrist?

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 A I graduated from college, at Presbyterian College,
2 and after that you complete four years of medical school. I
3 did my medical school training at the University of South
4 Carolina School of Medicine, finished in 2003.

5 From there, I had to go on into a general
6 residency in general psychiatry. I did that at what was at
7 the time the Medical College of Georgia. I believe they've
8 changed names since then.

9 Normally you spend four years training as a
10 general psychiatrist, but I had interest in child and
11 adolescent psychiatry, and so they offered a combined
12 program where you do three years of general psychiatry and
13 then two years of training in child and adolescent
14 psychiatry. So I did all of that from 2003 until 2008.

15 I worked for one year, and then I went back
16 to complete a one year fellowship to get specialized
17 training in the area of forensic psychiatry itself, doing
18 that at University of South Carolina, again from 2009 until
19 2010.

20 Q And what licenses do you currently hold?

21 A I hold a medical license in the state of South
22 Carolina, as well as in the state of Georgia. And then I
23 hold board certifications in general adult psychiatry and
24 child and adolescent psychiatry, and forensic psychiatry.

25 And that is -- those three certifications

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 are given through the American Board of Psychiatry and
2 Neurology. And it requires a test that you have to take.
3 I can't remember if it was four or six hours, however long.
4 And then you actually have to go for a face-to-face
5 interview for about four hours in order to obtain the board
6 certifications in general and child and adolescent
7 psychiatry.

8 Q And what experience do you have as forensic
9 psychiatry relates to the court system?

10 A You mean, what have I done in terms of the
11 experience that I have done?

12 Q Yes, ma'am.

13 A I have done court cases that relate to competency
14 to stand trial issues. So, for example, whether or not a
15 defendant is even able to participate in court hearings and
16 proceedings, or if they are having exacerbations of mental
17 illness or other factors that might influence them from
18 being able to stand trial, as well as criminal
19 responsibility. Neither of those applied in this particular
20 case.

21 I have also served as an expert in the area
22 of forced confessions and provided testimony, particularly
23 in a case related to an archaic -- archaic meaning it had
24 happened a long, long time ago -- overturn -- overturning a
25 verdict where a person had -- the youngest execution in

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 America. And participated in that, which was a false
2 confessions testimony.

3 I also do criminal -- not criminal, civil
4 casework, where I have reviewed case material as it applies
5 and pertains to workers' compensation issues, and I've also
6 looked at some psychological factors where it pertains to
7 divorcing parents.

8 Q Now, in your experience, have you worked for both
9 the Defense side of the courtroom and the prosecution side
10 of the courtroom?

11 A Yes, I have. I've actually been retained not only
12 by the Defense, but by the Solicitor's office here in
13 Beaufort County as well.

14 Q Okay. All right. Have you ever testified as an
15 expert before in a circuit court in South Carolina?

16 A Yes, I have.

17 Q How many times?

18 A I can't tell you, but it's been at least a dozen
19 times. I probably should do a better job of keeping track
20 of that, but usually by the time I've testified, I'm tired
21 and forget to write it down. I can go back and check all of
22 my billing statements to tell you.

23 Q That's just fine.

24 A My accountant may be better at telling you that.

25 MR. FERGUSON: Your Honor, at this point, I would

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 move to have Dr. Salas qualified as an expert in the
2 field of forensic psychiatry.

3 THE COURT: Mr. Stone?

4 MR. STONE: No objection.

5 THE COURT: Thank you. Without objection,
6 Dr. Salas is so qualified.

7 BY MR. FERGUSON:

8 Q And so, Dr. Salas, you were retained by the
9 Defense in this case?

10 A Yes.

11 Q And essentially, what were -- what were you
12 requested to do?

13 A I recall being asked to review some statements
14 that were made and give an indication to you as to whether
15 or not there were any concerns that I might have as to the
16 nature of the statements that I reviewed. I really wasn't
17 given a lot of direction at the beginning, which is not
18 unusual. Because a lot of times, no offense to the
19 attorneys in the room, but sometimes they just don't know
20 exactly what our roles are and how we can, quote, be
21 helpful. And so they kind of, in recognizing our roles, an
22 expert, they just kind of give you voluminous amounts of
23 materials and say, tell me what you think.

24 So other than knowing that I was going to be
25 reviewing statements, I didn't have a lot of direction

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 right off the rip.

2 Q Well, and -- did you have a chance to review all
3 the materials that were given to you?

4 A Yes.

5 Q And did you essentially come up with some
6 findings based on a reasonable degree of medical certainty?

7 A Yes.

8 Q And what were those findings?

9 A It's my professional opinion, to a reasonable
10 degree of medical certainty, that there are elements of
11 errors that were made in the process of the investigative
12 work that led to a confession that makes it the equivalent
13 of a coerced false confession.

14 Q And when you say "coerced false confession," can
15 you explain a little bit more about that, please?

16 A Yes. When somebody makes a confession, what
17 they're actually doing is they're giving a narrative in a
18 story that says, I did this and these are my words that say
19 I did X, Y, and Z. So that's the nature of what a
20 confession is.

21 And then a false confession is somebody
22 giving a narrative and a description of something that they
23 really didn't do, or really didn't participate in, or the
24 words that they chose to use at the time -- whether it's
25 volitional or involuntary -- that the words that they give

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 do not add up to a representation of the truth.

2 And then the word "coerced" is a description
3 that also outlines the nature of how that false confession
4 might have been generated.

5 And so in this particular case, there were
6 elements of coercion that were present that increased the
7 likelihood of the statements being given as being false in
8 nature, yet still representing an alleged confession.
9 Because it is a confession, it's just my opinion that it's
10 a false confession, and there are factors that lead to my
11 understanding of it as being a coerced false confession.

12 Q And what are those factors?

13 A There are three factors that you look towards when
14 you're trying to assess whether a confession is false or
15 not. I don't want to mislead the jury in making y'all think
16 that I know the difference between a truth and a lie,
17 because I'm going to be no better at determining that than
18 anybody else in this room.

19 What my training is, is understanding the
20 nature of the errors and how they can occur to increase the
21 likelihood of something being a false confession versus a
22 real confession representing, quote, the truth as it may
23 have happened.

24 So I look towards the first error being a
25 misclassification, and I didn't find that error. That is

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 whether or not the person who's being interrogated, and in
2 this situation, giving a confession, should they even be
3 sitting in that chair and having interrogation techniques
4 utilized.

5 And in this case, it's my opinion that there
6 is a reason that Aaron Young, Senior should have been
7 interrogated by the police, and a misclassification error
8 is not present.

9 The next error that you look towards are
10 elements of coercion themselves. These can be very obvious
11 or they can be subtle. Both of those were present in the
12 materials that I reviewed, and they were present early on
13 in the process of getting a confession. And so those
14 elements are probably in some of the materials that may
15 have even been shown, but the coercion factor was obviously
16 present, they are in the materials I initially reviewed
17 from 2014.

18 Then what happened is a -- was concern about
19 there were statements made that were not recorded from the
20 materials I had first evaluated and reviewed. And so the
21 third factor, which is a contamination error, is something
22 I couldn't figure out was it present or not at the time
23 when I reviewed in 2014. But new materials have surfaced
24 since then, and has reinforced that two of the three
25 factors were present in the nature of this confession. And

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 it's this third factor where contaminants came into play.

2 They came into play even before Mr. Young,
3 Senior was actually asked the first question or read his
4 Miranda rights. And I can point those out, if need be, but
5 I can tell you that when you find these errors -- they're
6 true errors, it's not somebody purposefully trying to mess
7 up or botch an investigation. I don't think that there's
8 any detective or investigator that's trying to do that on
9 purpose, because that really undermines what they're trying
10 to accomplish anyway. But there are errors and they were
11 present, two of the three. You do not have to have all
12 three in order to have a false confession.

13 Q And specifically, Dr. Salas, what were the
14 coercive errors that you observed in this case?

15 A Specifically, in terms of words and phrases that
16 were used?

17 Q Yes, ma'am.

18 A I'll do my best to recall. I remember one of them
19 was -- one of the errors that was obvious on the tape is
20 when someone used the word "exoneration," and that you can
21 'exonerate yourself, give us the gun. And the nature of the
22 coercion was that Mr. Young, Senior was in a position that
23 he believed that if he gave a story that said there was a
24 shootout between Mr. Young and his son and Tyrone Robinson,
25 that that would be part of what would allow him to, quote,

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 save his son, because "you can save your son" was another
2 one of the phrases that was utilized. That he would be able
3 to be a star witness in a case against Tyrone Robinson. And
4 also, the other factor of -- I'm sorry, my brain is a little
5 out there right now.

6 But the exoneration, as well as the issue of
7 saving his son, and from his perspective, where he sat,
8 those were the more obvious things.

9 There is one time where he was actually
10 being -- questions were asked of him, if you want to call
11 that interrogation or not is up to you -- and it was not
12 recorded, so I can't review that. But he believed that in
13 addition to giving a story saying there was a shootout,
14 that he had to produce a weapon.

15 And actually what happens, in the material,
16 as it has become increasingly available, you will find in
17 review of all of that material, that there's a crescendo of
18 the amount of coercion and techniques that were utilized
19 that resulted in just what he believed, which was give the
20 story that there was a shootout, and then also produce the
21 weapon.

22 And ultimately, even though he had said I
23 don't know where a weapon is time and time again, he did
24 produce a weapon. And that came as the pressures of
25 coercion escalated, and he believed that he was actually

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 saving his son, more so than he was saving himself. That
2 was more important to what the psychological pressures were
3 on him.

4 Q And, now, the third factor that you discussed,
5 the contamination error, what did you discover in regards
6 to the contamination error?

7 A The contamination error was not as easily
8 discoverable with the first materials that I had. At the
9 beginning, when I was initially retained and I had
10 materials, I had materials that were recordings of
11 interrogations, not only of Mr. Young, Senior, but also of
12 Tyrone Robinson, Jontu Singleton, Mr. Young, Senior, and
13 Mr. Young, Senior's son, Aaron Young, Junior. And I
14 reviewed all of those, and the nature that there was a
15 shootout was referenced in the confession that was obtained
16 from Mr. Aaron Young, Senior at that time.

17 What happened is that I had a really hard
18 time putting together the information of if this isn't a
19 shootout, why am I seeing and hearing "shootout" written in
20 reports and in a variety of statements?

21 And then another statement that comes into
22 play that kind of retracts that, and then I had an
23 opportunity to actually interview Mr. Young, Senior and
24 began to shed light on what for me, at that time, was very
25 confusing and blurry. And so because the contaminant

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 occurred so early on in those initial records that I
2 reviewed, I couldn't find it. It wasn't until I was called
3 to testify in court in April of 2014, I was sitting in the
4 courtroom and I, being here, heard Tyrone Robinson's voice
5 being picked up at a mic that an officer was wearing at the
6 scene, where Khalil S. had died.

7 But you hear Tyrone Robinson come up and he
8 says, there's been a shootout, it's a drug deal gone bad,
9 or some paraphrase there forth -- but maybe it's a cocaine
10 deal gone bad, or drug deal.

11 But that was the first time I said, you
12 know, I wonder if that's where a contaminant has occurred.
13 And subsequent to that, and through a process that has
14 unfolded afterwards, more records to record the
15 interactions of what happened for Mr. Aaron Young, Senior
16 on that particular day came forth, and I heard in one of
17 the audios that once that was repeated, so that it went
18 across all of the mics that go out to the sheriff's
19 deputies, it says, there's been a shootout. And then I
20 found that the word "shootout" became interjected into the
21 questions that were being asked of Aaron Young, Senior.

22 And so through the police statements,
23 Mr. Young, Senior was initially stopped, and he said to the
24 stopping -- the officer who stopped him -- some statement
25 that referenced, I was getting ready to call you, someone

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 has shot at me at my house, or something along those lines.
2 But he did not reference a shootout.

3 I only know that with hardcore evidence per
4 se, being a recording that was provided to us through the
5 Solicitor's office. And subsequent to that officer
6 repeating that statement the first time he repeated it, I
7 think he repeated it accurately.

8 The next thing that happens is the word
9 "shootout" is referenced in the context of being across
10 everyone's radios and through their audios in their cars.
11 After that, the same officer repeats to the investigator
12 who starts the interrogation process, he says the same
13 sentence, he's trying to paraphrase, is that, when I
14 stopped him, the first thing Mr. Young, Senior said is that
15 there's been a shootout -- I was getting ready to call you,
16 there's been a shootout.

17 So the same officer is repeating what is
18 intended to be the same statement very differently. And
19 apparently that matters in this case. It comes up also,
20 coke deal gone bad, and later on someone was asking about a
21 coke deal gone bad, but I think that got terminated pretty
22 early on. But that was not what has happened.

23 And so whereas there was another contaminant
24 that was introduced, it was not picked up, digested, and
25 inserted back into the process of interrogation. But this

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 word "shootout" was. And so from that point, the questions
2 were initially being asked to Mr. Aaron Young, Senior, he
3 begins to hear the word "shootout," he believes that there
4 was pressure that was put him. I can't tell you if there
5 was or wasn't because that incident where he was having a
6 gunshot residue test done on the back of the -- at the back
7 of the car, it's not recorded. And so I can't speak to
8 what was said there.

9 I can tell you what he told me, which was he
10 was made promises that if he said that there was a
11 shootout, that they would be able to prosecute Tyrone
12 Robinson and he would be a star witness against him. And
13 they needed to know that there was a shootout and that he
14 needed to produce a gun.

15 And so the contaminant came early. And then
16 what happened subsequent to that is that it's utilized over
17 and over and over again to the point that Mr. Young, Senior
18 picks up and he's utilizing the same words that are put
19 forth to him. And he's just taking them in and putting
20 them right back out.

21 So when you find the contaminant early on,
22 you find the evolution and the increasing from subtle to
23 not so subtle to just blatant elements of coercion.

24 One of those in and of themselves can be
25 sufficient to lead to a false confession. But when you

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 have both of them, and one of them is a very strong element
2 of coercion, that's what leads to the conclusion that this
3 is not just a false confession, but it is a coerced false
4 confession, and it's based on contaminants that were
5 introduced.

6 Q Now, in your review of the materials, did you
7 also look for indications of whether or not the statement
8 was voluntarily given?

9 A I did. I went -- in the process of going back,
10 there were elements that did indicate through this process
11 that it was an involuntary statement, which is not uncommon
12 when you're dealing with false confessions.

13 Q And what in particular led you to believe that
14 Mr. Young, Senior's statement was involuntary?

15 A When you have a person believing that they're
16 going to get a relief, or a promise given to them, it shifts
17 the tides and the dynamics change. And so in this
18 particular case, under save your sons, you know, you and
19 your son will not face a murder charge, you will not be
20 locked away for the rest of your life, those types of
21 statements being made, and that you will be exonerated, lead
22 to a change from a voluntary statement to an involuntary
23 statement.

24 And when I interviewed Mr. Young, Senior, he
25 was able to tell me, and he was not bashful at all in

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 saying, these statements that I made, I knew weren't going
2 to make sense, I knew I was going to be caught in a lie
3 because they weren't going to make sense and the physical
4 evidence wasn't going to be there to support them.

5 However, I believed that I was going to, you
6 know, either take the charges for me and my son, and I
7 wasn't going to face a murder charge, and we were not going
8 to be, you know, locked away for the rest of our lives, for
9 30 years or something along those lines. But in this case,
10 it was a promise that was made to relieve him from the
11 pressure of what he faces today.

12 Q And so, Dr. Salas, it's not your job to
13 ultimately decide what is true and what is false; is that
14 correct?

15 A That's correct. I'm not a human lie detector. I
16 don't purport to be a human lie detector, and I'm not here
17 to tell you what the truth is, or what a lie is in this. I
18 believe that there's probably a common thread of truth
19 somewhere through this story that y'all will hear, but it is
20 not my job to come and tell you what is a truth, what is a
21 lie. And I'm sorry for y'all, but I'm glad I don't carry
22 that burden.

23 MR. FERGUSON: Beg the Court's indulgence for just
24 one moment, Your Honor.

25 THE COURT: Yes, sir.

DIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 (Pause.)

2 BY MR. FERGUSON:

3 Q Just briefly, again, your findings are -- in
4 terms of voluntariness, what are your findings?

5 A It's my finding that there are elements that are
6 present in the process of interrogation that lead to an
7 involuntary statement being made that equals a coerced false
8 confession.

9 MR. FERGUSON: Thank you. No further questions.

10 THE COURT: Thank you.

11 MR. STONE: Just a few, Your Honor.

12 THE COURT: Yes.

13 CROSS EXAMINATION

14 BY MR. STONE:

15 Q All right. Doctor, first of all, and I
16 appreciate it, I think you have tried to be very fair about
17 your testimony to the jury.

18 You're not telling the jury what Aaron
19 Young, Senior told the police was a lie, you're not telling
20 them whether what he said was a true or a lie.

21 A I'm not saying where the truth lies in this
22 because that's not my job to find the truth or to find a
23 lie.

24 Q And quite frankly, you don't know what the truth
25 is?

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 A I don't know what the truth is.

2 Q That's fine. So I just want to make sure that
3 you're not in here saying everything he said was a lie,
4 because you don't know if it was or not, right?

5 A I can't tell you where the truth begins and ends,
6 much less where a lie picks up.

7 Q And I know -- and I want to make sure I'm clear
8 about this, because it sounded from the Defense
9 perspective, I want to make sure you're not saying that
10 Aaron Young, Senior didn't know the word "shootout" until
11 he heard it over the radio, did he? I mean, this is not a
12 new word to him or anything, is it?

13 A I'm not -- I'm not saying that the police or the
14 investigative team taught Aaron Young, Senior the word
15 "shootout". I think that would be unreasonable to think
16 that he had never heard it or never known what that was
17 prior to the time that it came across the radio.

18 What I'm saying is that there was --

19 Q Well, I appreciate that. I know, what -- I
20 understand. I don't want to go back through all of your
21 testimony, but --

22 A Thank you.

23 Q -- let me talk to you just briefly then
24 about what -- you interviewed Aaron Young, Senior, right?

25 A That's correct.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 Q You spent a couple hours with him, I guess?

2 A I did. I believe it was over two hours.

3 Q And this was maybe a year, two years after the
4 event, something like that?

5 A It was April 20th of 2014, and I believe this
6 event was September --

7 Q September the 1st, 2012.

8 A -- the 1st, 2012.

9 Q Yes, ma'am.

10 Okay. So you talked to him, you interviewed
11 him for a couple hours, pretty long time after this event.
12 There weren't any police with you when you interviewed him?

13 A No.

14 Q And you didn't coerce him or anything, did you?

15 A I would like to think that I did not coerce him.
16 When I interview somebody, I actually come at this from a
17 very different angle than what the police are coming at.
18 Police read you your Miranda rights and they tell you, you
19 have the right to remain silent, yada, yada, yada, you can
20 ask for an attorney, et cetera.

21 Q Yeah, that -- and I -- don't let me cut you off,
22 but you didn't coerce him, you didn't make him say
23 anything. He basically had an open conversation with you.

24 A That's correct.

25 Q Right.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 A And I actually gave --

2 Q And you knew at the time he --

3 THE COURT: Let her finish her answer. You stop
4 talking.

5 MR. STONE: I'm sorry.

6 THE WITNESS: And I actually gave a warning
7 statement. It's not his right to talk with me, but
8 there's a warning that comes with him talking with me.

9 MR. STONE: Okay. Your Honor, could I approach
10 just briefly?

11 THE COURT: Yes.

12 (Pause.)

13 MR. STONE: Your Honor, may I continue?

14 THE COURT: Yes, sir.

15 BY MR. STONE:

16 Q When you talked to him, and you talked to him a
17 couple hours, he told you, did he not, that he, his son,
18 and Tyrone Robinson, they didn't get along. They had a --
19 they had some kind of disagreement.

20 A That's correct.

21 Q Whatever it was over, but they had some type of
22 disagreement?

23 A That's correct.

24 Q He told you that Robinson came over to his house,
25 they got in a fight, they -- they struggled. Robinson

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 fired a gun, I think he said he fired a gun at his feet,
2 and then Robinson left; did he not?

3 A That's correct.

4 Q Robinson is gone, but what Young, Senior then
5 tells you is that he goes to get the gun, but it's not in
6 his residence, he has to leave his residence to go get the
7 gun, correct?

8 A He tells me that. I don't know if that's the
9 exact sequence that things happened. I think there was
10 something that may have happened in between, but I can't --

11 Q But he had to go get a gun?

12 A That's correct.

13 Q And Robinson had already left?

14 A Yes, that's correct.

15 Q All right. Did he describe the gun to you at
16 all?

17 A I'm sorry, I don't know guns.

18 Q Sure. Not a problem.

19 A He described a gun at Mother's house, in bag,
20 unloaded, with bullets near. One magazine stays loaded with
21 30, and extra box of bullets.

22 I believe I have another description of it
23 somewhere.

24 Q Well, that's fine. So this -- and it was kept at
25 another location, so he had to go get it.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 A That's correct.

2 Q He tells you that he gets in the truck with his
3 son and they actually run into Tyrone Robinson at Oak View;
4 did they not?

5 A That's correct.

6 Q And I think you had testified earlier, something
7 about Oak something, but it was Oak View, somewhere around
8 the Oak View neighborhood?

9 A Correct.

10 Q He told you that at the time that he ran into
11 Tyrone Robinson at Oak View, that Robinson did not point a
12 gun at them, but his son, Aaron Young, Junior pointed a gun
13 at Robinson at Oak View; did he not?

14 A I believe that's correct. Just one moment.

15 Yes.

16 Q And at that point, I think the gun had jammed or
17 something, maybe his son couldn't get it together right or
18 something like that?

19 A I have a diagram that I referenced and --

20 Q Can I see it?

21 A Certainly.

22 Q Thank you.

23 A That is my drawing in blue, with my notes saying

24 --

25 Q All right. And you're going to have to explain

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 that to me.

2 A Correct.

3 Q All right. You got an arrow going one way and
4 you got --

5 A I drew blue. Junior, gun, that direction at Ty.
6 That's what my note says.

7 Q Okay. And you have some notes on the back here,
8 top. I don't want --

9 A That's correct. And that's actually where the
10 other description is, Mack 11, .9 millimeter.

11 Q Oh, okay.

12 MR. STONE: Your Honor, at this time, and I notice
13 she's got some stuff on the back, but I'd like to
14 introduce this into evidence. And I'll be glad to make
15 a copy of it so she doesn't have any of the notes on
16 the back.

17 THE COURT: Okay. The front page alone?

18 MR. STONE: Just the front page.

19 THE COURT: Okay.

20 MR. STONE: And I'd like to publish that to the
21 jury.

22 THE COURT: All right. I'll do it.

23 THE WITNESS: Would you make it in color, please?

24 MR. STONE: Absolutely. Color what -- a color
25 copy.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 THE WITNESS: Because -- a color copy, correct.

2 MR. STONE: Because the blue matters to you?

3 THE WITNESS: The blue, I think would matter in
4 preserving the information. I write with a blue ink
5 pen, and then the areas that were added in black were
6 added by Mr. Young, Senior.

7 MR. STONE: Excellent.

8 Can I mark that please, ma'am?

9 THE COURT: And you'll give the original back to
10 her; is that correct?

11 MR. STONE: I sure will. Yes, sir.

12 Your Honor, at this time, we move State's
13 Exhibit No. 30 into evidence.

14 THE COURT: Mr. Ferguson.

15 MR. FERGUSON: Your Honor, may we approach
16 briefly?

17 THE COURT: Okay.

18 (Off-the-record discussion held.)

19 MR. FERGUSON: No objection, Your Honor. Thank
20 you.

21 *(Whereupon, State's Exhibit No(s). 30 marked for*
22 *identification and received in evidence.)*

23 BY MR. STONE:

24 Q Doctor, could I get you to come down, and I
25 apologize because obviously, I just saw this. It's going

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 to be a little drawing. Let me hand you the microphone.

2 You might have to do it at this end and then
3 go down there so everyone can see. Could you show -- I
4 know you explained it to me up on the stand, but could you
5 explain that to the --

6 A Yes.

7 Q And this is, again, your notes that you were
8 taking as you were talking to Aaron Young, Senior?

9 A That's correct. And I'm not an artist, so bear
10 with me.

11 This is a road, and I made dotted lines, and
12 I asked for Mr. Young, Senior, if I remember correctly,
13 because this has been since 2014, but I asked for him to
14 show me exactly what was happening on Oak View, and he drew
15 an arrow this way, and I can't remember if he was drawing
16 what was over the arrows.

17 But basically, what he was trying to tell me
18 is that one car is going this way, one car was going that
19 way --

20 Q The truck they were in was going one way, and the
21 Tyrone Robinson's car was going the other?

22 A That's correct.

23 Q Okay.

24 A That's correct. And in passing, that Aaron Young,
25 Junior brandished the weapon that he had retrieved, at

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 Tyrone, sending a message, we've got guns, too. Because
2 this came after Tyrone came over to Mr. Young, Senior's
3 house and actually shot at him on his property.

4 Q But before the shooting at Allen Road?

5 A That's correct. So the sequence of events, as it
6 was reported to me was, initially what happened is the
7 exchange and the conflict that came at Mr. Young, Senior's
8 house, where Tyrone came there. And then subsequent, the
9 next time that they saw each other was on Oak View Road. I
10 believe at this time, that the -- there were two people in
11 the car at Mr. Young, Senior's house. It was Tyrone
12 Robinson and Jontu Singleton, both come in the vehicle in
13 which Tyrone Robinson takes a gun out and shoots at Mr.
14 Young, Senior.

15 When the tussle occurs, Jontu Singleton is
16 left at the yard of Mr. Young, Senior. And Tyrone Robinson
17 is the only person who flees in his vehicle that he drove
18 there in. So Tyrone is just out on his own at this point
19 in time. Jontu Singleton is at the home and the residence
20 with the Young family.

21 And so between that time, they go and
22 retrieve a gun that was purchased by Mr. Young, Senior's
23 son, Aaron Young, Junior.

24 Q But Aaron Young, Senior is the one that actually
25 got the gun, correct?

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 A My notes reference Senior got bag with gun. So I
2 believe that Mr. Young, Senior, from what he told me, had
3 actually retrieved and gotten the bag that had the gun. And
4 then they find Tyrone Robinson's car with Tyrone in it.

5 Q On Oak View?

6 A On Oak View. And so this is a representation of
7 Oak View.

8 Q Good job. It's easier than I thought. Okay.

9 Okay. Thank you, ma'am.

10 A You're welcome.

11 Q And I think this is where the gun either jams or
12 it's not put together right, so it could not fire at Tyrone
13 Robinson when he pointed it at him?

14 A I believe there was something about jamming of the
15 weapon.

16 Q Okay.

17 MR. STONE: Excuse me just a moment, Your Honor.

18 THE COURT: Yes, sir.

19 BY MR. STONE:

20 Q Again, the Oak View incident happens -- and I
21 believe he also tells you, does he not, that they then go
22 back to their house, because they have to drop off Jontu
23 Singleton?

24 A May I see the back of that exhibit, please?

25 Q Oh, I'm sorry, yes.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 A Thank you.

2 Yes, they return to their home.

3 Q And then they go back out?

4 A Yes.

5 Q Young, Junior and Young, Senior go back from Oak

6 View after they've seen Tyrone, after they point a gun at

7 him. They go back to their house, they turn around and go

8 back out looking for Tyrone Robinson; did they not? Is

9 that not what he told you?

10 A They -- that's correct, that they were going to go

11 find his vehicle. I can't say that he was specifically

12 looking for Tyrone Robinson, but he was looking to send a

13 message to Tyrone Robinson.

14 What he told me was that he was looking to

15 send a message, so he would have been satisfied if he had

16 never gotten to the circumstance of seeing Tyrone Robinson,

17 which in the version that he told me, he did not see Tyrone

18 Robinson when they shot Tyrone Robinson's vehicle.

19 Q A message that you would think Tyrone Robinson

20 would have gotten when he saw Aaron Young, Junior hanging

21 out the car, trying to shoot him with the sub machine gun.

22 So he was going to send another message?

23 A I can tell you, I personally would get a message

24 when somebody puts a gun in my face --

25 Q And I would, too.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 A -- but also recognize that this isn't about what I
2 would get as a message or believe someone's message to be.
3 But the nature of the dynamics and the relationship between
4 Tyrone Robinson and Aaron Young, Senior is that these are
5 two people who have known of each other and had conflicts
6 going back to elementary school. And so those two would
7 have greater knowledge of what kind of message and what
8 threshold would be needed to send a message.

9 Q Sure, sure.

10 And, in fact, I think even in recognizing
11 earlier that you said you didn't know necessarily what the
12 truth was, and whether or not Young, Senior told the police
13 the truth or not, in his statement to police, which the
14 interview that he gave them at the side of the road, the
15 interview that he gave them within that hour that we have
16 put in as far as evidence, he says he's going to look for
17 Tyrone a number of times; does he not?

18 A I believe that he does say he's going to look for
19 Tyrone.

20 Q Okay. Now, this is again all before the actual
21 shooting at Allen Road; is that correct?

22 A What is before the shooting, the giving of the
23 statement?

24 Q The -- the -- no, no. The Oak View incident.
25 They go back to the house, they then go back out. That's

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 when they go to Allen Road, and that's when, at least in
2 some context, he's shooting. Whether he's shooting in the
3 air, shooting at the car, according to Aaron Young, Senior,
4 whether what he told the officers in the interview was
5 true, he was shooting at Tyrone.

6 At some point, they're shooting at Allen
7 Road and they're shooting that same gun that jammed over on
8 Oak View; is that right?

9 A That's a lot for me to follow. I'm sorry.

10 Q I apologize. Let me slow it down for you.

11 My understanding from your testimony, from
12 what Aaron Young, Senior told you, is that there was this
13 conflict on Oak View. They go back to the house, they drop
14 off Jontu Singleton. Aaron Young, Senior and Aaron Young,
15 Junior then leave the house, going back out. Whether or
16 not he's going looking for a car to send a message or
17 whether he's actually going back to look for Tyrone. He
18 gets to Allen Road -- he, being, Aaron Young, Senior and
19 Aaron Young, Junior. When they get to Allen Road, they
20 shoot. They shoot that gun; is that correct?

21 A Up until that point, I can agree with everything,
22 but when you say "they" --

23 Q Aaron Young, Junior shot the gun while Aaron
24 Young, Senior was driving the truck?

25 A That's accurate.

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 Q Okay. Fine.

2 And one other thing, too, and I -- going
3 back very briefly on the coercion aspect of it -- I know
4 you had said, and you testified previously, that the
5 coercion started as early as the gunshot residue test that
6 took place outside of the car, at the car stop by, I think,
7 Seifert; is that correct?

8 A The coercion, according to the statements that
9 were given to me from Aaron Young, Senior is that Mr. Young,
10 Senior believes that there was pressure put on him in order
11 to save himself, save his son, and to get Tyrone on the
12 hook, and for them to not to be on the hook. According to
13 him, those are the statements.

14 The problem is, is that I can't give you an
15 opinion about the truthfulness of whether in my
16 professional opinion or not coercion was present to the
17 degree that Mr. Young, Senior felt it, because those
18 statements have not been recorded, and there is no record
19 that says whether Investigator Seifert had put an
20 intentional error of coercion or not any more than I can
21 tell you whether it was there for Mr. Aaron Young, Senior
22 to receive an element of coercion. But I can't speak to
23 something where we don't have a record for me to reflect.

24 I can tell you that Mr. Young, Senior
25 believes that coercion was present at that time, and what

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 has been demonstrated on the tape subsequent to that is
2 that those coercive elements were very present.

3 Q Right. And that presence, I think you testified
4 earlier, started as soon as when Seifert got him out of the
5 car and did the gunshot residue test, the part that's not
6 recorded.

7 A That's correct, the part that is not recorded.

8 Q But what is recorded prior to that is when
9 Seifert asked Aaron Young, Senior, why was your son hanging
10 out of the car shooting at Tyrone Robinson? And Aaron
11 Young, Senior said, because he was shooting at us.

12 And that was before any of this started; is
13 that correct?

14 A That statement was made before the element of
15 coercion was identified, but it is also made after the
16 introduction of the contaminant. And so when --

17 Q Which is the word "shootout", the radio shootout?

18 A That's the most obvious contaminant.

19 Q Okay. And, of course, even from a coercion
20 standpoint, I know that -- I think you had said earlier,
21 probably yesterday, I think your testimony was that it is a
22 lot in the perception of the person. In other words, the
23 person could perceive the coercion or not, depending on who
24 the person is; is that right?

25 A Right. A person can -- it's kind of like sexual

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 harassment. If I believe someone has whistled and I feel
2 sexually harassed, then I might have been sexually harassed,
3 and I may alter my behavior or response based on that
4 perception.

5 But in the nature of false confession, just
6 because somebody believes that they have been misled, or --
7 that doesn't even mean that the error is truly there. So
8 you have to look beyond that.

9 Q Right.

10 A And one of the things that I would want to
11 acknowledge is that police are able to lie and give false
12 information when they are interrogating someone. There's
13 nothing that binds them to sharing the truth in order to
14 gather information from someone that they are interrogating.

15 And so what you have to be very careful of
16 when you review these statements -- and I sit in a position
17 that has a lot more advantages than being the person of
18 Investigator Seifert trying to figure out what's going on
19 and interrogate someone.

20 And so in hindsight, for example, and I
21 won't recap this the same way I know this most accurate,
22 but I'll do my best. When Investigator Seifert comes and
23 says, were you shooting the gun at your -- what happened to
24 the gun that your son was shooting out of the window, and
25 the response is, they were shooting at us. What I try to

CROSS EXAMINATION OF A. SALAS, MD BY STONE

1 do in hindsight is go back and clarify.

2 What in your mind are you referring to, who
3 is the "they," what time and who are talking about leaning
4 out the window, et cetera? And I have that hindsight
5 ability that is just not fair, quite honestly, to be able
6 to break it down.

7 And so one of the things that probably makes
8 it a problem to sit here and even listen to me is that I
9 try to be very detail oriented to pick up on all of these
10 things because our words and our understanding of our words
11 matter.

12 MR. STONE: Nothing else, Your Honor.

13 THE COURT: Thank you. Mr. Ferguson, redirect.

14 MR. FERGUSON: Thank you, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. FERGUSON:

17 Q Now, Dr. Salas, you didn't just base your opinion
18 on what Aaron Young, Senior told you, did you?

19 A Absolutely not, no.

20 Q Okay. And so your opinion was developed as you
21 reviewed the discovery material as it was given to the
22 Defense?

23 A That's correct. So there are two issues that I
24 have to overcome in the process of the work that I do. One
25 is trying to determine what is reliable from what is

REDIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 credible. I have nothing to do with credibility.

2 Whether you believe somebody or not is up to
3 the person who's -- it's up to y'all in this case, is the
4 easiest way to put that. Doesn't matter if I find somebody
5 credible, or in some cases where I have found people that I
6 don't believe are credible, but elements are there that
7 allows me to speak to reliability of what they have said.

8 So I can't tell you any more about the truth
9 for this case than anybody else that would be in my
10 position. And I can't tell you whether or not you should
11 find the defendant to be credible or not. That's not for
12 me to decide.

13 What I look for are factors that show
14 reliability, consistency in a story. So whether the story
15 told today is the same that was told a month ago, the same
16 that was told a year ago, any of us trying to repeat a
17 story, there's going to be some small discrepancies along
18 the time, the passage of time. And so there will be some
19 influence.

20 But you wouldn't expect it to be the nature
21 of a false confession oftentimes ends up with a denial,
22 which is exactly what we see, and that denial has been very
23 consistent over time for the information that I have
24 reviewed.

25 And so I have interviewed Mr. Young, Senior

REDIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 for I think it was about two hours and 15 minutes on
2 April 20th of 2014, and I've had conversations with him
3 briefly in preparation for coming today to try to
4 articulate what my medical findings are. But other than
5 that, I have not sat down and led him down a path of trying
6 to extract information to mold his story one direction or
7 another. I've been receiving information. And there is
8 internal consistency over these stories that he gives, the
9 narratives that he gives, subsequent to the coerced false
10 confession. And then where the truth is in any of that,
11 that's not on me.

12 Q Thank you, Doctor.

13 MR. FERGUSON: No further questions, Your Honor.

14 THE COURT: Thank you.

15 Dr. Salas, you can step down. Thank you.

16 THE WITNESS: Would you like for me to leave this
17 for now and maybe I can get that later?

18 MR. FERGUSON: Sure. We can copy that.

19 THE COURT: That's right. We'll get your original
20 back to you. Thank you.

21 THE WITNESS: Thank you. May I be excused?

22 THE COURT: Yes, ma'am.

23 THE WITNESS: Thank you. Thank you.

24 THE COURT: Yes, sir.

25 MR. FERGUSON: Thank you, Your Honor. The Defense

REDIRECT EXAMINATION OF A. SALAS, MD BY FERGUSON

1 calls Aaron Young, Senior.

2 THE COURT: Mr. Young, come forward, please, and
3 be sworn.

4 Mr. Ferguson.

5 MR. FERGUSON: Thank you, Your Honor.

6 Thereupon,

7 AARON YOUNG, SR.

8 was called as a witness, having been first duly sworn, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. FERGUSON:

12 Q Aaron, how old are you?

13 A I'm 39 years of age.

14 Q Okay. And I want to talk to you about September
15 the 1st of 2012.

16 A (Nods in the affirmative.)

17 Q Do you remember what happened that day?

18 A Yeah, I do.

19 Q Can we start with what happened on Wild Horse
20 Road, at your house?

21 A Me and my son were getting ready to go to work. I
22 was trying to get my girlfriend together to get our laundry
23 together to go to work.

24 Q Who's your girlfriend?

25 A Ebony Campbell.

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 Around 3:45 that day, Jontu and Mr. Robinson
2 arrived to my house.

3 Q Did you invite them there?

4 A No, sir. They just, you know, came on their own
5 accord.

6 At that time, I asked them to leave.
7 Because Tyrone, in our neighborhood, in our community, is
8 known as a menace, you know. And we know when he shows up,
9 it's always bad news. So, you know, being the person that
10 I am, I didn't want anything to, you know, elevate, so I
11 asked him to please leave my yard.

12 During that time, he told me that he wasn't
13 going to leave, but Jontu asked me if he could borrow \$2.
14 I was like, What, both of you guys together don't have \$2?
15 You know, something doesn't make sense about that. So I
16 knew it was something else, you know, that was going to
17 happen.

18 So at that time, I was just basically
19 begging, pleading them to, you know, leave my yard. I went
20 back in the house, and when I came back out, my son was
21 standing behind my vehicle, and he was like, Daddy, this
22 man has a gun. He has a gun.

23 I'm like, He has a gun? And he's like,
24 Yeah, he was just asking me to come over there. He was
25 like, Yeah, tell your son -- tell your son I want to talk

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 to him. Tell your son I want to talk to him. I was like,
2 Man --

3 Q Who was saying that?

4 A Tyrone.

5 Q Tyrone who?

6 A Robinson.

7 Q Okay.

8 A I was like, Well, anything you got to tell your
9 son -- my son, I'm his father, you tell me. Because I knew
10 it was going to be something that you're trying to do
11 harmful to him. So I just took it upon myself to address
12 him.

13 As I did so, he upped his pistol -- I won't
14 say "up," he pointed his pistol at me. And I was like,
15 Man, are you crazy? What's wrong with you? And he told me
16 he was going to kill me, you know.

17 I can't sit here and tell you why he did
18 this, I don't know, you know. Tyrone has been coming to my
19 house for years, just terrorizing my family, you know. It
20 was not like I was at a club or at a bar or at McDonald's
21 or somewhere out there, you know. This man came to my
22 household. If I'm not safe at my own house, then where am
23 I safe, you know. At that point, I lost it, you know.

24 The community has been begging for this man
25 to be arrested. Nobody is doing anything, you know. It's

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 been times that he's been burning down houses, hitting
2 people with cars, you know, just out being a menace. Law
3 enforcement been called, nobody did anything, you know.

4 So at that point, I just lost it, you know.
5 Maybe I did the wrong thing, you know, by chasing them and
6 pursuing them. But I'm not a bad person, I just made a bad
7 decision.

8 Q Well -- and specifically, what did Tyrone
9 Robinson do in your yard? Did he --

10 A He shoot --

11 Q -- shoot at you?

12 A Yeah. I struggled with him for the gun, you know,
13 and I was trying to take it away from him, but I couldn't
14 get back in time enough. So he just started shooting at me,
15 shooting at my family, shooting at my son, you know. And
16 that time -- it's kind of like the battered wife, you
17 understand? There's only so much that one person can take
18 before he snaps.

19 Now, psychologically, I wasn't right in my
20 mind. And like I say, I was wrong for chasing him, you
21 know. I'm not sitting here saying that I was right for
22 chasing him, but at that point, I wasn't in my right state
23 of mind, you know.

24 We chase -- we gave chase, but I didn't want
25 to hurt anybody. We never meant to hurt anybody. Only

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 thing we were doing is trying to protect our household. As
2 a man, as any man that's in -- you know, in this world, you
3 know, he's going to protect his family.

4 An animal's natural instinct is to protect
5 their young. If you come into a lion's den, and his cubs
6 are there, he's going to defend his family. Male or
7 female. And that's all I was primarily trying to do, you
8 know.

9 That story that I gave was a coerced
10 statement because the law enforcement said that they were
11 tired of Tyrone in the community, too. So with them trying
12 to tell me that I could help them, they turned around and
13 turned my whole story into something that has me and my son
14 looking like animals. We're not animals. Like I said, I
15 made a bad choice, but I'm not a bad person. All I did was
16 try to protect my family.

17 Q Well --

18 A We went to Oak View, we brandished a weapon, but
19 no -- it wasn't any gun exchange, you know. It wasn't any
20 gunfight. It wasn't any gun shells there, you know. We --
21 that was a bad choice. But, you know, God willing, it
22 didn't unfold really bad, you know, it was just something
23 that happened there, you know. We pursued him at Allen
24 Road, but we never saw this man.

25 Q So when you first got to Allen Road, take us back

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 to that date and time. Did you go straight to Allen Road
2 from Oak View Road?

3 A From Allen -- from Oak View Road to Allen Road?

4 Q Yes, sir.

5 A No, I went back home. Because I gathered myself
6 together. I was like, well, you know, maybe it's -- this is
7 not the right thing to do, you know. Maybe I should just,
8 you know, just let it go. But at the time, you know, I was
9 thinking he's not going to stop, you know. And it was wrong
10 for me to leave my house with a weapon that day, me and my
11 son, but he had a weapon. I'm not going to go down there
12 and address a crazy man just with my hands.

13 Now, I had to be -- you know, I had to arm
14 myself and protect myself just in case -- you know, if I
15 have to, if it come to that, then I have a way to defend
16 myself. I wasn't just going down there willingly to, you
17 know, start a gunfire or -- you know, just do some
18 craziness.

19 Q Well -- and so when you went down the road, did
20 you see Tyrone Robinson?

21 A No, sir.

22 Q Did you see his car?

23 A Yes, sir.

24 Q And what happened?

25 A We pretty much lined our truck up with his car,

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 shot the car up, and we left. Now, what happened after
2 that, we don't know.

3 Q And as you were leaving, did you hear gunshots?

4 A Yes, sir.

5 Q Okay. Where would you estimate that you were
6 when you heard those gunshots?

7 A We was probably like five, six football fields
8 away from Allen Road, you know. It's a lot of witnesses
9 fixing to test -- they say that they heard shots here and
10 heard shots there. But there were only two primary shots.
11 We shot that car up, and we left. The return shots came
12 from Tyrone. We were nowhere around that neighborhood.

13 So we don't know what happened after we
14 left, you know. The police department and everybody else
15 wants to say it was an ongoing gun battle, it didn't happen
16 like that. The only reason why I came up with that story
17 is because they told me to help them come up with a story
18 that complied with them helping to try to get Tyrone off
19 the streets. That's what I did, and after that, it all
20 turned downhill on me, you know.

21 Like I say, I made a bad choice that day,
22 but I'm not a bad human being. I have a heart, you know.
23 I try to teach intelligence to my son. I have one son
24 that's in prison right now behind this whole thing. I got
25 four daughters, you know. Right now, I am they mom and

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 they dad. So it's a lot of responsibility that's hold upon
2 my -- you know, me, as a -- as a father. So like I said, I
3 made a bad choice, but I'm not a bad person.

4 Q I understand.

5 So essentially, on Wild Horse Road, Tyrone
6 Robinson was the only one firing a weapon?

7 A Yes, sir.

8 Q Okay. And on Oak View Road, no weapons were
9 fired?

10 A No, sir.

11 Q Okay. Because the gun couldn't be put together,
12 correct?

13 A Exactly. He was having trouble trying to assemble
14 it.

15 Q Okay.

16 A You know.

17 Q So on Allen Road, there were two sets of shots,
18 according to your testimony. And, again, what were the two
19 sets of shots on Allen Road?

20 A Say that again?

21 Q The -- who shot on Allen Road?

22 A We went down, we saw his car. We shot his car up,
23 we left. After we left, that's when we heard the last
24 remaining three shots.

25 Q But you never saw him when you went down Allen

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 Road?

2 A No, sir, we never saw him.

3 Q And you never -- Aaron Young, Junior, your son,
4 was never shooting at Tyrone Robinson?

5 A No, sir. No, sir. That's a story that I came
6 with to comply with the police officer. That's what they
7 told me to do. If I could come up with a story that met --
8 that met up to me and them -- me and Tyrone Robinson having
9 a shootout, then that would exonerate me and my son and make
10 us star witnesses against him.

11 So me being a citizen and a person of the
12 community that wanted, you know, well being in my
13 community, I went along with it, you know. I didn't think
14 that it would come back to hurt me in the long run. So
15 here's where I sit today.

16 Q Because you did, in fact, tell them that y'all
17 had seen Tyrone when you went to Allen Road, didn't you?

18 A Excuse me again?

19 Q You did tell the police that you'd seen Tyrone
20 Robinson when y'all got to Allen Road, didn't you?

21 A In my -- my coerced confession, yeah. But we
22 never saw him. We saw his car, but we never saw him.

23 Q And was his car empty?

24 A Yes, sir. Yes, sir.

25 Q How could you tell his car was empty?

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 A Because his window was down and nobody was in it.
2 And it doesn't take a rocket scientist to see, if he was
3 inside that car and we shot it up that many times, somebody
4 would have been dead, you know. We made that sure that, you
5 know, it's bad that it was kids in the community playing,
6 but we made sure that we was away from all those kids that
7 were playing. They were playing on the trampoline when we
8 left out.

9 You know, it's bad that the kids were in
10 that neighborhood, I'm not going to sit here and say that
11 it wasn't. But we didn't put anybody in harm's way. Where
12 they found Khalil, and I'm sorry to the family, the
13 Singleton family, and the Wynn family, because I could
14 never imagine what y'all are going through, you know.
15 Y'all lost a son.

16 But I put myself in the situation with y'all
17 because I almost lost my son that day. If y'all can
18 understand what I'm saying. But that's neither here or
19 there right now, that's a horse of another color.

20 But what I'm trying to say is if I -- if I
21 wasn't put in a situation to where I had to defend my
22 family, and Tyrone wasn't here, and I wasn't coerced by the
23 police department and the pressures of being a father, this
24 whole thing wouldn't have never -- you know, we wouldn't
25 even be here today.

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 Q Did you ever fire a gun that day?

2 A No, sir.

3 MR. FERGUSON: Beg the Court's indulgence for just
4 one moment, Your Honor.

5 THE COURT: Yes, sir.

6 BY MR. FERGUSON:

7 Q When was Jontu, Junior with y'all in the truck?

8 A When was he with us?

9 Q When was he with you?

10 A When we got -- when we went to retrieve the bag,
11 Jontu jumped in the truck with us. And he said that he
12 wanted to come, because he was like, Man, this dude's crazy,
13 man, I can't understand why he wants to kill your son, you
14 know. What the hell's going on?

15 And I was like, Your guess is good as mine.
16 But right now, enough folks doing it, all I want to do is
17 just catch this man so I can just confront him and ask him,
18 man, can you please just stay away from my house, you know.
19 Leave us alone, you know.

20 Because like I said, it wasn't like we was
21 at a club, or a McDonald's or at a bar or, you know, just
22 out willy nilly, I was at my place of residence, where I
23 sleep. I got kids in there, you know. So can you please
24 tell me what's going on with you? Or, you know, just leave
25 us alone. That's what I really want you to do, just leave

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 us alone. I don't care what you do, but, you know, just
2 leave my family alone, you know.

3 And like I said, this is not the first time
4 that this has happened. Tyrone is a menace, you know.
5 That's what he does. And Beaufort County knows this, too.
6 I mean, I'm not trying to, you know, degrade the police
7 department, but they knew that this man was running around
8 amok for years, you know. The community would call and let
9 known that Tyrone was the person that did what he did, and
10 nothing would be done. So, I mean, it's what we call a
11 slippery slope, you know. It was a matter of time before
12 somebody in our community, and I don't want to sound biased
13 to say that, people of color, but in our community,
14 something would have happened bad, and that's what
15 happened, you know. And I'm sorry for that. That's all
16 that I could say.

17 Q Now, was Jontu, Junior with you when y'all went
18 to Oak View Road?

19 A Yes, sir.

20 Q Okay. Do you remember seeing Charlese Mitchell
21 as you drove down Marshland Road?

22 A No, sir.

23 Q Okay. Do you remember what time you were pulled
24 over that day?

25 A Probably around 4:30, 4:45, somewhere along there.

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 Q And do you remember what time you got booked into
2 the detention center?

3 A Here? Shoot, it was like 2:00 that night, yeah.
4 I mean, the reason being is because I was being pulled from
5 one area to the next. One person promise me this, telling
6 me, Well, it's going to be okay, you need to give up that
7 gun. You know, we're going to make sure we get Tyrone out
8 of here, you know, you're going to be all right. If you can
9 come up with that story and come up with this gun, we're
10 going to make sure that you're exonerated and you and your
11 son, you know, will be home.

12 And I had other officers telling me if I
13 don't give up the gun, you and your son will never see the
14 light of day. We're going to make sure we bury y'all with
15 the book, and you will never see Hilton Head again.

16 So in my mind, I'm cluttered, and I'm like,
17 I don't know what to do, you know, what's my next move. Is
18 my next move going to be the right move, or my next move is
19 going to be the wrong move, you know. All I was primarily
20 trying to do is help them so I could have peace in my life,
21 you know, at my household.

22 Q Were you more concerned about your son than you
23 were yourself?

24 A Yes, sir. Yes, sir.

25 Q How much time would you say passed between Oak.

DIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 View Road and Allen Road, where the car was shot up?

2 A Probably about -- from the time that we went back
3 to Oak View to my house and back down there, probably around
4 15 minutes, 20 minutes or so.

5 Q Okay.

6 MR. FERGUSON: Thank you, Aaron.

7 THE WITNESS: Thank you.

8 MR. FERGUSON: Please answer any questions that
9 the State may have.

10 THE WITNESS: Sure.

11 THE COURT: Mr. Stone, cross-examine.

12 CROSS EXAMINATION

13 BY MR. STONE:

14 Q You did all this for your son?

15 A Yes, sir. Yes, sir.

16 Q Your son was the one that was shooting the gun
17 that you gave him, right?

18 A Yes, sir.

19 Q He was shooting the gun that you told him how to
20 put together?

21 A No, sir.

22 Q You didn't tell him how to put it together in the
23 car?

24 A No, sir.

25 Q He was -- he was shooting the gun that you went

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 to another residence to get to bring out to him to give to
2 him, right?

3 A Yes, sir.

4 Q And by the way, when y'all got over here to Allen
5 Road, did he ever get out of the car?

6 A No, sir.

7 Q So he just shot from the truck?

8 A Yeah, at the car.

9 Q Out the window.

10 A Out of the window, at the car.

11 Q At the car. That's all he did.

12 A And I basic --

13 Q Did you know, by the way, that there was a
14 three-week-old child in that house?

15 A No, I didn't, sir. We wasn't aware of that, but
16 we didn't hit any houses.

17 Q Because you were focused on finding Tyrone
18 Robinson?

19 A We were just -- no, sir. We were focused on
20 finding his car, sir.

21 Q So he never left the truck, which means that all
22 the shots coming into the car would have been the same
23 angle, right? If he never got out of the car.

24 A Can you say that again, sir?

25 Q Nevermind. Let me go back.

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 He shoots a gun, your son is shooting a gun,
2 you're driving the truck while he's shooting the gun,
3 correct?

4 A Yes, I was driving the truck.

5 Q You're driving the truck down Oak View when you
6 run into Robinson, and he's -- and your son is holding the
7 gun out of the car then, too, right?

8 A Yes, sir.

9 Q Your son, when you were at your house, when
10 Robinson first came up, your son said, Dad, leave him
11 alone, just stay away, didn't he?

12 A Yeah, he mentioned that.

13 Q In fact, when you went to Oak View and went back
14 home to drop off Jontu Singleton, your son told you then, I
15 want to go to work.

16 And you said, No, sir, we got to finish
17 this; isn't that true?

18 A I don't recall that. But to --

19 Q But your son tries to stop you from the fight to
20 begin with, right?

21 A Well, sir, if your son is concerned about his
22 father, he would try to stop you, too, to stay out of harm's
23 way. Your son would stop you if you were in harm's way.

24 Q And you don't recall at some point your son
25 saying, Let it go, I want to go to work, and you said, No,

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 we got to go finish it. You don't recall that?

2 A No, sir.

3 Q You don't recall your son -- did you son ever at
4 any time say, stop?

5 A Yeah, he did.

6 Q But you didn't listen to him. And as you just
7 said, he's in prison because of another bad decision you
8 made.

9 A Exactly, sir.

10 Q So, who's the father, who's the son? You're his
11 father, he's trying to tell you to stop and you said no
12 because, I think you said earlier, you lost it?

13 A He told me to stop. But as a father, I went out
14 to try to confront somebody that's 40 years old, trying to
15 beat up on a 17-year-old, sir. As a concerned father,
16 that's what I did. I tried to find somebody that was trying
17 to hurt my family member.

18 Q And you chased him through Oak View, you chased
19 him on Allen -- by the way, did you run into any of
20 Tyrone's relatives in that?

21 A Yes, sir.

22 Q And when you saw the relatives, was it his uncle,
23 is that right, Tyrone's uncle or relative?

24 A I'm not sure if it -- I wasn't sure if it was his
25 uncle or not, sir. It was just somebody that knew him in

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 the community.

2 Q Where was that?

3 A That was off of Oak View Road.

4 Q That's off of Oak View.

5 A Yes, sir.

6 Q And y'all stopped and said, where's Tyrone, we're
7 looking for him?

8 A I told him, have you seen Tyrone? He said, no.
9 He told me he didn't. But I'm quite sure that he came down
10 to your house and did something crazy to you, too.

11 I was like, yeah. Can you tell this man, if
12 you see him, to please leave us alone. And that
13 conversation stopped from there, sir.

14 Q So you tell him you're looking for Tyrone?

15 A No, I didn't tell --

16 Q You see him on Oak View.

17 A I didn't tell him I was looking for him.

18 Q How many times did you go down to Allen Road?

19 A We went to Allen Road one time.

20 Q Just one time?

21 A One time.

22 Q Charlese Jackson, now, that is your cousin,
23 right?

24 A Yes, sir.

25 Q You were driving that truck, correct?

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 A Yes, sir.

2 Q And you know her, she knows you, correct?

3 A Yes, sir. But, Mr. Stone, what you're trying to
4 say is we went down there three times. I think what you're
5 getting confused is, she saw us twice. Us coming in and
6 going back out. That's what you're getting us confused at.
7 We didn't go down there numerous times. You're getting the
8 situations of how the truck went down and how it went back
9 out. That's what she's trying to say, not that we went down
10 there three times, sir. So that's what's confusing right
11 now.

12 Q Tyrone Robinson, in your words, is a menace?

13 A Yes, sir.

14 Q You don't like him?

15 A No, I don't think anybody in our community likes
16 him, sir.

17 Q I'm asking about you. You didn't like him? You
18 don't like him now?

19 A You wouldn't like a person that tried to kill your
20 family member either, sir. Especially your first born.
21 That's in the nature of an animal.

22 Q Okay. So it's fair to say you don't like him.

23 A I'm not an animal, but I got feelings, you know,
24 just like any human being.

25 Q Right.

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 A I mean, I'm quite sure you would protect your
2 family, too, Mr. Stone.

3 Q And at that time, as well as today, Tyrone
4 Robinson doesn't deserve to be here, does he? He needs to
5 be dead, doesn't he?

6 A I can't -- I can't -- I can't contest for that.
7 That's you putting words in my mouth. I can't contest to
8 that.

9 Q I don't think it is me putting words in your
10 mouth.

11 A I can't contest to that.

12 Q I think you said that, didn't you?

13 A I did say that. But who wouldn't feel that way
14 after a person broke into they house, and tried to kill
15 them, tried to kill they family. That's emotions running
16 high, Mr. Stone.

17 Q I understand.

18 A I'm quite sure that emotions would run high, too,
19 Mr. Stone, if somebody broke into your house, came to your
20 place of residence, brandished a gun, you had to fight for
21 your life that day, you know. Emotions run high, and your
22 psychological path of thinking goes left, you know. I'm not
23 sitting here and telling you that the decision that I made
24 was a good one, but at that time, like I said, it's like the
25 battered wife, and that's what my psychological way of

CROSS EXAMINATION OF AARON YOUNG, SR. BY STONE

1 thinking went into.

2 Q Oh, one other thing. You also have a conviction
3 for cocaine; is that correct?

4 A Yes, sir. I've done my time, I served my debt to
5 community for that. I came home, and I'm a father. I'm a
6 citizen of our community, I work hard, I go to church, I pay
7 my tithe, and I do everything in the community that
8 everybody accepts as that -- excuse me, that is acceptable
9 to the ways of living.

10 MR. STONE: No further questions.

11 THE COURT: Thank you. Redirect?

12 MR. FERGUSON: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. FERGUSON:

15 Q So, Mr. Young, there was no shootout on Wild
16 Horse Road?

17 A No, sir.

18 Q And there was no shootout on Oak View Road?

19 A No, sir.

20 Q And there was no shootout on Allen Road?

21 A No, sir.

22 MR. FERGUSON: Thank you. I have no further
23 questions.

24 THE COURT: Thank you. You can step down. Thank
25 you.

REDIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 WITNESS: Thank you.

2 THE COURT: Mr. Ferguson.

3 MR. FERGUSON: Thank you, Your Honor. If we could
4 have a brief moment to discuss some logistical issues.

5 THE COURT: Okay. We'll take a brief morning
6 recess at this time, ladies and gentlemen, to make use
7 of this time so that we can -- it'll be our morning
8 recess. We'll get you out in about 15 minutes to
9 continue the work of the morning. Thank you.

10 If it's going to take longer than that, I'll send
11 you word. Please remember not to talk about this case
12 in the meantime. Thank you.

13 (The Jury exits the courtroom.)

14 THE COURT: Yes, sir, Mr. Ferguson.

15 MR. FERGUSON: Your Honor, my next witness is a
16 phone call away. He was scheduled in Port Royal
17 municipal court, although he is under general subpoena.
18 I'm told that he should be here by 11, and it's, you
19 know, almost 11 now. I can get on the phone and
20 inquire as to where he is.

21 THE COURT: Okay. If you can confirm that. And
22 how many witnesses, including that witness, will you
23 have?

24 MR. FERGUSON: Two, Your Honor.

25 THE COURT: Okay. All right. Good.

REDIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 I'm just trying to formulate lunch plans and to see
2 what we need to do to make use of the lunch hour.

3 MR. FERGUSON: Yes, sir.

4 MR. STONE: If I may, Your Honor, and I'm assuming
5 the next witness is Corporal Evans from the Port Royal
6 Police Department?

7 MR. FERGUSON: Potentially.

8 THE COURT: All right. Okay.

9 MR. STONE: The question being is, I don't know
10 what testimony he would have that's relevant. Again,
11 we cut -- we did not use any statement made after there
12 was contact with evidence. If there's something that
13 I'm missing on that, but otherwise we would object to
14 the relevancy of his testimony.

15 THE COURT: All right.

16 MR. STONE: We specifically did that to make sure
17 that we didn't have any inadmissible evidence in front
18 of the jury.

19 THE COURT: Okay. Mr. Ferguson, what say you to
20 that?

21 MR. FERGUSON: Thank you, Your Honor.

22 They specifically did that to avoid the actual
23 misconduct that resulted in that material becoming
24 inadmissible.

25 THE COURT: Right.

REDIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 MR. FERGUSON: And so, you know, Mr. Young, Senior
2 has testified to, you know, coercion and promises, and
3 that's exactly what was given by Deputy Evans.

4 THE COURT: Right.

5 MR. FERGUSON: And so, you know, it's difficult to
6 not be able to question him to affirm that he did, in
7 fact, tell Aaron Young, Senior that he would not be
8 charged with murder.

9 THE COURT: Right. Okay.

10 All right. I'm going to allow Officer Evans to
11 testify. Of course, he's making himself vulnerable to a
12 rather scaling cross examination when he does.

13 The -- in this particular case, the conduct of some
14 of the people who were involved in the investigation is
15 relevant, even though their testimony, or the result of
16 the questioning is not in evidence.

17 And Dr. Salas, of course, has testified about the
18 type of contact that she deemed to be coercion, and
19 promises were made, and so Officer Evans' testimony
20 along those lines would be relevant and in comport -- I
21 guess, in line with what Dr. Salas has said as well.
22 I'll allow him to testify.

23 MR. FERGUSON: Thank you, Your Honor.

24 THE COURT: Okay.

25 All right. Let's take about ten minutes or 15 and

REDIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 let this be the morning break and then we'll have two
2 more witnesses, and then whatever reply there is. And I
3 didn't get any requests to charge today other than the
4 mutual combat charge yesterday, so I assume that I've
5 got everything that I need.

6 MR. FERGUSON: I do have some, Your Honor.

7 THE COURT: Okay.

8 MR. STONE: The -- I know, and this is me
9 remembering this from last trial. I know you have a
10 standard, hand of one is hand of all --

11 THE COURT: I do.

12 MR. STONE: -- charge as well as transferred
13 intent. And I think the way you put those together
14 last time -- I don't have it with me the way you did it
15 last time, but I thought it was very clear as far as
16 transfer intent.

17 THE COURT: I remember I had it lined up in my
18 mind. I wish I had thought to tell Ms. Manley to print
19 out my charge from the last time I was giving -- but I
20 think I know how it was structured. So I'll go with
21 that.

22 MR. STONE: So I would not offer anything else on
23 that because I think you covered it well, and you
24 already have it. So I don't have any additional on
25 that.

REDIRECT EXAMINATION OF AARON YOUNG, SR. BY FERGUSON

1 THE COURT: I do. Thank you.

2 (Whereupon, a brief recess was
3 taken.)

4 THE COURT: Thank you, folks. You all can be
5 seated.

6 Both sides ready for the jury?

7 MR. FERGUSON: Yes, sir, Your Honor.

8 MR. STONE: The State's ready, Your Honor.

9 THE COURT: Thank you. Bring us the jury.

10 THE BAILIFF: The Jury is entering the courtroom,
11 Your Honor.

12 THE COURT: Thank you.

13 (The Jury enters the courtroom
14 at 11:24 a.m.)

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

16 THE COURT: All right. Mr. Ferguson, you can call
17 your next witness.

18 MR. FERGUSON: Thank you, Your Honor. The Defense
19 calls Officer Curt Evans.

20 THE COURT: Office Evans, come forward, please, so
21 you can be sworn.

22 Thereupon,

23 CURTIS D. EVANS

24 was called as a witness, having been first duly sworn, was
25 examined and testified as follows:

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 THE CLERK: Please be seated. State your full
2 name and spell it for the court reporter.

3 THE WITNESS: Curtis D. Evans. C-U-R-T-I-S, D,
4 E-V-A-N-S.

5 DIRECT EXAMINATION

6 BY MR. FERGUSON:

7 Q Good afternoon, Officer Evans -- or good morning,
8 excuse me.

9 A Good morning.

10 MR. FERGUSON: Who do you work for?

11 A Port Royal Police Department.

12 Q Who did you work for back in September of 2012?

13 A Beaufort County Sheriff's Office.

14 Q And were you fired as a result of your
15 involvement in this case?

16 A That's correct.

17 Q And what was your understanding of the reasons
18 why you were fired?

19 A Due to the investigation and videotapes of this --
20 of Mr. Young.

21 Q What time did you first begin -- or what time did
22 your involvement begin in the case?

23 A Around 4:58 p.m.

24 Q And what happened then?

25 A I conducted a traffic stop.

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 Q And where was it?

2 A 278 and Gum Tree Road.

3 Q And was that your first contact with Aaron Young,
4 Senior that day?

5 A It is.

6 Q Okay. And then what happened next?

7 A Everyone was transported to the Sheriff's Office.

8 Q Who did you transport?

9 A A female.

10 Q Okay. What did do you when you got to the Hilton
11 Head substation?

12 A I dropped off the individual and left.

13 Q The female?

14 A That's correct.

15 Q Okay. And when you left, where did you go?

16 A Back on the road.

17 Q Okay. At some point, did you return back to the
18 Hilton Head substation?

19 A I did.

20 Q About what time?

21 A Between nine and 10:00.

22 Q Okay. And what were your responsibilities in
23 this case at that point?

24 A To guard Mr. Young.

25 Q Okay. And you were a patrol officer at the time?

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 A That's correct.

2 Q Okay. And so not an investigator?

3 A No.

4 Q Okay. Did you have a conversation with Aaron

5 Young, Senior?

6 A I did.

7 Q Okay. And was that recorded?

8 A It was.

9 Q Okay. Did you -- how did you initiate that

10 recording?

11 A I asked my supervisor if he wanted me to try to

12 record using my body mic from my car.

13 Q Who's your supervisor?

14 A At the time, it was Staff Sergeant Wilson.

15 Q And what did Staff Sergeant Wilson tell you?

16 A To try to see if it would record.

17 Q And why is that?

18 A Because of the distance. Sometimes the -- the

19 farther away you get from the car the less likely it is for

20 the body mic to work.

21 Q And where were you when you were watching over

22 Aaron Young, Senior?

23 A In the deputies room.

24 Q And where's that in relationship to the interview

25 room?

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 A On the other side of the building.

2 Q Who else was in there?

3 A People were coming in and out all night.

4 Q Like who?

5 A My supervisor, Lance Corporal Dickman was in the
6 room a lot of the time with me, most of the investigators
7 were in and out of there all night.

8 Q Did Captain Bob Bromage ever talk to Aaron Young,
9 Senior in the deputies room?

10 A I believe so.

11 Q Okay. And for how long did he do that?

12 A I couldn't give you the time.

13 Q Okay. Did Investigator Doug Seifert talk to
14 Aaron Young, Senior in the deputies room?

15 A He did.

16 Q Okay. And, again, about for how long; do you
17 know?

18 A In and out, during the course of the entire time I
19 was in there.

20 Q Okay. What about Detective Albertin?

21 A I don't recall if she was in there or not.

22 Q Okay. Now, did Aaron Young, Senior make any
23 statements to you?

24 A No.

25 Q Okay. Did you make any statements to Aaron

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 Young, Senior?

2 A As to talking with him?

3 Q Yes, sir.

4 A I did.

5 Q And what did y'all talk about?

6 A We talked about if he would talk to investigators,
7 I told him if he would talk to investigators and tell him
8 where him and his son had hid their guns, that -- and that
9 the bullets from the guns, if they didn't match up what were
10 used on the little boy, that he wouldn't be charged with
11 murder.

12 Q And did you tell him what he would likely be
13 charged with?

14 A I don't recall exactly. I -- I -- I believe I
15 said a lesser charge.

16 Q Okay. And now, you really didn't have any say
17 over whether -- what he was going to be charged with, did
18 you?

19 A Absolutely not.

20 Q Okay. And y'all were in that deputies room for
21 about how long; do you know?

22 A Three to four hours.

23 Q Okay. And this wasn't something that was said
24 just once, was it?

25 A No.

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 Q Okay. Multiple times?

2 A Yes.

3 Q Okay. What was Aaron Senior's -- Aaron Young,
4 Senior's response?

5 A He didn't want to -- didn't want to talk.

6 Q Do you remember anything else about that night?

7 A That's the -- when I was in the room with him?

8 Q Yes, sir.

9 A That's pretty much the gist of it.

10 Q Okay.

11 MR. FERGUSON: Beg the Court's indulgence for just
12 one moment, Your Honor.

13 THE COURT: Yes, sir.

14 BY MR. FERGUSON:

15 Q Officer Evans, at any point in time did Aaron
16 Young, Senior advise that -- or state that he thinks he
17 might ought to talk to an attorney?

18 A I believe he did.

19 Q Okay. And after he said that, did you continue
20 to talk to him?

21 A When I left the room for a while and went to the
22 investigator's office.

23 Q Okay. Did you come back?

24 A I did.

25 Q Okay. And did you talk to him after that?

DIRECT EXAMINATION OF. EVANS BY FERGUSON

1 A I did continue to talk with him.

2 Q Okay.

3 MR. FERGUSON: Thank you, Your Honor. No further
4 questions.

5 THE COURT: Thank you. Cross examination,
6 Mr. Thornton.

7 CROSS EXAMINATION

8 BY MR. THORNTON:

9 Q Officer Evans, you testified earlier that this
10 all happened -- I know you've testified yesterday -- this
11 all happened after 10:00, correct? Your recording on your
12 mic and all that's after ten?

13 A That's correct.

14 Q So there's -- you had no conversation with him
15 about any of the stuff you just testified to prior to
16 10:00?

17 A I did not. I was not with him.

18 Q And even after you made your statements to him,
19 he didn't make any statements back to you about the
20 incident or anything else?

21 A He did not.

22 Q And that's also, by the way, after he was
23 interviewed formally by Seifert and Albertin in the formal
24 room that y'all had set up for recording and cameras and
25 all that?

CROSS EXAMINATION OF EVANS BY THORNTON

1 A That's correct. He didn't say anything to me.

2 MR. THORNTON: Okay. Thank you.

3 THE COURT: Redirect?

4 MR. FERGUSON: No, sir, Your Honor.

5 THE COURT: Thank you. Officer, you can step down
6 and be excused. Thank you.

7 Mr. Ferguson.

8 MR. FERGUSON: Thank you, Your Honor. The Defense
9 calls Benny Young, Senior.

10 THE COURT: Mr. Young, Senior.

11 MR. STONE: Could we approach, Your Honor, just
12 briefly, please?

13 THE COURT: Yes, sir.

14 MR. FERGUSON: I have a scheduling issue.

15 (Off-the-record discussion held.)

16 THE COURT: Mr. Young, come forward, please, and
17 be sworn.

18 Thereupon,

19 BENNY YOUNG

20 was called as a witness, having been first duly sworn, was
21 examined and testified as follows:

22 THE CLERK: Thank you. Please be seated. State
23 your name and spell it for the court reporter.

24 THE WITNESS: Benny Young, Y-O-U-N-G, Young.

25 THE COURT: Mr. Ferguson.

DIRECT EXAMINATION OF BENNY YOUNG BY FERGUSON

1 MR. FERGUSON: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. FERGUSON:

4 Q Mr. Young, you're Aaron Young, Senior's father?

5 A That's correct.

6 Q Okay. And did you get an opportunity to speak to
7 him on September the 1st of 2012?

8 A Yes, I did.

9 Q Okay. Where was that?

10 A That was on Wild Horse Road and Mustang Lane,
11 after Officer Bromage and another deputy brought him down
12 and said he needed to speak to me.

13 Q Okay. And did you, in fact, talk to them?

14 A Yes, I did.

15 Q Okay. Did you talk to Aaron?

16 A Yes, I did.

17 Q Okay. Who else was present?

18 A Officer Bromage, Ebony, Aaron, and the officer who
19 was driving the patrolman car.

20 Q Okay.

21 MR. FERGUSON: Beg the Court's indulgence just one
22 moment, Your Honor.

23 THE COURT: Okay.

24 BY MR. FERGUSON:

25 Q Mr. Young, do you remember if Captain Bromage

DIRECT EXAMINATION OF BENNY YOUNG BY FERGUSON

1 arrived in a patrol car, or did he arrive in his own car?

2 A I -- I can't remember. I know Captain Bromage and
3 the other deputy were traveling together. When I -- when I
4 talked to him, I don't know if he got out of that patrol
5 car, but the patrol car, him and the other deputy was in
6 same area on Mustang, the main road.

7 Q Okay.

8 MR. FERGUSON: Again, Your Honor, just one brief
9 moment.

10 THE COURT: Okay.

11 MR. FERGUSON: No further questions, Your Honor.

12 THE COURT: Thank you.

13 MR. STONE: Nothing from the State.

14 THE COURT: Thank you.

15 Mr. Young, you can step down. Thank you, sir.

16 THE COURT: Mr. Ferguson.

17 MR. FERGUSON: Thank you, Your Honor. At this
18 point, the State rests.

19 THE COURT: The Defense rests.

20 MR. FERGUSON: Defense, excuse me.

21 THE COURT: That's all right. Understood.

22 Does the State have anything in reply?

23 MR. STONE: No, sir.

24 THE COURT: All right. Now, ladies and gentlemen,
25 you've now heard all of the evidence and testimony that

DIRECT EXAMINATION OF BENNY YOUNG BY FERGUSON

1 you will hear in the conduct of this trial. You have
2 yet to hear the final arguments that the lawyers will
3 present to you, and the charge on the law, which I will
4 give you after that's been done.

5 We anticipated that we would be through around
6 lunchtime, we're through a little earlier. Your lunch
7 should be here at 12:00. They're going to bring it back
8 to the jury room. If it gets here a little earlier, and
9 we hope that it might, then when you are finished eating
10 it, we're going to bring you back out to conclude this
11 trial to the final arguments and the charge.

12 It might be after the lawyers and I put all the
13 pieces in place, to get this trial presented that there
14 might be time to present a quality argument before
15 lunch, but I don't think that that would be fair to the
16 parties if we had to break those things up.

17 So the order of things is that the Defense will put
18 up its final argument, the State will put up its final
19 argument, and then I'll instruct you as to what the law
20 is. We try to keep those things all together. Or
21 sometimes we might separate the two arguments from the
22 charge, depending how long they last. But I know that
23 we could not start the arguments and complete all of the
24 arguments before your lunch would be here, and before a
25 reasonable lunch hour would be here as well.

DIRECT EXAMINATION OF BENNY YOUNG BY FERGUSON

1 So that's a long way of saying that we've got a
2 little bit of time. Hopefully before 12, your lunch
3 will be here. When it does come here, you will eat it
4 at your leisure, but as soon as you are through, we'll
5 be ready to start back. And so we're doing the lunch
6 hour inside because it saves -- we hope we'll save a
7 little bit of time, although it's not going to be here
8 until 12.

9 If I had known that, I probably could have sent you
10 out, and you could have eaten and been probably gotten
11 back here. But I never do know those things until it's
12 too late.

13 So if you would go to the jury room. If you need
14 to step outside and get a breath of fresh air, the
15 bailiffs can go with you to do that. But please be back
16 as soon as the meal is provided, and as soon as you
17 finish eating it, let us know and we'll conclude this
18 trial. Okay? Does that make sense, everybody
19 understand it?

20 You're still not at liberty to talk about this case
21 among yourselves, ladies and gentlemen. Thank you.

22 THE BAILIFF: Please leave your notebooks.

23 (The Jury exits the courtroom at
24 11:40 a.m)

25 THE BAILIFF: The Jury is clear, Your Honor.

MOTIONS

1 THE COURT: Okay. I'll note the renewal of
2 motions made at the conclusion of the State's case and
3 the renewal of my rulings in that regard, unless there
4 are additional grounds or additional motions to be
5 heard.

6 Mr. Ferguson, anything from Defense?

7 MR. FERGUSON: No, sir, Your Honor. Just renew my
8 previous motions.

9 THE COURT: Okay. And the earlier rulings are
10 renewed.

11 Does the State have anything?

12 MR. THORNTON: No, sir.

13 *(Whereupon, Court's Exhibit No(s). 2 marked for*
14 *identification and received in evidence.)*

15 THE COURT: All right. Folks, let's go over the
16 request to charge. My normal charge, my felony charge,
17 of course, is -- you all may know, is the reasonable
18 doubt definition is from Victor versus Nebraska or
19 State versus Daugherty (phonetic). That is the firmly
20 convinced definition.

21 You all are free to argue any reasonable doubt
22 definition which our Supreme Court has approved. That's
23 the one that I'll be giving to the jury.

24 Of course, I will charge as to opinion witnesses,
25 opinion evidence, and expert witnesses.

MOTIONS

1 The credibility charge on a witness' conviction of
2 a crime, credibility charge on the prior record of the
3 defendant, the murder charge is standard malice charge,
4 and the mutual combat will follow that charge, and the
5 transferred intent will follow that charge.

6 What about voluntary manslaughter, Mr. Ferguson, do
7 you request a charge on that?

8 MR. FERGUSON: Could I have a moment to speak with
9 my client, Your Honor?

10 THE COURT: Okay.

11 (Pause.)

12 MR. FERGUSON: Yes, Your Honor, we would request
13 that.

14 THE COURT: The State have any problem with that?

15 MR. STONE: No, Your Honor. I suppose it would
16 have to be under the theory that, I believe his client
17 testified that he was out of his mind. So I think
18 they'd have to combine that part, believing that, and
19 then disbelieving that they didn't shoot at Tyrone --
20 or shooting -- or participating in the shooting. So I
21 think that there is at least some evidence there, so we
22 will not object.

23 THE COURT: Right. All right.

24 The assaults and threats of assault have been a
25 ripe ground for reversal when voluntary manslaughter is

MOTIONS

1 not charged when requested, and I think it should be
2 done in this case, of course.

3 I will charge on attempted murder, and as a lesser
4 included of attempted murder is assault and battery
5 first degree, is a lesser included, as a matter of law
6 unless you decide -- what say you to that?

7 MR. FERGUSON: I'm sorry, Your Honor?

8 THE COURT: Attempted murder and assault and
9 battery first degree is a lesser included by statute of
10 attempted murder.

11 MR. FERGUSON: Yes, sir. That's fine.

12 THE COURT: That will charged.

13 MR. FERGUSON: Thank you.

14 THE COURT: I'll charge criminal intent, hand of
15 one is a hand of all. I'll give a complete charge on a
16 statement of the defendant and the burden of proof in
17 that regard.

18 I'm trying to play back in my mind if there has
19 been any circumstantial evidence that bears on this.

20 Mr. Stone, to what extent do you see circumstantial
21 evidence? I'm trying to play it back in my mind.

22 MR. STONE: I think there may -- I think there's a
23 -- there may be more than just this, but I think the
24 trajectory alone of the bullet shots would be enough
25 for circumstantial evidence.

MOTIONS

1 THE COURT: All right. I'll charge of the law,
2 the use of transcripts.

3 And Mr. Ferguson, I'm looking at your charges now.
4 Your request number one is essentially, I think, a mere
5 presence charge, is what it amounts to, as I read it.
6 It's essential that he should not only have been present
7 when the killing was done, but participated in the
8 crime, which, of course, is a correct statement of law.

9 I usually embody that as a part of my aiding and
10 abetting. However, mere presence at the scene of a
11 crime, even with knowledge of commission, without an
12 intent to aid, abet, and the assistance of the
13 commission would not constitute guilt. I think
14 that's -- is a more complete charge and fits into the
15 context of the hand is one -- hand of one is a hand of
16 all. So I'll decline to give your request number one.
17 I think it's embodied in that request.

18 As a part of my charge, of course, I will give your
19 request number two, not in so many words, but remind the
20 jury that the State has a burden of proof beyond a
21 reasonable doubt that this defendant is the one who
22 committed the crime. And that's inherent, I think, in
23 the larger charge, which I'll give.

24 The request number three is a part of my mutual
25 combat charge.

MOTIONS

1 Request number four is a charge on the facts, so I
2 decline to give that as such, although a part of the
3 charge on mutual combat -- to constitute mutual combat,
4 it is not necessary, but there should be a positive
5 agreement between participating parties to enter the
6 combat. It is enough if they willfully enter into the
7 conflict upon the impulse of the moment. Everyone is
8 presumed to know the consequences of his act. If one
9 voluntarily knows a mutual combat where deadly weapons
10 are used, knowing that they're being used, and a death
11 results to one of the participating parties, everyone
12 engaged in such combat is equally guilty, regardless
13 whether that person used a deadly weapon or not.

14 And regardless of whether he was on one side or the
15 other makes no difference. They're all participating in
16 mutual combat, all are equally responsible for the
17 natural consequences. Therefore, it is not the identity
18 of the victim, but the intent of the perpetrator, the
19 state of mind of the perpetrator, that is taken into
20 account.

21 I will use that charge, declining number four, as
22 being a charge. I'm just stating it, the fact.

23 I will charge your number five if -- if -- the
24 withdrawal charge. I take that back.

25 I declined to give it the last time, and the reason

MOTIONS

1 why I declined to give it last time was because of the
2 last paragraph in the case. It says: Unless before the
3 homicide is committed, he withdraws and endeavors in
4 good faith to decline further conflict, and either by
5 word or act made that fact known to his adversary.

6 That is the missing link I see in this particular
7 case. As I ruled in earlier cases, shooting up the car
8 and then getting away is not the same as withdrawing and
9 endeavoring in good faith to decline further conflict.
10 And either by word or by act making that fact known to
11 his adversary, because as they said, they didn't even
12 know that Mr. -- at the time they were leaving, that
13 Mr. Tyrone Robinson was there. They shot up the car,
14 and that was the end of it.

15 Request number six is a part of my attempt charge,
16 and your request number -- excuse me, the State's last
17 request to charge on mutual combat, I've invited that
18 into my charge as well.

19 So the request, the charge request, will be made a
20 part of the record to preserve that for appellate
21 review.

22 The verdict form in this case as to the charge of
23 murder, guilty of murder, or guilty of voluntary
24 manslaughter, or not guilty.

25 As to attempted murder, guilty of attempted murder,

MOTIONS

1 guilty of assault and battery first degree, or not
2 guilty.

3 I've got a copy of the verdict form that I'll let
4 you all look at before I make copies of it to make sure
5 it's -- that it looks okay.

6 All right. Other than the charges which you all
7 have submitted, are there any additional requests or
8 exceptions to those charges that I intend to give?

9 MR. STONE: Not from the State, Your Honor.

10 THE COURT: All right. Mr. Ferguson.

11 MR. FERGUSON: No, sir, Your Honor.

12 THE COURT: Okay. Good.

13 All right. Folks, we've got a few minutes, and
14 frankly that will give you time to get your last thought
15 process in order for the notes that you'll use to make
16 your argument. And we will stand down now until
17 actually the jury finishes eating their lunch, which I
18 hope will be here momentarily.

19 MR. THORNTON: So we don't have an exact time,
20 we're just going to wait to hear back from the jury.

21 THE COURT: Sir?

22 MR. THORNTON: We don't have an exact time to be
23 back, we just need to be here to wait for the jury.

24 THE COURT: No. We were told that the lunch --
25 they would try to get lunch here by 12.

MOTIONS

1 It's Jimmy Johns, it doesn't take them long.

2 MR. STONE: That's fast, I understand.

3 THE COURT: Right.

4 MR. THORNTON: Yes, sir.

5 THE COURT: And so I would hope by 12:30 we'll be
6 ready to go.

7 Okay. We'll stand at ease until then.

8 (Whereupon, a lunch recess was
9 taken.)

10 THE COURT: Thank you, folks. Please be seated.
11 Good afternoon.

12 Folks, we're advised that the jury is back and has
13 been fed. So now we're ready to proceed to final
14 arguments.

15 Is the State ready to proceed?

16 MR. STONE: The State's ready.

17 THE COURT: Is Defense ready?

18 MR. FERGUSON: Yes, sir, Your Honor.

19 THE COURT: Defense will open, the State will
20 close; is that right, gentlemen?

21 MR. STONE: Yes, sir.

22 THE COURT: Okay. Thank you. Bring us the jury.

23 (The Jury enters the Courtroom.)

24 THE BAILIFF: The Jury is seated, Your Honor.

25 THE COURT: Thank you.

MOTIONS

1 Folks, I trust that you enjoyed the gastronomic
2 delights that we furnished you with during the lunch
3 hour. It was the best use of our time, quite frankly,
4 and I appreciate your cooperating in that regard.

5 We now are prepared to go into the very final phase
6 of the trial of this case, which will consist of the
7 arguments the lawyers will present to you, and then the
8 charge on the law, which I will give you after that's
9 been done.

10 The Defense will present the first of the final
11 arguments, and the State, which has the burden of proof,
12 will present the last of those arguments. And after the
13 arguments have been presented, then I will instruct you,
14 or charge you as to what the law is. And then you'll be
15 able to go back into your jury room and finally start
16 talking about this case among yourselves to deliberate
17 and to reach a verdict.

18 You've been attentive throughout the trial of this
19 case. It has been well presented by all the lawyers
20 involved in this case. You all understand, we all
21 understand, the issues that are involved and the
22 seriousness of these charges, and certainly you have
23 given this case the attention that it needs. And I'm
24 sure that you will give that same attention now to the
25 lawyers as they present their final arguments to you.

MOTIONS

1 Thank you.

2 Mr. Ferguson.

3 MR. FERGUSON: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 CLOSING ARGUMENT BY MR. FERGUSON

6 MR. FERGUSON: May it please the Court, Your
7 Honor.

8 THE COURT: Yes, sir.

9 MR. FERGUSON: Aaron Young, Senior is not guilty
10 of murder. Aaron Young, Senior is not guilty of
11 attempted murder. Aaron Young, Senior did not kill
12 Khalil S. Aaron Young, Senior did not attempt
13 to murder Tyrone Robinson. Aaron Young, Senior never
14 even fired a weapon.

15 Aaron Young, Senior was driving down Marshland
16 Road, and Tyrone Robinson shot and killed Khalil
17 S. There was no shootout when Tyrone Robinson
18 killed Khalil S. There was no crossfire when
19 Tyrone Robinson killed Khalil S. There was no
20 mutual combat when Tyrone Robinson killed Khalil
21 S.

22 No, there was just Tyrone Robinson and his .38, the
23 same .38 that he had used earlier to try and kill Aaron
24 Young, Senior when he came to his house on Wild Horse
25 Road and shot at him and his family.

CLOSING ARGUMENT BY MR. FERGUSON

1 Testimony showed that there was no shootout on Wild
2 Horse Road. There was no crossfire on Wild Horse Road.
3 There was no mutual combat on Wild Horse Road. No,
4 there was just Tyrone Robinson and his .38.

5 Now, Jontu Singleton, I want to go over the
6 testimony of some of the witnesses to try and point out
7 what I believe to be the issues in this case. Jontu
8 Singleton was riding with Tyrone Robinson when he went
9 to the Youngs' house, and he observed everything that
10 I've just told you, that there was no exchange of
11 gunfire on Wild Horse Road. Nobody shot back at Tyrone
12 Robinson. He stated that Aaron Young, Senior and Tyrone
13 struggled over the gun. That Tyrone took two steps back
14 and shot in the air twice, and then shot at Aaron's
15 feet. That he then left in his car.

16 He then said that Senior and Junior went into the
17 house and came out with a duffle bag. And we've heard
18 testimony from him what was in that duffle bag. It was
19 a .9 millimeter pistol.

20 He says they went to Oak View Road, they saw what
21 they thought could possibly be Tyrone Robinson's car,
22 they followed it. But he testified they never saw
23 Tyrone Robinson -- not when Jontu was in the car. Never
24 saw anyone fire that gun, much less Aaron Young, Senior.

25 Jontu Singleton never saw a shootout that day.

CLOSING ARGUMENT BY MR. FERGUSON

1 Jontu Singleton never saw any crossfire that day. Jontu
2 Singleton never saw any mutual combat.

3 Aaron Young, Senior was upset after Tyrone Robinson
4 shot at him and his family. And he should have called
5 the police, but he didn't. Instead, the testimony has
6 shown that he went looking for Tyrone Robinson. And he
7 admitted on the stand, he shouldn't have done that, that
8 that was a mistake. But, again, wanting to kill
9 somebody is not murder. Wanting to kill somebody is not
10 attempted murder.

11 The State has to prove beyond a reasonable doubt
12 more than just preparation and attempt, more than just
13 getting a gun and going looking for somebody. They got
14 to prove an overt act, an actual attempt on the life of
15 Tyrone Robinson, and not one witness has testified that
16 Aaron Young, Junior shot at Tyrone Robinson.

17 Now, there's a little bit of discrepancies about
18 what occurred on Oak View Road. But what's not up for
19 debate is that no one says there was a shootout on Oak
20 View Road, no says there was crossfire on Oak View Road,
21 and no one says there was mutual combat on Oak View
22 Road.

23 No, what the testimony showed is that Aaron Young,
24 Senior was driving down Marshland Road when Tyrone
25 Robinson shot and killed Khalil S.

CLOSING ARGUMENT BY MR. FERGUSON

1 In the opening, the Solicitor told you there was a
2 shooting on Allen Road, and that the Youngs had a .9
3 millimeter. Well, it turns out, you know, we told you
4 that in our opening as well, because it's true. There
5 was a shooting on Allen Road. There was Aaron Young,
6 Junior shooting at Tyrone Robinson's car, and then there
7 was Tyrone Robinson shooting and killing Khalil

8 S. . Two separate instances.

9 There was 911 calls that were played first.
10 Kathleen Fafitch is a neighbor, she heard eight gunshots
11 in rapid succession that were real quick, close to the
12 entrance of Allen Road. What she heard was Aaron Young,
13 Junior shooting up Tyrone Robinson's car.

14 The second, that's an unknown caller, a female, who
15 says she heard six to eight gunshots on Allen Road,
16 automatic weapons, from one end of the road, then
17 sounded like drove to the other end and fired again.
18 What she heard was Aaron Young, Junior shooting up
19 Tyrone Robinson's car, and then Tyrone Robinson shooting
20 and killing Khalil S. .

21 The next 911 call is a very upset female, who the
22 dispatcher keeps referring to as Ms. Washington. And
23 essentially she said, somebody's got shot. He's a
24 little boy, he's bleeding from his mouth. She said they
25 heard about ten gunshots. Didn't see any cars in the

CLOSING ARGUMENT BY MR. FERGUSON

1 area. Then she realizes it's her cousin, cousin Khalil.
2 She breaks down even more. Then she says, he shot my
3 cousin.

4 Who is the guy that had on the red shorts? He shot
5 him, he shot him. She did not say there was a shootout
6 down here on Allen Road, that two cars were shooting at
7 each other. She said, He did it, Tyrone Robinson did
8 it.

9 She doesn't say where she heard the ten shots from
10 because, again, just like the previous 911 call, what
11 she heard were the ten shots -- or the shots that Aaron
12 Young, Junior shot into Tyrone Robinson's car. She
13 didn't see any cars in the area because Aaron Young,
14 Senior was already down Marshland Road at that point,
15 and Tyrone Robinson was on foot. His car was way over
16 here.

17 Says, He shot my cousin, and the guy in the red
18 shorts, and the State has entered pictures of Tyrone
19 Robinson in his red shorts. There's no mistaking that
20 that's who she was referring to.

21 Next, there's an unknown female caller that says
22 she has information about where the shots were fired
23 from. A gray truck and a green Lexis heading towards
24 Spanish Wells, two vehicles shooting at each other.
25 Tyrone Robinson is the driver of the green Lexis. The

CLOSING ARGUMENT BY MR. FERGUSON

1 Lexis was part of the shootout. But the caller didn't
2 say that she saw two vehicles shooting at each other.
3 Certainly, if the State had a female witness that
4 observed two cars shooting at each other, that they
5 would have presented that evidence for your
6 consideration, but they didn't. They had people that
7 heard gunshots, didn't see it.

8 Gray truck and green Lexis heading towards Spanish
9 Wells. Well, Charlese Mitchell testified that she saw
10 the Youngs' gray truck and Tyrone Robinson's car. She
11 didn't say they were shooting at each other. She said
12 that the Youngs were almost past her house when she
13 heard the final shots, the shots from Tyrone Robinson
14 killing Khalil S. . And then that some time
15 passed. And then she saw Tyrone Robinson get in his car
16 and drive with the back window shattered out.

17 She didn't see Aaron Young, Senior fire a gun, she
18 didn't see a shootout. She didn't see crossfire. She
19 didn't see mutual combat. What Charlese Mitchell did
20 see, and what she testified to, was Tyrone Robinson had
21 a .38 revolver tucked in the waistband of his red
22 shorts. She testified that nobody was shooting out of
23 the Youngs' truck as it passed by her house. She said
24 the windows were up.

25 The fast shots that Charlese Mitchell heard were

CLOSING ARGUMENT BY MR. FERGUSON

1 Aaron Young, Junior shooting up Tyrone Robinson's car.
2 Then she heard a distinctly different type of shot.
3 Those were the shots that Tyrone Robinson fired and
4 killed Khalil S.

5 Tyrone Delaney was next on the stand. He had lived
6 with Charlese Mitchell, he was coming home from work
7 about 4:30. He passes the Youngs' gray truck on Spanish
8 Wells. He gets home, Tyrone Robinson is outside his
9 house on the telephone. Charlese tells -- told Charlese
10 to tell Tyrone Robinson to leave, and Tyrone Robinson
11 left on foot.

12 She then hears rapid fire shots while the kids were
13 playing outside. Told the kids to come inside.
14 Tyrone's son, Xavier, came in the house, and that's when
15 they heard the three different shots, the pops, the
16 shots from Tyrone Robinson's .38.

17 Tyrone Delaney stated he never saw the Youngs' gray
18 truck. Tyrone Delaney didn't see Aaron Young, Senior
19 fire a weapon. Tyrone Delaney didn't see a shootout.
20 Tyrone Delaney didn't see crossfire. Tyrone Delaney
21 didn't see mutual combat.

22 What Tyrone Delaney did see, just like Charlese
23 Mitchell, was Tyrone Robinson and his .38 revolver.
24 That he was animated, he was excited, that he was waving
25 his gun around outside of his house. And that's why

CLOSING ARGUMENT BY MR. FERGUSON

1 they told him he had to leave, and he did leave on foot.

2 Dominique Griffith was the next witness. He was
3 living in this house here. He was home watching TV with
4 his new baby when he heard what he called machine gun
5 fire. It sounded like they were riding down towards
6 Indigo Plantation. The shots stopped, I ran to the back
7 door. Jontu, Junior was crying and pointing at Tyrone
8 Robinson saying, he shot Khalil, he shot Khalil.

9 Jontu, Junior didn't say anything about a shootout.
10 Jontu, Junior didn't say anything about two cars
11 shooting at each other. He said, he did it, he shot
12 Khalil, pointing at Tyrone Robinson.

13 Dominique Griffith stated that Tyrone Robinson
14 backed his car up into a four-by-four that was holding
15 up a fig tree. The back window glass fell in, and that
16 Tyrone Robinson drove off toward Spanish Wells.

17 Just like Charlese, just like Jontu, just like
18 Tyrone Delaney, Dominique Griffith didn't see Aaron
19 Young, Senior fire a gun. Dominique Griffith didn't see
20 a shootout. Dominique Griffith didn't see crossfire,
21 and Dominique Griffith didn't see mutual combat.

22 What he heard was what's been testified to, is that
23 Tyrone Robinson's car was shot up outside of his house.
24 But shooting up an empty car is not murder. Shooting up
25 an empty car is not attempted murder. And Aaron

CLOSING ARGUMENT BY MR. FERGUSON

1 testified that he didn't know that there was anybody in
2 that house, and luckily they didn't hit that house,
3 because there was, and there was a baby in there.

4 Next were some of the law enforcement witnesses,
5 Detective Seifert. He says that he went to the area
6 where the Youngs were stopped. That he talked to Aaron
7 Young, Senior, and that Aaron was in the back of
8 Kaminski's patrol car. And you've heard some excerpts
9 from that statement.

10 He also talked to Aaron Young, Senior at the back
11 of Kaminski's patrol car, and that conversation was not
12 recorded. And that's important because we don't know
13 what was said at the back of Kaminski's patrol car by
14 Detective Seifert. We don't know because they didn't
15 record it, and they didn't provide it.

16 Then he examined the truck. He took visual photos,
17 recovered shell casings from the back of the truck, and
18 he spoke to Aaron Young, Senior. Aaron Young, Senior
19 made statements that they put in, dude started fucking
20 with us is all I got to say. He came down and shot at
21 me in my car, and all I did was defend myself.

22 Now, what happened after that, I went down there to
23 confront him, and he started shooting at us, and we got
24 the fuck from around there.

25 He didn't ask him, what did your son do with the

CLOSING ARGUMENT BY MR. FERGUSON

1 gun he was shooting? I have no idea. Why was your son
2 shooting out of the window? Because he was shooting at
3 us, because he was shooting.

4 That little snippet is all that we have to consider
5 from the roadside in that conversation, and remember the
6 questions are not evidence. The answers are evidence.

7 Bob Bromage then testified that he participated in
8 the interview with Aaron Young, Senior. That he talked
9 to Aaron Young, Senior in the DTC office at the Hilton
10 Head substation, but that that conversation wasn't
11 recorded. We don't know what was said in the DTF office
12 to Aaron Young, Senior because it wasn't recorded and it
13 wasn't provided.

14 He also made statements to Aaron Young, Senior
15 during the portions of the interview about exoneration.
16 That the gun would exonerate him and his son, exonerate
17 the situation. That is huge. That is just a taste of
18 what was ultimately discovered upon further examination
19 of all of the Statements that were taken.

20 Captain Bromage testified that search dogs were
21 used to search along Allen Road and Marshland Road, but
22 they didn't find any shell casings. The only place they
23 found shell casings were around where Tyrone Robinson's
24 car was shot up. Because there was no shootout on Allen
25 Road, or they would have found shell casings. There was

CLOSING ARGUMENT BY MR. FERGUSON

1 no crossfire on Allen Road. There's no physical
2 evidence to support it. There was no mutual combat on
3 Allen Road.

4 Now, I mentioned Dr. Salas. Dr. Salas talked to
5 Aaron Young, Senior at great length, but it was an
6 important point that I asked her. I said, Dr. Salas,
7 you did not make your opinion just on your conversation
8 with Aaron Young, Senior, did you? She said no. She
9 took all of the -- all of the Statements and documents
10 that had been given to her and she examined them. And
11 what did she say? She essentially said that there were
12 coercive errors that were present. She said that Aaron
13 believed he had to do two things. He had to say that he
14 was engaged in a face-to-face shootout with Tyrone
15 Robinson, and direct investigators to the .9 millimeter
16 weapon that was in his possession, him and his son,
17 earlier that day. And he believed that if he did so,
18 that he and his son would be exonerated, that they would
19 not be charged with murder. That they would be made a
20 star witness against Tyrone Robinson.

21 Now, it's not just that the interview was
22 stressful, it's not just that it was long, it was
23 unpleasant. The testimony's been that it started at
24 5 p.m. on the roadside and lasted until about 5 a.m.,
25 when he was booked in.

CLOSING ARGUMENT BY MR. FERGUSON

1 No, it's the techniques that caused the suspect to
2 believe his guilt has been established beyond a
3 conceivable doubt. And that to continue to deny the
4 detective's accusations, you'll only make your situation
5 worse. It doesn't mean that the police -- the police
6 committed misconduct.

7 No, essentially what they do is what she said. You
8 know, certain coercive statements that essentially lead
9 Aaron Young, Senior to believe that he doesn't have any
10 choice but to tell them what they want to hear. He
11 doesn't have any choice but to say whatever keeps him
12 and his son from being charged with murder. He didn't
13 know that then they were going to take those same
14 statements and still charge him with murder.

15 She also testified that there's contamination
16 errors. Contamination errors are essentially inserted
17 into the conversation very early on, and that that
18 explains why Aaron Young, Senior made certain statements
19 about a shootout that never occurred.

20 Again, Dr. Salas didn't just make her findings
21 based on her conversation with Aaron Young, Senior, she
22 had those concerns just from reviewing the Statements
23 that you've seen. They were only confirmed after
24 talking to Aaron Young, Senior, only made stronger. And
25 she testified that they were only made -- they were also

CLOSING ARGUMENT BY MR. FERGUSON

1 made stronger after the additional disclosure of
2 evidence.

3 Now, that's specifically what Curt Evans testified
4 to, Officer Curt Evans. He testified that he told them
5 if they gave up the gun, that he and his son would not
6 be charged with murder.

7 I asked him if he said it once, he said no. I
8 asked him how long he talked to Aaron Young, Senior, he
9 said about three hours.

10 Detective Nelson examined Tyrone Robinson's car.
11 He took pictures of Tyrone Robinson's car, and he
12 processed Aaron Young, Senior's truck for gunshot
13 residue. But he didn't know the results of that gunshot
14 residue. That's because the State didn't put those
15 results into evidence, because it doesn't fit their
16 theory of a running gun battle, of mutual combat.

17 Now, what Detective Nelson couldn't tell us is
18 where those shots occurred. He couldn't tell us when
19 those shots occurred. He essentially tells us what
20 Aaron Young, Senior told us, that Tyrone Robinson's car
21 was shot up.

22 Now, next, was former Detective Connick, who was
23 essentially a chain witness, but she testified that she
24 transported a gunshot residue test for Aaron Young,
25 Senior, but just like Detective Nelson, didn't know the

CLOSING ARGUMENT BY MR. FERGUSON

1 results because the State didn't put those in. They
2 didn't put them in because they didn't fit the theory of
3 a running gun battle. It didn't fit their theory of
4 mutual combat.

5 Dan DeFreese is the firearms expert that was
6 produced, and he told us what Aaron Young, Senior told
7 us. He told us that Tyrone Robinson's car was shot by a
8 .9 millimeter, and that the casings found in the back of
9 Young's truck matched the bullets taken from Tyrone's
10 cart. Well, we knew that to be true.

11 He also told us that Khalil S. was killed by
12 a .38, which we also knew was true. Then he testified
13 the different trajectories of the bullets means slightly
14 different positions of the shooter, or positions of the
15 vehicle. And the State would have you to believe that
16 that somehow is evidence of attempted murder. That that
17 alone should convince you firmly that Aaron Young,
18 Senior and Aaron Young, Junior committed attempted
19 murder on Tyrone Robinson.

20 Dr. Tormos was their final witness. She told us
21 that Khalil S. was killed by a single shot.
22 Well, we knew that.

23 Aaron Young, Senior took the stand, which is a
24 difficult thing to do, and he told you why he made those
25 statements when that's not what occurred. He told you

CLOSING ARGUMENT BY MR. FERGUSON

1 that there was no shootout at Wild Horse Road, there was
2 no shootout on Oak View Road, there was no shootout on
3 Allen Road. There was shooting on Allen Road, there was
4 Aaron Young, Junior shooting into Tyrone Robinson's car,
5 and there was Tyrone Robinson shooting and killing
6 Khalil S.

7 Now, a little bit about the law that the Judge is
8 going to charge you on. Reasonable doubt. Reasonable
9 doubt is essentially -- a proof beyond a reasonable
10 doubt is proof that leaves you firmly convinced of the
11 Defendant's guilt. Firmly convinced that the State must
12 prove each and every element of the offenses of murder
13 and the offenses of attempted murder in order for you to
14 find Aaron Young, Senior guilty.

15 Prove each and every element of the offenses of
16 murder and attempted murder, and I'll tell you that
17 murder is the willful and felonious killing of another,
18 with malice aforethought, either expressed or implied.
19 You have the physical act on one side, the killing of
20 another. And you have the mental element on the other,
21 which is malice, hatred, ill will.

22 Now, Aaron Young, Senior certainly had malice with
23 Tyrone Robinson; however, he didn't have the physical
24 heart of the taking the life of another.

25 So we're operating under a different theory. The

CLOSING ARGUMENT BY MR. FERGUSON

1 State wants you to adopt what is called mutual combat.
2 Because Aaron Young, Senior didn't kill anybody. This
3 is the way that he's charged with murder. And I've
4 taken this, because it's a long charge, and it can be
5 difficult to catch when the Judge is reading it. But it
6 states that everyone is presumed to know the
7 consequences of his act. And if one voluntarily enters
8 a mutual combat where deadly weapons are used, knowing
9 they're being used, and death results to one of the
10 participating parties, everyone engaged in such combat
11 is equally guilty regardless of whether he used a deadly
12 weapon or not, and regardless of whether he was on one
13 side or the other. Makes no difference. And where all
14 are participating in mutual combat, all are equally
15 responsible for the natural consequences.

16 And you're going to hear that multiple times before
17 this trial is over. And I'll tell you what it doesn't
18 do is define mutual combat. It doesn't tell you what
19 constitutes mutual combat.

20 It tells you that if someone engages in mutual
21 combat and deadly weapons are used, knowing that they're
22 used, and death results to one of the participating
23 parties, that everyone engaged in such combat is equally
24 guilty, regardless of whether he uses a deadly weapon or
25 not. And regardless of whether he's on one side or the

CLOSING ARGUMENT BY MR. FERGUSON

1 other. Makes no difference. And where all
2 participating in mutual combat, all are equally
3 responsible for the natural consequences.

4 Now, there was no shootout on Allen Road, there was
5 shooting on Allen Road. There was no crossfire on Allen
6 Road, there was no mutual combat on Allen Road.
7 Shooting up Tyrone Robinson's empty car is not mutual
8 combat.

9 There's a second part that I wanted to focus on,
10 which is the natural consequences. Not only do they
11 have to prove mutual combat beyond a reasonable doubt,
12 prove with evidence that leaves you firmly convinced,
13 they had to prove that the death was the natural
14 consequence of the mutual combat that they've alleged.

15 Well, what is the natural consequence of shooting
16 up someone's car that's over here? Could you predict
17 what Tyrone Robinson is going to do? Could you predict
18 that Tyrone Robinson was going to shoot his .38 at the
19 Youngs' truck as it drove down Marshland Road and hit
20 and killed Khalil?

21 No. The reason mutual combat says participating
22 parties, and death results to one of the participating
23 parties, is because if you enter into a shootout with
24 another group of people and both sides are armed, it is
25 a natural consequence that one of the persons involved

CLOSING ARGUMENT BY MR. FERGUSON

1 in that combat may die. It's not a natural consequence
2 for Tyrone Robinson to shoot and kill an eight-year-old
3 boy. That was not something that Aaron Young, Senior
4 could predict when he drove Aaron Young, Junior to this
5 house and shot up Tyrone Robinson's car.

6 Now, the way we get Aaron Young, Senior on trial
7 for murder is a combination. Murder, like I told you,
8 is a physical act, killing another with malice
9 aforethought, either expressed or implied. We don't
10 have that, because Aaron Young, Senior didn't kill
11 anybody.

12 So then you have mutual combat that we just talked
13 about, then you have the hand of one is the hand of all.
14 There are very few points in law that make you
15 responsible for somebody else's conduct. . Very few.

16 If you aid, abet, or assist someone in the
17 commission of a crime, then you are just as guilty as
18 the principal that committed that crime. However,
19 merely being present when a crime is committed, or mere
20 association by a defendant when people have committed a
21 crime, is insufficient proof that the Defendant has
22 committed a crime himself.

23 Mere presence at the scene is not sufficient to
24 establish guilt as an aider or abettor.

25 Aaron Young, Senior didn't aid, abet, or assist

CLOSING ARGUMENT BY MR. FERGUSON

1 Tyrone Robinson in the killing of Khalil S. .
2 Aaron Young, Senior didn't aid, abet -- Aaron Young,
3 Senior did aid and abet Aaron Young, Junior, but what
4 crime has the State proved beyond a reasonable doubt
5 that Aaron Young, Junior committed? Not what he's been
6 convicted for, what did they prove in this trial that
7 Aaron Young, Junior did beyond a reasonable doubt, with
8 evidence that leaves you firmly convinced?

9 What they've proven is that Tyrone Robinson's car
10 was shot up, and that is a crime. That's malicious
11 injury to personal property, but it's not murder, and
12 it's not attempted murder.

13 There's another legal doctrine that must be
14 applied, which is the reason why we're -- why Aaron
15 Young, Senior is on trial for murder, and that's
16 transferred intent. If one person intends to harm a
17 second person, but instead unintentionally harms a
18 third, the first person's criminal intent towards the
19 second applies to the third.

20 Simpler than that, if I'm shooting at A, and I
21 accidentally hit B, the intent to kill A is transferred
22 to B. And that's why Tyrone Robinson was convicted of
23 the murder of Khalil S. . He had malice towards
24 the Youngs. He shot at the Youngs. He accidentally hit
25 Khalil S. . His malice towards the Youngs was

CLOSING ARGUMENT BY MR. FERGUSON

1 transferred to Khalil S. , coupled with the
2 physical act of killing another, and that makes murder.

3 So you must find that mutual combat applies to the
4 conduct of Aaron Young, Senior and Aaron Young, Junior
5 before you can find Aaron Young, Senior guilty of
6 murder. You have to find essentially that Aaron Young,
7 Junior is guilty of murder and that, therefore, Aaron
8 Young, Senior is guilty of murder because he helped him,
9 when they didn't kill Khalil S. .

10 So I implore you to listen very carefully when the
11 Judge charges you on the law. It is a complex legal
12 theory that gets us here today, and it's something that
13 I know that you will consider very carefully. Because,
14 again, there are very few points in law where one party
15 is responsible for the conduct of another.

16 Who can predict what Tyrone Robinson is going to
17 do? Shooting up Tyrone Robinson's car is not mutual
18 combat. The killing of Khalil S. is not a
19 natural consequence of shooting up Tyrone Robinson's
20 car. The Youngs had malice towards Tyrone Robinson,
21 didn't have malice towards Khalil.

22 Aaron Young, Senior is not guilty of murder. Aaron
23 Young, Senior is not guilty of attempted murder. And
24 that's because Aaron Young, Senior did not kill Khalil
25 S. . Tyrone Robinson killed Khalil S. .

CLOSING ARGUMENT BY MR. FERGUSON

1 Thank you.

2 THE COURT: Thank you, Mr. Ferguson.

3 All right. Mr. Stone.

4 CLOSING ARGUMENT BY MR. STONE

5 MR. []: Thank you. May it please the Court.

6 I'll talk to you very briefly about what we know,
7 what is undisputed, what -- you can take everything that
8 you've heard, whether it be from the State or the
9 Defense, and you can put it all together and there's not
10 a single argument against any of this.

11 Here's what we know. Here's what you've heard as
12 testimony. Here's what you heard as physical evidence.
13 That on September the 1st, Tyrone Robinson went to Aaron
14 Young's house. They got in a fight. They had a
15 struggle for a long time. They had an argument for a
16 long time. Tyrone Robinson went to the house, he pulled
17 out a gun, they struggled over the gun, he shot, and he
18 left. He left. He was gone.

19 Aaron Young, Senior, this man right over there, had
20 to go get a gun. Didn't have one handy. Had to go get
21 one. And we know without any doubt that he went and got
22 a gun that was something akin to a sub machine gun that
23 carried a 30-round clip, that according to his own
24 witnesses had another separate clip and another box of
25 bullets. And Aaron Young got that gun and he loaded up

CLOSING ARGUMENT BY MR. STONE

1 his car with his son, and he went chasing Tyrone
2 Robinson.

3 Where did he chase Tyrone Robinson? Through two
4 different neighborhoods in Hilton Head Island in
5 Beaufort County. He chased him all the way down into
6 Oak View. He chased him off of Spanish Wells. And by
7 the way, when I say "neighborhood," I mean neighborhood.
8 Oak View.

9 This is Oak View here. These are houses. That's a
10 neighborhood. And what happened there? According to
11 Aaron Young, Senior himself and the drawing of his
12 expert, we had a confrontation there. What happened?
13 My son, with the gun that I brought out, with the gun
14 that I told him how to put together, with all 30 bullets
15 in it, is hanging out of the car, aiming it at Tyrone
16 Robinson. And by the way, Tyrone Robinson is not aiming
17 back at that point. At least not according to their own
18 witness. And this is on Oak View. This is here. This
19 is in a totally separate neighborhood. And then what
20 did he do? He went back home. Dropped off Jontu
21 Singleton and went back out.

22 What else do we know that's undisputed? That Aaron
23 Young, Junior, his own son, said, Dad, let it go. He
24 told him, Let it go when the fight started to begin
25 with, over on Wild Horse. And at some point after that,

CLOSING ARGUMENT BY MR. STONE

1 he said, Stop. The son that Aaron Young, Senior told
2 you is in prison over this now, and I will agree with
3 something else that Aaron Young, Senior said, it was a
4 bad decision on my part.

5 Yes, it was. He's the father. His own son is
6 telling him to stop, but what does he do? He doesn't
7 stop, he keeps going. He keeps going. And they get
8 back in that truck, the same truck that Charlese told
9 you, that one over there, and they go back. They find
10 Tyrone Robinson's relative, and they say, Tell Tyrone
11 we're looking for him.

12 Not looking for a car to send a message, they're
13 looking for Tyrone. If they were going to send a
14 message, they'd already sent it. They sent it on Oak
15 View, when his son is pointing the gun at him but can't
16 get it to work. Whether it wasn't put together right,
17 whether it jammed, for whatever reason. And it's very
18 clear that if they could have killed Tyrone Robinson
19 then in that neighborhood, they would have.

20 Whoever would have gotten shot in that
21 neighborhood, it might have been different. But then
22 they go back down to Allen Road again. They found the
23 uncle, they said, Tell him we're looking for him. And
24 they go down there and they shoot.

25 Whether they shot in the air, whether they shot at

CLOSING ARGUMENT BY MR. STONE

1 the car, whether they shot at Tyrone Robinson, here's
2 what we know. They took a sub machine gun, he drove
3 through two neighborhoods in Hilton Head chasing Tyrone
4 Robinson, and they get to Allen Road and they shot, and
5 what happened? Tyrone Robinson shot back.

6 And what the Defense says was, Well, who would have
7 thought that? Sure, we chased him all around Hilton
8 Head and he returned fire, and Khalil S. , who
9 wasn't a part of this at all, who had no ill will
10 towards anybody, who had a right to be safe in his
11 neighborhood, was killed.

12 Please make sure you understand the Defense of this
13 case. Their theory. Because here's their theory,
14 because Aaron Young said it up on the witness stand.

15 Tyrone Robinson needed to be killed. You can sum
16 up everything that Aaron Young, Senior said, and you can
17 listen very carefully to what he said.

18 And what did he say? Sure, I went out there, I was
19 looking for him, we tried to find him, we were shooting,
20 we had a gun, we chased him. He shot back, he killed
21 Khalil, but you know what, he's a bad guy. He sure is,
22 and he's in prison, which is where he needs to be, as is
23 Aaron Young, Senior's son, which is where he needs to
24 be.

25 Because the law in South Carolina doesn't let you

CLOSING ARGUMENT BY MR. STONE

1 do that. You don't chase people around neighborhoods
2 with guns and shooting, and then look up and go, It
3 wasn't my-bullet that killed the child, so it's clearly
4 I should be innocent.

5 Oh, yeah, and one other thing. Tyrone Robinson
6 needed to be killed. That's their Defense. Not that it
7 didn't happen, not that they didn't do exactly what I
8 told you they did when I said my opening argument. It's
9 that Tyrone Robinson needed to be killed.

10 This is why we have the law that we have in South
11 Carolina. The Judge will charge you the law in this
12 case. The Judge is going to tell you what the law is in
13 South Carolina. And if he says anything that's
14 different from what I've told you, please, it's -- he's
15 the judge, he's going to tell you the law.

16 But here's what he's going to tell you. The law of
17 mutual combat and the law of South Carolina is this,
18 that everyone is presumed to know what they're doing.
19 That if somebody voluntarily enters into a mutual combat
20 where deadly weapons are used, knowing that they're
21 going to be used -- did he know Tyrone Robinson had a
22 gun? Yes. No question about it. It's a .38, it was a
23 revolver. You heard ample testimony of that. And he
24 knew he had it when he left his house.

25 Were they armed, were the Youngs armed? Yes. It

CLOSING ARGUMENT BY MR. STONE

1 was a .9 millimeter. You know that. Multiple bullets,
2 multiple clips. And death results to one of the
3 participating parties. Everyone -- everyone is guilty,
4 everyone participating, regardless, by the way, of what
5 side they're on.

6 In other words, it doesn't matter if you've got two
7 people that don't like each other, or three people, and
8 Aaron Young is not on Tyrone Robinson's side. It makes
9 no difference whose side they're on. And it also makes
10 no difference whether they used a deadly weapon or not.
11 The Defense was, I didn't shoot. My son shot. Granted,
12 I gave him the gun. Granted, I told him how to put it
13 together. Granted, I had to go get it to begin with,
14 and I was driving the car, the truck, while he was
15 shooting out of it.

16 Not in South Carolina, it makes no difference.
17 That's not a Defense. The only thing about this that's
18 complicated is the death of the participating party. If
19 everybody is shooting, what the law says is that if
20 somebody dies, if somebody dies when this is going on,
21 then everybody is responsible.

22 Khalil S. obviously wasn't a participating
23 party, but what the Judge will tell you, is that it's
24 not the identity of the victim that matters, it's the
25 intent of the people involved.

CLOSING ARGUMENT BY MR. STONE

1 He doesn't -- Aaron Young doesn't get to walk away
2 by saying well, Khalil S. wasn't shooting, so he
3 wasn't a participant. That's not what the law says.
4 The law is very clear. If you're involved in a mutual
5 combat, if there are weapons being used, and you know
6 there are weapons being used, you don't get to say it's
7 simply not my bullet that killed him.

8 Now, I understand the Defense is saying, well, this
9 wasn't a traditional shootout. No, it wasn't the O.K.
10 Corral. They didn't all meet up and take ten paces back
11 and turn and shoot at each other, but that's not what
12 the law requires. Because this is South Carolina, this
13 isn't the O.K. Corral. That's not how it's supposed to
14 be done. You don't get to chase people through
15 neighborhoods with a gun, shooting that gun, and then
16 when they return fire, which is exactly what he said up
17 on the witness stand, get to walk away and say it wasn't
18 my bullet. That's not the law in South Carolina.

19 That's if you believe everything that Defense says.
20 What I've just outlined for you, is it? That's
21 literally the State's case. It's what they told you.
22 And I would submit to you, ladies and gentlemen, that
23 their story alone is mutual combat. And if that's all
24 you knew, he'd still be guilty of mutual combat. That's
25 not all you know. You have a lot more evidence than

CLOSING ARGUMENT BY MR. STONE

1 that.

2 First, intent. What was Aaron Young's intent? And
3 you can take it from the fact that they get that type of
4 gun and they go chase him, and they continue to chase
5 him, they go back to the house, they leave the house
6 again and go chase him again despite the fact that his
7 son's telling him to stop. You can take it from just
8 that, or you can take it from what Aaron Young said
9 himself.

10 You see what I'm saying? Because we were running.
11 I'm thinking, I ain't going to lie to y'all, I'm
12 thinking I'm going to kill him because he tried to kill
13 me.

14 What's the next thing he says?

15 (Audio playing.)

16 MR. STONE: What's the next thing?

17 (Audio playing.)

18 MR. STONE: What's his intent? Does that sound
19 like his intent was to hunt down a car and send a
20 message, a message that, by the way, I think he
21 probably already sent on Oak View.

22 What was his intent? His intent
23 was to kill Tyrone Robinson. No
24 question about that. And you
25 don't have to take anybody's

CLOSING ARGUMENT BY MR. STONE

1 word for it other than his own.
2 Should listen to one other thing
3 he said.

4 (Audio playing.)

5 MR. STONE: How many times did he go back? How
6 important was this intent to kill Robinson? Was it
7 just a spur of the moment kind of thing? No.

8 He said, I didn't even leave my house at first.
9 Now, we know why, because he was going to try to find a
10 gun. But when he gets a gun, Robinson was already gone.
11 And he had to think about it. And then he went out, and
12 then he came back. And then he went out again.

13 According to Charlese, Charlese Jackson, his own
14 cousin, the first gunshot she heard were rapid shots,
15 and she sees her own cousin driving in this truck by her
16 house as he's leaving. Khalil S. is still alive.

17 Tyrone Delaney hadn't even gotten home yet.
18 Because what happens when Tyrone Delaney gets home?
19 Tyrone Delaney gets home and says, I almost got run off
20 the road by a gray truck that was leaving.

21 We know Aaron Young had already been down that
22 neighborhood once before. The first set of gunshots
23 that Charlese heard, she hears them, and then Aaron
24 Young leaves. Tyrone Delaney then comes home.
25 Everybody's still alive at this point.

CLOSING ARGUMENT BY MR. STONE

1 Now, we're in Allen Road, and outside of her home
2 is this trampoline. Picture of this. The front yard,
3 the trampoline, the kids. At this point, the kids are
4 still alive. Aaron Young's already been down here. And
5 by the way, if you remember Aaron Young's testimony
6 today, yeah, I saw the kids. That didn't stop him
7 either. His own son didn't stop him, and the kids in
8 the neighborhood didn't stop him. Why? Because he
9 needed to kill Tyrone Robinson. That was his focus,
10 just like he said on the witness stand.

11 The question that the Defense has is, was there a
12 shootout? Call it what you need to call it. You know
13 what his intent was, intent was so severe that he went
14 back down there numerous times looking for him. He went
15 in numerous neighborhoods looking for him. And they had
16 a gun when they went. A loaded gun. A gun that they
17 fired.

18 Describing it whether or not it's a shootout or
19 not, think about this: 911 call -- first 911 call, I
20 heard rapid fire. I heard a lot of shots. There are
21 kids down there.

22 Even the 911 caller knew there were kids down
23 there, because it's a neighborhood.

24 Next 911 caller, it was rapid fire. I heard it at
25 one end of the road and it sounded like it was going

CLOSING ARGUMENT BY MR. STONE

1 down the road.

2 Who else said that? The guy living in this house
3 right here, Dominique Griffith. Sounded like they were
4 going up the road. Matches exactly what that 911 caller
5 said. It was bad, that second 911 caller said.

6 And then the fourth 911. There were -- it was a
7 shootout. There were two vehicles, one was a gray truck
8 and a green Lexis. Gray truck, green Lexis, shootout.
9 They were shooting at each other. Green Lexis driven by
10 Tyrone Robinson. Gray truck driven by Aaron Young,
11 Senior. That was just the 911 calls.

12 And then what did Charlese tell you? I saw my
13 cousin drive by in that truck after I heard that first
14 set of shots, and then Tyrone Robinson came to the
15 house. And Robinson came in, and he was excited. He
16 was nervous. He was amped up. And what did he tell me?
17 He said, those MFs are shooting at me.

18 Does that sound like -- she wasn't even comfortable
19 saying it on the witness stand. Does it sound like
20 something Charlese is going to say? It was exactly what
21 Tyrone Robinson told her as he was excited. And she
22 sees him with a gun, the same gun that the Youngs
23 already knew he had. And she said, Leave, you got to
24 go. And he does.

25 And then she hears rapid fire again, the same type

CLOSING ARGUMENT BY MR. STONE

1 of rapid fire that she heard the first time. And she
2 goes to the door and she says, Kids, come in. And her
3 child did, thank goodness, and the other two went the
4 other way. And then she sees her cousin in that same
5 truck coming back again, and she sees him, and she looks
6 at him.

7 And then she sees Tyrone Robinson pull out. She
8 sees him come by. Keeping in mind also that when the
9 truck left, she sees it leaving Allen Road and she sees
10 it speeding off. And then she hears boom, boom, boom.
11 Not the same rapid fire that she heard the first time,
12 but the three shots coming from the revolver, that as
13 the expert says normally holds six bullets, not 30.

14 She heard the rapid fire, she sees the truck speed
15 out, and then she hears, boom, boom, boom. And those --
16 one of those shots is the ones that hit Khalil

17 S.

18 Tyrone Delaney, truck almost runs me off the road.
19 It's a gray truck. So you know it's already been there
20 once. When he gets home, the kids are alive. He gets
21 to the house and he sees Tyrone Robinson. What does he
22 say? Separate from Charlese, Tyrone Robinson is
23 excited, he's saying, They're shooting at me, and I'm
24 going to shoot at them.

25 Does that sound like a running gun battle? Does

CLOSING ARGUMENT BY MR. STONE

1 that sound like mutual combat? Whatever term you want
2 to use. That's Tyrone Delaney, and he's not even with
3 Charlese at the time.

4 So now you've heard it, and then he hears the rapid
5 fire. He stays inside. So he doesn't say he sees the
6 truck or the car or anything else. But he doesn't need
7 to, because his testimony alone establishes that that
8 truck with Aaron Young had been there twice, and he was
9 looking for Robinson both times.

10 And Robinson, I don't believe I've ever indicated
11 to you that Tyrone Robinson's a good guy, I don't
12 believe I ever indicated to you that Tyrone Robinson is
13 not responsible for this case, for the death of Khalil
14 S. . He was absolutely responsible.

15 But why was he excited? Why was Tyrone Robinson at
16 the house excited? Why did he say, They're shooting at
17 me, unless they were? Because remember, Tyrone Robinson
18 had already left the house before they went and got the
19 gun. If they weren't shooting at him, how did he even
20 know that they had a gun?

21 He asked about the gray truck. Why would he say
22 that? Why was he excited, why was he saying, They're
23 shooting at me, and I'm going to shoot at them? He's
24 telling this to Tyrone Delaney, but he's telling it to
25 his own cousin, too. Why? Because it was true. They

CLOSING ARGUMENT BY MR. STONE

1 were.

2 If you don't believe any of that, and if all of
3 that is not enough, what did Aaron Young say? What did
4 Aaron Young say when questioned, not only at the police
5 department, but on the side of the road? Was there
6 shooting at Allen Road? What did he say on the side of
7 the road?

8 (Playing audio.)

9 MR. STONE: Why was your son shooting out the --
10 didn't say, oh, he wasn't. Because he was shooting at
11 us. Shootout?

12 (Playing audio.)

13 MR. STONE: What else?

14 (Playing audio.)

15 MR. STONE: He's talking about Allen Road. Now,
16 granted, he's saying, oh, it's all in Defense. But
17 he's saying that they're shooting, that they're at
18 Tyrone. Not at the car. In fact, away from the car,
19 away from the house.

20 What else?

21 (Playing audio.)

22 MR. STONE: You got a 911 call describing a
23 shootout. You got Charlese, who didn't see them
24 physically shooting at each other because it was over
25 here somewhere. Delaney establishing they went down

CLOSING ARGUMENT BY MR. STONE

1 there twice, and he hears the rapid fire and the return
2 fire. And you hear Aaron Young himself says, Yeah, he
3 was shooting at us, and so we were shooting at him,
4 which is exactly what Tyrone Robinson said. They're
5 shooting at me. And then you even have some science to
6 back that up.

7 According to Aaron Young, Senior when they're at
8 the house shooting at the car, the son doesn't get out
9 of the car. So all the shots into the car would be from
10 Aaron Young, Junior out of the passenger's side,
11 shooting at the car. And some of these shots actually
12 look like they came from that kind of an angle. This
13 one right here, it's kind of a downward angle into the
14 back window. This one here on the side, same kind of
15 thing. But what about this one? What about that one?
16 If he's in a truck shooting down at the car as they're
17 going by, these angles make sense, but not these. Dan
18 DeFreese told you that, from the science and testimony
19 that he gave you as an expert.

20 These angles came from somewhere else. And you
21 know what, I don't even know that you need an expert to
22 tell you that. You can look at this picture and say
23 that, at a distance or below or something, but that is
24 not standing over him and shooting. The trajectories
25 themselves tell you there probably was some shooting

CLOSING ARGUMENT BY MR. STONE

1 that took place, whether it was on Oak View or somewhere
2 else. And all those bullets, by the way, came back to
3 that sub machine gun. All of them. Every one of them,
4 from different angles.

5 Was there a shootout? Absolutely. Absolutely.

6 The law in this case, as I've told you, is clear.
7 Everyone is responsible for every bullet. The law is
8 clear because that's the right thing. That's what it
9 should be. That's what we learn as children.

10 If you think about it, whether you are a child with
11 siblings or whether you're a parent, you tell your
12 children, don't run through the house, something might
13 get broken. And if the kids run through the house and
14 something breaks, the parent doesn't say, okay, whose
15 hand actually knocked that over? The parent says
16 exactly what they're supposed to say, I told you not to
17 run in the house, and you ran in the house and you broke
18 something. Not who accidentally hit it, but you
19 shouldn't have been running through the house.

20 We hold our children that responsible for what they
21 do. How about two people running through Hilton Head
22 with guns shooting. Aaron Young, Senior broke more than
23 a dish and he broke more than a lamp. He broke a
24 family. The law is the way the law is because it's
25 right, and we all know it. You're responsible for what

CLOSING ARGUMENT BY MR. STONE

1 you do. When you chase somebody with automatic weapons
2 and they shoot and you shoot and somebody dies, it's the
3 law. But it's because it's right. It's because when
4 you do that, innocent children die. And you don't get
5 to say, well, Tyrone Robinson needed to die. I needed
6 to kill him, that's why I did it. You don't get to say
7 that. Because Khalil S. did nothing to deserve
8 it. Nothing.

9 Everyone involved in this, every single one is
10 responsible. Tyrone Robinson, who's in prison, is
11 responsible. Aaron Young, Junior, his son, who tried to
12 get him to stop, is responsible, and he's in prison.
13 And Aaron Young, Senior is responsible as well.

14 I told you what I'd ask you at the end. Your
15 verdict is to speak the truth, the whole truth. And the
16 whole truth is, every one of those people involved is
17 responsible for the death of Khalil S. , including
18 Aaron Young, Senior. Thank you.

19 THE COURT: Thank you, Mr. Stone.

20 Madam clerk, would you hand up the indictments,
21 please.

22 (Indictments handed to Court at
23 2:00 p.m.)

24 THE COURT: Ladies and gentlemen, it's now my
25 responsibility under the law to instruct you, or charge

CLOSING ARGUMENT BY MR. STONE

1 you, as to what the law is in this case. My
2 instructions are scripted, I will read them.

3 I can tell you that it's going to take about 35
4 minutes. Does anybody need a bathroom break before I
5 start this? All right, sir.

6 All right. Let's take a brief break, folks, and as
7 soon as you all are able to cycle through the one
8 restroom that there is available to you, if you'll knock
9 on the door and let us know, we'll bring you out. I
10 remind you still, again, not to talk about this case
11 among yourselves. We'll get you all out as soon as
12 you're all ready to get out to conclude the trial.
13 Thank you.

14 (The Jury exits the courtroom at
15 2:00 p.m.)

16 THE COURT: All right, folks. We'll take -- it'll
17 probably be 15 minutes before they get through. We'll
18 stand at ease.

19 (Whereupon, a brief recess was
20 taken.)

21 THE COURT: Are both sides ready for the jury?

22 MR. STONE: Yes, sir.

23 MR. FERGUSON: The State's ready, Your Honor.

24 THE COURT: Okay. Thank you. Bring us the jury.

25 THE BAILIFF: The jury is entering the courtroom,

CLOSING ARGUMENT BY MR. STONE

1 Your Honor.

2 JURY CHARGE

3 THE COURT: Thank you, ma'am.

4 Now, Mr. Foreman and ladies and gentlemen of the
5 jury, please give me your attention for a few more
6 moments because, as I've said, it's my responsibility to
7 instruct you as to what the law is in this case. You
8 have listened to the very able arguments made by
9 Mr. Stone and Mr. Ferguson, and now I ask you to give me
10 the same attention that you gave them.

11 It's my responsibility to instruct you as to what
12 the law is, and it's your responsibility as jurors to
13 accept the law and to apply it to the case and the
14 evidence of the case that you find to exist. Because
15 you have to decide all issues of fact in this case, and
16 for that purpose, you have to determine the effect and
17 the value and the weight and the truthfulness of the
18 evidence that you have seen and heard.

19 Both the State of South Carolina and the Defendant
20 have the right to expect that you will conscientiously
21 consider and evaluate the evidence, and that you will
22 apply the law of the case to that evidence so that both
23 the State and the Defendant will receive a fair and
24 impartial trial at your hands.

25 Throughout the course of this charge, ladies and

JURY CHARGE

1 gentlemen, when I use the word "defendant," I'm
2 referring to Mr. Aaron Scott Young, Senior. Mr. Young
3 is indicted in one of these indictments and charged with
4 the crime of murder.

5 That indictment said that he did here in Beaufort
6 County, on or about September the 1st of 2012,
7 willfully, unlawfully, and with malice aforethought
8 engage in mutual combat with Tyrone Robinson and did
9 thereby cause the death of Khalil S. That is,
10 for him to be shot and killed in the area of Marshland
11 Drive and Allen Road on Hilton Head, and that Khalil
12 S. died as a result thereof.

13 Mr. Young is also charged with attempted murder.
14 Here in Beaufort County on the same day, he is charged
15 with the intent to kill and with malice aforethought,
16 either expressed or implied, attempting to murder Tyrone
17 Robinson in violation of the law.

18 I remind you again, as I told you before this trial
19 began, that those indictments are not evidence nor are
20 they proof of the charges that they contain. They are
21 legal documents, or charges, that just tell us what the
22 case is all about.

23 And as you know, Mr. Young has pled not guilty to
24 those charges and has asked for the jury trial that you
25 have been giving him throughout the course of this

JURY CHARGE

1 trial.

2 The legal effect of a plea of not guilty by a
3 defendant in a criminal case is to place the burden of
4 proof on the State, to prove by evidence the guilt of
5 the accused beyond a reasonable doubt before you, as a
6 jury, can convict him and find him guilty. Mr. Young is
7 presumed in law to be innocent of the charges contained
8 in these indictments.

9 It is a fundamental rule of our law of evidence
10 that a defendant, regardless of the nature of the
11 charges or the seriousness of the charges against him
12 will always be presumed innocent of the charges against
13 him unless and until his guilt has been proven by
14 evidence, evidence that satisfies you of that guilt
15 beyond a reasonable doubt.

16 The presumption of innocence is not an empty legal
17 phrase. It is not a mere theory. A presumption of
18 innocence is a substantial right to which every
19 defendant, including this one, is entitled to receive.
20 The presumption of innocence has been likened to a robe
21 of righteousness, which is placed about the shoulders of
22 a defendant, and it assigns to that defendant the class
23 known as the innocent. And that presumptive robe of
24 righteousness continues to rest about the shoulders of a
25 defendant until it has been stripped from his person by

JURY CHARGE

1 evidence that satisfies you of his guilt beyond a
2 reasonable doubt.

3 The presumption of innocence accompanies a
4 defendant from the time of his arrest, from the time
5 that he's charged, throughout every course of these
6 proceedings, and even follows him as you go into the
7 jury room, to his benefit, and to exist until you, as a
8 jury, reach the conclusion that the State has proven his
9 guilt beyond a reasonable doubt.

10 Some of you may have served as jurors in civil
11 cases before. And if you did, you were told by the
12 trial judge in that civil case that the party who has
13 the burden of proof only has to present evidence on that
14 party's side that is more convincing to you than the
15 evidence on the other party's side. But here, in
16 criminal cases, the State's proof has to be more
17 powerful than that. Here, it has to be proof beyond a
18 reasonable doubt.

19 So what, then, do we mean by proof beyond a
20 reasonable doubt? Proof beyond a reasonable doubt is
21 proof that leaves you firmly convinced of the
22 defendant's guilt.

23 Now, there are very few things that you and I know
24 in this world with absolute certainty. And in criminal
25 cases, the law does not require proof that overcomes

JURY CHARGE

1 every possible doubt. And so, if, based on your
2 consideration of the evidence, you are firmly convinced
3 that the Defendant is guilty of the crimes charged, you
4 must find him guilty.

5 If, on the other hand, you think there's a real
6 possibility that he is not guilty, you must give him the
7 benefit of the doubt and find him not guilty.

8 Reasonable doubt can arise from evidence in the
9 case, or it might arise from the lack of evidence in the
10 case. But you folks have to decide whether or not
11 reasonable doubt exists as to the guilt of this
12 defendant.

13 I'll remind you again, that the defendant is never
14 required to prove his innocence, but the State is
15 required in law to prove every essential element of the
16 crime charged against him, by evidence that satisfies
17 you of his guilt beyond a reasonable doubt before you
18 can convict him and find him guilty.

19 So if, then, upon the whole case, you have a
20 reasonable doubt as to the guilt or the innocence of
21 Mr. Young, he is entitled to that reasonable doubt and
22 would be entitled to an acquittal and a verdict of not
23 guilty...

24 If, on the other hand, if upon the whole case, you
25 find that the State has proven by evidence that

JURY CHARGE

1 satisfies you as a jury of his guilt beyond a reasonable
2 doubt, then in such circumstances it is equally your
3 duty to convict him and to find him guilty.

4 During this trial, you and I each have our separate
5 duties to perform. As you know, I'm the trial judge,
6 it's my responsibility to preside over this case and to
7 rule upon or pass upon the admissibility of evidence
8 that has been offered in the course of the trial.

9 And so you're to consider only the competent
10 evidence which has been introduced into this record. In
11 other words, the testimony which has been presented from
12 the witness stand here, and the items and the documents,
13 that have been introduced during the course of the
14 trial.

15 I also have the duty to do what I'm doing right
16 now, to charge you or instruct you as to what the law
17 is. As a presiding judge, I am made the sole judge of
18 the law of the case, and it is your duty to accept the
19 law and to apply it as I now state it to you. You may
20 have brought with you into your service this week as
21 jurors some ideas about what you think the law is, or
22 you might have brought with you some preferences about
23 what you would like for the law to be.

24 I'll tell you now, folks, if your ideas about the
25 law or if your preferences about the law do not agree

JURY CHARGE

1 with what I'm telling you now the law actually is, under
2 your oath, you're obligated to forget what you think
3 about the law or what you would like for the law to be,
4 because you're bound to accept the law as I state it to
5 you now to be the correct law.

6 Now, in every case trial before a jury, then,
7 you're the judge of the facts. You're the sole and
8 exclusive judge of the facts. Our Constitution has said
9 that since I'm the trial judge, and I'm not the judge of
10 the facts, I can't comment upon the facts. I can't hint
11 to you or intimate to you or suggest to you any opinion
12 that I might have as to the facts of this case. And
13 you're not to gather from anything that I have said
14 during this trial, or anything that I am saying to you
15 now during this charge, that I have an opinion about the
16 facts of the case. The law does not allow me to have
17 such an opinion. That is solely a matter for you,
18 ladies and gentlemen, to determine.

19 And so as jurors then, it becomes your duty to
20 determine, as I have told you, the effect and the value
21 and the weight of the -- and the truth of the evidence
22 presented during the trial.

23 Now, as you determine what the facts of the case
24 are, necessarily you are called upon to pass upon the
25 credibility or believability of the witnesses who have

JURY CHARGE

1 testified and the value or the weight that you will give
2 to their testimony. You and you alone have to decide
3 the truthfulness of the testimony that you have heard.

4 Now, there are a lot of things that you can take
5 into account when you make that decision, about what is
6 the truth, and where does the truth of the case lie.
7 You can take into account the appearance, the manner of
8 the witness as he or she testified here from the witness
9 stand. You can ask yourself whether the witness was
10 hesitant or was the witness consistent? You have to ask
11 yourself was the witness forthright?

12 What was the ability of that witness to know the
13 things that he or she was telling you about? Did the
14 witness have a cause or a reason or an interest to be
15 served by the testimony that the witness was giving?
16 Was the testimony of a witness made stronger by other
17 evidence, or made weaker by other evidence in the case?

18 You've heard the testimony of witnesses in this
19 case who have been qualified as expert witnesses.
20 Persons who by their education and their experience have
21 become experts in some field are allowed to render their
22 opinions on matters and can also give their reason for
23 opinions.

24 Now, normal witnesses, lay witnesses like you or I
25 would be, can't express our opinions. We can take the

JURY CHARGE

1 stand and tell you what we saw or what we heard, but we
2 can't tell you what we think. But expert witnesses,
3 because they have special training and experience and
4 knowledge in certain fields, are allowed to express
5 their opinions and the reasons given for those opinions.

6 But expert opinion testimony is to be judged like
7 any other testimony. You give it the weight that you
8 think it should receive. You can accept it or reject
9 it, and give it whatever value you think it should have
10 considering the witness's education and experience and
11 the reasons given for the opinion, along with all of the
12 other evidence in the case.

13 You have also heard in this particular case
14 evidence that the Defendant has a prior criminal record.
15 I tell you now that that evidence was admitted for a
16 limited purpose. And I tell you that you cannot
17 consider that evidence for any other purpose, other than
18 for limited purpose of determining the credibility of
19 the testimony offered by the Defendant.

20 So you can -- you can consider that evidence, if
21 you consider it to be true, only for the purpose of
22 evaluating the believability and the credibility of the
23 testimony presented by the Defendant himself, and for no
24 other purpose whatsoever.

25 In other words, you cannot and you must not

JURY CHARGE

1 consider his prior record as any evidence of his guilt
2 on these charges. You can give it weight and value, if
3 any, only on the issue of his credibility and his
4 believability, but not as evidence of guilt for the
5 crime that he's on trial here before you at this time.

6 There's also been admitted into the record evidence
7 of a prior criminal record of a witness who testified.
8 And, likewise, that evidence can only be used for the
9 purpose of evaluating the believability and the
10 credibility of the testimony offered by that witness and
11 for no other purpose.

12 Ladies and gentlemen, as I've said, you've got the
13 right to believe a small part of a witness's testimony
14 and to disbelieve the larger part of the testimony of
15 that same witness, or you can do it the other way
16 around. Believe the larger part, believe the smaller
17 part. You could believe everything that a witness tells
18 you, or you could believe none of what a witness tells
19 you. But you don't make those decisions arbitrarily.
20 There's got to be some good reason for you to do that.

21 And so what we ask you to do in making that
22 decision is to exercise your mental processes, your good
23 judgment, your sense of logic and reason, and your
24 experiences in life. And then you apply those abilities
25 that each of you has, and that you have brought from

JURY CHARGE

1 your separate walks of life, of your separate
2 experiences, into this courtroom and apply those
3 abilities to what you've heard in this courtroom. And
4 you'll be able to determine the truth of the case.

5 And as I told you earlier, once you find where the
6 truth of this case is, you'll apply that truth to the
7 law that I will give you, and those two things will come
8 together to result in the verdict which will speak the
9 truth of this case.

10 I now want to instruct you as to the law on the
11 particular charges contained in the indictment. I begin
12 with the charge on the law of murder.

13 Murder is defined in the law as the killing of any
14 person with malice aforethought, either expressed or
15 implied. So in order for the State to prove the
16 Defendant guilty of murder, it must be proven beyond a
17 reasonable doubt that the Defendant killed a person, and
18 that the killing was done with malice aforethought.

19 The State doesn't have to prove any motive for the
20 killing, but is required to prove malice, and to prove
21 it beyond a reasonable doubt.

22 Since malice is an essential element of the crime
23 of murder, what does it mean? Malice is the intentional
24 doing of a wrongful act, without just cause or excuse,
25 and with an intent to inflict an injury.

JURY CHARGE

1 Malice aforethought is the deliberate and
2 well-formed purpose to do the unlawful act. Now,
3 aforethought means that the intention to do the unlawful
4 act was conceived or planned sometime before the actual
5 commission of the act, but it need not exist for any
6 particular length of time prior to the act in order to
7 render the killing murder.

8 Malice, then, is a word that suggests a wickedness
9 or a hatred or a determination to do what one knows to
10 be wrong without just cause, or excuse or legal
11 provocation.

12 As I have said, malice need not be in the mind of
13 the one doing the act for any particular length of time
14 before the act of killing in order to render the killing
15 a murder. If it is present in the mind of the one doing
16 the killing any length of time before the act, then its
17 presence would be sufficient to render the killing
18 murder.

19 Malice is said to be expressed malice where there
20 is shown a violent, deliberate intention to unlawfully
21 take away the life of another human being. Malice might
22 be inferred, wherein no excuse or legal provocation for
23 the killing appears. And when the circumstances
24 surrounding a killing show an abandoned heart, or a
25 malignant heart, fatally bent upon mischief.

JURY CHARGE

1 Now, that inference of malice as I've just
2 described, it would simply be an evidentiary fact to be
3 taken into account by you along with all the other
4 evidence in the case bearing on the issue of malice, and
5 you'll be giving it the weight that you think it should
6 receive.

7 The Defendant is not required to prove the absence
8 of malice, but the State is required to prove the
9 presence of malice beyond a reasonable doubt.

10 Now, ladies and gentlemen, the indictment says that
11 Aaron Scott Young, Junior (sic) unlawfully and with
12 malice aforethought, as I've just described malice
13 aforethought to you, engaged in mutual combat with
14 Tyrone Robinson, and that that resulted in the death of
15 Khalil S.

16 So now I instruct you on the law of mutual combat.
17 What is mutual combat? Mutual combat exists when there
18 is a mutual intent and willingness to fight. Mutual
19 intent is manifested by the acts and the conduct of the
20 parties and the circumstances attending and leading up
21 to the combat itself.

22 The circumstances necessary to establish mutual
23 combat include whether there is any evidence of a
24 preexisting ill will or dispute between the two parties,
25 and whether the combatants agree to be armed.

JURY CHARGE

1 A history of ill will and an agreement to be armed
2 are necessary before a defendant is deemed to have
3 engaged in mutual combat.

4 In order to constitute mutual combat, however,
5 there does not necessarily need to be a positive
6 agreement between the participating parties to enter the
7 combat. Like in the old days, they would be -- in the
8 duals that we had in our state way back hundreds of
9 years ago, one party would be insulted, would walk up to
10 the other one and slap him and say we'll meet at dawn on
11 the river bank and engage a shootout with pistols, or
12 whatever it happens to be, at 20 paces, facing each
13 other. It's not enough. That's not what we have today.
14 You don't have to have an agreement of that nature. It
15 is enough if they willfully enter into the conflict upon
16 the impulse of the moment.

17 Now, everyone is presumed in law to know the
18 consequence of his act. And if one voluntarily enters
19 into a mutual combat where deadly weapons are used,
20 knowing that they are being used, and death results to
21 one of the participating parties, everyone engaged in
22 such combat is equally guilty regardless of whether he
23 used a deadly weapon or not. And regardless of whether
24 he was on one side or the other, it makes no difference.
25 Where all are participating in the mutual combat, all

JURY CHARGE

1 are equally responsible for the natural consequences.

2 Therefore, it is not the identity of the victim,
3 but the intent of the perpetrator, the State of mind of
4 the perpetrator, the malice in the mind of the
5 perpetrator that is controlling.

6 And since, as I have said, it is not the identity
7 of the person killed that determines, now I tell you
8 about the law of transferred intent. The law says that
9 if a defendant with malice aforethought attempts to kill
10 another person, but by mistake injures or kills a
11 different person, the defendant still has the intent to
12 kill. The intent to kill is merely transferred from the
13 original person that the defendant intended to kill to
14 the person who was actually killed in the case. And the
15 defendant would be equally guilty of the crime and would
16 not be exonerated or left out or found not guilty simply
17 on the basis of the fact that the victim was unintended.

18 Now, that is the law of murder superimposed on the
19 law of mutual combat and the law of transferred intent.

20 There is embodied in the greater charge of murder,
21 a lesser charge of voluntary manslaughter. Mr. Young
22 has not been indicted for voluntary manslaughter, but by
23 operation of law, voluntary manslaughter is included in
24 the greater charge of murder.

25 Excuse me. Voluntary manslaughter is defined in

JURY CHARGE

1 our law as the unlawful killing of another without
2 malice expressed or implied. You might remember that I
3 told you just a few moments ago, murder is the unlawful
4 killing of another with malice aforethought expressed or
5 implied. Well, the obvious distinction between the
6 definition of those two, is murder, includes the element
7 of malice. Manslaughter does not.

8 This is commonly defined as the unlawful killing of
9 a human being in sudden heat of passion and upon
10 sufficient legal provocation. It involves intent on the
11 part of the perpetrator, but it does not involve malice.

12 So voluntary manslaughter is a wrongful killing of
13 a human being without malice in the sudden heat of
14 passion and on sufficient legal provocation, so that if
15 malice actually existed, the killing with malice would
16 be murder, even if it's done in the sudden heat of
17 passion and upon provocation of the deceased.

18 In other words, the law does not reduce a murder
19 charge to manslaughter, every homicide that's committed
20 in the heat of passion. It has to be passion which is
21 justly excited by legal provocation. And if an adequate
22 provocation does not exist, the killing, even in the
23 heat of passion, is murder, not manslaughter.

24 Now, the sudden heat of passion, upon sufficient
25 legal provocation which reduces a felonious killing to

JURY CHARGE

1 manslaughter does not need to remove or dethrone the
2 reason entirely. It does not need to shut out all
3 knowledge and all volition. It does not have to be a
4 blinding rage that completely clouds one's mind so that
5 they, on acting without knowledge of what they're doing
6 or the choice to do what they're doing. But it must be
7 such that would naturally disturb the sway of reason and
8 would render the mind of an ordinary person incapable of
9 cool reflection and produces what, according to human
10 experience, may be called an uncontrollable impulse to
11 do violence.

12 In determining whether an act that caused death was
13 caused by heat of passion or by malice, all of the
14 surrounding circumstances and conditions are to be taken
15 into account, including previous relations and
16 conditions connected with the tragedy, as well as those
17 existing at the time of the killing.

18 Examples of provocation that would be sufficient to
19 negate malice that our law has recognized in the past
20 are: The decedent pulls a knife on the defendant; or
21 points a gun at the defendant; or assaults a family
22 member; or engages in subtle sudden mutual combat, in
23 which one of the participants is killed by the other
24 without a previously informed intention to do so.

25 Those are the sorts of things that have been found

JURY CHARGE

1 in the law to constitute possibilities of acts of
2 provocation. You all have to determine, however, as a
3 matter of law whether that exists in this case.

4 Now, insulting words, no matter how terrible they
5 are, are never enough to reduce a homicide from murder
6 to manslaughter.

7 So, ladies and gentlemen, that is the law of
8 voluntary manslaughter and the law of murder.

9 The Defendant is also charged with attempted
10 murder. The murder of Khalil S. , the attempted
11 murder of Tyrone Robinson. I've already defined for you
12 the crime of murder. It's the unlawful killing of
13 another person with malice aforethought either expressed
14 or implied.

15 So what is the attempted murder? It's the attempt
16 to kill another person with malice aforethought either
17 expressed or implied. So since you know what murder is,
18 let me tell you under the law what an attempt is.

19 An attempt is an act which is done in partial
20 execution of a design to commit the crime itself. There
21 has to be, first of all, an intent that the act should
22 be committed.

23 And an act done, not in full execution of it, but
24 in pursuance of it, intent. An attempt is different
25 from preparation to commit a crime. It's also different

JURY CHARGE

1 from the intent to commit a crime. The law doesn't
2 punish the mere entertainment of a criminal intent. To
3 bring the law into action it is necessary that some act
4 should be done in pursuant of the intent, immediately
5 and directly tending to the commission of the crime of
6 murder.

7 An act which, should the murder be perpetrated,
8 would constitute a part and parcel of the crime itself.
9 But it doesn't reach the accomplishment of the original
10 intent, because it's prevented or abandoned.

11 Now, there is encompassed in the greater charge of
12 attempted murder, a lesser charge of assault and battery
13 in the first degree.

14 What is assault and battery in the first degree?
15 Our law defines an assault and battery in the first
16 degree in the following way: A person commits the
17 offense of assault and battery in the first degree if
18 the person unlawfully offers or attempts to injure
19 another person, when that person has a present ability
20 to carry out the act, and it is accomplished by means
21 likely to produce death or great bodily injury.

22 So those two charges are actually contained in the
23 same indictment. One is there by operation of law; one
24 is there because it is stated. Attempted murder is a
25 charge in the indictment. Assault and battery is a

JURY CHARGE

1 lesser included charge that is there by operation of
2 law.

3 Now, ladies and gentlemen, I have used the word
4 "intent" throughout the course of this charge because
5 criminal intent is a necessary element of each crime,
6 and it has to be proven by the State beyond a reasonable
7 doubt. Criminal intent is always a matter that has to
8 be determined by you, as a jury, from the circumstances
9 surrounding the situation.

10 There's no way to prove intent to a mathematical
11 certainty, there's no way that medical science can cut
12 off the top of a person's head and let you look down in
13 the brain and decide what they had in mind at the time.

14 So the law says that criminal intent may be
15 inferred from the circumstances which were actually
16 shown to have existed at the time. Criminal intent,
17 then, is a state of mind, and it operates jointly with
18 an act in the commission of a crime. Criminal intent is
19 a mental state. It is a conscious wrongdoing, and so
20 it's up to you, as a jury, to determine what the
21 Defendant intended to do based on the circumstances
22 which were shown to have existed.

23 I tell you that the State has to prove criminal
24 intent beyond a reasonable doubt, just as it has to
25 prove every other element beyond a reasonable doubt.

JURY CHARGE

1 Now, ladies and gentlemen, I charge you that when
2 two or more persons aid, encourage, abet, and assist
3 each other in the commission of a crime, all who are
4 present are principals and are equally guilty. We
5 normally refer to this as a hand of one becoming the
6 hand of all.

7 Where two or more persons combine together to
8 commit a crime, and the crime is committed, all those
9 who are equally -- all those who are present, I'm sorry,
10 to aid and abet and assist in the commission of the
11 crime are guilty. The act of one then becomes the act
12 of all. The hand of one becomes the hand of all. It
13 makes no difference whose immediate agency the crime is
14 carried out, all are principals.

15 I tell you, however, that the mere presence at the
16 scene of a crime by a defendant, even with knowledge of
17 the commission of a crime, but without an intent to aid
18 or abet or assist in its commission would not constitute
19 guilt.

20 And so the burden is upon the State to prove beyond
21 a reasonable doubt that this Defendant was present, with
22 a criminal intent. That is to say, to aid, encourage,
23 and abet another in committing the offense of murder and
24 attempted murder.

25 Now, ladies and gentlemen, they have been admitted

JURY CHARGE

1 into the record of this State, case statements which are
2 allegedly made by the Defendant, and before you can
3 consider these statements as evidence for any proof and
4 for any purpose at all, you must determine several
5 questions.

6 First of all, you have to determine whether the
7 Defendant actually made the Statement. And secondly,
8 you have to determine whether the Defendant was warned
9 of his constitutional rights. And next, you have to
10 decide did he knowingly and intelligently waive, or give
11 up, those constitutional rights. And then finally, you
12 have to ask yourself, was the Statement made
13 voluntarily.

14 The fact that I have admitted into evidence
15 statements in this case should not be considered by you
16 as any evidence whatsoever, that he made the Statement
17 or that the constitutional safeguards which are required
18 were provided and given up, or that the Statement was
19 voluntarily given, because those are things that you, as
20 a jury, have to determine.

21 And the State has to prove beyond a reasonable
22 doubt each of those elements and each of those
23 requirements that I've just stated to you before you can
24 consider the Statement for any purposes whatsoever.

25 Now, as to the first statement -- first

JURY CHARGE

1 requirement, did the defendant make the Statement?
2 Obviously, if you conclude that the Defendant did not
3 make the Statement, then you would totally disregard it.
4 Can't give it any weight at all.

5 But if you find that the Defendant did make the
6 Statement, then you go to the next step. Was the
7 Defendant warned of his constitutional rights? As all
8 of us know now from watching TV over the years, when a
9 defendant is taken into custody or otherwise deprived of
10 his freedom in any significant way by law enforcement,
11 he has to be warned of his constitutional rights before
12 any questions can be asked of him in that setting. He
13 has to be warned that he has a right to remain silent;
14 that if he makes a statement, it can and will be used
15 against him; that he has a right to select a lawyer, and
16 if he can't afford one, one will be appointed to
17 represent him; that he has a right to consult a lawyer
18 before he answers questions; that he has a right to have
19 his lawyer present with him during the questioning.

20 Now, if you determine that the Defendant did not
21 receive those constitutional warnings prior to his
22 interrogation and the taking of his statement, or that
23 he was not given the chance to exercise those rights,
24 then you would completely disregard the Statement and
25 you would not consider it as evidence in any way

JURY CHARGE

1 whatsoever.

2 But if you find that he made the Statement, and if
3 you conclude that he received those warnings and that he
4 was given a chance to exercise those warnings, then you
5 would next consider, did he knowingly and intelligently
6 waive those rights?

7 In other words, did he knowingly and intelligently
8 give up those rights which I've just explained to you?

9 Before you can consider the Statement as evidence,
10 in other words, the State has to prove that after he
11 received the warning, that he knowingly and
12 intelligently waived those rights, and he agreed to
13 answer questions and make a statement.

14 If you find that the Defendant did make the
15 Statement, and if you conclude that the warnings were in
16 fact given to him, and that he was afforded a chance to
17 exercise those rights, and if you further found after
18 having those rights explained to him and giving those
19 up, he agreed to make a statement, then the final
20 question that you have to ask yourself is, was the
21 Statement given voluntarily?

22 The word "voluntarily" means that the Statement was
23 the expression of his own free will and was not induced
24 by the pressure, force, or fear, or the influence or
25 hope or promise of some benefit or award. That it was

JURY CHARGE

1 not extracted by threats or coercion or intimidation.

2 A statement is not voluntary and may not be used
3 against a defendant unless it is a product of an
4 essentially free and unconstrained choice by its maker.

5 If the Statement is voluntary, if he is willed to
6 make it, it can be used against him. But if the
7 Statement is not voluntary, it cannot be used against
8 him. And the true test to be applied is whether the
9 Statement is freely, voluntarily, and understandingly
10 made without compulsion or inducement.

11 You can consider all of the facts and circumstances
12 surrounding the taking or the making of the Statement,
13 concerning and relating to its voluntary or involuntary
14 character. You consider all the evidence in reaching an
15 ultimate conclusion as to its character as well.

16 The ultimate question then to be resolved by you
17 with regard to a statement or an alleged statement by
18 the Defendant is this: Was the Statement the expression
19 of the Defendant's own free will made without compulsion
20 or inducement, but representing an essentially free,
21 unconstrained choice by its -- by the Defendant? Or was
22 it the product of his overborn will?

23 Now, ladies and gentlemen, there are two types of
24 evidence which the State has offered during the course
25 of this trial, direct evidence and circumstantial

JURY CHARGE

1 evidence.

2 Direct evidence is evidence of a witness who takes
3 the stand and testifies about what they saw or what they
4 heard. It is -- it proves the existence of a fact, it
5 doesn't require any conclusion on your part.

6 Circumstantial evidence, on the other hand, is
7 proof of a chain of facts that indicates the existence
8 of another fact.

9 I use a tired expression over the years to try --
10 or example, I should say -- over the years to try to
11 explain the difference. Direct evidence, as I've said,
12 is easy to explain. It's what a person sees or hears
13 and then comes in here and says this is what I saw, this
14 is what I heard. That's direct evidence.

15 Circumstantial evidence can be described or
16 explained by a situation that doesn't have anything to
17 do with a courtroom. I use the explanation that -- it
18 was a true explanation, years and years ago, when I was
19 much younger -- and it was the yard, in the winter at my
20 home, was brown dead grass, like it always is in
21 December and January. And that's all there was that
22 night. I went to bed, I woke up the next morning and it
23 was covered by a blanket of snow. And across the snow
24 were footprints leading up to my front door.

25 Well, what do I know from that? I know, first of

JURY CHARGE

1 all, that it snowed after I went to bed. I didn't see
2 it snow, I didn't see a flake fall, but I know it snowed
3 because what I saw the next day. And I also know that
4 after I looked out there, as I looked out there, that
5 sometime after it snowed, somebody came up to my front
6 door. I don't know who they were, I didn't see them,
7 but I know that they came up there after it snow,
8 because they left their tracks. That's circumstantial
9 evidence. It leads to the conclusion of another fact.

10 Crimes can be proven by circumstantial evidence.
11 The law doesn't make any distinction between the weight
12 or the value that you would give, either to direct or
13 circumstantial evidence.

14 However, to the extent that the State relies on
15 circumstantial evidence, all of the circumstances must
16 be consistent with each other and when taken together,
17 point conclusively to the guilt of the accused beyond a
18 reasonable doubt.

19 If the circumstances merely portray the Defendant's
20 behavior as suspicious, then the proof has failed.

21 The State, then, has a burden of proving the
22 Defendant guilty beyond a reasonable doubt, and it rests
23 with the State regardless of whether it relies on direct
24 evidence, circumstantial evidence, or some combination
25 of the two.

JURY CHARGE

1 You were given transcripts that you saw up here on
2 the screen. I remind you again that they were simply
3 for your guidance in listening to those CDs and DVDs.
4 The tapes themselves are evidence in this case, the
5 transcripts themselves are not. They're simply aides to
6 you.

7 And so if you gather from any variation between
8 what you saw on the tape and the transcript, or what you
9 heard on the tape from the voice spoken, then you would
10 be guided solely by what you heard, as I told you
11 before.

12 There's nothing wrong with using those transcripts,
13 of course, as an aid, but you should not rely on the
14 transcript solely as a method of learning what was
15 there. And if by listening to it and reading the
16 transcript at the same time you can say, yeah, I can
17 hear what's being said and I understand it, then you can
18 consider the transcript.

19 Now, finally -- there's a word you've been hanging
20 on for a while to hear, right, finally. Finally.

21 Ladies and gentlemen, you don't serve as jurors in
22 this or in any case as partisans or advocates for the
23 State of South Carolina or for this Defendant. You
24 don't serve as jurors to punish your enemies nor to
25 reward your friends. You have been selected by both the

JURY CHARGE

1 State of South Carolina and this Defendant to be fair
2 and impartial jurors. It is your duty, then, under your
3 oath and by your joint deliberations to determine the
4 truth of this case, giving to this Defendant the benefit
5 of every reasonable doubt on each and every issue. And
6 then to the facts which you determine to be true, you'll
7 apply the law which I have just given you, and thus
8 arrive at a verdict which will speak the truth of this
9 case. That's what the word "verdict" means. It comes
10 from a Latin phrase, and it means the truth will save
11 you.

12 And once you have done that, you will have
13 satisfied the obligation which we have imposed on you,
14 the weighty obligation which we have imposed on you.
15 And you will have fulfilled the oath that you took
16 before this trial began to well and truly try this case
17 and to render a true verdict, so help you God.

18 I am confident that you will do just that and that
19 you will do nothing less than that.

20 Ms. Brown, would you give this to the foreman,
21 please.

22 Ladies and gentlemen, you will express your
23 decision in this case by using the verdict form, which I
24 have just given to the foreman. He's the one who has to
25 fill it out.

JURY CHARGE

1 There are two charges in this case, murder and
2 attempted murder. So you will write two verdicts in
3 this case.

4 Your verdict on one case does not necessarily
5 determine your verdict on the other case. The Defendant
6 can be convicted or acquitted of either or both of these
7 charges depending upon your view of the evidence. The
8 order in which I have written those possible forms of
9 verdict down on that sheet don't have any meaning or any
10 significance at all. I write them down in the order
11 that I find easiest to explain.

12 The first possible verdict will only deal with the
13 charge of murder. And the first possible verdict that
14 I've written there is: We, the jury, find the
15 Defendant, Aaron Young, Senior -- and the first possible
16 verdict form is guilty of murder. That's the verdict
17 that you will arrive at if you found that the State has
18 met its burden of proof as to the elements of that
19 charge, as I have defined that for you. And if you find
20 that the State has met that burden of proof, then, Mr.
21 Foreman, you'll indicate that by putting an X or a
22 checkmark in the space you see we have provided.

23 The next possible verdict form is guilty of
24 voluntary manslaughter. If the State has failed to meet
25 its burden as to the crime of murder, then you would

JURY CHARGE

1 consider the lesser charge of guilty of voluntary
2 manslaughter.

3 If you find that the State has met its burden as to
4 the charge of voluntary manslaughter, you would indicate
5 that by putting an X or a checkmark in the space
6 provided.

7 The last possible verdict form is not guilty.
8 That's the verdict form that you will use if you find
9 that the State has not met its burden of proof, all of
10 its burden of proof, as to each of the elements of
11 either of those charges above. And, likewise, you'll
12 indicate that in the same way, by putting an X or a
13 checkmark there.

14 The second charge is attempted murder. And the
15 possible verdict forms are: We find the Defendant,
16 Aaron Young, Senior, guilty of attempted murder. If the
17 State has met its burden of proof as to that charge,
18 that would be your verdict, and you'd indicate that in
19 the same manner, Mr. Foreman.

20 If you find that the State has not met its burden
21 of proof as to attempted murder, then you would consider
22 whether or not it has met its burden of proof as to
23 assault and guilty of assault and battery in the first
24 degree.

25 If you find that the State has met its burden of

JURY CHARGE

1 proof as to that charge, you would indicate that by
2 putting an X or a checkmark in the space provided.

3 The final verdict form is not guilty of either of
4 those charges. That's a verdict form that you would use
5 likewise. If the State has failed to meet its burden of
6 proof of all of the elements, of either of those charges
7 above, you would indicate that in the same way.

8 As the verdict form indicates, Mr. Foreman, as you
9 can see, it has to be unanimous. I've given the form to
10 the foreman because he's got to fill it out, as I've
11 said, ladies and gentlemen, but it is not his verdict
12 alone.

13 The verdict has to be unanimous. All 12 of you
14 have to agree as to what the verdicts will be before
15 you're authorized to write that form or to sign it.

16 I'm going to send you to your jury room right now,
17 but I'm going to ask that you wait just a few moments
18 before you begin your deliberations. I've got to talk
19 with the lawyers. As long as I've been talking, I might
20 have misstated something or I might have left something
21 out. And if I have, I'll have to bring you out to
22 correct it.

23 But if I do not have to bring you back out, we will
24 send in the items of evidence. And once the items of
25 evidence have been brought in, that will be your signal

JURY CHARGE

1 to begin your deliberations. Not until then.

2 And once the items of evidence are brought in, you
3 will begin your deliberations and you will deliberate
4 until you have reached a verdict, at which time,
5 Mr. Foreman, you will fill out the form and sign it and
6 knock on the door, and we'll bring you out here to
7 receive the verdict.

8 If you need to see or hear any of the evidence
9 that's been displayed, no videographer here today, we'll
10 have to bring you back out to do that because we don't
11 have the means to put that in. Is that right?

12 MR. STONE: I believe that's correct, Your Honor.

13 THE COURT: Okay. All right. It's here, we'll
14 make it available to you, but we can't send it in. All
15 of the other evidence will be sent in for your
16 consideration.

17 All right, folks. If you'll retire to your jury
18 room, wait just a minute before you start your
19 deliberations, and I'll send you word with the evidence
20 when you can start.

21 (The Jury exits the courtroom.)

22 THE COURT: Mr. Holt, if you'll just stay right
23 where you are for a moment, please. Thank you.

24 Mr. Holt, as the alternate juror you don't get to
25 go into the jury room now and deliberate, and we're

JURY CHARGE

1. going to -- at least at this juncture. Your job,
2 obviously, is to take the place of any of these 12 if
3 they're not able to complete their role as jurors. You
4 have paid as good attention as anybody else has, you're
5 just as capable as any of them are for rendering a
6 verdict in this case, but right now it looks like you're
7 not going to have to do it.

8 But I'm going to ask you to go into a separate jury
9 room than where they are and sit with us for a while. I
10 want to make sure that there's not some hang-up that
11 causes me to have to dismiss one of them for an
12 emergency or something of that nature. Because if we
13 had to do that, if you were not here, we'd have to start
14 this whole thing over from scratch. Everything we've
15 done up until right now would be wasted without your
16 continued presence.

17 I won't keep you any longer than I think I need to,
18 but if you'll hang around with us for a while, I'd
19 appreciate it. Okay?

20 They'll put you in another jury room, there'll be
21 refreshments there and things of that nature. If you
22 need to step outside in the air, a bailiff will take you
23 outside. Okay? Thank you.

24 (The alternate jurors exit the
25 courtroom.)

JURY CHARGE

1 THE COURT: Mr. Stone, except as previously
2 requested, are there any exceptions or requests for
3 additional change from the State?

4 MR. STONE: No, sir.

5 THE COURT: Thank you. Mr. Ferguson.

6 MR. FERGUSON: No, sir.

7 THE COURT: Thank you. All right.

8 Folks, if you all will assemble the evidence and
9 make sure it's all together and the bailiff can take it
10 in.

11 And Madame Clerk, I give you, gladly, the
12 indictments back. Thank you.

13 Folks, in this case, we'll stand down until we hear
14 from the jury.

15 We've got some other motions pending, Madame
16 Reporter, that we'll take care, but we'll take a break
17 before we do that.

18 (Whereupon, the Court was in
19 recess for Jury deliberations.)

20 *(Whereupon, Court's Exhibit No(s). 3 marked for*
21 *identification and received in evidence.)*

22 THE COURT: Thank you, folks. You all can be
23 seated.

24 Folks, I have a note from the jury -- oops, I'm
25 sorry.

JURY QUESTION

1 I have a note from the jury asking to be recharged
2 on the law of mutual combat. Actually, they requested a
3 charge, a copy of it, but I don't have a copy. And also
4 the definition of murder and voluntary manslaughter.
5 I'll locate those parts of my charge right now and get
6 them back in here and recharge them as I did before on
7 those two areas.

8 That's all they've asked for, so that's all I'll
9 give them unless they have some other request.

10 Okay. If you'll ask the jury to come in.

11 THE BAILIFF: Yes, Your Honor.

12 THE COURT: Thank you.

13 THE BAILIFF: The jury is entering the courtroom,
14 Your Honor.

15 THE COURT: Thank you.

16 Folks, I have your note asking me to be recharged
17 on the law of mutual combat. You asked for a copy of
18 it. Unfortunately, I don't have a copy of it on a
19 single sheet. It's parts of books and parts of cases
20 that I'll read to you -- that I have read to you.

21 And you've also asked for the definition of murder
22 and voluntary manslaughter, which I will do again.

23 I will charge you, first of all, as to murder, and
24 then the mutual combat flows after that, or after that
25 particular charge, and then the charge on voluntary

JURY QUESTION

1 manslaughter.

2 I remind you that murder is the killing of any
3 person with malice aforethought, either expressed or
4 implied. In order for the State to prove the Defendant
5 guilty of murder, it must be proven beyond a reasonable
6 doubt that the Defendant killed a person, and that the
7 killing was done with malice aforethought. The State is
8 not required to prove any motive for the killing, but is
9 required to prove malice.

10 So malice, then, is the intentional doing of a
11 wrongful act, without just cause or excuse and with an
12 intent to inflict injury. Malice aforethought is a
13 deliberate and well-formed purpose to do the unlawful
14 act.

15 Aforethought means that the intention to do the
16 unlawful act was conceived or planned sometime before
17 the actual commission of the unlawful act. The malice
18 need not exist for any particular length of time prior
19 to the act itself.

20 Malice is a word that suggests a wickedness or a
21 hatred or a determination to do what one knows to be
22 wrong without just cause or excuse or legal provocation.

23 Malice need not be in the mind of the one doing the
24 act for any particular length of time before the act of
25 killing in order to render the killing murder. If it is

JURY QUESTION

1 present in the mind of the one doing the killing any
2 length of time before the act, then its presence would
3 be sufficient to render the killing murder.

4 Malice may be expressed or inferred. Expressed
5 malice exists where there is shown a violent, deliberate
6 intention to unlawfully take away the life of another
7 human being. Malice may be inferred where no excuse or
8 legal provocation for the killing appears and when
9 circumstances surrounding the killing show an abandoned
10 heart, or a malignant heart, fatally bent upon mischief.

11 Now, if facts are raised or proved beyond a
12 reasonable doubt to raise an inference of malice in that
13 regard, then that inference would simply be an
14 evidentiary fact, and you would take that into account
15 along with all of the other evidence in the case bearing
16 on the issue of malice. And you could give it such
17 weight as you determine it should receive.

18 The Defendant is not required to prove the absence
19 of malice, the State is required to prove the presence
20 of malice beyond a reasonable doubt.

21 Now, as you know, the indictment in this case
22 charges Mr. Young with murder in connection with mutual
23 combat. The State, of course, has not alleged, no one
24 alleges, that Mr. Young actually fired the fatal shot
25 that killed Khalil S. . It alleges, the State

JURY QUESTION

1 does, that it is a law of mutual combat that makes him
2 guilty of that murder. So we look at the law of mutual
3 combat.

4 Mutual combat exists when there is mutual intent
5 and willingness to fight. Mutual intent is shown by the
6 acts and conduct of the parties and circumstances which
7 attend and lead up to the combat itself. The
8 circumstances necessary to establish mutual combat
9 include whether there is any evidence of preexisting ill
10 will or dispute between the two parties, and whether the
11 combatants agree to be armed. Because a history of ill
12 will and an agreement to be armed are necessary before a
13 defendant is deemed to have engaged in mutual combat.

14 In other words, to constitute mutual combat, it is
15 not necessary that there is a positive agreement between
16 the parties to enter into combat. It is enough if they
17 willfully enter into the conflict upon the impulse of
18 the moment. And in that regard, I tell you that
19 everyone is presumed to know the consequences of his
20 act. And if one voluntarily enters a mutual combat,
21 where deadly weapons are used, knowing that they're
22 being used, and death results to one of the
23 participating parties, everyone engaged in such combat
24 is equally guilty regardless of whether or not he used a
25 deadly weapon or not. And regardless of whether he was

JURY QUESTION

1 on one side or the other, it makes no difference. And
2 where all are participating in the mutual combat, all
3 are equally responsible for the natural consequences.

4 In other words, where people agree to have a mutual
5 combat, they're engaged in an unlawful act. They're all
6 presumed to intend the consequences which naturally flow
7 from an unlawful act. And if one of the participants be
8 on one side himself and the other be slain by
9 participating in the mutual combat, all are equally
10 guilty of the killing. Therefore, it is not the
11 identity of the victim but the intent of the
12 perpetrator, the state of mind of the perpetrator, the
13 existence of malice, that is determinative in that
14 regard.

15 Now, the law of voluntary manslaughter.
16 Incidentally, also, before we get out of the charge and
17 going right into it is the law of transferred intent,
18 which as I have explained to you earlier, is that if a
19 person intends to kill one person with malice
20 aforethought, and by mistake kills somebody else, the
21 malice that was intended to kill the intended party
22 flows to the party who was actually killed. It is --
23 and the person can be guilty of killing even though the
24 victim might have been an unintended victim if the State
25 has proven that the defendant did so with malice.

JURY QUESTION

1 aforethought.

2 Now, voluntary manslaughter is defined as the
3 unlawful killing of another without malice expressed or
4 implied. And we commonly define that as the unlawful
5 killing of a human being in the sudden heat of passion
6 upon sufficient legal provocation. In other words, it
7 involves the intent to kill, but not malice.

8 So voluntary manslaughter is a felonious killing of
9 a human being without malice in sudden heat of passion
10 and on sufficient legal provocation.

11 So if malice actually existed, the killing with
12 malice would be murder even if it is done in the heat of
13 passion and upon provocation by the deceased.

14 In other words, the law does not reduce a murder
15 charge to a manslaughter charge every time a homicide is
16 committed in the heat of passion. It must be passion
17 justly excited by legal provocation. And if an adequate
18 legal provocation does not exist, the killing, even in
19 the heat of passion, is murder and not manslaughter.

20 So the sudden heat of passion upon which sufficient
21 legal provocation, which reduces a felonious killing to
22 manslaughter, does not need to remove all of the reason
23 from a person's mind or shut out his knowledge of what
24 he is doing or his ability to make choices. But it must
25 be such as would naturally disturb the sway of reason of

JURY QUESTION

1 an ordinary person and render the mind of an ordinary
2 person incapable of cool reflection to produce what,
3 according to human experience, may be called an
4 uncontrollable impulse to do violence.

5 In determining whether an act that caused death was
6 caused by the heat of passion or by malice, all of the
7 surrounding circumstances and conditions are to be taken
8 into consideration, including previous relations and
9 conditions connected with the tragedy, as well as those
10 conditions which existed at the time of the killing.

11 I tell you, as examples only, examples of acts of
12 provocation, which could be under the law sufficient to
13 negate malice are: Pulling a knife on a defendant;
14 pointing a gun at a defendant; an assault of a family
15 member; sudden mutual combat in which one of the
16 participants is killed by the other without a previously
17 formed intention to do so. Those are the sorts of
18 things that have been found to negate malice, but that
19 is always a situation for you, ladies and gentlemen, to
20 determine based on the circumstances existing at the
21 time.

22 I tell you, however, that insulting words, no
23 matter how terrible they are, are not enough to reduce a
24 homicide from a murder to manslaughter even if the
25 language was calculated to arouse the wrath of an

JURY QUESTION

1 ordinary person. Insulting words are distinguished from
2 words of information, for example, but words alone are
3 not sufficient to reduce a murder to a manslaughter.

4 Furthermore, the exercise of a legal right, no
5 matter how offensive it might be to another, is never
6 deemed a provocation sufficient to justify or mitigate
7 an act of violence. That which is perfectly justifiable
8 on the part of the deceased cannot be legal provocation
9 to the slayer.

10 The killing of a human being, even in the heat of
11 passion, is murder if the slayer has no just cause for
12 his anger.

13 Ladies and gentlemen, I'll remind you again that
14 the burden of proof is on the State to prove those
15 elements as to murder, as to mutual combat, as to
16 manslaughter, as to whichever -- if any offense you find
17 that he is guilty of, keep in mind that the State must
18 prove all of the elements of that particular offense
19 beyond a reasonable doubt.

20 I'm going to ask you to go back to your jury room,
21 and if there is further information that we can share
22 with you or to help you, we'll be glad to try to answer
23 it if we can. Thank you.

24 (The Jury exits the courtroom at
25 4:55 p.m)

JURY DELIBERATING

1 THE COURT: Mr. Holt, of course, you'll go back to
2 your private suite.

3 JUROR: Yes, sir.

4 THE COURT: All right. Thank you.

5 Madam, before you make this Court's exhibit,
6 whatever it happens to be, are there any exceptions or
7 requests or additional charge from the State?

8 MR. STONE: I just want to make sure I heard it,
9 and I don't know if I heard it or not. I know that the
10 first time, seemed like there was some discussion as to
11 a cooling off period or cool reflection. If that came
12 across in this one, I might have missed it, but I
13 wanted to make sure that that was part of it when it
14 comes to the explanation of voluntary manslaughter and
15 the sudden heat of passion.

16 THE COURT: I don't think I charged it either
17 time.

18 No, I'm looking at my -- no. It's not -- it's not
19 in this charge, and I would charge that if there were
20 facts sufficient. And I guess what you're talking about
21 here is the absence of -- the timing between these
22 various events as they occurred over a period of time.

23 MR. STONE: Yes, sir. When he went back to the
24 house and goes back, that was my concern.

25 THE COURT: Right, right. I did not charge it on

JURY DELIBERATING

1 either occasion, and it's not part of my standard
2 charge.

3 I can -- I can give it, if both of you all agree on
4 a charge to give in that regard, I'll be glad to include
5 it.

6 MR. STONE: Well, I would request it. I had
7 thought that -- I think it's dictated by the timing of
8 the entire event and how they went back from Oak View
9 back to the home and left after that. Because I know
10 the shooting, from the standpoint of legal
11 provocation -- especially when you gave the example
12 that somebody pulled a gun on them, that obviously took
13 place, at least by the Defendant's statement, goodness,
14 20, 30 minutes later, or before. And then they had
15 gone out to Oak View, went out, and then went back out.
16 And that's why I think that's particularly relevant as
17 to this situation.

18 THE COURT: Okay. Mr. Ferguson, what says the
19 Defense, sir?

20 MR. FERGUSON: Yes, Your Honor. We would object,
21 just based on the fact that the jury's already been
22 charged twice on this law. And I think that it would
23 put an undue emphasis on the cooling off period if it
24 were to be added at this late stage in the game.

25 I understand the State's position. I just am leery

JURY DELIBERATING

1 of adding charges post charge conference and after
2 they've already been charged twice.

3 THE COURT: Right.

4 MR. FERGUSON: Now, because they're likely to pick
5 up on that more so than they would if it were a part of
6 the original charge.

7 THE COURT: That's right. Okay.

8 MR. FERGUSON: And it might be my recollection has
9 failed me as well, but I didn't recall, prior to the
10 reading of the warrant, you know, essentially, you made
11 the comment that the State does not allege that the
12 Defendant has fired the fatal shot. You know, I don't
13 know if that was part of the first charge or not.

14 THE COURT: The part of the first charge I read
15 from the warrant and explained that the State is
16 alleging in this case that the murder occurred as a
17 result of mutual combat. I did not say in this -- I
18 did not remind the jury in this case that the State is
19 not contending that Mr. Young fired the fatal shot. It
20 is contending that he is guilty because of the mutual
21 combat.

22 I think that that was a -- there was a correct
23 statement of the basis of the charge. It was not a
24 charge on the facts obviously. I was simply contending
25 that that was the significance of the mutual -- that's

JURY DELIBERATING

1 what the mutual combat was doing in here. But I did not
2 say that the first time around, you're right.

3 Let me see.

4 I'm re-reading the whole of the law on this and
5 trying to apply it to the facts of this particular case.

6 All right. I'm going to decline to recharge this
7 because I had not charged it the first time. It would
8 be improper influence. I think bearing on that issue,
9 if I were to charge it now, I think that there is a --
10 in regard to timing, there is a -- an argument that can
11 be made that this was an ongoing controversy from the
12 very start of the controversy on Wild Horse Road that
13 continued up and down the roads.

14 There was one place the information that Mr. Young
15 said that Mr. Robinson was brandishing a weapon at them
16 and they brandished a weapon at him. And then they
17 continued to look until they shot up his car, as we
18 know.

19 The timing of all those events was somewhat
20 conflicting. Some of the folks said a matter of a
21 minute or two, some said 15 minutes, even out there on
22 the road where this thing happened. But since I did not
23 charge it the first time, no exception was taken, I'm
24 declined to charge it and draw undue influence to the
25 cooling off issue.

JURY DELIBERATING

1 I'll note the exception to that. Thank you.

2 All right. We'll continue to stand at ease until
3 we hear more from the jury.

4 MR. STONE: Thank you, Your Honor.

5 (Whereupon, the Court continued
6 its recess.)

7 THE COURT: Folks, we're advised that the jury has
8 reached a verdict. Are both the State and the Defense
9 ready to receive the verdict?

10 MR. STONE: The State's ready, Your Honor.

11 MR. FERGUSON: Yes, Your Honor.

12 THE COURT: Thank you.

13 Ladies and gentlemen, those of you who have
14 followed this trial throughout this week and, of course,
15 the prior trials that we've all been a part of,
16 obviously have a great bit of interest in the outcome of
17 this case, and in just a moment we're going to realize
18 that outcome. And I don't want to prolong that moment,
19 but I do want to remind you, of course, of the need that
20 is yours to maintain the same dignity and decorum when
21 this verdict is announced that you have maintained
22 throughout your stay in this courtroom. If you feel
23 that you might have some difficulty controlling your
24 emotions when the verdict is announced, whatever it is,
25 I'll give you a chance to leave the courtroom now. If

READING OF THE VERDICT

1 you choose to stay, I will assume that you are going to
2 be able to abide those instructions and keep yourself
3 under control as the verdicts are announced.

4 Bring us the jury.

5 THE BAILIFF: The Jury is entering the courtroom,
6 Your Honor.

7 THE COURT: Thank you, ma'am.

8 Mr. Foreman, ladies and gentlemen of the jury, have
9 you reached a verdict?

10 JUROR: Yes, we have, Your Honor.

11 THE COURT: Is it unanimous?

12 JUROR: It is, sir.

13 THE COURT: If you'll hand it forward, please, to
14 the bailiff.

15 Madam clerk, you may publish the verdict.

16 THE CLERK: In the case of the State of South
17 Carolina versus Aaron Scott Young, Senior, as to
18 Indictment No. 2012 GS 072173, the charge of murder,
19 we, the jury, unanimously find the Defendant, Aaron
20 Young, Senior, guilty of murder.

21 As to Indictment No. 2014 GS 071941, the charge of
22 attempted murder, we, the jury, unanimously find the
23 Defendant, Aaron Young, Senior, guilty of attempted
24 murder.

25 THE COURT: Ladies and gentlemen, if this is the

READING OF THE VERDICT

1 verdict of each of you, would you please signify by
2 raising your right hands?

3 Thank you. The record should reflect that all 12
4 jurors have raised their hands.

5 Now, Mr. Ferguson, does the Defense desire polling
6 the jury?

7 MR. FERGUSON: Yes, sir, Your Honor.

8 THE COURT: Okay.

9 Ladies and gentlemen, you're going to be polled
10 now. That means your name will be called individually.
11 The clerk will ask you are these your verdicts -- or
12 were these your verdicts, and are they still your
13 verdicts, and you will give the appropriate answer,
14 whatever it happens to be, to that question.

15 Madam Clerk.

16 THE CLERK: Juror No. 1, Wendy S. Kelley. Is this
17 your verdict?

18 JUROR: Yes, ma'am.

19 THE CLERK: Is it still your verdict?

20 JUROR: Yes, ma'am.

21 THE CLERK: Juror No. 2, Joseph A. Caruso. Is
22 this your verdict?

23 JUROR: Yes, ma'am.

24 THE CLERK: Is it still your verdict?

25 JUROR: Yes, ma'am.

POLLING OF THE JURY

1 THE CLERK: No. 3, James A. Dunn. Is this your
2 verdict?

3 JUROR: Yes, it is.

4 THE CLERK: Is it still your verdict?

5 JUROR: Yes, it is.

6 THE CLERK: No. 4, Susan E. Townsend. Is this
7 your verdict?

8 JUROR: Yes, ma'am.

9 THE CLERK: Is it still your verdict?

10 JUROR: Yes, ma'am.

11 THE CLERK: No. 5, Timothy C. Polk. Is this your
12 verdict?

13 JUROR: Yes, it is.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes, it is.

16 THE CLERK: No. 6, Dorris W. Green, Junior.

17 JUROR: Yes.

18 THE CLERK: Is this your verdict?

19 JUROR: Yes, ma'am.

20 THE CLERK: Is it still your verdict?

21 JUROR: Yes, ma'am.

22 THE CLERK: No. 7, Margaret E. Hopkins. Is this
23 your verdict?

24 JUROR: Yes.

25 THE CLERK: Is it still your verdict?

POLLING OF THE JURY

1 JUROR: Yes.

2 THE CLERK: No. 8, Brittany M. Baker. Is this
3 your verdict?

4 JUROR: Yes, ma'am.

5 THE CLERK: Is it still your verdict?

6 JUROR: Yes, ma'am.

7 THE CLERK: No. 9, Jordan M. Goodwin. Is this
8 your verdict?

9 JUROR: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR: Yes.

12 THE CLERK: No. 10, Larry D. Thompson. Is this
13 your verdict?

14 JUROR: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 JUROR: Yes, ma'am.

17 THE CLERK: No. 11, Eric L. Brown. Is this your
18 verdict?

19 JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR: Yes.

22 THE CLERK: No. 12, Chelsea M. Black. Is this
23 your verdict?

24 JUROR: Yes, ma'am.

25 THE CLERK: Is it still your verdict?

POLLING OF THE JURY

1 JUROR: Yes, ma'am.

2 THE CLERK: Your Honor.

3 THE COURT: Thank you.

4 Is there anything further now before the jury is
5 dismissed?

6 MR. FERGUSON: No, sir, Your Honor.

7 MR. STONE: No, sir.

8 THE COURT: Thank you.

9 Ladies and gentlemen, I'm going to be able to
10 dismiss you now from any further service, not only in
11 this case, but in this week. There are no more cases to
12 try, and so you don't have to come back, and you don't
13 have to call back. You're free for the rest of the
14 week.

15 As you leave here and go about your business and
16 get back to your real lives, you're free to talk about
17 this case now with anybody, if you want to talk with
18 them about it. But if somebody should ask you about it
19 and you don't care to talk about it, you don't have to.
20 Just tell them you don't care to discuss it, and that
21 will end the discussion right there.

22 If it for some reason it doesn't, of course, and if
23 somebody continues to pester you about it, which is very
24 unlikely, if you'll let the clerk's office know about
25 that, we'll deal with that for you.

RELEASING OF THE JURY

1 I want to thank you for your service, and I commend
2 you for the quality of your service. I never comment
3 upon your verdict. Thank goodness you have those
4 difficult decisions to make. But I comment upon the
5 quality of your service. You've been here promptly
6 everyday, you have been attentive throughout this trial,
7 you've understood its importance, you have given it that
8 attention. You've been deliberate in your evaluations
9 of this particular case.

10 I recognize that some of you here had considerable
11 hardship, and I apologize for that, and I wish there had
12 been some way for us to get this case tried without
13 having to subject you to the hardship and the
14 inconvenience that we have.

15 But we have to have folks just like you to help us
16 try cases just like this every week. We cannot do it
17 without you.

18 I tell folks like you that if you ever get caught
19 up in the system, and you don't have to volunteer to get
20 caught up in the system, when you look into the faces of
21 the jurors that are here to try your case, you're going
22 to hope that you look into the faces of people just like
23 you, people who have good jobs and other things to do,
24 but who are willing to put those matters aside and help
25 us do the things that we have to do. You don't want us

RELEASING OF THE JURY

1 to run around and scrape up 12 people out there on the
2 streets who don't have anything better to do than to try
3 your case. You want people just like you. You've given
4 us that type of juror, we thank you for it.

5 By your service this week, you have gained an
6 exemption that does not require you to serve again as a
7 circuit court juror for the next three years. You
8 should not even get called.

9 But if you do get called, like we had one or two on
10 Monday of this week, who stood and said, I've served in
11 the last three years, all you got to do is let us know
12 that and they'll let you go.

13 But if you'd like to stay, you can. We'd love to
14 have you serve again, I'm sure.

15 You will get a check in the mail sometime in the
16 next week or so. It's not going to begin to pay you for
17 the time that you've spent with us, but if you'll please
18 add our gratitude to the small amount of that check that
19 you're going to get, I hope you'll be compensated in
20 some way for it.

21 And finally, and most importantly, I hope by your
22 service this week you have gained a keener appreciation
23 into the value of our jury system and to the importance
24 of folks just like you to that system that help us
25 resolve cases like this. They cannot be resolved

RELEASING OF THE JURY

1 without you, and would be left unresolved except for
2 folks like you and your willingness to serve.

3 Thank you, folks. You all are free to go now, and
4 you can go back to the jury room. They'll dismiss you
5 from there.

6 Mr. Ferguson, I'll be glad now to hear additional
7 -- yes, sir, I'm sorry.

8 THE BAILIFF: He's got to sign the indictment.

9 THE COURT: Oh, he does. I'm sorry. That's
10 right. If you'll -- the indictment's are in here?

11 THE CLERK: Yes, sir.

12 THE COURT: If you will pull them out and give me
13 the original back.

14 THE CLERK: Yes, sir.

15 THE COURT: Thank you.

16 Mr. Foreman, I will indicate the words "guilty"
17 below the verdict and you'll sign at the bottom of it.
18 Okay?

19 Thank you for your help.

20 MR. STONE: I have sentencing sheets, Your Honor.
21 Getting those finished up right now.

22 THE COURT: I understand. Okay.

23 While you're doing that, I'll be glad to hear
24 additional motions, if any from the --

25 JUROR: You want me to date it?

SENTENCING OF THE DEFENDANT

1 THE COURT: You can date, sure. August the 12th.

2 Thank you.

3 Mr. Ferguson, I'll be glad now to hear additional
4 motions.

5 MR. FERGUSON: Thank you, Your Honor. I would
6 like to renew all the previous objections that we've
7 made to the different evidentiary rulings, and
8 respectfully understand Your Honor's rulings, but would
9 just like to renew those, including our motion for
10 directed verdict at the close of the State's case.

11 Additionally, Your Honor, we would make a motion
12 for a new trial just based on the fact that, you know,
13 from our position, the jury's verdict doesn't correctly
14 take into account the facts as proven from the record,
15 and that would be the basis of our motion.

16 THE COURT: Thank you, sir.

17 This was essentially a jury question. To a great
18 extent -- to an extent also it was a matter -- a
19 question of the interpretation of the law, and you have
20 built a good record in that regard for appellate review.

21 The Court of Appeals, perhaps the Supreme Court,
22 will have to decide not only in Aaron Young, Senior, but
23 also in Aaron Young, Junior's case, whether the law of
24 mutual combat extends itself through the transferred
25 intent to innocent third parties, which, of course, is

SENTENCING OF THE DEFENDANT

1 an untried question in our state. We've argued that and
2 talked about it and laid things on the record in the
3 past, and that was the -- that was a legal conundrum, of
4 course, that got Mr. Young involved to this extent.

5 But given the law as I have interpreted it to be,
6 and the facts as they exist in this case, the jury's
7 verdict was supported by the evidence. Taking it in the
8 light most favorable to the State, as I must for this
9 motion, I find that the evidence in that light was more
10 than sufficient to sustain the verdicts that the jury
11 reached in this case.

12 So I must respectfully deny your motion.

13 MR. FERGUSON: Thank you, Your Honor.

14 THE COURT: All right.

15 Is the State ready to proceed to sentencing?

16 MR. STONE: The State's ready, Your Honor.

17 THE COURT: Okay.

18 MR. STONE: Your Honor, I'll hand up these
19 sentencing sheets.

20 THE COURT: All right.

21 MR. STONE: I'd like to give you the Defendant's
22 record. I'd also ask if you would hear from Khalil
23 S. 's father, Kareem Singleton, who is with us
24 and would like to address you as well.

25 THE COURT: I'll be glad to.

SENTENCING OF THE DEFENDANT

1 MR. STONE: First of all, as far as some prior
2 criminal history, Aaron Young's history starts in 1996,
3 with criminal domestic violence. In 1998, conviction
4 for possession of what appears to be crack cocaine.
5 And he has a -- in 2002, there appears to be a charge
6 here, this might have been when he was actually
7 sentenced -- he was placed on probation on the initial
8 crack charge in '98, and I believe he violated that and
9 went to prison and was sentenced to three years in
10 2002.

11 He has a resisting arrest from 2005. In 2009, he
12 has another criminal domestic violence conviction. And
13 in 2010, he has another drug charge, and this is the
14 cocaine charge that we actually brought out at trial.

15 THE COURT: Right.

16 MR. STONE: Again, Mr. Singleton is with us, and
17 I'd ask if you would hear from him.

18 THE COURT: I'll be glad to.

19 MR. STONE: This is Mr. Kareem Singleton.

20 THE COURT: Mr. Singleton.

21 MR. SINGLETON: How you doing?

22 THE COURT: Yes, sir.

23 MR. SINGLETON: I just want to say thank you to
24 Mr. Stone. Everybody did a good job in seeking justice
25 for my son.

SENTENCING OF THE DEFENDANT

1 I want to also thank my family, and also I want to
2 let everybody know on behalf of me and Trina, which
3 she's not here today because our daughter is going to
4 school, going to college and, you know, she had to take
5 her to school. So I want to let that.

6 Thank you to all you guys, all my family members,
7 for all of your support. We love you. We really do.

8 I want to say to Mr. Benny and your wife, I know
9 y'all good people, and I'm sorry y'all have to go
10 through this. But the only thing I can say is, at least
11 y'all got y'all son. My son ain't had the opportunity
12 that your son had. You can still talk to your son, you
13 can still see your son. I can't do none of that.

14 I don't really take no great pleasure in seeing him
15 taken from your family, but I just wish one time you
16 just would have stopped. And I can't address the jury,
17 but like I say, I just thank everybody. And throughout
18 this whole process, first and foremost I should have
19 said thank God just for strength, because going through
20 this the third time, reliving everything that happened
21 to our son is hard.

22 People say it gets easier everyday, it don't get
23 easier at all. We go -- just to go in a store,
24 Wal-Mart, for example, you see parents just with their
25 kid. I know what my son would have been doing, was

SENTENCING OF THE DEFENDANT

1 running to the toy department. I can't -- when I go in
2 the store, that stuff still effect me. When I go in the
3 store, I go in the store with him. He taking off on the
4 way, going straight to the toy department, pick out
5 whatever he want. I know where to find him at, I go
6 right there, too. Can't do none of those things, prom,
7 anything. Can't do none of that.

8 But as I stand before you today, like I said, my
9 family and everybody else thank y'all truly. We thank
10 y'all truly from the bottom of our hearts, because
11 without y'all support and helping us, everybody, we love
12 y'all. And she wanted me to tell you guys that, and she
13 would have been here, you know she would have been here,
14 but Kareem (phonetic) had to go to school. And she an A
15 student, doing what she was supposed to be doing. And
16 throughout all of this, she's still striving, and just
17 want to say thank you all. And love you all. Thank
18 you, Mr. Stone.

19 And once again, like I said, Mr. Benny and family,
20 I'm sorry for you.

21 THE COURT: Thank you, Mr. Singleton.

22 MR. STONE: Your Honor, you've been obviously
23 intimately involved in this and know everything I think
24 there is to know about this case. And I spoke to this
25 earlier, and I did want to -- I did want to say this.

SENTENCING OF THE DEFENDANT

1 You have sentenced both of the other individuals
2 before, and I didn't speak at Aaron Young, Junior's
3 sentencing. I knew you had all the information.

4 But what is particularly disturbing about this case
5 is that Aaron Young, Senior not only ended Khalil

6 S. 's life, but he ruined his own son's life as
7 well. A son, who was trying to get him to stop it.

8 And from that standpoint, Your Honor, I think his
9 offense, although he didn't pick up that gun and
10 actually pull the trigger, he provided it. And he's the
11 father, and I think from that standpoint, he's not -- I
12 believe that he should be dealt with more severely than
13 his son. Thank you, sir.

14 THE COURT: Thank you, Mr. Stone.

15 Anything further from the State?

16 All right. Mr. Ferguson, I'll be glad now to hear
17 from you and from anybody on behalf of Mr. Young.

18 MR. FERGUSON: Thank you, Your Honor.

19 It has been a long road for everybody. And I've
20 gotten to know Aaron Young, Senior quite well, and know
21 that he is a good person. He does not have a history of
22 violent offenses. He is remorseful for what happened
23 that day. He is sorry that his son is in the situation
24 that he's in, that he's now in.

25 Essentially, Your Honor, when you start to try and

SENTENCING OF THE DEFENDANT

1 compare one man's conviction versus another, the
2 differences, you know, are hard to draw from a defense's
3 perspective. But we understand that the jury has
4 spoken, and they've held, you know, Mr. Young, Senior
5 guilty at this point.

6 I would ask respectfully, Your Honor, for the
7 minimum sentence on murder to reflect the same
8 punishment that his son received, and any leniency Your
9 Honor is willing to show on the attempted murder.

10 THE COURT: Thank you.

11 MR. FERGUSON: And I believe Mr. Young, Senior
12 wants to address Your Honor.

13 THE COURT: Mr. Young, I'll be glad to hear from
14 you.

15 THE DEFENDANT: The people in law enforcement,
16 first and foremost, and family, I just want y'all to
17 know that I'm sincerely sorry, you know. I didn't mean
18 for this to happen, you know. One thing escalated to
19 another, and this is the result of it.

20 You know, I'm clearly sorry that y'all lost Khalil,
21 but I could have lost my life or my son could have lost
22 his, too. That's not an excuse for anything but, you
23 know, sometimes it's the luck of the draw.

24 I'm sincerely sorry for my actions, you know. I
25 didn't mean for this to ever happen. And that's all I

SENTENCING OF THE DEFENDANT

1 wanted to say, and I ask for the Court's leniency.

2 THE COURT: Thank you, sir. Anything further?

3 MR. FERGUSON: No, sir, Your Honor.

4 THE COURT: All right. But I don't have the
5 vocabulary to make anybody's loss less severe than it
6 already is. And nothing that we do here today, of
7 course, brings back Khalil obviously.

8 I have tried all three of these cases, all three of
9 them. And I appreciate, as Mr. Stone has indicated,
10 that Mr. Young, Senior had an opportunity to stop this,
11 of course. But from his perspective, of course, he saw
12 himself as protecting his own family.

13 Now, that's a misguided way to go about it. He
14 acknowledged he made a bad decision -- well, actually,
15 it's worse than a bad decision. A bad decision is when
16 you get in the wrong line at McDonald's, or when you
17 make a wrong turn somewhere. This was -- this was more
18 than just a bad decision, and a life was lost as a
19 result of it. And now three people are going to be in
20 jail for a long time as a result of it.

21 But the culpability, of course, has to be taken
22 into account. All of them have been convicted,
23 essentially of the same thing, which would indicate that
24 all of them are entitled to receive the same sentence.

25 The most severe sentence was given to the actual

SENTENCING OF THE DEFENDANT

1 person who caused the death directly by firing the shot
2 that killed Khalil S. . And I think that was an
3 appropriate one, because I think that of all, he was the
4 most culpable.

5 The other folks have been found guilty by the jury,
6 and Mr. Young, Junior has been punished, 30 years, no
7 parole, day for day. Mr. Young, Senior is looking at
8 the same thing, 30 years, no parole, day for day. That
9 means if he is able to do every day of it and is still
10 alive, he'll be 69 or thereabout, by the time he gets
11 out of jail.

12 That, for anyone, of course, is a severe sentence,
13 especially for somebody who is 69. And I think quite
14 frankly that while it does nothing to ameliorate the
15 loss of Khalil S. , it does address the relative
16 culpability of Mr. Young, Senior, who was goaded into
17 this thing that day by Mr. Robinson, and who acted
18 inappropriately in responding to that. But saw that he
19 was having to protect himself after a long time of abuse
20 or confrontation.

21 He should not have done it. He's paying the price
22 for having done what he did. But I view that the law
23 has set a sentence in this case on the minimum, and when
24 you say "minimum," it sounds like it's minimum. 30
25 years in jail is -- while it's a minimal under the law

SENTENCING OF THE DEFENDANT

1 it is a significant sentence in any event.

2 Mr. Young, on the attempted murder case, the charge
3 is you be -- the sentence is you be committed to the
4 Department of Corrections for a period of 20 years.

5 On the murder case, you'll be committed to the
6 Department of Corrections for a period of 30 years. The
7 sentences will run concurrent to each other. You'll get
8 credit for the time that you've served.

9 MR. FERGUSON: Thank you, Your Honor.

10 THE COURT: Thank you all. Thank you, ladies and
11 gentlemen.

12 THE DEFENDANT: I'm sorry, y'all. I love you.

13 THE COURT: All right, folks. We stand adjourned.
14 Thank you so much.

15 (Whereupon, the trial was adjourned.)
16
17
18
19
20
21
22
23
24
25

SENTENCING OF THE DEFENDANT

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 26th day of August, 2016.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter
Circuit Reporter for the 14th Circuit
(850) 893-6662

14

mmanley@sccourts.org

15

16

17

18

19

20

21

22

23

24

25



BEAUFORT COUNTY SHERIFF'S OFFICE

Miranda Warning Form

Case Number: 20120901-707

Location Where Miranda Issued: 58 SHAWTON COVE LANE (BESSE) HW SC 29928

Name: ARNO SCOTT YOUNG SR. Date of Birth: 1-1-1970

Statement of Rights

- ASU 1. You have the right to remain silent
(initials)
- ASU 2. Anything you say can and will be used against you in a court of law.
(initials)
- ASU 3. You have the right to have an attorney present before or during questioning.
(initials)
- ASU 4. If you cannot afford an attorney, one will be appointed for you before any
(initials) questioning, if you wish.

Waiver of Rights

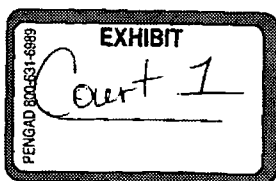
Do you understand each of these rights I have explained to you? YES: ✓ NO:
(initials)

Having these rights in mind, do you wish to talk to us now? YES: ✓ NO:
(initials)

Signature: [Signature] Date: 5/1/12 Time: 9:15

Witness: [Signature] Date: 05-01-2012 Time: 21:11

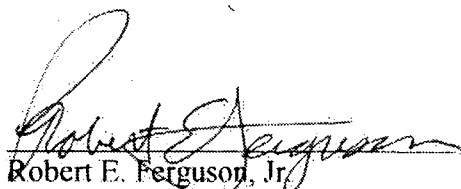
Witness: Date: Time:



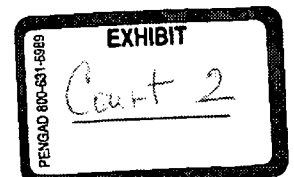
STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2012-GS-07-2173
STATE OF SOUTH CAROLINA,	)	2014-GS-07-1941
	)	
Plaintiff,	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	No. <u>1</u>
AARON YOUNG, SR.	)	
	)	
Defendant.	)	
_____	)	

That Defendant requests that the Jury be charged on the following:

"When no conspiracy has been shown to have existed between the actual perpetrators and the one charged with aiding, it is essential to the guilt of the latter that he should not only have been present when the killing was done, but should have actually participated in the crime." *State v. Brown*, 108 S.C. 490, 95 S.E. 61 (1918).


 Robert E. Ferguson, Jr.
 Post Office Box 845
 Beaufort, South Carolina 29901
 Attorney for Defendant

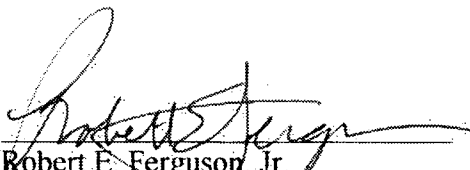
August 11, 2015
 Beaufort, South Carolina



STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2012-GS-07-2173
STATE OF SOUTH CAROLINA,	)	2014-GS-07-1941
	)	
Plaintiff,	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	No. <u>2</u>
AARON YOUNG, SR.	)	
	)	
Defendant.	)	
	)	

That Defendant requests that the Jury be charged on the following:

"Although it may be positively proven that one or two or more persons committed a crime, yet if it is uncertain which is the guilty party, all must be acquitted. No one can be convicted till it is established that he is the party who committed the offense." *State v. Brown*, 108 S.C. 490, 95 S.E. 61 (1918).

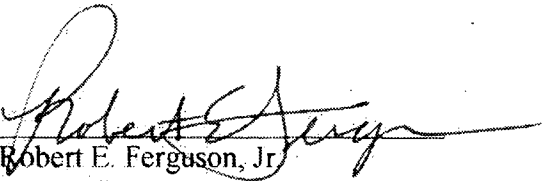

 Robert E. Ferguson, Jr.
 Post Office Box 845
 Beaufort, South Carolina 29901
 Attorney for Defendant

August 11, 2015
 Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2012-GS-07-2173
STATE OF SOUTH CAROLINA,	)	2014-GS-07-1941
	)	
Plaintiff,	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	No. <u>3</u>
AARON YOUNG, SR.	)	
	)	
Defendant.	)	
	)	

That Defendant requests that the Jury be charged on the following:

"Where two persons mutually engage in combat, and one kills another, and at the time of the killing it be maliciously done, it is murder; if it be done in sudden heat of passion upon sufficient provocation without premeditation or malice, it would be manslaughter." *State v. Taylor*, 356 S.C. 227, 589 S.E.2d 1 (2002)(citing *State v. Andrews*, 73 S.C. 257, 53 S.E. 423 (1906)).

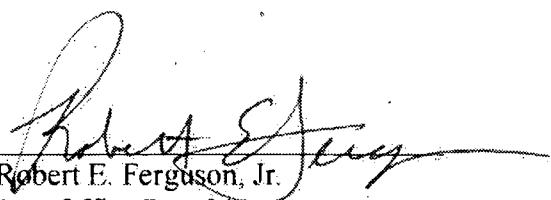

 Robert E. Ferguson, Jr.
 Post Office Box 845
 Beaufort, South Carolina 29901
 Attorney for Defendant

August 11, 2015
 Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2012-GS-07-2173
STATE OF SOUTH CAROLINA,	)	2014-GS-07-1941
	)	
Plaintiff,	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	No. <u>4</u>
AARON YOUNG, SR.	)	
	)	
Defendant.	)	
_____	)	

That Defendant requests that the Jury be charged on the following:

"The doctrine [mutual combat] has most often been applied in situations where the defendant and decedent bear a grudge against each other before the fight in which one of them is killed occurs" *State v. Taylor*, 356 S.C. 227, 589 S.E.2d 1 (2002)(citing *State v. Porter*, 269 S.C. 618, 239 S.E.2d 641 (1977)).

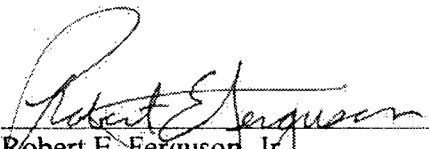

 Robert E. Ferguson, Jr.
 Post Office Box 845
 Beaufort, South Carolina 29901
 Attorney for Defendant

August 11, 2015
 Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2012-GS-07-2173
STATE OF SOUTH CAROLINA,	)	2014-GS-07-1941
	)	
Plaintiff,	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	No.: <u>5</u>
AARON YOUNG, SR.	)	
	)	
Defendant.	)	
_____	)	

That Defendant request that the Jury be charged on the following:

"Where a person voluntarily participates in... mutual combat for purposes other than protection, he cannot justify or excuse the killing of his adversary in the course of such conflict on the ground of self-defense, regardless of what extremity or imminent peril he may be reduced to in the progress of the combat, unless, before the homicide is committed, he withdraws and endeavors in good faith to decline further conflict, and, either by word or act, makes that fact known to his adversary..." *State v. Graham*, 260 S.C. 449, 196 S.E.2d 495 (1973).


 Robert E. Ferguson, Jr.
 Post Office Box 845
 Beaufort, South Carolina 29901
 Attorney for Defendant

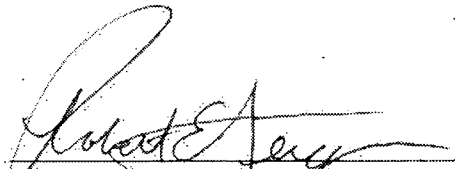
August 11, 2015
 Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2012-GS-07-2173
STATE OF SOUTH CAROLINA,	)	2014-GS-07-1941
	)	
Plaintiff,	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	No.: <u>6</u>
AARON YOUNG, SR.	)	
	)	
Defendant.	)	
_____	)	

That Defendant request that the Jury be charged on the following:

§2-2 Attempted Murder – South Carolina Requests to Charge – Criminal
Ralph King Anderson, Jr.

An attempt is an effort to accomplish a crime which does not succeed. An attempt includes a specific intent to do a particular criminal act along with an act falling short of the act intended. The State must show more than mere preparation and intent. There must be some overt act committed in the effort to commit the crime.

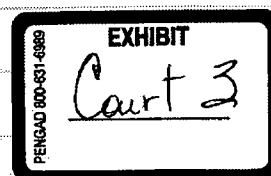

Robert E. Ferguson, Jr.
Post Office Box 845
Beaufort, South Carolina 29901
Attorney for Defendant

August 11, 2015
Beaufort, South Carolina

REQUEST COPY OF MUTUAL COMBAT
LAW

DEFINITION OF MURDER AND VOLUNTARY
MANSLAUGHTER

Timothy C. Polk



WITNESSES

Inv. L. Albertin-BCSO

ARREST WARRANT NUMBER

2012GS0702173

ACTION OF GRAND JURY

Melissa C. Beale
Foreperson of Grand Jury
Date:

OCT 18 2012

VERDICT

Foreperson of Petit Jury
Date:
INDICT

DOCKET NO. 2012GS0702173

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2012

THE STATE

vs.

Aaron Young Sr

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code:0116

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

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0702173

At a Court of General Sessions, convened on October 18, 2012, the Grand Jurors of Beaufort County present upon their oath:

Murder / Murder

That in Beaufort County on or about September 1, 2012, while engaged in an ongoing gun battle, an inherently dangerous felony, Aaron Scott Young Sr. did willfully, unlawfully and with malice aforethought cause the victim Khalil S. to be shot and killed in the area of Marshland Drive and Allen Road, Hilton Head Island, SC, and that Khalil S. did die in Beaufort County as a proximate result thereof on September 1, 2012; in violation of Section 16-3-10 of the South Carolina 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.

Lawrence M. Shaw

WITNESSES

Inv. L. Albertin-BCSO

ARREST WARRANT NUMBER

2012GS0702173

ACTION OF GRAND JURY

True Bill

Jennifer Snider
Foreperson of Grand Jury
Date:

OCT 30 2014

VERDICT

Foreperson of Petit Jury
Date:
INDICT

DOCKET NO. 2012GS0702173

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

Aaron Young Sr

Amended Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code:0116

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

Defendant

I

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)

INDICTMENT
 2012GS0702173

At a Court of General Sessions, convened on October 30, 2014, the Grand Jurors of Beaufort County present upon their oath:

Murder / Murder

That in Beaufort County on or about September 1, 2012 , Aaron Scott Young Sr. did willfully, unlawfully and with malice aforethought engage in mutual combat with Tyrone Robinson and did thereby cause the victim Khalil S. to be shot and killed in the area of Marshland Drive and Allen Road, Hilton Head Island, SC, and that Khalil S. did die in Beaufort County as a proximate result thereof on September 1, 2012; in violation of Section 16-3-10 of the South Carolina 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.



D

1

[Signature]

Solicitor

WITNESSES

B Bromage and L Albertin- BCSO

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

True Bill

Jennifer Sanders
Foreperson of Grand Jury
Date:

OCT 30 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0701941

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

Aaron Young, Sr

Indictment for

Attempted Murder

SC Code: 16-03-0029
CDR Code:3410

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

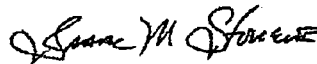
INDICTMENT
2014GS0701941

At a Court of General Sessions, convened on October 30, 2014 the Grand Jurors of Beaufort County present upon their oath:

Attempted Murder

That in Beaufort County, South Carolina, on or about September 1, 2012 the Defendant, Aaron Young, Sr with intent to kill and malice aforethought, either express or implied, attempted to murder the victim, Tyrone Robinson, in violation of Section 16-03-29 of the Code of Laws of South Carolina (2010, as amended).

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



Solicitor

STATE OF SOUTH CAROLINA

30 to life

IN THE COURT OF GENERAL SESSIONS

877

COUNTY OF
STATEBeaufort
VS.

Aaron Young Sr

AKA:

Race: AFRICAN AME Sex: M Age: 39

DOB: 1976 SS#

Address: WILSONS RD
City, State, Zip: HHT, SC 29926

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

INDICTMENT/CASE#: 2012GS0702173

A/W#: 2012GS0702173

Date of Offense: 9/1/2012

S.C. Code §: 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: *[Signature]* #11883

DUFFIE STONE SC Bar#

Defendant

Attorney for Defendant

74889
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1941☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$133.90

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

Certified - A True Copy
 Jerr Ann Rospeneau - Clerk of Court
 Beaufort County, SC - Jennifer Petricif

878

STATE OF SOUTH CAROLINA

Up to 30

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Beaufort

VS.

Aaron Young Sr

AKA:

Race: AFRICAN AME Sex: M Age: 39

DOB: 1976 SS#: [REDACTED]

Address: 1 WILD [REDACTED] RD
City, State, Zip: HAZEL SC 29926

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

INDICTMENT/CASE#: 2014GS0701941

A/W#: 2014GS0701941

Date of Offense: 9/1/2012

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Swanson, Hunter
DUFFIE STONE # 11883 SC Bar#

Defendant

Attorney for Defendant

SC Bar# 74889

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 70 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: # 2173☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Certified - True Copy
 Jennifer Roseberry, Clerk of Court
 Beaufort County, SC - Jennifer Roseberry

RECEIVED
AUG 30 2017
SC Court of Appeals

879

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,


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 30th day of August, 2017.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AARON YOUNG, SR.,

APPELLANT

APPELLATE CASE NO 2016-000873

FINAL BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

SEP 20 2019

S.C. SUPREME COURT

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUES ON APPEAL	1
STATEMENT OF THE CASE.....	2
STATEMENT OF THE FACTS.....	3
ARGUMENTS	4
CONCLUSION	14

TABLE OF AUTHORITIES

Cases

<u>State v. Brown</u> , 108 S.C. 490, 95 S.E. 61 (1918)	9
<u>State v. Burdette</u> , 335 S.C. 34, 515 S.E.2d 525 (1999).....	11, 12
<u>State v. Davis</u> , 282 S.C. 45, 317 S.E.2d 452 (1984)	8
<u>State v. Fennell</u> , 340 S.C. 266, 531 S.E.2d 512 (2000)	9
<u>State v. Gandy</u> , 283 S.C. 571, 324 S.E.2d 65 (1984).....	10
<u>State v. Graham</u> , 260 S.C. 449, 196 S.E.2d 495 (1973)	7, 8, 12
<u>State v. Heyward</u> , 197 S.C. 371, 15 S.E.2d 669 (1941).....	10
<u>State v. Horne</u> , 282 S.C. 444, 319 S.E.2d 703 (1984)	10
<u>State v. Jones</u> , 113 S.C. 134, 101 S.E. 647 (1919)	8
<u>State v. Lollis</u> , 343 S.C. 580, 541 S.E.2d 254 (2001).....	11, 12
<u>State v. Lowry</u> , 315 S.C. 396, 434 S.E.2d 272 (1993).....	10
<u>State v. McHoney</u> , 344 S.C. 85, 544 S.E.2d 30 (2001)	11, 12
<u>State v. Odems</u> , 395 S.C. 582, 720 S.E.2d 48 (2011).....	11
<u>State v. Taylor</u> , 356 S.C. 227, 589 S.E.2d 1 (2003).....	8
<u>State v. Williams</u> , 189 S.C. 19, 199 S.E. 906 (1938).....	10

Statutes

Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.....	4, 11

Other Authorities

Substantive Criminal Law, § 3.12(d) (1986)	10

STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge err in refusing to direct a verdict of acquittal when the State's evidence of murder was dependent upon a combination of mutual combat, accomplice liability and transferred intent to an innocent third party not engaged in mutual combat?
2. Did the trial judge err in refusing to direct a verdict of acquittal for murder when the State failed to establish mutual combat at the time of the fatal shooting?

STATEMENT OF THE CASE

On October 30, 2014, the Beaufort County Grand Jury indicted appellant Young for murder and attempted murder, indictments #2012-GS-07-2173, 2014-GS-07-1941. On August 10, 2015, Appellant proceeded to jury trial before the Honorable Thomas W. Cooper. Robert Ferguson represented Appellant at trial. Isaac McDuffie Stone, III, and Sean Thorton prosecuted the case. The jury returned verdicts of guilty on both counts. Judge Cooper sentenced Appellant to thirty (30) years for murder and a concurrent twenty (20) years for attempted murder. On April 18, 2016, Judge Cooper denied the timely filed motion for reconsideration of sentence. A timely notice of intent to appeal was served on April 21, 2106. This appeal follows.

STATEMENT OF FACTS

Khalil Singleton was fatally shot by Tyrone Robinson. Tyrone Robinson was charged and convicted of the murder of Khalil Singleton. Khalil Singleton was not Robinson's intended victim. When Robinson fired the shot that killed Khalil Singleton, he was shooting at Appellant and his son, Aaron Young Jr. as they were leaving the neighborhood in their truck. Appellant and his son Aaron Young, Jr. were also charged and convicted, in separate trials, of the murder of Khalil Singleton and the attempted murder of Tyrone Robinson. The State alleged that the Youngs were involved in mutual combat with the Tyrone Robinson at the time that Robinson fatally shot Khalil Singleton. Khalil Singleton was an innocent third party and not involved in the earlier dispute between the Youngs and Robinson.

ARGUMENTS

1. The trial judge erred in refusing to direct a verdict of acquittal when the State's evidence of murder was dependent upon a combination of mutual combat, accomplice liability and transferred intent to an innocent third party not engaged in mutual combat.

The murder indictment in the present case alleges, "That in Beaufort County on or about September 1, 2012, Aaron Scott Young Sr. did willfully, unlawfully and with malice aforethought engage in mutual combat with Tyrone Robinson and did thereby cause the victim Khalil Singleton to be shot and killed in the area of Marshland Drive and Allen Road, Hilton Head Island, SC and that Khalil Singleton did die in Beaufort County as a proximate result thereof on September 1, 2012; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended." (R. p. 874). Prior to trial Appellant moved to quash the murder indictment. (R. p. 480, line 23 – p. 481, 482, lines 1-3). The trial judge denied the motion to quash stating:

And we know that the law is, or at least I think that the law is, that in the context of mutual combat the cases indicate that whoever is shot on either side, all who are involved can be guilty of the crime of murder if the person who is shot dies.

And we dealt last time with the case of Aaron Young, Jr. with whether or not that transferred intent that would go from one combatant to another combatant in mutual combat also transfers to an innocent victim. That matter is yet to be decided by an appellate court. It's on appeal now. But it is that particular factual distinction, I think, or that factual anomaly in this case does not render the indictment invalid, because the facts in this case indicate that there was mutual combat. Suggested there was mutual combat, and that an innocent person was killed in the course of that.

(R. p. 484, lines 3-19).

Jontu Singleton, Sr. testified that on September 1, 2012, he and Tyrone Robinson went to Aaron Young Sr.'s house where Robinson pointed a .38 caliber revolver at Aaron Young, Jr. (R. p. 569, line 9 – p. 570, lines 1-13). Jontu Singleton testified that as Appellant and Robinson

were struggling over the gun, Robinson shot in the air two times and then shot at Appellant's feet. (R. p. 571, lines 1-5). Robinson left in his car, leaving Jontu Singleton behind at the Young residence. (R. p. 571, lines 6-17). According to Juntio Singleton, Appellant retrieved a duffle bag from inside the house and then Appellant, Young Jr. and Juntio Singleton got into Appellant's gray pickup truck. (R. p. 571, line 20 – p. 572, lines 1-15). Juntio Singleton testified that as Appellant was driving, Young Jr. took a gun out of the bag and was trying to put the gun together. (R. p. 572, line 16 – p. 573, 574, lines 1-4). He described the gun as looking like a "TEC-9." (R. p. 573, lines 6-9). Juntio Singleton believed that the Youngs were looking for Tyrone Robinson. (R. p. 574, lines 20-23). The three were unable to find Robinson and returned to the Young residence where Juntio Singleton got out of the truck but Appellant and Young Jr. left again. (R. p. 576, line 2 – p. 577, lines 1-8).

Charlese Mitchell, Appellant's cousin, testified that on September 1, 2012, about 4:00 PM she heard a round of quick shots and then saw Appellant pass by her house in his gray truck. (R. p. 511, line 3 – p. 512, 513, lines 1-5). Shortly after hearing the shots and seeing Appellant, Tyrone Robinson came to Mitchell's house and told her that the "MFs were out there shooting at him." (R. p. 519, lines 10-19). Mitchell noticed a black handle sticking out of Robinson's red shorts. (R. p. 520, lines 1-2). Robinson was outside using Mitchell's phone when Mitchell's boyfriend, Tyrone Delaney, came home. (R. p. 520, line 5 – p. 521, lines 1-13). Delaney and Robinson spoke and Robinson then left. Ten to fifteen minutes later Mitchell heard a second set of rapid shots. (R. p. 533, lines 16-24). Within five minutes of the second set of shots, Mitchell saw Appellant again drive past her house. (R. p. 525, line 11 – p. 526, lines 1-17; p. 537, lines 1-4). As Appellant's truck passed her house, Mitchell heard three last shots that sounded different from the rapid shots. (R. p. 524, lines 18-25; p. 537, lines 16-18). Mitchell then saw Robinson

fly past in his car with a shattered back window. (R. p. 527, lines 2-5). After hearing the last three shots, Mitchell went outside and saw that Khalil Singleton had been shot. (R. p. 528, lines 7-18).

Tyrone Delaney testified when he arrived home from work, Robinson was in the front yard using the phone. (R. p. 543, lines 3-16). Robinson asked Delaney if he had seen a gray truck and he told Delaney, "That mother was shooting at me, so I shot back." (R. p. 543, lines 23-24). Delaney testified that Robinson was armed with a .38 revolver. (R. p. 544, lines 12-19). Delaney testified that after Robinson left Delaney heard rapid fire and asked Mitchell to call the children, his son, Xavier Delaney, Jontu Singleton Jr. and Khalil Singleton, inside. (R. p. 546, line 8 – p. 547, lines 1-8). Xavier Delaney came inside but Jontu Singleton Jr. and Khalil Singleton went the other way. (R. p. 547, lines 7-11). Delaney then heard another set of three shots that sounded different from the first set. (R. p. 545, line 24 – p. 546, lines 1-4; p. 547, line 12-14).

Dominique Griffin was inside of his house when he heard shots. (R. p. 553, line 6 – p. 554, lines 1-7). When the shots stopped, he went outside to check on his stepson, Jontu Singleton, Jr. (R. p. 554 lines 8-12). Griffin testified that Jontu was crying and pointing at Mr. Robinson saying, [H]e shot Khalil, he shot Khalil." (R. p. 554, lines 17-18). The bullet removed from Khalil Singleton was "consistent with round nose plain lead bullets loaded into a .38 special caliber cartridge. . ." (R. p. 644, lines 1-12). Griffin testified that he saw Robinson's car parked and there were bullet holes in the back window. (R. p. 555, lines 14-22). Robinson walked toward his car and looked like he was in a rush to leave. (R. p. 555, lines 20-25).

Officers initiated a traffic stop of Appellant's vehicle and found 9 mm shell casings in the back of the truck. (R. pp. 582-586). The SLED firearm expert testified that the casings found in